

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



Twenty-sixth meeting of the Animals Committee
Geneva (Switzerland), 15-20 March 2012 and Dublin (Ireland), 22-24 March 2012

CRITERIA FOR THE INCLUSION OF SPECIES IN APPENDICES I AND II (DECISION 15.29) –
REPORT OF THE WORKING GROUP

1. This document has been prepared by the Chair of the CITES Animals Committee Working Group on Criteria for the Inclusion of Species in Appendices¹.
2. Membership on the Working Group includes the representative of North America (Ms Caceres) and would include the representatives of Africa (Mr Zahzah), Asia (Mr Pourkazemi) and Europe (Mr Fleming), the Chair of the Plants Committee, Australia, Brazil, Canada, China, the Czech Republic, Germany, India, Indonesia, Japan, Mexico, New Zealand, the Republic of Korea, Spain, Thailand, the United States, the European Union, FAO, IUCN, UNEP-WCMC, Fundación Cethus, Humane Society International, International Environmental Law Project, IWMC – World Conservation Trust, Pew Environment Group, SWAN International, TRAFFIC and WWF.
3. At CoP15 (Doha, 2010) Parties agreed to Decision 15.29, which is directed to the Animals Committee as follows:

The Animals Committee shall:

 - a) *on receipt of any or all of the reports referred to in Decision 15.28, and having sought the participation of representative(s) of the Plants Committee, IUCN, TRAFFIC, the Food and Agriculture Organization of the United Nations and other appropriate experts, develop guidance on the application of criterion B and the introductory text of Annex 2 a of Resolution Conf. 9.24 (Rev. CoP15) to commercially exploited aquatic species proposed for inclusion on Appendix II;*
 - b) *recommend the best way to incorporate the guidance for use when applying Resolution Conf. 9.24 (Rev. CoP15) to commercially exploited aquatic species, without affecting the application of Resolution Conf. 9.24 (Rev. CoP15) to other taxa; and*
 - c) *submit its conclusions and recommendations at the 62nd meeting of the Standing Committee.*
4. To this end, the Animals Committees established a Working Group with a mandate to:
 - a) *Examine the reports contained in the Annexes to document AC25 Doc. 10;*
 - b) *Develop guidance on the application of criterion B and the introductory text of Annex 2 a of Resolution Conf. 9.24 (Rev. CoP15) to commercially exploited aquatic species proposed for inclusion in Appendix II;*

¹ *The geographical designations employed in this document do not imply the expression of any opinion whatsoever on the part of the CITES Secretariat or the United Nations Environment Programme concerning the legal status of any country, territory, or area, or concerning the delimitation of its frontiers or boundaries. The responsibility for the contents of the document rests exclusively with its author.*

- c) *Recommend the best way to incorporate this guidance for use when applying the Resolution without affecting its application to other taxa; and*
 - d) *Draft a proposal for adoption by the Animals Committee and submission at the 62nd meeting of the Standing Committee.*
5. The Working Group has undertaken its activities via a CITES Online Forum.
 6. The Working Group began its deliberations responding to two context setting questions posed by the Chair on 9 August 2011. Specifically:
 - a) In your view, generally, what is the function of an Appendix II listing?
 - b) In your view, and given the context you provided in response to question 1, what are the key elements of Resolution Conf. 9.24 Annex 2a you consider when preparing or reviewing a listing proposal generally and, more specifically, for a commercially exploited aquatic species? Have you identified any ambiguities or inconsistencies when you apply the Annex 2 a criteria?
 7. Based on the input received, the Chair of the Working Group summarized the responses on 26 October 2011, noting these were her summary impressions and that they did not necessarily reflect a consensus amongst working group members.
 8. In her summary, the Chair noted that:
 - a) There was general agreement that species placed on Appendix II are not necessarily those that are in “red list” or “at risk” categories but are species for which the Parties see value in closely monitoring international trade. As such, most respondents acknowledged that Appendix II-listed species do not necessarily need to be “close” to meeting the Appendix I biological criteria in order to merit an Appendix II listing.
 - b) With this context, the majority of respondents seemed to agree that Annex 2a criterion A (of Resolution Conf. 9.24) is well understood. The task was therefore to provide clarification on Annex 2a criterion B (and the introductory text).
 - c) From the responses received, it was her impression that this criterion (Annex 2a criterion B) is broadly viewed as allowing for situations where there is a certain risk (the level of which may be undetermined or unknown) from the harvest of specimens for international trade that (may) jeopardize the survival of the species. Whether or not there must be a decline for this criterion to apply is subject to interpretation.
 - d) Again at a broad level, the key factor to address in understanding and applying Annex 2a criterion B, as many pointed out, is the “treatment of the risk” to a species or, as pointed out by one working group member, “what level of risk is considered to be acceptable?” The challenge before the Working Group is to provide some guidelines to proponents and reviewers on reasonable risk tolerance (level of acceptable risk) for commercially exploited aquatic species.
 - e) While the underlying theme of the discussion is defining acceptable level of risk and proportionate measures, the Chair noted that the focus of interpretation ambiguities rests in understanding the application of footnote 1 in Annex 5 of Resolution Conf. 9.24 (Rev. CoP15) titled Application of decline for commercially exploited aquatic species to the criteria in Annex 2 a. As many respondents pointed out, it is not explicitly clear how the footnote should be applied to the criteria in Annex 2 a, and in particular what application, if any, the footnote has to Annex 2 a criterion B.
 9. In the interest of moving towards guidance, the Chair proposed the Working Group consider the underlying rationales behind the Working Group members’ differing interpretations of criterion 2aB (including the interpretations based on guidance found within the footnote) to develop stand-alone guidance for Annex 2 a criterion B. She asked the Working Group to elucidate other factors that suggest that a CITES Appendix II listing may be warranted and how these other factors can be considered under the existing criterion B for commercially-exploited aquatic species.

10. On November 18, 2011, the Chair noted the input provided to date could broadly be divided into three areas of consideration when evaluating the level of risk posed by harvest for international trade and the relative value of a CITES Appendix II listing under criterion B.
 - a) **Biology of the Species.** Many commentators noted that while the guidelines in the footnote to Annex 5 definition of decline are relevant for species that meet a classical fisheries model, they are not as applicable to species that are sedentary or that occur in very small populations. If this is the case, the Chair asked what biological factors should Parties weigh when considering an Appendix II listing for a commercially-exploited aquatic species?
 - b) **Population/Distribution.** Many commentators acknowledged that there is difficulty in determining the appropriateness of an Appendix II listing for commercially-exploited aquatic species that are found in many stocks/populations, each with their own status and some of which may be meeting, or close to meeting, the Appendix I biological criteria whereas others are not. The challenge is in making a global assessment of these stocks/populations. The Chair asked what factors should Parties consider?
 - c) **Management in place.** The concerns that lead to a proposal for CITES listing of a commercially exploited aquatic species often focus on the perceived sustainability of current harvest practices. There may or may not be other management measures in place aimed at ensuring sustainability. The effectiveness of these management measures, if they exist, is also sometimes a point of discussion. The Chair asked what mitigating management factors could Parties consider that may influence the “level of risk” harvest for international trade is posing to commercially-exploited aquatic species?
11. At the time of drafting, the Working Group members were formulating their responses to the questions posed by the Chair in paragraph 10 above. It is hoped a face to face meeting of the Working Group will occur in advance of the Animals Committee meeting.
12. The Animals Committee is invited to note the report of the Working Group Chair, including any oral updates on progress since the submission of this report.