

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

INTERPRETATION OF ARTICLE XIV, PARAGRAPH 1

The resolution attached as Annex to this document has been prepared by ten African representatives at the Seminar on CITES Implementation in Africa and at the first meeting of the Technical Committee (Brussels, 19-24 and 25-30 June 1984 respectively). It is sponsored by the following Parties: Central African Republic, Congo, Kenya, Liberia, Malawi, Morocco, Mozambique, Sudan, Zambia and Zimbabwe.

INTERPRETATION OF ARTICLE XIV OF CITES

RECOGNIZING that the Parties to the CITES Convention are bound by the spirit of the Convention, as set out in the preamble to the Convention, which states inter alia that "people and states are and should be the best protectors of their own wild fauna and flora" but that in support of their objectives "international co-operation is essential for the protection of certain species of wild fauna and flora against over-exploitation through international trade";

SUBMITTING that this spirit is overriding in the interpretation of Article XIV;

ACKNOWLEDGING that there may be sound domestic reasons why a Party may require to invoke the provisions of Article XIV for the protection of its own indigenous fauna and flora in Appendix I of the Convention or for the control of disease;

SUBMITTING that to enact and enforce, for other reasons, a prohibition or hindrance to the commercial trade in the parts and derivatives of Appendix II or other species, which exceeds the provisions of CITES, as expanded and interpreted by resolutions accepted by the Conference of the Parties, is an affront to the spirit of the Convention and to the Parties to it, which is a serious threat to the credibility and long-term effectiveness of the Convention;

Ten African Parties of CITES Meeting at the Seminar held in Brussels in June, 1984

RESOLVE TO URGE THE FIFTH CONFERENCE OF THE PARTIES

1. That each Party evaluate its domestic legislation for the implementation of CITES with a view to ascertaining whether, and for what reason, it may violate the spirit of the Convention in prohibiting or hindering the commercial trade in the parts and derivatives of species, other than those in Appendix I, by exceeding the provisions of CITES, as expanded and interpreted by Resolutions accepted by the Conference of the Parties;
2. That each Party shall circulate the results of such evaluation to all Parties and where the legislation is more stringent than the Convention for species other than Appendix I species, for reasons other than controlling the trade in the parts and derivatives of its indigenous species, controlling trade in "look alike" species to such indigenous species, or controlling disease, such Party shall present the scientific justification, in accordance with the "Berne criteria";
3. That the Conference of the Parties to the Convention shall determine whether such scientific justification meets the spirit of the Convention and unless the Conference of the Parties concludes by similar voting procedures to those adopted by the Conference of the Parties when deciding whether a species should be transferred from Appendix II to Appendix I, that it does, the said domestic legislation shall be construed as violating the spirit of the Convention and all Parties shall be notified by the Secretariat to this effect;

4. That any Party who so violates the spirit of the Convention for the trade in the parts and derivatives of species other than those indicated by 2 above and as determined by the procedures outlined above, shall endeavour to amend such legislation so as to comply with the spirit of the Convention and, if it desires more stringent measures, shall pursue amendments to CITES to that effect, through procedures defined in the Convention for such amendments.