

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

Forty-sixth meeting of the Standing Committee
Geneva (Switzerland), 12-15 March 2002

Interpretation and implementation of the Convention

IMPLEMENTATION OF EXISTING RESOLUTIONS

1. This document has been prepared by the Secretariat.

2. Decision 11.136 states that:

The Secretariat shall analyse all information that it receives from the Parties regarding problems in the implementation of existing Resolutions and shall prepare a document for the first meeting of the Standing Committee in 2001, outlining its findings and proposing solutions where appropriate.

3. At the 45th meeting of the Standing Committee, in document SC45 Doc. 19, the Secretariat presented its plans for implementing this Decision. As is stated in the summary record of the meeting:

It was agreed that the Secretariat should send a Notification to the Parties to remind them of Decision 11.136, again requesting comments on problems in implementing Resolutions. The Secretariat should analyse the results, prepare a plan for a phased review of Resolutions and present its proposal at the 46th meeting.

4. Consequently, the Secretariat invited the Parties, through Notification to the Parties No. 2001/058 of 10 August 2001, to inform it of the Resolutions that were considered difficult to implement at the national level or that were not implemented, and to provide an indication of the problems encountered or the reasons for non-implementation. The Secretariat received responses to this Notification from only four Parties (Belgium, Malta, Norway and the United States of America), relating to 20 Resolutions. Previously it had received two other relevant contributions to this subject (from Australia and the European Commission), which were circulated with Notification to the Parties No. 1999/87.

5. In deciding on its programme of work involving the consideration of Resolutions, however, the Secretariat must take into account two additional instructions.

a) The first of these is laid down in the text of the Convention. This states, in Article XII, paragraph 2 (h), that one of the functions of the Secretariat is "to make recommendations for the implementation of the aims and provisions of the present Convention". In fact, the Secretariat, in the course of its normal work, becomes aware of a number of problems regarding the interpretation and implementation of the Convention and of Resolutions of the Conference of the Parties. As a result, it has a number of suggestions to make regarding the establishment of new Resolutions and the revision of existing Resolutions. Examples of cases can be found in document SC46 Doc. 7.2 Annex, containing the first draft of the Agenda for the 12th meeting of the

Conference of the Parties (CoP12). Under agenda item 27, the Secretariat intends to propose a revision to Resolution Conf. 10.12 (Rev.) on Conservation of sturgeons, to incorporate the substance of Decision 11.58 and to take account of information obtained regarding the control of trade in sturgeons over the past two years. Moreover, under agenda item 36, the Secretariat intends to propose a definition of the term “personal or household effects” used in Article VII, paragraph 3, of the Convention and to address some of the issues of implementation of this exemption that have come to its attention through communication with the Parties.

- b) The second instruction is contained in the Action Plan of the Strategic Vision through 2005, adopted by the Conference of the Parties at its 11th meeting. This contains the following objective and action points:

Objective 1.11		
To review and simplify, where possible, existing measures, procedures, mechanisms, and recommendations for the implementation of the Convention.		
1.11.1	On the basis of information from Parties, identify those measures, procedures and mechanisms that would benefit from review and simplification.	Parties, Secretariat
1.11.2	Make recommendations on possible review, modification and consolidation.	Secretariat
1.11.3	Continue consolidation process of Resolutions and recommendations as appropriate.	Secretariat

While applying these action points, the Secretariat continues to note the need for simplification of existing provisions. This emerges in the normal work of the Secretariat or are pointed out by the Parties. When preparing its Work Plan regarding Resolutions [contained in document SC45 Doc. 7.1 Annex 3 (Rev. 1)], the Secretariat commented on many Resolutions and suggested the need to amend or repeal them. Moreover, the Secretariat is required to continue the process of consolidation of the Resolutions.

6. There is one additional process underway that will result in proposals to amend a number of existing Resolutions or to adopt new resolutions. This process is a consequence of the way in which the list of Decisions of the Conference of the Parties was established. The Decisions did not exist as a separate series of recommendations until the ninth meeting of the Conference of the Parties. The first list of Decisions, presented for adoption at that meeting, was compiled from all of the recommendations that had previously been adopted but had not been recorded in Resolutions, and from instructions that had been included in Resolutions but had not yet been implemented. The aim was to make these texts more accessible by printing them in a single document. The result of the way in which the list was compiled is that a number of the Decisions in effect are not typical of those that should be included; many of them, for example, provide long-term guidance to the Parties and should therefore be included in Resolutions or repealed. The Secretariat is in the process of identifying these and preparing the necessary proposals to amend Resolutions or adopt new ones. When the process is finished, the remaining Decisions will comprise only decisions that have to be implemented within a specified time. Consequently, the Secretariat intends to propose that these Decisions be renamed as the “Directives of the Conference of the Parties” to avoid further confusion about the types of decisions that should be included in the list.

7. In order to prioritize the work to be done before CoP12, the Secretariat proposes to work on four groups of Resolutions.

a) The first group comprises the Resolutions that at least one Party has commented that it has a problem with and the Resolutions that at least one Party has commented that it does not implement. Regarding these, the Secretariat will communicate with the Parties concerned to discuss whether a change to the Resolution seems necessary. If it is agreed by these Parties that a change is desirable, the Secretariat will cooperate with them to prepare a proposal for CoP12. This applies to the following Resolutions:

Conf. 5.11	Definition of the term 'pre-Convention specimen'
Conf. 8.16	Travelling live-animal exhibitions
Conf. 9.9	Confiscation of specimens exported or re-exported in violation of the Convention
Conf. 9.21	The interpretation and application of quotas for species included in Appendix I
Conf. 10.2 (Rev.)	Permits and certificates

b) As far as time allows, the Secretariat will also prepare proposals to amend or repeal, as appropriate, the following Resolutions (many of which are referred to in the Work Plan, where the Secretariat's considerations are provided).

Conf. 1.3	Deletion of species from Appendix II or III in certain circumstances (consider repealing)
Conf. 1.5 (Rev.)	Interpretation and implementation of certain provisions of the Convention [consider repeal of paragraphs b) and c)]
Conf. 1.6 (Rev.)	Rare island fauna and flora and collection of wild animals for the pet trade (title provided by the Secretariat) (see Work Plan)
Conf. 2.10 (Rev.)	Interpretation of Article VII (consider repealing)
Conf. 3.4	Technical cooperation (consider repealing)
Conf. 4.22	Proof of foreign law (consider repealing)
Conf. 5.20	Guidelines for the Secretariat when making recommendations in accordance with Article XV (see Work Plan)
Conf. 6.5 (Rev.)	Implementation of CITES in the European Economic Community (consider repealing – EU is considering this)
Conf. 8.2 (Rev.)	Implementation of the Convention in the European Economic Community (EEC) (consider repealing – EU is considering this)
Conf. 8.22 (Rev.)	Additional criteria for the establishment of captive-breeding operations for crocodylians (consider repealing)
Conf. 9.7	Transit and transshipment (could be consolidated with other Resolutions regarding exemptions)
Conf. 9.10 (Rev.)	Disposal of illegally traded, confiscated and accumulated specimens (could be consolidated with Conf. 10.7; see Work Plan)

- Conf. 10.3 Designation and role of the Scientific Authorities
(see Work Plan)
- Conf. 10.4 Cooperation and synergy with the Convention on Biological
Diversity
(consider repealing)
- Conf. 10.5 Shipments covered by ATA and TIR carnets
(consider consolidating)
- Conf. 10.6 Control of trade in tourist souvenir specimens
(see Work Plan; revision needed as it no longer reflects common
practice) [The United States of America commented on this
Resolution and should therefore be consulted]
- Conf. 10.7 Disposal of confiscated live specimens of species included in the
Appendices
(could be consolidated with Conf. 9.10; see Work Plan)
- Conf. 10.8 Conservation of and trade in bears
(some sections covered by Conf. 11.3; see Work Plan)
- Conf. 10.11 Conservation of the houbara bustard
(see Work Plan)
- Conf. 10.14 Quotas for leopard hunting trophies and skins for personal use
(need for revision discussed with South Africa)
- Conf. 10.19 Traditional medicines
(see Work Plan)
- Conf. 10.21 Transport of live animals
(see Work Plan)
- Conf. 11.3 Compliance and enforcement
(covers some parts of other Resolutions, notably Conf. 11.5,
Conf. 11.7, Conf. 11.8, Conf. 11.9 and consolidation is required)

c) Finally, the Secretariat will also prepare proposals to put into Resolutions the texts of Decisions that are not time-limited.