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ORNAMENTAL AQUATIC TRADE ASSOCIATION LTD

"The voice of the ornamental fish industry"

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Dear Bob,

CITES and the application of the precautionary principle to listing proposals

As promised, the last time we met at a SUN meeting, some thoughts on the current implementation of CITES and the application of precaution. I apologise for this letter being rather lengthy. Some sections you may have seen before in other letters I have written to you on the subject.

Summary and conclusion

My primary concern is that a number of species have been listed, or considered for listing on CITES Appendix I or II that enter the ornamental fish industry, but for which the major demand is in dead specimens or derivatives. In cases such as the seahorses and sea cucumbers (should, as I anticipate, a listing proposal come forward at a later date) the live trade is miniscule, both in numbers and biomass, compared to that in dried specimens. Additionally the monetary value of trade in live specimens is vastly greater per head than if dried specimens are traded.

It would appear to be entirely consistent with the precautionary principle and in the best interests of species if high value, low volume trade in specimens for which there is a limited demand could be excluded from listing proposals which might make better use of limited enforcement resources targeting lower value much higher volume trades.

CITES

Precaution

Resolution 9.24 “Criteria for amendment of Appendices I and II” discusses the application of the precautionary principle in both the pre-ambular and operative section. It further describes its application in Annex 4. In effect this requires parties to act in the best interests of the conservation of the species when considering proposals for the amendment of Appendices I and II. Also the chairman’s text on the revision of the listing criteria states that the precautionary principle and socio-economic factors should be considered when making a listing.

Benefits of trade

Resolution Conf. 8.3 “Recognition of the benefits of trade in wildlife” identifies clearly that conservation benefits may accrue from trade in species.

The precautionary principle or approach

Recent history

For the purposes of this paper the precautionary approach and principle are regarded as virtually synonymous.

Principle 15 of The Rio Declaration reads:

“In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.”

While the preamble to the CBD reads:

“Noting also that where there is a threat of significant reduction of loss of biodiversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize such a threat.”

Other multilateral environment agreements such as that concerning POP’s and the Cartagena protocol have used similar wording.

In the EU

On 13 April 1999 the council adopted a resolution that the Commission should be guided by the precautionary principle when preparing proposals for legislation and develop “clear and effective guidelines for the application of this principle.”

The latter was delivered in a “Communication from the Commission on the precautionary principle” which was published in February 2000. This document stated:

Where action is deemed necessary, measures based on the precautionary principle should be, *inter alia*;

- proportional
- non-discriminatory
- consistent
- based on the examination of the potential benefits and costs
- subject to review
- capable of assigning responsibility for producing the scientific evidence

The Nice European Council Resolution (Dec 2000) welcomed the Commission's document and broadly endorsed it. Thus I would presume that this interpretation would be the one applied by all instruments of the Commission including for instance the Scientific Review Group.

In the UK

In the DEFRA communication "Foundations for our future-DEFRA's sustainable development strategy" (June 2002) their commitment to be bound by the Nice Resolution and hence the Commission document is clearly stated. Reference is also made to guidance in preparation (but not yet complete) by the Inter-departmental Group on Risk Assessment.

CITES listing

Examination of the potential benefits and costs of action

Too often the perceived benefits of a listing are to the fore in any quasi cost benefit analyses in listing proposals. The conservation costs of a listing, even if it is accepted there are any, are seemingly less exhaustively researched or documented. Often the notional approach to listing is dichotomous that is; listing is good, not listing is bad. The possibility that listing might bring about consequences, through socio-economic or other mechanisms, that could be wholly or partly contrary to the aims of a precautionary approach and to a species' best conservation interests are never, or rarely, given equal consideration. The notion that listing might be counterproductive to conservation is not given an equal hearing.

The choices under the precautionary approach do not, to my mind, encourage the one size fits all, that currently appears to be the case in CITES animal species listings. I think this approach both unnecessary under the Convention and counter-productive to the best conservation interests of many, and perhaps all, species.

The benefits of listing include non-detriment findings and monitoring and control facilities.

Bringing Appendix II/Annex II specimens to the EU an importer incurs the cost of the:

- export permit in the country of origin
- import permit (a not insignificant cost if the current proposals for increased charges are implemented)
- administration costs in applying for export and import permits and ensuring they match at the point of import

These costs are an additional burden and must be reflected in either increased price or reduced margins. Businesses can absorb only so much cost, and the market will only accept a certain price. Both margins and price are only elastic to a finite degree. These additional costs may very significantly reduce the volume of live seahorses, sea cucumbers or whatever, entering trade.

Consequently increased costs, howsoever caused, may reduce trade and hence its benefits to conservation.

Proportionality

As an example the permit costs per seahorse, sea cucumber or whatever are far greater, disproportionately so, for each live specimen in trade than for dried samples. Thus the burden on the trade in live specimens is disproportionate to the small number in trade. This regime reduces trade in the sector that gives the highest value to the use of least biomass and favours the high volume low value trade in dried specimens.

Seahorses in international trade

Numbers

The proposal estimates that 20 million seahorses enter international trade globally. A number of remarks are made that previous estimates of the number of live seahorses in trade are overestimates. We agree with this thesis and estimate the trade in live seahorses does not exceed 100,000 per year and is possibly less than 50,000.

Thus dead seahorse's, dried as curio's or for the traditional Chinese medicinal market, may be assumed to make up 99%, or more, of all individuals in international trade.

Value

In Table 7 of the US proposal we can see that the average mean value of dried seahorses imported into Chinese Taipei was \$39.4 per kg in 2000. Within the body of the report it is noted that Vincent report that the number of dried seahorses in 1995 was between 300 and 450. The size of seahorses accepted were 50mm in length. It is therefore reasonable to suppose that at import the average value of a dried 50 mm seahorse was just 10 c.

In contrast a 50 mm seahorse imported into the EU would be valued at \$3. That is 30 times the value for the same animal dried.

Non-discriminatory

The EU communication explains this as meaning "different situations should not be treated in the same way". There are very clear differences in the volume of trade in dried and/or processed seahorses and sea cucumbers and live specimens identified. Equally clearly dried and live specimens are transported in entirely different ways that can be readily identified and so pose no enforcement problem in distinguishing them apart. Blind blanket application of any proposal as precautionary may actually lead to perverse impacts. A more sophisticated application of the precautionary principle is warranted in this instance.

Thus there are good grounds for the two styles of trade to be treated differently.

Seahorses and sea cucumbers entering the ornamental trade must be collected, handled and transported carefully to ensure that they arrive at destination in good health. Failure to observe these standards removes a practitioner from the market on commercial grounds.

Live seahorses are transported in water, as little as 1% by weight of freight containing seahorses is actual body mass. On average 100 5g seahorses would be packed in a 12kg box, about 8 per kg of freight.

Targetting

The trade in the dried specimens is high volume and low value; it is also readily distinguishable from the trade in live specimens. Therefore targeting is both possible and desirable.

Diversion not a threat

It is highly improbable for commercial reasons that seahorses (or sea cucumbers) would be traded live and dried in the country of destination. The reasons for this conclusion being drawn include:

the price of a live seahorse is at least 30 times that of a dried seahorse

a live seahorse would lose at least 50% of its bodyweight upon drying

the cost of drying in destination would far exceed the cost of sun drying in the country of origin

importers caught transporting any animal inhumanely into the EU would face criminal prosecution.

Consistent

A listing recognising the statements above would be consistent with the previous use of annotations in CITES.

Article 1 – a problem?

The if Art. 1 b i and ii are combined, then any animal alive or dead and any readily recognisable part or derivative thereof should be included in any listing. The chapeau does however state “unless the context otherwise requires”.

Annotation- a way ahead?

Annotations have been used to lend context. Some have been used to exclude certain specimens (animals and plants, alive or dead) from CITES and others used to allow higher or lower protection levels. In some instances lower protection levels, even for live specimens, in certain populations have been deemed by parties to be in the best conservation interests of the species.

If the direct consequences of the listing could be demonstrated to be likely to confound the primary tenet of the convention, that it act in the best conservation interests of the species, and be contrary to the desired outcomes of a precautionary approach, why could live specimens not be wholly excluded from a listing proposal?

No doubt we will discuss this again,

Yours sincerely,

Keith Davenport
Chief Executive