

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

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Sixty-second meeting of the Standing Committee  
Geneva (Switzerland), 23-27 July 2012

Strategic matters

COOPERATION BETWEEN PARTIES AND PROMOTION OF MULTILATERAL MEASURES

1. This document has been submitted by South Africa as Chair of the Working Group on Multilateral Measures\*.
2. The Working Group met in the margins of the 61st meeting of the Standing Committee (SC61, Geneva, August 2011) to organize its work and has thereafter worked through electronic means. Members of the Group who attend the 62nd meeting of the Standing Committee (SC62, Geneva, July 2012) may meet in the margins of the present meeting to achieve further progress on the implementation of Decision 14.29 (Rev. CoP15).
3. Discussions in the Working Group have focused on the development of possible terms of reference for the consultant envisaged under Decision 14.30 (Rev. CoP15), with due recognition that in terms of the provisions of Article XIV of the Convention, Parties can adopt stricter domestic measures.

Identification of key issues to be addressed by consultant

4. Assessment as to whether the Resolutions of the Conference of the Parties are implemented by all Parties as consistently as possible and whether there is a need to clarify, revise or repeal them.
  - a) identification of the Resolutions that are implemented inconsistently and the reasons for deviations from the provisions of the Resolutions.

Recommended approach: The consultant to be appointed by the CITES Secretariat will analyse biennial reports submitted to the Secretariat and identify Resolutions that are implemented inconsistently or provide challenges in terms of implementation. The following key issue must be identified by the consultant:

- i) Reasons for deviation from the provisions of the Resolutions,
- ii) Challenges experienced in terms of implementation, and
- iii) Reasons for implementing stricter domestic measures

Where required, further consultation with CITES Parties relating to the above will be undertaken.

Existing documents to be reviewed by the consultant include document CoP14 Doc. 17. Based on information contained in document CoP14 Doc. 17, the following Resolutions have been identified by the members of the Working Group and should form part of the assessment to be conducted by the Consultant:

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\* *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.*

<b>Resolutions</b>
Resolution Conf. 4.22 (Proof of foreign law)
Resolution Conf. 6.7 (Interpretation of Article XIV, paragraph 1 of the Convention)
Resolution Conf. 10.16 (Rev.) (Specimens of animal species bred in captivity)
Resolution Conf. 10.19 (Rev. CoP14) (Traditional medicines)
Resolution Conf. 10.20 (Frequent cross-border movements of personally owned live animals)
Resolution Conf. 11.3 (Rev. CoP15) (Compliance and Enforcement)
Resolution Conf. 11.11 (Rev. CoP15) (Regulation of trade in plants)
Resolution Conf. 11.18 (Trade in Appendix-II and -III species)
Resolution Conf 12.3 (Rev. CoP15) (Permit and certificates)
Resolution Conf. 12.10 (Rev. CoP15) (Registration of operations that breed Appendix-I species in captivity for commercial purposes)
Resolution Conf. 13.6 (Implementation of Article VII, paragraph 2, concerning 'pre-Convention' specimens)
Resolution Conf. 13.7 (Rev. CoP14) (Control of trade in personal and household effects)
Resolution Conf. 13.10 (Rev. CoP14) (Trade in alien invasive species)

In instances where Working Groups have been established to discuss specific matters, for example the Working Group on personal and household effects, the consultant should obtain all relevant information from the Chairperson of the Working Group.

- b) Identification of the Resolutions that require clarification, revision or repeal and make recommendations relating to the appropriate action to be taken. Substantiation of the recommendations made relating to clarification, revision or repeal.

Based on the assessment referred to in subparagraph a) above and the key challenges identified by the Working Group, Resolutions that require clarification, revision or repeal will be identified by the consultant and recommendations made relating to the appropriate action to be taken.

The Working Group identified the following challenges relating to the uniform application or implementation of Resolutions:

- i) Lack of knowledge about existing Resolutions and the provisions contained in Resolutions;
- ii) Complex issues and concepts are difficult to understand and interpret, especially in the absence of definitions or interpretation guidelines;
- iii) Difficulties experienced by Parties to implement provisions contained in Resolutions due to limited resources available;
- iv) Different interpretation of provisions or requirements by Parties. Some Parties may interpret a provision in a strict manner, while another may interpret it with greater leniency, resulting in differences in implementation; and
- v) Conflicting provisions in different Resolutions; or non-alignment between separate Resolutions that address similar matters.

5. Assessment as to whether the scope for multilateral CITES processes that reduce the need by Parties for recourse to stricter domestic measures and reservations should be further developed.

- a) Agree on what is meant by stricter domestic measures, i.e. legislation / directives / policies, etc.

The following definition for 'Stricter domestic measures' is proposed for discussion:

**Stricter domestic measures:** Domestic measures (legislation, policies, directives, notices) adopted by a Party regarding conditions or restrictions for international trade, taking, possession or transport of specimens of species included in the Appendices, or the complete prohibition thereof, with the aim of ensuring the conservation of the species through the mitigation of impacts, resulting from international trade in the species.

- b) Compile an inventory of current stricter domestic measures

The CITES website contains information on stricter domestic measures related to personal effects; a list of Parties which do / do not accept certificates of ownership (in relation to frequent cross-border movements of personally owned live animals); and, various Notifications to the Parties contain detailed descriptions of Parties' stricter domestic measures. However, a comprehensive list of stricter domestic measures is not available on the CITES website.

Two proposals have been made in this regard:

- i) The establishment of an on-line inventory, which Parties could contribute to. This would provide a streamlined and easily accessible reference point for Management Authorities and traders. It could also assist to identify areas where stricter domestic measures are effective and could be used by Parties to model their national measures on, or even future multilateral measures if the stricter domestic measures of several Parties are the same or substantially similar. Funding would need to be secured to set up the inventory and to ensure ongoing maintenance.
  - ii) Parties could detail their stricter measures on their Management Authorities' website and the Secretariat could publish web-links to these sites on the CITES website. A dedicated (specific) section on the CITES website, easily visible, should be established in this regard. This would enable the CITES Secretariat to also refer to other legislation that may affect international trade and links to other key international organizations could be included.
- c) Use of a case study approach to determine stricter domestic measures currently in place in selected countries and the scope and rationale for these measures, including divergence and convergence in stricter domestic measures between different countries.

The consultant will conduct case studies relating to stricter domestic measures currently in place. The Working Group recommended that at least two case studies be conducted, one involving a major importing country's stricter domestic measures, and one involving a major exporting country.

- d) Review of current information on reservations entered by Parties (e.g. available on the CITES website).

Consultant to analyse information on the CITES website relating to reservations entered by Parties and collate a report relating to the Reservations currently in place. Other sources of information and relevant studies conducted should also be referenced.

- e) Analysis of current multilateral measures and their appropriateness / potential to address Parties requirements that currently result in stricter domestic measures or reservations.

Based on the information contained in various documents relating to stricter domestic measures and discussions in the Working Group, it seems as if the existing measures, especially Resolutions and the process to review and amend these, assist in providing the means to obtain uniform implementation, but the provisions in the Resolutions must be aligned with the basic requirements in the text of the Convention (and not add additional burdens on Parties); Resolutions must be clear (unambiguous); definitions should be provided, where appropriate; guidelines should be developed, where needed (complex matters); capacity building should be provided in some instance; consistent alignment between Resolutions are required; and bilateral discussions should take place to address different interpretation of provisions.

Special care / consideration should be given to stricter domestic measures that result in complete / nearly complete closure of markets AND may conflict with processes already agreed in CITES (Periodic Review / Review of Significant Trade, etc).

With due consideration of information collated through the process, including Notifications and reports, the consultant should analyse the current multilateral measures and their appropriateness and make recommendations relating to their potential to address Parties challenges relating to uniform implementation of the Convention.

- f) Recommendation, if appropriate, of the amendment of current, or the development of alternative, multilateral measures that could assist or facilitate cooperation between Parties and reduce the need for stricter domestic measures or reservations.

Recommendations to be developed, if required, based on the analysis to be done in terms of paragraph v. It is anticipated that the amendment of current measures and development of new measures will be continuous processes as already observed in terms of the Resolutions adopted by the Conference of Parties to CITES.

#### Recommendations

6. It is recommended that the Working Group on Multilateral Measures continues with the work mandated under Decision 14.29 (Rev. CoP15).
7. Taking into consideration the fact that the definition of stricter domestic measures may have implications relating to the inventory to be compiled and the interpretation of constitutes stricter domestic measures, request the Standing Committee to consider the proposed definition in paragraph 5. a).
8. It is recommended that the Standing Committee considers the proposals relating to the compilation of an inventory of Parties' stricter domestic measures and provide guidance to the Working Group regarding the preferred option.