

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



Nineteenth meeting of the Conference of the Parties
Panama City (Panama), 14 – 25 November 2022

Species specific matters

Maintenance of the Appendices

COMMUNICATIONS CONCERNING AMENDMENTS TO THE APPENDICES
RECEIVED BY THE DEPOSITARY GOVERNMENT
AFTER THE 18TH MEETING OF THE CONFERENCE OF THE PARTIES

1. This document has been prepared by the Secretariat.
2. This document addresses the practical and legal questions raised by some of the communications concerning amendments to the Appendices received by the Depositary Government after the 18th meeting of the Conference of the Parties (CoP18, Geneva, 2019). It builds upon the report presented by the Secretariat to the Standing Committee at its 74th meeting in document [SC74 Doc. 86](#) and incorporates comments received at that meeting. It explains the rationale followed by the Secretariat for updating the references and addresses related communications from several Parties in response to Notification to the Parties [No. 2019/052](#).

Background

3. The listing in Appendix II of the populations of *Loxodonta africana* of Botswana, Namibia, South Africa and Zimbabwe is subject to annotation 2. Paragraph b) of that annotation makes reference to Resolution Conf. 11.20 (Rev. CoP18) on *Definition of the term 'appropriate and acceptable destinations'*; and paragraph g) ii) of the annotation refers to Resolution Conf. 10.10 (Rev. CoP18) on *Trade in elephant specimens* as follows:

[...]

- b) *trade in live animals to appropriate and acceptable destinations, as defined in Resolution Conf. 11.20 (Rev. CoP18), for Botswana and Zimbabwe and for in situ conservation programmes for Namibia and South Africa;*

[...]

- g) *trade in registered raw ivory (for Botswana, Namibia, South Africa and Zimbabwe, whole tusks and pieces) subject to the following:*

[...]

- ii) *only to trading partners that have been verified by the Secretariat, in consultation with the Standing Committee, to have sufficient national legislation and domestic trade controls to ensure that the imported ivory will not be re-exported and will be managed in accordance with all requirements of Resolution Conf. 10.10 (Rev. CoP18) concerning domestic manufacturing and trade.*

4. At CoP18, the Conference of the Parties agreed to revisions of the two Resolutions mentioned above. Following past practice, the Secretariat updated the references to both Resolutions in annotation 2 to

reflect the new versions and subsequent numbering of these Resolutions so that the annotation was not referring to versions of Resolutions that were no longer in effect.

5. Following CoP18, in [Notification to the Parties No. 2019/052](#) of 3 October 2019 entitled 'Amendments to Appendices I and II of the Conference of the Parties at its 18th meeting (Geneva, 17-28 August 2019)', the Parties were informed in paragraph 4 that:

*In accordance with past practice, the Secretariat has updated the references to the Resolutions mentioned in annotation 2 relating to the populations of *Loxodonta africana* in Botswana, Namibia, South Africa and Zimbabwe.*

6. On 18 December 2019, the Depositary Government (Government of Switzerland) informed all Parties (Section II of Depositary's notification 1/2019: "Communications with respect to Paragraph 4 of the CITES Notification to the Parties No. 2019/052 of 3 October 2019")¹ that Botswana, the Democratic Republic of the Congo, Eswatini, Namibia, South Africa, the United Republic of Tanzania, Zambia and Zimbabwe had communicated their reservation with respect to "the update of the references to the Resolutions mentioned in annotation 2 relating to the populations of *Loxodonta africana* in Botswana, Namibia, South Africa and Zimbabwe".
7. In line with the Secretariat's mandate of inviting the attention of the Parties to matters pertaining to the aims of the Convention [Article XII, paragraph 2. (e)], the Secretariat has liaised with the Depositary Government, raising other questions on reservations with respect to amendments to Appendices I and II (see document CoP18 Doc. 98). A similar approach has been followed on the implications of the transfer of a species to Appendix I (see document CoP18 Doc. 49.1). This resulted in amendments to existing Resolutions.

Discussion

References to Decisions and Resolutions in annotations and the practice of updating them

8. Annotation 2 in relation to the populations of *Loxodonta africana* in Botswana, Namibia, South Africa and Zimbabwe includes references to two Resolutions and two Decisions of the Conference of the Parties. Parties are legally bound by the text of the Convention including its Appendices; Resolutions and Decisions are soft law and considered formal expressions of the opinion or will of the Conference of the Parties. Therefore, referring to a Resolution or Decision in an annotation to a CITES listing can be problematic because it implies that the relevant Resolution or Decision should be considered legally binding as part of the Appendices to the Convention. The fact that Resolutions and Decisions are frequently amended or repealed may create further complications.
9. Since 2010, the practice of the Secretariat has been to update the references to the Resolutions specified in annotation 2 so as to reflect the fact that the Conference of the Parties has revised the Resolutions concerned, and that the previous version is therefore replaced by the revised version.
10. With regard to the relationship between a newly adopted draft resolution and existing Resolutions, in paragraph 2 c) and 2 i) of Resolution Conf. 4.6 (Rev. CoP18) on *Submission of draft resolutions and other documents for meetings of the Conference of the Parties*, the Conference of the Parties recommends that:
 - c) *when drafting a resolution that is intended to treat a subject comprehensively, or to make significant changes in the way in which a subject is dealt with, a Party prepare the draft so that, if adopted, it will replace and repeal all existing Resolutions (or, as appropriate, the relevant paragraphs) on the same subject;*

[...]

- i) *when a draft resolution is adopted that merely adds points to the recommendations (or other decisions) in existing Resolutions, or makes minor amendment thereto, the existing Resolutions be replaced by revised versions with the agreed changes;*

¹ See also CITES [Notification to the Parties No. 2019/077](#)

11. Following changes made at CoP15 in 2010, the reference to Resolution Conf. 10.10 (Rev. CoP14) in the annotation to the listing of *Loxodonta africana* was updated to read "Resolution Conf. 10.10 (Rev. CoP15)". The reference to revised versions of Resolution Conf. 10.10 was subsequently updated by the Secretariat after CoP16 in 2013, CoP17 in 2016 and CoP18 in 2019 to reflect the revision of the Resolution at these meetings. The reference in annotation 2 to Resolution Conf. 11.20 was also updated after CoP17 in 2016 and CoP18 in 2019 to reflect the revision of that Resolution at these CoPs. This practice of updating these cross-references in annotation 2 developed in the absence of specific guidance provided by the text of the Convention or the Conference of the Parties, and reflects what the Secretariat understood to be the will of the Conference of the Parties (i.e. that an annotation is to refer to the most recent version of a Resolution).
12. The Secretariat therefore considers that clarification is required as to whether the references to Resolutions and Decisions mentioned in annotations were intended to be static or dynamic (i.e. intending to refer to an evolving instrument) and, consequently, whether the updates to those references are mere corrections reflecting an existing new legal situation in the former case, or amendments that should follow the procedure provided for in Article XV of the Convention in the latter case.
13. Resolution Conf. 11.21 (Rev. CoP18) on *Use of annotations in Appendices I and II* makes a distinction between 'reference annotations', which are for information purposes only, and 'substantive annotations' which are integral parts of the species listings. Annotation 2 to *Loxodonta africana* in Appendix II belongs to the latter group, i.e., "annotations that specify the inclusion or exclusion of designated geographically separate populations, subspecies, species, groups of species, or higher taxa, which may include export quotas" and "annotations that specify the types of specimens or export quotas". Resolution Conf. 11.21 (Rev. CoP18) also provides that "substantive annotations relating to species in Appendix I or II may be introduced, amended or deleted only by the Conference of the Parties in accordance with Article XV of the Convention".
14. Resolution Conf. 4.6 (Rev. CoP18) directs the Secretariat to revise the publication of current Resolutions after each CoP to correct the texts of pre-existing Resolutions to ensure that all references to other Resolutions are accurate but does not refer to the updating of references to Decisions or Resolutions mentioned in the Appendices. In addition, Resolution Conf. 11.21 (Rev. CoP18) on *Use of annotations in Appendices I and II* is also silent about the question of updating references to Decisions or Resolutions in the Appendices or annotations.
15. Thus, when a Resolution is revised, the Conference of the Parties requires the Secretariat to update the references to that Resolution in other current Resolutions in accordance with Resolution Conf. 4.6 (Rev. CoP18). The Secretariat's practice of equally updating references to Resolutions in substantive amendments is based on its belief that the Parties intended for the references to Resolutions made in substantive annotations to be dynamic references. Resolution Conf. 4.6 (Rev. CoP18) provides that the objective of correcting the texts of existing Resolutions after each CoP is to ensure that references to other Resolutions are accurate. Since the new version of a Resolution replaces the previous one, updating references to Resolutions appears necessary for the sake of clarity. Keeping the name and number of a previous version that is no longer valid or available could cause confusion and discrepancies in light of the updating mandate of the Secretariat provided for in Resolution Conf. 4.6. (Rev. CoP18).
16. Prior to 2019, no Parties had taken issue with the update by the Secretariat of the references to Resolutions in annotation 2. The silence of the Parties following the publication of Notifications with the new version of the Appendices following CoP15, CoP16 and CoP17 seemed to indicate acquiescence of the updating of references contained in annotation 2, and therefore the Secretariat continued this practice.
17. However, it now appears that this may be problematic when the changes made to the Resolution create changes to the scope of protection for fauna or flora under the Convention. Such changes effectively amend the obligations under the legally binding text in the Appendices without following the process in Article XV and thereby deny Parties the opportunity to enter reservations as would normally be the case with amendments made in accordance with Articles XV and XVI.
18. Finally, it should also be noted that annotation 2 to *Loxodonta africana* in Appendix II contains other subparagraphs that refer to now deleted decisions which have ceased to have legal effect. At CoP17, the deletion of those Decisions via the amendment procedure provided for in Article XV was discussed and rejected by the Parties. This appeared to be motivated by the majority not wishing to amend annotation 2.
19. The Secretariat seeks guidance as to whether it should automatically update references to Decisions and Resolutions that are mentioned in the Appendices, including in annotations, after each meeting of the

Conference of the Parties to refer to the currently valid version of those Decisions and Resolutions or whether the Conference of the Parties considers, on the contrary, that such modification amounts to an amendment that should follow the Article XV procedure. The Secretariat seeks confirmation from the Conference of the Parties that its current practice of updating references to Resolutions in existing annotations is appropriate, or else receive new guidance. In providing its advice, the Conference of the Parties will be invited to consider the issues raised below and also consider whether any amendments to relevant Resolutions are needed.

Legal nature of the communications made in response to Notification to the Parties No. 2019/052

20. Article XXIII of CITES contains the provisions on reservations. The relevant parts read as follows:

1. *The provisions of the present Convention shall not be subject to general reservations. Specific reservations may be entered in accordance with the provisions of this Article and Articles XV and XVI.*
2. *Any State may, on depositing its instrument of ratification, acceptance, approval or accession, enter a specific reservation with regard to:*
 - (a) *any species included in Appendix I, II or III; or*
 - (b) *any parts or derivatives specified in relation to a species included in Appendix III.*

21. Article XXIII of the Convention thus distinguishes between two types of reservations. Paragraph 2 concerns specific reservations made by a State at the time of depositing its instrument of ratification, acceptance, approval or accession. Paragraph 1 concerns specific reservations to an amendment to the CITES Appendices. Thus, the Convention provides for the possibility of entering reservations at different points in time. A reservation may be entered when the Appendices are amended, provided that the procedures in Articles XV or XVI of the Convention are followed.

22. Article XV, concerning amendments to Appendices I and II provides, in paragraph 3, that “any Party may by notification in writing to the Depositary Government make a reservation with respect to the amendment” of Appendix I or II where the Appendix has been amended following the procedures set out in Article XV. These procedures require, *inter alia*, that an amendment be proposed by a Party and its proposal communicated to the Secretariat within the deadline. A Party wishing to enter a reservation must notify the Depositary Government in writing during the 90-day period provided for by Article XV 1(c) or XV 2(I). Article XVI concerns the entering of reservations in relation to the inclusion of species, parts and derivatives in Appendix III.

23. Pursuant to the above, reservations may only be entered when an Appendix is amended following the appropriate procedure. Entering of a reservation to the update of an annotation when the updating was not specifically required by a listing proposal submitted pursuant to Article XV or XVI and Resolution Conf. 9.24 (Rev. CoP17) on *Criteria for amendment of Appendices I and II* is without precedent.

24. With regard to the issue at hand, the Parties in question communicated their “reservations” concerning changes to the references to the Resolutions in annotation 2 of the Appendices within 90 days following the Secretariat’s notification of these changes. However, as noted above, it is possible that the updates made by the Secretariat, which were not made pursuant to the procedure set out in Article XV, might not be considered amendments. If it is established that the updating of the references to Resolutions in annotation 2 was a technical correction that does not amount to an amendment, then the question of reservations would not need discussing as it would not be possible to enter reservations. If, however, the updates are considered to be amendments, then the *ex-post* question revolves around whether the procedure in Article XV should be followed for updating the annotation.

25. Article 19 of the Vienna Convention on the Law of Treaties provides that:

A State may, when signing, ratifying, accepting, approving or acceding to a treaty, formulate a reservation unless:

- (a) *the reservation is prohibited by the treaty;*
- (b) *the treaty provides that only specified reservations, which do not include the reservation in question, may be made; or*

(c) *in cases not falling under subparagraphs (a) and (b), the reservation is incompatible with the object and purpose of the treaty.*

26. Article XXIII of CITES provides that specific reservations may be made. This article does not expressly provide for entering reservations to changes to the references to Resolutions in annotations to the Appendices, as such annotations, references and updates were not foreseen and they have not been treated as amendments to the Appendices under Article XV paragraph 3.
27. It would appear that the communications in question, made by several Parties in response to Notification to the Parties No. 2019/052, are not valid and permissible reservations, and it is therefore not necessary to discuss the question of their legal effect.

Issues discussed at the 74th meeting of the Standing Committee

28. The Secretariat is grateful for the comments and discussion that took place at the 74th meeting of the Standing Committee in relation to document SC74 Doc. 86. The following issues were discussed.

Changes to references to Resolutions in annotations

29. Parties who commented on document SC74 Doc. 86 expressly stated that they considered the changes to references to Resolutions in annotation 2 to be substantive in nature and that these therefore ought to follow the procedure for amendment set out in Article XV of the Convention. When this amendment procedure is used, Parties may enter reservations following the process set out in Article XV paragraph 3 of the Convention.

Communications in response to Notification to the Parties No. 2019/052

30. Parties who specifically commented on the case at hand generally considered that the communications made in response to Notification to the Parties No.2019/052 of 3 October 2019 could not be considered to be reservations. Nonetheless, it was encouraged that discussions remain general and beyond the specific case at hand. Parties that commented also cautioned that the question is complex and that all proposals for solutions ought to be analyzed globally in order to resolve the problem in its entirety and avoid the emergence of further issues.

Scope of reservations to annotations

31. It was noted by some Parties that, in relation to a change made to the reference to a Resolution in a substantive annotation, a reservation entered in accordance with Article XV paragraph 3 should be limited both “with respect to the amendment” and “with respect to trade in the species concerned”, and it was stressed that the scope of reservations further needs clarifying in Resolution Conf. 4.25 (Rev. CoP18) on *Reservations*. For the Party taking the reservation, the same requirements should apply to that Party before and after the amendment with respect to the species concerned, as if the amendment had not occurred. This would mean that where a substantive annotation to an already listed species is amended in accordance with Article XV and thereby alters the scope of protection for fauna or flora under the Convention, a reservation entered in accordance with Article XV paragraph 3 has substantive effect only to the extent of the amendment made to the substantive annotation and has no substantive effect on any other part of the annotation that is not amended or on the inclusion of the species in the Appendices.

References to Resolutions in annotations

32. In relation to references to Resolutions in annotations, while some Parties and observers do not consider it problematic to combine hard law and soft law provisions since references to soft law within hard law are not uncommon in international law and can have practical advantages, other Parties have welcomed a proposal for instructions stating that references to Resolutions should not be made in annotations. Reasons cited for this included avoiding future similar issues and the fact that some Parties’ domestic requirements call for the Appendices to be written into national legislation, meaning that amendment of the law is required for modifications that go beyond mere editorial changes.
33. One Party expressed its interest in addressing further connected issues relating to split listings and nomenclatural changes.

Conclusions

34. From the discussions outlined above, the Secretariat concludes that :

- a) Parties appear to consider that changes to references to Resolutions contained in annotations are considered amendments and therefore ought to follow the procedure set out in Article XV;
- b) the communications made in response to Notification to the Parties No. 2019/052 are not reservations; and
- c) the scope and effect of reservations entered in relation to amendment of annotations should be clearly circumscribed.

These three main outcomes of the above discussion have several consequences outlined below and the Conference of the Parties is invited to consider these when proposing or adopting guidance for the future.

35. In the case of *Loxodonta africana*, the annotation relates to specific populations and contains additional requirements. The populations of Botswana, Namibia, South Africa and Zimbabwe of *Loxodonta africana* are included in Appendix II with an annotation indicating that the purpose of the listing is to allow trade in certain specimens and under certain conditions. The listing indicates the reason why and the conditions under which these four populations are not included in the Appendix-I listing. Thus, similarly to other annotations to animal species listed in Appendices I or II, annotation 2 does not concern *whether* a species is included in an Appendix and hence covered by the Convention, but rather *how* the Convention applies to trade in certain specimens of a species included in an Appendix.
36. The characteristics of such an annotation may cause uncertainty as to how the Convention would apply in the case where a reservation to adoption or subsequent amendment of the annotation is entered. Article XV of CITES concerning amendments to Appendices I and II provides that a State which has entered a reservation under that Article is treated as “not a Party to the present Convention with respect to the trade in the species concerned” until such reservation is withdrawn. This is consistent with Article XXIII concerning reservations which provides that a State which has entered a reservation under the provisions of that Article “be treated as a State not a Party to the present Convention with respect to trade in the particular species or parts or derivatives specified in such reservation.” Furthermore, Resolution Conf. 4.25 (Rev. CoP18) on *Reservations* recommends that where a Party enters a reservation with regard to any species included in Appendix I, that species be treated as if it were included in Appendix II. However, the Convention, in its Article I (b) (ii), does not foresee annotations for animal species included in Appendix I or II. Consequently, it does not provide for entering reservations on such annotations, nor the effect of such reservations. However, the Parties have specifically recognized the acceptability of using annotations – not only by adopting them but also by adopting a Resolution on their use [see Resolution Conf. 11.21 (Rev. CoP18) on *Use of annotations in Appendices I and II*].
37. Considering that this was not foreseen by the Convention and insofar as the annotation in question does not concern *whether* a species is included in an Appendix and hence covered by the Convention, but rather *how* the Convention applies to trade in certain specimens of a species included in an Appendix, it would not make sense for the effect of a reservation to be that the reserving State is considered not a Party to the Convention with respect to the trade in the species concerned. Rather, the Parties who expressed their unwillingness to be bound by the annotation as amended, would instead be bound by the version of the annotation that was in effect prior to the amendment.
38. Insofar as the amendment concerns the change in the reference to a Resolution, this would result in simultaneous application of different versions of the Resolution, despite the fact that previous versions of a Resolution usually cease to be in effect once it is amended. The issue of simultaneous application of different versions of the same Resolution, in this case of changes to Resolution Conf. 11.20 on *Definition of the term ‘appropriate and acceptable destinations’* referred to in annotation 2, could be resolved by including the definition of the term “appropriate and acceptable destinations” in the *Interpretation section* of the Appendices, which is the appropriate location for definitions used in the Appendices. Indeed, the inclusion in annotations of references to Resolutions and the definitions articulated therein should be avoided, especially since it may give rise to issues like the one at hand. Regardless of where the definition is located, reservations to amendments to annotations will need to be tracked in order to understand the current requirements for trade, as different versions might apply to different Parties if valid reservations are entered.

39. To summarise, the Secretariat draws the Parties' attention to two main points:

- a) To consider that changes to references to Resolutions are amendments that ought to follow the procedure set out in Article XV means that these may be subject to reservations. It also means that, while newer versions of the same Resolution are considered to replace previous versions, it would appear possible that two versions may apply simultaneously. Parties are invited to consider for future guidance any inconsistencies and practical difficulties that might arise from this when considering any proposals.
- b) Insofar as the existence of annotations for animal species included in Appendices I or II was not foreseen at the time of drafting the original text of the Convention, it may be considered reasonable to provide for a different effect in the case of reservations to amendments to such annotations. Annotations to animal species may specify the taxa included in a listing but equally other trade requirements. It would seem reasonable that if an amendment is made to these additional specifications, a Party may enter a reservation the effect of which would be to prevent the change made by the amendment from applying to the reserving Party. The reserving Party would remain bound by the text of the annotation as it applied to that Party prior to the amendment. This means that limiting the scope and effect of reservations in relation to amendment of annotations would entail derogating from the general effect provided by Article XV whereby a Party entering a reservation will be considered a State not a Party to the Convention with respect to trade in the species concerned.

40. In order for the Parties and the Secretariat to be better prepared to manage similar issues that might arise in the future, the Secretariat recommends that the Conference of the Parties addresses the matters above in the following way:

- a) agree that inclusion of references to Resolutions and Decisions in the Appendices via annotations should be avoided and consider amending Resolution Conf. 11.21 (Rev. CoP18) on *Use of annotations in Appendices I and II* to reflect this;
- b) ensure that definitions of terms used in the Appendices are not included in annotations but rather in the Interpretation section of the Appendices, and consider amending Resolution Conf. 11.21 (Rev. CoP18) to that effect;
- c) in relation to updating existing references to Decisions or Resolutions:
 - i) amend Resolution Conf. 4.6 (Rev. CoP18) on *Submission of draft resolutions and other documents for meetings of the Conference of the Parties* to confirm or provide new guidance on the practice of updating references to Decisions or Resolutions contained in annotations;
 - ii) agree that changes to references to Decisions or Resolutions in annotations are amendments, which therefore ought to follow the procedure for amendment set out in Article XV of the Convention;
 - iii) agree that these therefore may be subject to reservations, while specifying the scope and effect of such reservations by amending Resolution Conf. 4.25 (Rev. CoP18) on *Reservations* as appropriate.

41. In light of the above discussion and the comments provided at SC74, the Conference of the Parties is invited to:

- a) adopt the amendments to Resolution Conf 11.21 (Rev. CoP18) on *Use of annotations in Appendices I and II* contained in Annex 1 to the present document;
- b) adopt the amendments to Resolution Conf. 4.6 (Rev. CoP18) on *Submission of draft resolutions, draft decisions and other documents for meetings of the Conference of the Parties* contained in Annex 2 to the present document; and
- c) adopt the amendments to Resolution Conf. 4.25 (Rev. CoP18) on *Reservations* contained in Annex 3 to the present document.

PROPOSED AMENDMENTS TO RESOLUTION CONF. 11.21 (REV. COP18)

CONF. 11.21 (REV. COP189) ON *USE OF ANNOTATIONS IN APPENDICES I AND II*

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

1. AGREES that:

...

- g) substantive annotations used in the context of transferring a species from Appendix I to Appendix II should be in compliance with the precautionary measures contained in Resolution Conf. 9.24 (Rev. CoP17) Annex 4; ~~and~~
- h) references to Decisions or Resolutions of the Conference of the Parties should not be included in annotations;
- i) if needed, definitions of key terms and expressions used in annotations should be specified in the Interpretation section of the Appendices; and
- h*j*) annotations that include time limits or other references that may with time cease to apply should, on a regular basis, be considered for deletion or revision by the Standing Committee and as appropriate, by the Animals Committee or Plants Committee.

...

PROPOSED AMENDMENTS TO RESOLUTION CONF. 4.6 (REV. COP18)

**CONF. 4.6 (REV. COP189) ON SUBMISSION OF DRAFT RESOLUTIONS, DRAFT DECISIONS
AND OTHER DOCUMENTS FOR MEETINGS OF THE CONFERENCE OF THE PARTIES**

RECALLING that references to Decisions or Resolutions should not be included in annotations

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

...

2. RECOMMENDS that:

- e) when drafting decisions, a Party clearly identify who should implement the decision and normally direct the decision to the Standing Committee, the Animals Committee, the Plants Committee, the Secretariat or Parties;
- f) prior to submitting a proposal to amend a Resolution, a Party identify whether the Resolution in question is referred to in an annotation and submit an amendment proposal to update the reference accordingly;
- gf) unless practical considerations dictate otherwise, draft resolutions not include:

...

4. DIRECTS the Secretariat further:

- a) when revising its publication of current Resolutions after each meeting of the Conference of the Parties, to correct the texts of already existing Resolutions to ensure that all references to other Resolutions are accurate but not to update references to Decisions or Resolutions contained in annotations in the Appendices of the Convention.

PROPOSED AMENDMENTS TO RESOLUTION CONF. 4.25 (REV. COP18)

CONF. 4.25 (REV. COP189) ON RESERVATIONS

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

1. RECOMMENDS that any Party having entered a reservation with regard to any species included in Appendix I treat that species as if it were included in Appendix II for all purposes, including documentation and control;
2. AGREES that where an annotation to an animal species listed in Appendix I or II is amended, a Party may enter a reservation in accordance with Article XV paragraph 3. The effect of such reservation is limited to excluding the amendment from applying to the reserving Party until the reservation is withdrawn. The reserving Party remains bound by the version of the annotation in effect prior to the amendment.
3. DIRECTS the Secretariat to maintain on the CITES website, in the table on Reservations entered by Parties, reference to the requirements for international trade that apply to each Party having entered a reservation in accordance with Article XV paragraph 3;
- ~~3.~~ 4. AGREES that, if a species is deleted from one Appendix of the Convention and simultaneously included in another, the deletion shall render invalid any reservation that was in effect in relation to the species and, consequently, any Party that wishes to maintain a reservation in relation to the species must enter a new reservation in accordance with Article XV, paragraph 3, or Article XVI, paragraph 2;
- ~~3.~~ 5. CALLS on the Parties having entered reservations to nevertheless maintain and communicate statistical records on trade in the species concerned, as part of their annual reports, so that international trade in specimens of these species may be properly monitored;
- ~~4.~~ 6. INSTRUCTS the Secretariat to remind affected Parties explicitly of the reservations that will be rendered invalid, in time for the Parties to renew their reservations if they so desire;
- ~~5.~~ 7. REMINDS Parties of the requirement to notify the Depositary Government in writing of a reservation it wishes to make with respect to an amendment to Appendix I or II within 90 days after the meeting, in accordance with Article XV, paragraph 3, of the Convention;
- ~~7.~~ 8. REQUESTS the Depositary Government not to consider valid any reservation with respect to an amendment to Appendix I or II entered after the 90-day deadline; and
- ~~8.~~ 9. AGREES that the withdrawal of a reservation becomes operational on the date of the Depositary's notification to the Parties unless a later date has been set by the Party withdrawing the reservation.