

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

Fifth Meeting of the Conference of the Parties

Buenos Aires (Argentina), 22 April to 3 May 1985

Interpretation and Implementation of the Convention

CONTROL OF "READILY RECOGNIZABLE" PARTS AND DERIVATIVES

1. The term "readily recognizable" used in Article I, paragraph (b) (ii) and (iii), of the Convention has been subject to interpretation problems ever since the entry into force of the Convention.
2. A first working document on the matter was discussed at the first meeting of the Conference of the Parties (Berne, 1976). At the special working session held in Geneva in October 1977 a committee was charged to prepare a recommendation for a minimum list of parts and derivatives to be controlled.

The discussion of the working documents concerned (Doc. 2.18, 2.18.1 and 2.18.2) at the second meeting of the Conference of the Parties (San José, 1979) showed a great divergence of opinions. Some Parties felt that the use of a minimum list by all Parties would improve the functioning of the Convention but other Parties argued that the establishment of such a list might pose a danger to the effective enforcement of the Convention as in practice it might be treated as a maximum list. It was also argued that a qualification as to which parts and derivatives might be readily recognizable should not be made in advance. The proposal for a minimum list was rejected by a vote of 13 to 11.

3. A problem related to the lack of a definition of the term "readily recognizable" was discussed by the Conference of the Parties at its fourth meeting (Gaborone, 1983). The issue there was: how to deal with parts and derivatives controlled in one country and not in another? The result was Resolution Conf. 4.8, recommending that importing Parties continue to require export permits or re-export certificates from Parties which do not consider certain parts and derivatives to be readily recognizable. It was further recommended that all Parties notify to the Secretariat of the Convention controls on parts and derivatives operative under implementing legislation in their countries.
4. As the discussions in the meetings of the Technical Committee (Brussels, June 1984) and the TEC Co-ordinators (Kuala Lumpur, October 1984) have shown, a list of parts and derivatives has, for the time being, scarcely any chance of being adopted by the Conference of the Parties.

5. The proposal for a resolution contained in the Annex does not suggest a list and thus avoids the interpretation problems referred to above. The proposed system ensures that all goods which according to declaration or under any other circumstances appears to be parts or derivatives of animals or plants listed in the appendices shall be treated as "readily recognizable" (so-called catchallphrase).

DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES

The Control of Readily Recognizable
Parts and Derivatives

RECOGNIZING that Articles III, IV and V of the Convention require the regulation of trade in specimens of those species listed in the appendices;

RECOGNIZING also that Article I defines a "specimen" as including readily recognizable parts and derivatives of animals and plants;

RECOGNIZING finally that the term "readily recognizable" is not defined by the Convention and is therefore subject to differing interpretations by Parties;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

RECOMMENDS that all Parties adopt a system whereby the regulation of trade in specimens of the species listed in the appendices, as referred to in Articles III, IV and V of the Convention shall apply to:

- a) any animal or plant whether alive or dead of the species listed in the appendices to the Convention; and
- b) any other goods which appear from an accompanying document, the packaging or a mark or label, or from any other circumstances, to be parts or derivatives of animals or plants of these species, unless such parts or derivatives are specifically exempted from the provisions of the Convention by means of an indication to that effect in the Interpretation of Appendices II and III to the Convention.