

GENERAL COMMENTS FROM THE PARTIES

Australia: Australia believes that further work needs to be carried out by the Working Group on the Species Listing Criteria before it can be finalised. A great deal of interesting and useful discussion has occurred within the Working Group to date, however, it has served to emphasise that additional discussions are required. There are a number of points presently included in the report from the Working Group that have not been agreed by consensus and therefore, it should not be presented for wider deliberation until the entire Working Group is comfortable with the content. Alternatively, points of contention should be highlighted to enable other Parties to recognise areas of dispute.

It is important to note that much of the Working Group meeting proceedings appear to be focused towards sustainable use considerations and ensuring that the criteria could also be applied to down-listing proposals. Whilst these are important issues, and worthy of inclusion in any new criteria, it is essential that the criteria be appropriately balanced between these matters and the conservation of species. Further review of the criteria is needed to ensure that this matter of balance is properly addressed.

Australia was disappointed that a broad balance of experts was not available to support the Working Group, given that my interpretation of Resolution Conf. 9.24 calls for a range of external experts to assist in conducting the review. It may be beneficial to the future development of the criteria for additional experts to be included in the composition of the Working Group to ensure that an appropriate range of interests and expertise is represented.

Discussions on the criteria also emphasised demonstrating conservation benefit, data requirements and detailed analysis. Again, these issues are important in making sound and objective listing decisions, however, over-reliance on these factors do not necessarily take into account a number of other important components, such as:

- the realities of limited scientific knowledge;
- the capacity of Parties in preparing proposals; or
- the validity of certain assessments and analysis techniques.

As a result, the current direction of the criteria may make it difficult to successfully propose listing or down-listing a species where comprehensive data is not available. Additionally, the inclusion of detailed technical requirements may also over-complicate the criteria unnecessarily. Parties differing levels of capacity to meet any requirements for listing or down-listing of species needs to be recognised.

Australia notes that there have been no recommended changes to Annex 5, which contains the definitions, notes and guidelines. As you will appreciate, Annex 5 is critical to Parties in providing guidance for the listing of species. It is currently focused on only a limited number of taxa and should be further developed to encompass guidelines for a greater number of representative taxon groups.

It should also be noted that there are currently a number of factors included in the draft criteria that Australia believes should be left to the consideration and debate of the Conference of Parties. These include:

- the proposals that species not be listed (presumably under Annex 2b criteria) if they are in international trade and there is negligible risk they will meet the criteria under Annex 2a in the near future;
- if listing risks increasing the volume of trade to detrimental levels;
- where they are under a zero quota or undergoing a significant trade review; or
- considering the ability to effectively implement and enforce a listing.

Inclusion of non-trade and/or non-biological factors within the criteria may significantly limit the submission of listing proposals by Parties, particularly where the products in trade are difficult to identify. Such matters would appear inappropriate for inclusion within the criteria and may be better referred to within the text of a relevant resolution.

France: The different amendments and additions to the CITES criteria bring indispensable precisions to their implementation, as some of them were until now still ambiguous or too unspecific.

One can note an obvious, albeit incomplete, attempt to align these criteria with those established by IUCN for the Red List of Threatened Species. However some differences are still apparent between the definitions given in this document and those of IUCN (cf. Annex 5, definitions of "extinct", "endangered", etc.). A real adequation between the definitions of both structures would facilitate further the work of countries and management bodies that have already made the effort to standardize their lists of endangered species in using the IUCN criteria.

Germany: We would like to congratulate the Criteria Working Group for the job they have done, finally tabling a proposal for changing Resolution Conf. 9.24. Many of the proposed changes are supported by the German Scientific Authority to CITES. However, we are of the opinion that some of the proposed changes are unnecessary (thus creating confusion or overloading the resolution) or not in line with the Convention itself.

Japan:

General comments

In considering the criteria for fish species (or group), it is essential to consider their biological feature instead of directly applying the general theory on the criteria. This is because each fish species (or group) has its own unique biological characteristics such as recruitment dynamics, growth, age-at-maturity, life-span, and natural mortality in different life stages.

In considering the criteria for species of fisheries resources, it is necessary to consider 'uncertainties'. This is because estimated population abundance are usually made by commercial fisheries data which include large 'uncertainties' in their information.

Specific comments

Paragraph 35 of the CWG Report : The definition of 'pristine' population size 'X' is unclear. Is it an estimated carrying capacity, or an estimated population size before starting harvest?

Paragraph 37 of the CWG Report : Is it easy to estimate the optimal harvest level (e.g., MSY)? It would be only for populations where there are sufficient data available.

United States of America: We appreciate the hard work of the Criteria Working Group, and the efforts of its members to present a document for our discussions in December at the Joint Meeting. The United States considers this a high priority for the work of the Animals and Plants Committees, and the Parties, between now and CoP12. Our specific comments on numbered paragraphs in the report of the Criteria Working Group are attached. However, we have some general comments as well.

Specifically, Resolution Conf 9.24 contains very specific language with respect to the review process to be taken prior to the CoP12. Specifically, in the final operative paragraph in the body of Conf. 9.24, the Conference of the Parties recommends that:

“..the text and the annexes of this Resolution be fully reviewed before the twelfth meeting of the Conference of the Parties with regard to the scientific validity of the criteria, definitions, notes and guidelines and their applicability to different groups of organisms”.

Thus, Resolution Conf. 9.24 (and thereby Doc. 11.25 from CoP11) calls for a review that specifically deals with the *scientific validity and applicability of the criteria to specific taxa* [emphasis added]. We believe that the Criteria Working Group did not fully fulfil this obligation, which should be its primary focus, and thereby

the primary focus of the work of the Animals and Plants Committees. Although of course nothing prevents the Parties from proposing future changes to language of any resolution, the sorts of detailed proposed amendments to Resolution Conf. 9.24 circulated by the Secretariat in Notification 2000/51 do not fulfil the mandate stated above for the criteria review. They both go too far, and do not go far enough. It is our hope that clearer, more taxon-specific and explicit criteria, with specific text in the relevant Annexes, will encourage the presentation of proposals that are easier to evaluate, with compelling arguments for changing the status of species on the Appendices and the level of regulation of their international trade.

The United States agrees that there is a need to evaluate the criteria and associated definitions, notes and guidelines for their applicability to different groups of organisms. We believe that considerably more work is needed to accomplish this objective. Although the CWG made a good start in discussing the criteria and guidelines, it did not recommend any changes to Annex 5, which contains the definitions, notes, and guidelines.

At present, it appears that the criteria are set up to be as general as possible so as not to inadvertently exclude any species from consideration, while the guidelines are more specific containing, among other things, numerical guidelines (not thresholds) to define "small" population size and "small" area of distribution. The United States believes that the Criteria should remain as broad and general as possible, while the guidelines could and should be further developed to assist the Parties in selecting candidate species for listing by CITES.

Thus, the United States believes that more effort should be devoted to revision of Annex 5, rather than the criteria themselves. The United States recommends that the Animals and Plants Committees develop a process for conducting a review of the criteria and guidelines for representative taxon groups and/or life history strategies. The United States is in the process of conducting such a review for several taxa, including exploited marine fish and invertebrates, marine turtles, and certain marine mammals, focusing on species occurring in U.S. waters. We recommend that the joint meeting establish a process, working with scientists (including IUCN Specialist Groups), to undertake taxon-specific reviews between now and CoP12 as part of the review of Annex 5 of Conf 9.24.

Further, we believe that there is a definite need for the CWG, and the Plants and Animals Committees, to consider differences in life history parameters of various taxonomic groups. To this end, the FAO Technical Consultation of FAO saw the need for a further Technical Consultation to review various taxonomic groups to ascertain criteria that might be applicable to specific marine taxa. We believe that this process would be appropriate, not only for marine species, but for others as well, and would be consistent with the mandate in Resolution Conf. 9.24.

Resolution Conf. 9.24 in its present form represents a compromise arrived at after more than two years of intense and detailed work, with which we were closely and very actively involved, with repeated negotiations and opportunities for comment by the CITES Parties. It is a compromise that should not lightly be set aside. By adopting it, the Parties set CITES on a course of scientifically-based pragmatism, without a strong ideological position either for or against listing species on the Appendices. Although we do not regard its text as perfect by any means, we recognize that it represents a balanced position that reflects the attitude of the Parties as a whole towards our treaty. That the Parties prefer a balanced approach is further borne out by the results of the study of the Effectiveness of the Convention, conducted after the adoption of Resolution Conf. 9.24. The survey of the Parties undertaken as part of that study showed that there is no general feeling that CITES should shift its position towards a more restrictive view of the Appendices. Furthermore, the criteria in Resolution Conf. 9.24 have been effective at both CoP10 and CoP11 in allowing both the 'uplisting' and 'downlisting' of species, and in most cases by consensus, further demonstrating that the criteria operate satisfactorily.

We therefore believe that the Working Group should have concentrated its efforts, following the language in Resolution Conf. 9.24, on refining the criteria with respect to making them more applicable to a broad range of taxa. In checking our files and notes from the work leading up to CoP9, and in the detailed discussions and working group analyses at CoP9, and in the comments of Parties and others, we find agreement that a focus on specific taxa was needed. There was consensus at CoP9 that time did not allow for such a detailed

review at that time, and that two meetings of the Conference of the Parties would guide our evaluations as to how the criteria could be adjusted to deal with a broad range of taxa. Therefore, in addition to our specific comments (attached), we urge the members of the Plants and Animals Committees to reexamine the review process and more closely follow the directive in Resolution Conf. 9.24.

In our view, it is not the task of the Criteria Working Group, or the Joint Meeting of the Animals and Plants Committees, to alter the underlying principles of the criteria. Unfortunately, many of the changes suggested in the Report of the First Meeting of the Criteria Working Group (either by “consensus”, minority view, or suggestions by the Secretariat) seem to have been motivated not by a desire to improve the criteria in the manner requested by the Parties, but by a desire to make listing on the Appendices, or uplisting, more difficult and deletion of species from the Appendices, or downlisting, easier, and to weaken the precautionary basis for the listing process. Such is not the role of scientifically-based criteria. Rather, it is up to each contracting Party to determine if a proposal should be developed, and if so how to develop such a proposal in the context of the criteria. It is then up to each Party to analyze the proposal, evaluate it against the criteria, and determine whether to support it or not at a meeting of the Conference of the Parties.

We are also quite concerned by proposed amendments to Resolution Conf. 9.24 that are inconsistent with the CITES treaty itself. Specifically, nothing in a resolution outlining scientifically-based listing criteria can or should ever limit the right of contracting Parties to submit a proposal. If a proposal does not satisfy the criteria, or is otherwise inappropriate, we trust in the integrity and wisdom of the Parties to not adopt it. However, we strongly oppose any language in a listing criteria resolution that limits the right of Parties to submit proposals.

The statement in paragraph 25 of the CWG report that the current criteria have not been applied to any commercial fishery stocks is not technically correct. The proposals submitted for the great white shark, whale shark, and basking shark for consideration at CoP11 were evaluated using Resolution Conf. 9.24. Although the proposals were not adopted by the Parties, they were evaluated by them using the current criteria. We do agree however that more work needs to be done (as instructed by Resolution Conf. 9.24) to review and evaluate the text and the annexes of Resolution Conf. 9.24 with regard to the scientific validity of the criteria, definitions, notes and guidelines and their applicability to various marine taxa subject to commercial fisheries.

The discussion in paragraphs 37, 42 and 43 of the CWG report implies that the listing threshold for Appendix II is congruent with the biological threshold for issuing permits (trade that is not detrimental to the survival of the species). Such a construction would be plainly at odds with the plain language and intent of the treaty, which contemplate the inclusion of taxa in Appendix II before threats to their conservation status arise; the permitting mechanism in Article IV is then used to ensure that such taxa are sustainably managed to avoid any future decline in status to Appendix I. To accept the language in these paragraphs would result in the unintended consequence of an Appendix II listing being synonymous with a trade ban, which we cannot accept.

We object to the tone and text of paragraph 49 of the CWG report, and the continuing of this line of thinking in the proposed revisions to Resolution Conf. 9.24. It is argumentative and unnecessary to state that the Convention “was not designed for this purpose”. We agree that Parties need to develop adequate national legislation pursuant to Article VIII of the treaty. However, it is appropriate for Parties to propose inclusion of species, particularly native species, in Appendix II, if they deem the species to so qualify, and that the regulation of international trade in the species in accordance with CITES Appendix II is warranted. This paragraph should be struck.

IWMC: We have the feeling that two elements of significance, which were not subject to specific references in Resolution Conf. 9.24, have not been considered either by the CWG, although they might deserve some special consideration, in particular in Annex 6 about the Format for proposals. They are both linked to marine species.

1. The first element is in relation with species of which specimens or populations occur in waters not under the jurisdiction of any State.

2. The second is in relation with species subject to aquaculture or mariculture, a production process that may be associated with either captive-breeding or ranching. Aquaculture, considering its enormous and increasing economic importance may deserve a special treatment.

It is simply suggested here that these two elements be subject to some specific discussions.