

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

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Eighth Meeting of the Conference of the Parties

Kyoto (Japan), 2 to 13 March 1992

Interpretation and Implementation of the Convention

CRITERIA FOR AMENDMENTS TO THE APPENDICES  
(The Kyoto Criteria)

This document is submitted by Botswana, Malawi, Namibia, Zambia and Zimbabwe.

Background

The attached draft resolution is intended to replace the existing criteria for listing species in the appendices of the Convention, for transferring species between the appendices and for deletion of species from the appendices. In addition, it incorporates and consolidates the provisions of various other Resolutions relevant to this topic and provides a basis for their removal from the list of Resolutions of the Convention.

Since the Berne Criteria (Resolutions Conf. 1.1 and 1.2) have formed the basis for amendments to the appendices of the Convention since 1976, it is necessary to provide substantial justification for their replacement.

**General issues**

*International trade*

1. CITES was established to address international trade in wild fauna and flora. It is unable to influence the survival of species which are not exploited for trade or species which are exploited within States for domestic consumption. Perhaps the greatest threat to species is the loss or fragmentation of habitats in the countries where they occur: this problem has to be addressed through other measures. International trade may be one of the less important factors influencing the survival of the majority of species and this should be recognized. **CITES is an international conservation treaty with a circumscribed role limited to those species which are genuinely threatened with extinction, or which could become so, in which there is significant international trade.**

*Role of peoples and States*

2. In the Preamble of CITES it is recognized that "peoples and States are and should be the best protectors of their own wild flora and fauna". It could be added that there is very little that can be done about the matter if they are not. By far the greatest need in conservation of wild fauna and flora is adequate state expenditure on protected areas and domestic law enforcement against illegal trafficking in wildlife products. Outside state protected areas it is necessary that wild flora and fauna should have a high economic value and that this value should be realizable by the peoples that conserve them in the face of alternate land uses.

*International commons resources*

3. CITES is most appropriate for that class of international species resources "for which exclusion is difficult and joint use involves extractability" (Berkes and Farvar, 1989) or which exist in habitats with no national custodians. Migratory birds and open ocean fisheries exemplify such resources.

## Biological issues

### *Threatened with extinction*

4. Article II 1. of the Convention and Resolution Conf. 1.1 refer to species "threatened with extinction", yet nowhere in the Resolutions of the Convention has an attempt been made to provide any objective criteria for defining the threshold at which a species should be considered in such a state.
5. This has resulted in very large numbers of species and taxa being included in the appendices or being placed in inappropriate appendices. The fault lies partly in the criteria being vague and partly in a failure to apply the criteria objectively.
6. Recent advances in conservation biology give a basis for predicting the likelihood of extinction due to various factors. Such criteria are now being applied by the Captive Breeding Specialist Group (Foose, 1991) and will be used by IUCN in reviewing the Red Data Books. CITES should incorporate such objective criteria in its system of appendices.

### *Definition of a population*

7. Problems arise in the definition of a "population" for CITES purposes. Article I(a) of the Convention defines a species as "any species, subspecies, or geographically separate population thereof". This provides a basis for "split listing" of species populations: i.e. for a single species it is possible to list the population of one area in Appendix I and the population of another in Appendix II.
8. Clearly, such listing is not desirable: it moves the Convention away from a global overview of the species and brings it closer to individual range States' listings. The question has to be asked whether, if a species is secure in a viable population in any one range State, it can in any way be considered in danger of extinction.
9. A further problem arises under the definition of a population when certain range States contain marginal populations at the edge of a species range and, from this parochial point of view, the species is endangered. The criteria for listing species in the appendices should not be influenced by individual Parties seeking to use the Convention for such marginal populations. Their problems can only be solved by domestic measures and/or Appendix III listings.

### *Certain endemic species*

10. Some species have been proposed (and accepted) for listing in the appendices of the Convention, when they are not threatened with extinction and/or there is no significant international trade in them, simply because there has been a reluctance of the majority of Parties to offend the country proposing the listing. This situation frequently arises for species endemic to a single range State. The incorporation of quantitative and objective criteria into the system for listing species in the appendices could reduce this type of fault.

### *Extremely rare species*

11. Resolution Conf. 2.19 proposes that extremely rare species be included in Appendix I using the provision of Resolution Conf. 1.1 that "there need only be a probability of trade" to merit their inclusion. The same Resolution expresses concerns that the listing *per se* may prejudice the survival of the species. The proponents of the attached draft resolution are concerned that the adoption of the provisions of Resolution Conf. 2.19 contradicts the general goals outlined in paragraph 1 of this background document and "opens the door" for CITES to become a general international conservation treaty as opposed to a treaty limited to trade issues. Any species which is extremely rare should be of sufficient concern to its own Management and Scientific Authorities to receive rigorous protection under national legislation. Such species would, however, be provided for under the "Critical" category referred to in paragraphs 2. A. c), 2. B. a) and 2. B. c) and Annex 1 of the proposed criteria.

### *Species thought to be extinct*

12. Resolution Conf. 2.21 provides for species which are possibly extinct to be maintained in the CITES appendices for at least 50 years. The same reasoning as used in paragraph 11 applies here. Such species should be of sufficient concern to the Management and Scientific Authorities of the States in which they may occur to receive rigorous protection under national legislation should they prove not to be extinct. In the proposed new criteria, such species could be removed from appendices through the provisions of paragraph 2. C. d).

13. Article II 1. of the Convention does not provide for look-alike species to be listed in Appendix I and specifically designates Appendix II for this purpose in Article II 2. b). Yet Resolution Conf. 1.1 reverses this by providing for genera to be listed in Appendix I if most of their species are threatened with extinction and if the identification of individual species within the genus is difficult. Wijnstekers (1990, Notes 12a and 12b) notes the inconsistency. This has resulted in a number of somewhat sweeping and arbitrary inclusions of unthreatened species in Appendix I.

#### **Trade issues**

*Negative effects of trade*

14. A fundamental assumption in most interpretations of the Convention is that trade has primarily negative effects on conservation. In 150 Resolutions approved by the Conference of the Parties nowhere is it stated that trade may have benefits for conservation. Trade is seen as something to be tolerated while species are abundant, increasingly restricted as species are threatened, and finally prohibited when they are endangered with extinction (this philosophy is also enshrined in the US Endangered Species Act). It is challenged in the *proposed draft resolution in document Doc. 8.48 (Rev.)* which lists a number of types of trade which contribute positively to species survival, regardless of their status with respect to extinction. [Repeated from Doc. 8.48 (Rev.)].
15. Trade may be viewed as negative in its influence on wild flora and fauna when it is conducted by persons or agencies who return none of the benefits to conservation of the resource and when producer countries have no institutions or mechanisms to ensure that rural peoples benefit from sustainable use of their wild resources.

*Cases where trade is beneficial*

16. Whether use of wildlife is beneficial or detrimental depends on the conservation policies and practices in the States concerned. Trade should be viewed as beneficial when it is based upon sustainable use and the returns are used to:
  - a) provide income to rural wildlife producer communities; or
  - b) meet the costs of protected area maintenance by government agencies; or
  - c) further invest in wildlife development by landholders; or
  - d) provide national income to developing countries. [Repeated from Doc. 8.48 (Rev.)]

Wijnstekers (1990, Note 30) considers this question but arrives at a totally different list of beneficial conditions of trade e.g. scientific research, captive breeding, industrial research, education and training. All of these uses are primarily beneficial to the importing country.

*Trade in by-products*

17. Trade is too often viewed in the CITES context as a simple matter of harvesting wild resources for financial gain. In practice, many of the most valuable wildlife products available for international trade from developing countries do not result from direct exploitation policies. For example, rhino horn may be a by-product resulting from natural mortality, intraspecific fighting and horn removal carried out to protect the species from illegal hunting. Legal trade in such products can and should be used to enhance species populations.

*Legal/illegal trade*

18. A further simplification in the approach to trade within CITES is that of failing to distinguish between illegal trade and the legal trade supported by producer countries' Scientific and Management Authorities. When illegal trade has appeared to be excessive or some populations of a species are declining, CITES Parties have frequently voted to prohibit all trade. The paradox is that the returns from legal trade often provide the funds and incentive to contain the illegal trade.
19. One of the greatest fears of Parties is that any legal trade opens the door for illegal trade. At times this paradigm is applied unthinkingly - to the disadvantage of responsible producer States. Too often the onus for ensuring that illegal trade will not occur is placed exclusively with producer States - when this is clearly an area of CITES where equal or even greater responsibility rests with consumer Parties.

20. Resolution Conf. 5.10 attempts to define the term "primarily commercial purposes" which is used in Articles III 3. c) and III 5. c) of the Convention. Wijnstekers (1990, Note 33) remarks that the Resolution itself acknowledges that such a definition can not be given. The Resolution seeks to prohibit any trade with a commercial component and is prejudicial to the types of beneficial trade defined in paragraph 16.
21. It is questionable whether there is any merit in attempting to differentiate between "commercial" and "non-commercial" trade. Trade is trade. It is difficult to rationalize a system which sees no ill in the import of 100 pairs of elephant tusks taken individually as sport hunting trophies for which some USD 2 million has been paid to the exporting country and yet finds it necessary to prohibit the import of 100 pairs of tusks as a single lot worth USD 0.5 million which were derived from the management of the species by a rural community.
22. Wijnstekers (1990, Note 33) remarks that "The term *not to be used for primarily commercial purposes* can not be applied in general and can, in addition, hardly be defined. One might therefore say that it should not have been used." He continues to acknowledge that the nature of the transaction between importer and exporter may very well be commercial but this is not relevant in terms of Article III 3. c): it is the future of the product from the time of import onwards that should be for primarily non-commercial purposes.
23. The proponents of this draft resolution believe that whilst Wijnstekers' interpretation is undoubtedly correct, such nice differences serve no useful purpose under the Convention. Moreover, it is difficult to see why, for example, a sport hunter who has imported a pair of elephant tusks under this provision (a case where the transaction between importer and exporter definitely is commercial) should morally be expected not to sell these at some future date if he so wishes [which Article III 3. c) militates against but would be powerless to prevent]. Through the proposed criteria it is hoped to remove any stigma attached to legal commercial trade in wildlife products where such trade benefits conservation.

#### Joint biological and trade issues

##### *Simultaneous consideration of biological and trade status*

24. If the *draft resolution in document Doc. 8.48 (Rev.)* is accepted, it immediately raises the question whether there are any conditions of endangerment of species under which all commercial trade should be absolutely banned. Perhaps only that situation identified in Resolution Conf. 2.19 a) is an example of such a case: viz. "that the criteria be interpreted as applying where the population of a species in the wild is known to be so low that, if it were to be exploited in any way, it may be exterminated before effective steps could be taken to save it". In other less dire cases, it is the mixing of biological status and trade issues which gives rise to many of the problems in CITES.
25. Resolution Conf. 1.1 states that "in determining the appropriate appendix into which a species or other taxon should be placed the biological and trade status of the taxon should be evaluated together." It further states that "species meeting the biological criteria should be listed in Appendix I if they are or may be affected by international trade". Because Article III 3. c) demands that trade in such species "is not primarily for commercial purposes", the inevitable conclusion is reached that commercial trade should be prohibited for Appendix-I species. Yet Article II 1. does not go this far: "Appendix I shall include all species threatened with extinction which are or may be affected by trade. **Trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances**". This does not rule out commercial trade - it demands that it should be strictly regulated.

##### *Lack of symmetry*

26. The Berne Criteria are heavily prejudiced to listing species in the appendices and make it extremely difficult to delete them once listed, even where there is general agreement that they were wrongly listed in the first place. Examples of this are as follows:
  - a) Resolution Conf. 1.2 and Resolution Conf. 1.6 recommended that "the appendices should be examined in their entirety" with a view to removing species listed before the adoption of the Berne Criteria.
  - b) Recommendation Conf. S.S. 1.8 requested Parties to "review animal species occurring in their countries in the light of the Berne Criteria and to submit amendment proposals ...".
  - c) Resolution Conf. 3.20 established a "Ten-year review" process and there have been further Resolutions on this subject at every meeting of the Conference of the Parties since then.

Wijnstekers (1990, Note 15) observes that "In spite of all these efforts and Resolutions, the review concerned still remains uncompleted."

27. Resolution Conf. 2.23 attempted to make it even simpler to transfer species from Appendix I to Appendix II through "a review of available information". However, this Resolution, after amendment by the Parties is described by Wijnstekers (1990, Note 157) as "having been watered down to such an extent that it .... had become useless."
28. This bias is openly admitted in Resolution Conf. 1.2 which states that "The addition to and deletion from the appendices are different problems requiring different approaches by the Conference." The same paragraph continues, "If an error is made by the Conference by unnecessarily placing a plant or an animal on an appendix, the result is the imposition of a documentation requirement." This is obviously not true for Appendix-I species - it effectively removes the species from legal commercial trade. It continues, "If however, it errs in prematurely removing a plant or animal from protection, or lowering the protection afforded, the result can be the permanent loss of the resource. If it errs it should be therefore toward protection of the resource." This last sentence, firstly, assumes that CITES is the only protection afforded to species, secondly, does not envisage that there could be any beneficial effects of trade and, thirdly, assumes that CITES works as it should.

CITES does not, in fact, protect species. It controls (and may even ban) international trade but it has no powers to provide protection. The listing of a species in Appendix I is often interpreted as conferring a high level of protection. This interpretation is false. There is no difference in the levels of protection between Appendix I and Appendix II since they are not protective devices.

*Onus of doubt*

29. Part of the reason for the failure of any review process is the fact that the underlying philosophy of the Berne Criteria is "when in doubt, the species should be listed". Some indicative sentences are:
  - "When biological data show a species to be declining seriously, there need only be a probability of trade."
  - "When trade is known to occur, information on the biological status need not be as complete."
  - "the deletion of a plant or animal from Appendix I or II or the reduction of protection [see para 28!] given to this taxon by transfer from Appendix I to Appendix II is a serious matter that should be approached with caution." [This sentence implies that no caution is necessary in the reverse process.]

*Impossible conditions*

30. The criteria for deletion from an appendix (Conf. 1.2) contain two conditions which are virtually impossible to meet for species listed in Appendix I:
  - a) *Positive scientific evidence is required that the plant or animal [proposed to be deleted from an appendix] can withstand the exploitation resulting from the removal of protection.*

Opponents of the delisting (or transfer) can validly argue that it is impossible to predict the levels of trade which will result - especially if they were not known at the time of listing the species in Appendix I.

This statement is revealing in many ways. It assumes CITES is the only protection afforded to species. It assumes that exploitation automatically occurs when species are not protected by listing in CITES appendices. It ignores the fact that the primary level of control is the national legislation and law enforcement capabilities of Parties. It ignores those cases where the products traded may not be the result of "exploitation". It may be appropriate for marine species.

- b) *"Such evidence should include ... an indication of the population trend in the species, showing recovery sufficient to justify deletion ..."*

Where no survey of the population was conducted prior to its listing in Appendix I, it is impossible to demonstrate through a subsequent survey that the population has "recovered".

*Costs of scientific surveys*

31. The criteria for deleting a species from an appendix make stringent demands for scientific evidence which would entail unreasonable costs for producer countries. These costs become more unreasonable in view of paragraph 30 which shows that the criteria for deletion (Resolution Conf. 1.2) contain fundamental flaws which can not be addressed through scientific evidence.

*Penalisation of some States*

32. A problem perceived by the proponents of the attached draft resolution is that, where a species population is shared by several range States, an overall population decline (see paragraphs 8 and 9) caused by non-sustainable use of species in some range States tends invariably to penalise those States which are managing wildlife sustainably and fulfilling the criteria listed in *the draft resolution in document Doc. 8.48 (Rev.)* for beneficial trade. The resultant listing in Appendix I worsens the situation for the species.

*Need for simple criteria*

33. **In order to be effective, the criteria for listing, deleting and transferring species in the CITES appendices need to be relatively simple, objective and symmetrical.** However, in the quest for simplicity, they should take into account the contents of paragraphs 8, 9, 16 and 32 in the preceding text.
34. Total prohibitions on the use of wild flora and fauna, whilst appearing superficially to provide a quick answer to many conservation problems, may in practice be totally ineffective in achieving the goal of sustaining wildlife populations.

**Features of the proposed Kyoto Criteria**

*Independence of trade and biological status*

35. The "perfect" system would be one which notes the biological status of species but treats matters of trade entirely independently of this status according to the considerations of paragraphs 14-23 above. However, the Articles of the Convention do not readily lend themselves to this interpretation and therefore an intermediate solution is probably advisable.

*Criteria for "endangered with extinction"*

36. An immediate improvement to the Berne Criteria is the incorporation of objective scientific criteria for defining levels of populations at which extinction can be considered a threat. In the criteria now being propounded by conservation biologists the status of species is viewed in terms of probabilities of extinction within a defined time frame (e.g. 10% probability of extinction within 100 years). Analysis takes into account a number of stochastic factors which may lead to extinction including genetic, demographic, environmental effects.
37. It is proposed that the Mace-Lande criteria for large mammals (Mace G.M. and R. Lande, 1991) are adopted as a set of default criteria. It is expected that conservation biologists will develop criteria for other taxonomic orders in the near future and that these can be incorporated as and when they appear.
38. It is accepted that various mammal species differ from one another in circumstances of genetic and demographic factors which influence their survival and no single set of numbers can universally reflect the conditions for each. Wherever better data exist for a species, or where full population models have been developed, such data should be used to determine whether the species is in danger of extinction. The point of adopting default criteria is to avoid cases of listing species in Appendix I when a species is obviously far removed from being in danger of extinction.

*Split listings*

39. On issues of "populations" and split listings, if the global population of a species is not in danger of extinction but the species is in trouble in some range States, it is recommended not to place the species in Appendix I. The problems of marginal populations in certain range States can not be solved by CITES: what is required is domestic law enforcement and alternative conservation measures to address their problems.

40. More stringent criteria are proposed for the exclusion of look-alike species from Appendix I in consistency with the provisions of Article II 2. b) of the Convention.

*Trade in Appendix I species*

41. If it is accepted from the foregoing that situations arise where there are good reasons for trade in what would normally be considered Appendix-I species, then the following questions can validly be asked:
- a) Should the species in which such trade is envisaged be transferred to Appendix II to allow commercial trade, notwithstanding the fact that its status is accepted by the proposing State as endangered with extinction?; or
  - b) Should special arrangements be made by resolution (e.g. a quota for commercial trade in Appendix I species) in order to retain the species in Appendix I?

The latter option is considered preferable by the proponents of the attached draft resolution in that it continues to reflect the endangered status of the species. Article II 1. states "Appendix I shall include all species threatened with extinction which are or may be affected by trade." An annotated transfer to Appendix II for purposes of restricted commercial trade (whilst retaining all other aspects of Appendix I listing) is not favoured since it effectively lists the same species population in two appendices.

*Appendix-I quota systems*

42. A quota system for "non-commercial" trade in leopard (*Panthera pardus*) skins exists at present. This will be absorbed into the proposed system for quotas for commercial trade in Appendix-I species.

*Default delistings*

43. The problems of reviewing the appendices to the Convention under the present criteria were discussed in sections 22-24 of this background paper. A possible solution for transferring Appendix I species to Appendix II is proposed in the new criteria: any Party may call for a full justification of the listing of any species in Appendix I and, if it is supported by a two-thirds majority of the Parties at a meeting of the Conference of the Parties, this justification must be presented at the following meeting of the Parties by Parties opposing the majority. If no justification is presented or if a justification presented is not accepted by a two-thirds majority of Parties at this next meeting the species will be automatically transferred to Appendix II.

*Emphasis on Appendix II*

44. Because of the justifiable exceptions to the rules for trade in Appendix I species, it is the view of the proponents of the attached draft resolution that the vast majority of species should be in Appendix II - so that trade in them is strictly regulated but not prohibited.
45. In the majority of producer countries all international trade in wild species of plants and animals is controlled through a system of export permits issued by Scientific and Management Authorities. In those countries where this is the case, Appendix-II listing is totally compatible with their existing systems and effectively involves no increase in documentation requirements other than annual reporting to CITES.
46. This is not necessarily true for consumer countries, where each new species listed in Appendix II imposes an additional documentation requirement. It would appear to be in the interests of Authorities in importing countries to have as many species and taxa as possible listed in Appendix I where commercial trade is prohibited - since this obviously reduces the need for issuing permits and reporting on trade.

*Function of Appendix III*

47. Articles II 3. and XVI 1. provide broad guidelines for the use of Appendix III. Resolution Conf. 1.5 states, "Where domestic legislation is adequate to protect a species, it should not be added to Appendix III; however, species occurring in a country and not appearing in Appendix I or Appendix II could be added to Appendix III when international control is needed to provide proper protection."

48. It is the view of the proponents of the attached draft resolution that many of the species at present included in Appendices I and II should more correctly have been listed in Appendix III. Appendix III should be used wherever the global population of a species is not threatened, but an individual range State is having difficulty in enforcing its own laws affecting the species. It should also be used for listing species endemic to a range State for which that State seeks international co-operation in controlling trade. It should not be used for listing species which are legally protected in a range State for which international trade is not a significant factor.
49. A problem frequently arises where a species which is common to a number of range States is listed in Appendix II of the Convention but one or more range States wish to prohibit all commercial trade in products of the species (i.e. list it in Appendix I). Under the provisions of Resolution Conf. 1.3. (but not in the Articles of the Convention) no species can be included in more than one appendix. It could be argued that if the species is already in Appendix II, any range State which is concerned to prohibit trade in specimens of the species population in its country should do so, firstly, through its own domestic legislation and, secondly, by refusing to issue export permits. The Management Authorities of importing States should refuse authorization of any import originating from such a range State if there is no export permit or an invalid export permit.

Whilst this argument is valid, it may not satisfy all range States who find themselves in this situation. If CITES worked as it should, a range State should feel confident that adequate safeguards existed to prevent an illegal import of a specimen purporting to come from its country. Denied the opportunity to place the species in Appendix III, there is a tendency for affected Parties to demand that the global population of the species is listed in Appendix I to achieve their limited objectives. In view of this, it is recommended in these new criteria that Resolution Conf. 1.3 be repealed and the simultaneous listing of a species in Appendix II and Appendix III be permitted.

*Captive breeding, farming, ranching, propagation issues*

50. Resolution Conf. 2.12 establishes that specimens of Appendix-I species involved in captive breeding and artificial propagation shall be treated as specimens of Appendix-II species and Resolution Conf. 4.15 requires that all captive-breeding operations shall be registered with the Secretariat. Resolution Conf. 6.21 places further restrictions on the conditions under which captive-breeding operations are acceptable and assigns certain powers to the Parties to approve or disapprove operations.

*[Noting that Resolution Conf. 2.12 has already set a precedent by reinterpreting Article VII 4. and 5. in a more restrictive manner than provided, and noting further that Resolution Conf. 4.15 and Resolution Conf. 6.21 indicate increasing concern by the Parties on captive-breeding issues, the Parties might consider including trade in captive-bred specimens of Appendix-I species under the quota system proposed in paragraph 2. B. c) and further defined in Annex 2 of the new criteria]*

51. Resolution Conf. 3.15 provides criteria under which ranched populations of species listed in Appendix I may be transferred to Appendix II and these are retained in the new criteria.
52. The question can validly be asked whether, if any population is transferred to Appendix II as a result of a ranching proposal, the global population of the species concerned can any longer be considered in danger of extinction and therefore retained in Appendix I. A disturbing trend in the Convention is the tendency to move away from considerations of the overall status of a species and to focus on the status of each population within a range State. It is not proposed to introduce new criteria in this respect because there is general agreement among those involved in ranching operations that the CITES procedures have contributed to a general elevation of standards in ranching. However, it should be noted that the provisions of Paragraph 2.C. d) of the new criteria apply in such cases and the species can be relatively easily transferred to Appendix II if it is the desire of the Parties.



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DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES

Criteria for Amendments to the Appendices  
(The Kyoto Criteria)

NOTING that the appendices to the Convention now include a very large number of species, many of which may not be threatened by commercial trade;

NOTING, too, that many species may not be listed in the appropriate appendices;

NOTING the failure of mechanisms approved by the Conference of the Parties to delete from the appendices or to transfer between appendices inappropriately listed species;

CONSCIOUS of the growing feeling amongst many wildlife producer Parties that the present state of the appendices is not enhancing conservation of wild flora and fauna;

BELIEVING that, to some extent, the difficulties arise from a lack of objective criteria to define the term "threatened with extinction";

RECOGNIZING that there are many cases where trade in wildlife products can be beneficial to endangered species;

ATTRIBUTING many of the present difficulties with the appendices to the Berne Criteria [Resolutions Conf. 1.1 and 1.2 adopted at the first meeting of the Conference of the Parties (Berne, 1976)];

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

RESOLVES that Resolutions Conf. 1.1 and Conf. 1.2 are hereby repealed; and

ADOPTS the following criteria for amendments to the appendices:

1. General Principles Relating to all Appendices

- a) The Convention will confine its appendices as far as possible to those species whose biological status gives cause for concern and for which international trade is a factor which may influence that biological status either positively or negatively.
- b) Criteria for assessing the biological status of species and other taxa will be as objective and simple as possible.
- c) Where there are doubts regarding the most suitable appendix in which to list a species or another taxon, in general Appendix I should be kept short and exclusive but there should be no prejudice against Appendix-II listing.
- d) In considering species populations, "split listings" will be avoided wherever possible. If the global population of a species is not threatened with extinction, the problem of geographically separate populations or marginal populations at the edge of a species range should be tackled through national legislation or through listing in Appendix III [see paragraph 3. f) of these criteria].
- e) "Look-alike" species will be listed in Appendix II in preference to Appendix I.
- f) Species endemic to single range States will normally be listed in Appendix III.
- g) Subspecies may be proposed for inclusion in the appendices if they are valid taxa and readily identifiable from other subspecies, but the provisions of paragraphs c)-f) should direct the appropriate appendix for listing.
- h) Species for which the only likely trade would involve small numbers of scientific specimens should not normally be listed in the appendices. Article VII 6. effectively waives permit requirements in such cases.

- i) The recommendations of Resolution Conf. 5.14 with regard to criteria for listing plants [Resolution Conf. 5.14 b) i), iii) and iv)] should be maintained.
- j) The standard exemptions for parts and derivatives of plants listed in Appendix II or III remain according to the provisions of Resolutions Conf. 4.24 and Conf. 6.18.
- k) The provisions of Resolutions Conf. 2.13 and Conf. 6.19 relating to criteria for listing hybrids of plants in the appendices should be maintained.
- l) Distinctions between "commercial" and "non-commercial" trade should receive less emphasis than in the past. [*Subject of a separate draft resolution in document Doc. 8.49 (Rev.) at the eighth meeting of the Conference of the Parties*]
- m) Commercial trade in specimens of a species will be viewed as beneficial to conservation when it is based upon sustainable use OR involves products which do not arise from direct exploitation, AND it does not lead to increased illegal trade, AND the returns from such trade provide income to rural communities OR meet the costs of protected area maintenance OR are invested by landholders in conservation of the resource OR provide national income to producer countries.
- n) Where trade has been deemed "beneficial" according to the criteria of paragraph m) above, addition or transfer of species to Appendix I should be regarded as a serious matter to be approached with caution. Appendix-I listing may cancel such beneficial trade, carries significant opportunity costs to producer countries and has negative implications for conservation.
- o) The criteria which follow are aimed to produce symmetry in the conditions for adding species to, deleting species from, and transferring species between appendices.
- p) No submission should be made for an amendment of the appendices under these criteria without the support of the range States in which the species occurs. [*Subject of a separate draft resolution in document Doc. 8.51 (Rev.) at the eighth meeting of the Conference of the Parties*]

2. Amendments to Appendix I and Appendix II

This sections covers addition, deletion and transfer of species with respect to Appendices I and II. Except where otherwise indicated, the criteria are completely "symmetrical"; i.e. the conditions for addition of a species or other taxon to a higher appendix are simply reversed when deletion or transfer to a lower appendix is considered.

In determining whether a species or other taxon should be listed in Appendix I or II of the Convention the biological and trade status of the species should be evaluated together.

A. Biological Status

- a) To qualify for Appendix I, a species must be currently threatened with extinction. Evidence of the threat of extinction should transcend informal or lay arguments, and should be addressed according to the provisions of paragraphs c) - e) below.
- b) To qualify for Appendix II, there need only be concern for the status of the species or a close resemblance to taxonomically similar species for which there is concern.
- c) A species should be considered in danger of extinction when the probabilities corresponding to the "Critical" and "Endangered" categories below are exceeded:

	<u>CRITICAL</u>	<u>ENDANGERED</u>	<u>VULNERABLE</u>
Probability of Extinction:	50	20	10 %
within:	5	10	100 years
or within:	2	10	generations

If the probability of extinction within 10 years is higher than 20% the species would qualify for listing in Appendix I, provided the trade criteria are satisfied.

Species in the "Vulnerable" category satisfy the biological criteria for Appendix II, although there is no reason why they should not be listed before this level of vulnerability is reached if there is concern that trade may be causing the population to decline.

- d) Assessment of these probabilities should be through population models using the best available data for the species. Data should be derived from scientific reports on population size or geographic range of the species, preferably over a number of years, and should include all parameters needed to evaluate the population dynamics of the species. The model should further take into account fragmentation of the population into subpopulations.
- e) Where such data are not available to permit construction of a population model, reliable information on any of the following aspects of a species population can be used against the default levels specified in Annex 1 to this document (Mace-Lande criteria for threatened taxa categories)\* to assess whether the population is in danger of extinction:
  - actual population size; or
  - effective population size (the number of breeding individuals in the population); or
  - rate of decline of the population over a number of years; or
  - any catastrophic population decline within a short period; or
  - the number and size of separate subpopulations which constitute the total population of the species; or
  - loss of range, high levels of exploitation, or any other potential causes of extinction.

If any two of the above aspects of the species status exceed the "Critical" and "Endangered" levels specified in Annex 1, the species should be listed in Appendix I, provided the trade criteria are satisfied.

- f) Genera and other higher taxa should not be listed in Appendix I unless it is conclusively established that the majority of species within the group satisfy the conditions of paragraph a) and that those which do not satisfy those conditions can not readily be distinguished from the remainder.

#### B. Trade Status

- a) Species meeting the "Critical" or "Endangered" criteria should be listed in Appendix I if they are affected by international trade or if there is strong evidence that they may be affected, either positively or negatively.
- b) Species in the "Vulnerable" category should definitely be listed in Appendix II if they are subject to significant trade, although there is no reason why they should not be listed before this level of vulnerability is reached if there is concern that trade may be causing the population to decline.
- c) Paragraph 1 m) identifies conditions under which trade can be beneficial, even for Appendix-I species. Under such conditions, such species should remain in Appendix I to reflect their biological status but limited trade should be permitted under a quota system according to the conditions outlined in Annex 2 of these criteria. This quota system will be extended to include sport hunting trophies and existing quota systems for species in Appendix I (African leopard). These provisions would not apply to species which satisfy the "Critical" condition in paragraph 2. A. c) of these criteria.

#### C. Species Listed in Appendix I Prior to the Kyoto Criteria

- a) This section shall apply to all species listed in Appendix I prior to the eighth meeting of the Parties.
- b) The existing list of species in Appendix I shall remain unchanged and may only be altered according to the provisions of paragraphs c) and d) below.
- c) A species or other taxon may be proposed for addition to or deletion from Appendix I in accordance with the provisions of Article XV and using these criteria.

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\* The Mace-Lande Criteria are intended primarily for mammal species. Criteria are being developed for other taxonomic classes and can be incorporated into the Kyoto Criteria as and when they are complete.

- d) Any Party may propose the deletion of any species from Appendix I (including species thought to be extinct) according to the provisions of Article XV at least 150 days prior to a meeting of the Parties. This proposal should require no more than a nominal supporting statement. The following procedure will then be adopted:
  - i) If the proposal receives a two-thirds majority at the meeting of the Parties, notice is served that the species (or taxon) will be transferred from Appendix I to Appendix II at the following meeting of the Parties in the absence of the submission of a full proposal to justify the retention of the species.
  - ii) If such proposal is not presented or is not accepted by a two-thirds majority of Parties at the following meeting the species will be transferred to Appendix II by the Secretariat.

### 3. AMENDMENTS TO APPENDIX III

- a) Articles II, paragraph 3, and XVI, paragraph 1, provide broad guidelines for the use of Appendix III.
- b) No country which is not a range State for a species should propose the listing of that species in Appendix III.
- c) No range State should propose the listing of a species in Appendix III unless it has domestic legislation restricting international trade in the species.
- d) No range State should propose a species to be listed in Appendix III unless illegal international trade is a significant factor influencing the status of the species within its borders.
- e) No range State should propose a species to be listed in Appendix III unless its own domestic legislation and law enforcement capabilities are inadequate to contain the problem of illegal trade in the species.
- f) If a species which is shared by a number of range States is already listed in Appendix II and any single range State or minority group of range States seeks greater restriction than that provided by Appendix-II listing, and if the provisions of paragraphs d) and e) above apply, then the species should be proposed for listing in Appendix III by the range State(s) concerned. [Note: this amends Resolution Conf. 1.31]
- g) Parties including species in Appendix III should specify in the proposal those readily recognizable parts and derivatives of plants and animals which they wish to be exempt from control under the Convention in accordance with the provisions of Resolution Conf. 4.24.
- h) Species may be deleted at any time from Appendix III by the range State(s) which proposed their listing.
- i) Additions to and deletions from Appendix III should be made by written notification to the Secretariat and should be declared at meetings of the Parties.

### 4. APPROPRIATE APPENDICES FOR SPECIES IN CAPTIVE-BREEDING, FARMING, RANCHING AND ARTIFICIAL PROPAGATION OPERATIONS

These criteria are intended to encourage captive-breeding, farming, ranching and artificial propagation operations where appropriate. Ranching operations, by linking commercial use of species with the supply of specimens from well-managed wild populations, provide an incentive to maintain wild habitat and populations in good condition.

- a) Captive-breeding operations for Appendix-I species should meet the criteria of Resolution Conf. 4.15 and be registered with the Secretariat in order to qualify for the export conditions of Appendix II.
- b) The first commercial captive-breeding operation for any Appendix-I species should be approved by the Conference of the Parties according to the provisions of Resolution Conf. 6.21 and according to the format proposed in Resolution Conf. 7.10.
- c) The conditions specified in Resolution Conf. 3.15 for transfer of Appendix-I species under ranching conditions to Appendix II apply. It should be noted that at the stage when it is no longer considered necessary to retain the global population of a species in Appendix I, it can be transferred to Appendix II using the provisions of paragraph 2. C. d) of these criteria.

5. STANDARD NOMENCLATURE

- a) For all purposes of listing species in appendices the provisions of Resolutions Conf. 4.23, Conf. 5.19 and Conf. 6.20 will apply.
- b) The Secretariat will maintain the list of species and taxa in the appendices of the Convention according to amendments adopted by the Parties and according to the provisions of Resolutions Conf. 4.23, Conf. 5.19, Conf. 6.20 and Conf. 7.15.

## MACE-LANDE CRITERIA FOR THREATENED TAXA CATEGORIES

## LEVEL OF THREAT

	Critical	Endangered	Vulnerable
1. <u>Probability of Extinction is</u>			
- > than:	50%	20%	10%
- within ( ) years:	5	10	100
- or within ( ) generations:	2	10	
2. <u>OR any 2 of the criteria below:</u>			
<b>Effective Population Size (Ne) &lt;:</b>	50	500	2,000
<b>Actual Population Size (N) &lt;:</b>	250	2,500	10,000
<b>Population fragmented into:</b>			
- ( ) or fewer subpopulations:	2	5	5
- with Ne greater than:	25	100	500
- and N greater than:	125	500	2,500
<u>or</u>			
- ( ) or fewer subpopulations:		2	2
- with Ne greater than:		250	1,000
- and N greater than:		1,250	5,000
<b>Population Decline:</b>			
- decline greater than:	20%	5%	1%
- over the past ( ) years:	2	5	10
<u>or</u>			
- decline greater than:	50	10	Equivalent
- for the past ( ) generations:	1	2	to above
<b>Catastrophic Population Decline:</b>			
- decline greater than:	50%	20%	10%
- over the past ( ) years:	5-10	5-10	5-10
- <u>or</u> over ( ) generations:	2-4	2-4	
<u>or</u>			
- decline greater than:		50%	20%
- over the past ( ) years:		10-20	10-20
- <u>or</u> over ( ) generations:5-10			
<u>or</u>			
- decline greater than:		50%	
- over the past ( ) years:			50
3. <u>OR</u> Observed, inferred or projected habitat alteration, commercial exploitation, or ecological interactions with introduced species resulting in above population characteristics.			

## CONDITIONS PERTAINING TO TRADE IN APPENDIX-I SPECIES

1. The proposed type of trade shall have been deemed "beneficial" under the provisions of paragraph 1 m) of these criteria and the nature of the products and the reasons for regarding the trade as beneficial shall have been specified in any submission under these criteria.
2. The proposed type of trade shall include hunting trophies, trade in Appendix-I species under existing quota systems (e.g. for leopard skins) and commercial trade.
3. The species is non-migratory and therefore can be adequately conserved by a single Party.
4. The Party concerned has a scientifically based and well documented management programme for the species in question.
5. There is reassurance from the Party concerned that the entry into trade of specimens of the species in question will be so controlled as not to lead to a reduction in CITES controls on trade in other species.
6. The Party concerned is agreeable to a quota for such trade.
7. The listing of the species in Appendix I shall be annotated to indicate the circumstances under which trade is permitted and the established quota.
8. Quotas for trade (excluding sport hunting, which will be notified to the Secretariat) should be established, confirmed, or changed only by the Conference of the Parties, and any Party seeking approval of a quota or a change in its quota, should submit a proposal to be approved at a meeting of the Conference of the Parties.
9. If a Party with a quota approved at a regular meeting of the Conference of the Parties intends to keep its quota unchanged from the quota effective during the previous period between regular meetings, this should be confirmed by the Conference of the Parties, but no supporting statement is required if the Party has fulfilled its reporting requirements in terms of this Resolution.
10. The products of the quota are adequately marked to distinguish them from illegal products.
11. There will be no re-export of products traded under this provision.
12. Article III, paragraphs 2 and 3(c), shall not apply to trade in Appendix-I products under this quota system.
13. The Party concerned shall meet its annual reporting requirements under Article VIII, paragraph 7, including a specific report on the provisions of the species for which the quota has been granted.



## RELATIONSHIP TO EXISTING RESOLUTIONS

This Resolution incorporates part or all of the following Resolutions of the Conference of the Parties. Where it is considered that all effective provisions of a previous Resolution are taken into account in this Resolution, it is recommended that the Resolution concerned be repealed.

1. Conf. 1.1: CRITERIA FOR THE ADDITION OF SPECIES AND OTHER TAXA TO APPENDICES I AND II AND FOR THE TRANSFER OF SPECIES AND OTHER TAXA FROM APPENDIX II TO APPENDIX I [Repealed in its entirety]
2. Conf. 1.2: CRITERIA FOR THE DELETION OF SPECIES AND OTHER TAXA FROM APPENDIX I AND II [Repealed in its entirety]
3. Conf. 1.3: DELETION OF SPECIES FROM APPENDIX I OR II IN CERTAIN CIRCUMSTANCES [Repealed in its entirety]
 

Paragraph 1: amended by the present Resolution to allow a species to be listed in Appendix II and Appendix III simultaneously

Paragraph 2: contained in Resolution Conf. 4.23
4. Conf. 1.5: RECOMMENDATIONS CONCERNING THE INTERPRETATION AND IMPLEMENTATION OF CERTAIN PROVISIONS OF THE CONVENTION [Retained]
 

Paragraph 1: not included in these criteria since it is not envisaged that any State which has made a Reservation on any species listed in Appendix I or II is likely to propose that the same species should be listed in Appendix III

Paragraph 3: superseded by these criteria and the provisions of Resolution Conf. 4.24

Paragraphs 4, 5 and 14 a): superseded by these criteria
5. Conf. 1.6: RESOLUTIONS paragraph 3. Plants in appendices not meeting the Berne Criteria [Retained]
 

Paragraph 3: made redundant by these criteria
6. Conf. S.S. 1.8: ANALYSES OF APPENDICES I AND II [Repealed in its entirety] Its provisions are replaced by the provisions of paragraphs 2. C. d) of the new criteria
7. Conf. 2.11: TRADE IN HUNTING TROPHIES OF SPECIES LISTED IN APPENDIX I [Repealed in its entirety] Replaced by the provisions of 2. B. c) and Annex 2, paragraph 12. of these criteria
8. Conf. 2.12: SPECIMENS BRED IN CAPTIVITY OR ARTIFICIALLY PROPAGATED [Retained in its entirety] It is noted that paragraph a) of this Resolution is an example where the Articles of the Convention have been directly altered by Resolution to be more restrictive
9. Conf. 2.13: PROBLEM OF HYBRIDS [Retained in its entirety] Referred to in paragraph 1. k) of these criteria
10. Conf. 2.17: FORMAT FOR PROPOSALS TO AMEND APPENDIX I OR II [Retained in its entirety] - but noting that:
  - positive comments from countries of origin are a prerequisite for consideration of the proposal by a meeting of the Parties [paragraph 1. p) of the present criteria].
  - biological data must address the criteria of paragraphs 2. A. a. - e).

- trade data should identify beneficial trade according to the criteria of paragraph 1. m).

11. Conf. 2.18: PARTS AND DERIVATIVES OF ANIMAL SPECIES LISTED IN APPENDIX III AND OF PLANT SPECIES LISTED IN APPENDIX II OR III [Repealed in its entirety]  
  
Conf. 4.24 contains all the essential provisions
12. Conf. 2.19: CRITERIA FOR ADDITION OF EXTREMELY RARE SPECIES TO APPENDIX I [Repealed in its entirety] Its provisions are replaced by the provisions of paragraphs 1. f), 1. h) and 2. B. c) of the new criteria
13. Conf. 2.20: THE USE OF SUBSPECIES AS A TAXONOMIC UNIT IN THE APPENDICES [Repealed in its entirety] Its provisions are effectively contained in paragraphs 1. e) - h) of the new criteria
14. Conf. 2.21: SPECIES THOUGHT TO BE EXTINCT [Repealed in its entirety] Its provisions are replaced by the provisions of paragraphs 2. C. d) of the new criteria
15. Conf. 2.22: TRADE IN FERAL SPECIES [Retained in its entirety]
16. Conf. 2.23: SPECIAL CRITERIA FOR THE DELETION OF SPECIES AND OTHER TAXA INCLUDED IN APPENDIX I OR II WITHOUT APPLICATION OF THE BERNE CRITERIA FOR ADDITION [Repealed in its entirety] Replaced by the provisions of paragraph 2. C. d) in the new criteria
17. Conf. 3.15: RANCHING [Retained in its entirety]
18. Conf. 3.20: TEN YEAR REVIEW OF APPENDICES [Repealed in its entirety] Replaced by the provisions of paragraph 2. C. d) in these criteria
19. Conf. 3.21: REVERSE LISTING CONCEPT FOR APPENDICES [Repealed in its entirety]
20. Conf. 4.13: TRADE IN LEOPARD SKINS [Repealed in its entirety] See paragraph 2. B. c) and Annex 2 of the new criteria
21. Conf. 4.15: CONTROL OF CAPTIVE-BREEDING OPERATIONS IN APPENDIX I SPECIES [Retained in its entirety]
22. Conf. 4.23: STANDARD NOMENCLATURE [Retained in its entirety]
23. Conf. 4.24: PARTS AND DERIVATIVES OF APPENDIX II OR III PLANTS AND APPENDIX III ANIMALS [Retained in its entirety]
24. Conf. 4.26: TEN YEAR REVIEW OF THE APPENDICES [Repealed in its entirety]
25. Conf. 5.10: DEFINITION OF "PRIMARILY COMMERCIAL PURPOSES" [Repealed in its entirety] Revised by these criteria and subject of a separate resolution at the eighth meeting of the Parties
26. Conf. 5.13: TRADE IN LEOPARD SKINS [Repealed in its entirety]
27. Conf. 5.14: IMPROVING THE REGULATION OF TRADE IN PLANTS [Retained in its entirety] Subparagraphs b) i), iii) and iv) are reiterated in the present criteria
28. Conf. 5.19: NOMENCLATURE COMMITTEE [Retained in its entirety]
29. Conf. 5.21: SPECIAL CRITERIA FOR THE TRANSFER OF TAXA FROM APPENDIX I TO APPENDIX II [Repealed in its entirety] Replaced by the provisions of paragraph 2. C. d) in the present criteria
30. Conf. 5.22: CRITERIA FOR THE INCLUSION OF SPECIES IN APPENDIX III [Repealed in its entirety]
31. Conf. 6.9: TRADE IN LEOPARD SKINS [Repealed in its entirety]

32. Conf. 6.18: ADDITIONAL CONSIDERATIONS FOR PLANT PARTS AND DERIVATIVES [Retained in its entirety] Referred to in paragraph 1. j) of these criteria
33. Conf. 6.19: ADDITIONAL CONSIDERATIONS FOR ARTIFICIALLY PROPAGATED HYBRIDS OF APPENDIX I PLANTS [Retained in its entirety] Referred to in paragraph 1. k) of the present criteria
34. Conf. 6.20: STANDARD NOMENCLATURE FOR CACTUS PLANTS [Retained in its entirety]
35. Conf. 6.21: CONTROL PROCEDURES FOR COMMERCIAL CAPTIVE-BREEDING OPERATIONS [Retained in its entirety]
36. Conf. 7.7: QUOTAS FOR LEOPARD-HUNTING TROPHIES AND SKINS FOR PERSONAL USE [Repealed in its entirety] The provisions of 2. B. c) and Annex 2 of the new criteria apply
37. Conf. 7.10: FORMAT AND CRITERIA FOR PROPOSALS TO REGISTER THE FIRST COMMERCIAL CAPTIVE-BREEDING OPERATION FOR AN APPENDIX I ANIMAL SPECIES [Retained in its entirety] Referred to in paragraph 4. b) of the present criteria
38. Conf. 7.14: SPECIAL CRITERIA FOR THE TRANSFER OF TAXA FROM APPENDIX I TO APPENDIX II [Repealed in its entirety] The provisions of 2. B. c) and Annex 2 of the present criteria apply
39. Conf. 7.15: AMENDMENTS TO APPENDIX III [repealed in its entirety]