

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

Eighth Meeting of the Conference of the Parties

Kyoto (Japan), 2 to 13 March 1992

Interpretation and Implementation of the Convention

SUPPORT OF RANGE STATES FOR AMENDMENTS TO APPENDICES I AND II

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

Background

1. Article XV 1. of the Convention provides that any Party may propose an amendment to Appendix I or II for consideration at a meeting of the Conference of the Parties.
2. Resolution Conf. 1.1 (Berne Criteria for addition of species and other taxa to the Appendices I and II and for the transfer of species and other taxa from Appendix II to Appendix I) makes no recommendation that Parties submitting proposals to amend the appendices should consult with range States.
3. Resolution Conf. 1.2 (Berne Criteria for the deletion of species and other taxa from Appendices I and II) states "... it is advisable to contact the country or countries of origin prior to this action." The "action" referred to is not that of submitting the proposal, it is the consideration of the proposal by the Conference.
4. Resolution Conf. 2.17 defines the format for proposals to amend Appendix I or II. Section 6 is reserved for comments from the countries of origin. Note 7 merely says that such comments should be as complete as possible - not that any range State should support the proposal.
5. It is clear that there is a minimum obligation to consult range States before submitting proposals which may place trade restrictions on species occurring in their countries. There is no indication that proposals should have the support of range States.
6. Inherent in the above is the tacit assumption that Parties share the same conservation philosophy: i.e. they might be concerned by the deletion of a species from an appendix but would not be concerned about additions.
7. Wijnstekers (1990, Note 36) remarks that "Every transfer of a species from Appendix II to Appendix I could be considered as an example of the failure of the Parties to fulfil their obligations under the Convention. The African elephant is the most striking example thereof".
8. Many range States share this view. The addition of a species to Appendix I should be seen as a conservation failure.
9. For some range States the issue may be far more than a conservation failure for a single species. Where wildlife has a high economic value it is encouraging the transformation of land use in many countries. Wildlife management could be a more productive land use than its competitors in Africa (for domestic livestock and subsistence agriculture) provided that there are no attempts to devalue its products. Where wildlife replaces cattle, the conservation of natural habitats is assured, with more long-term options.
10. There is a very big difference between rural peoples who make their living out of wildlife (**and are and should be the best protectors of their own wild fauna and flora**) and those for whom wildlife is not essential to their survival. In many developed countries where concern for wildlife appears at its highest, wildlife is solely a recreation or hobby.

11. It is therefore alarming when proposals are made which may entail massive opportunity costs for the people of producer countries and yet on which they may not have an opportunity to comment. Such actions would be unthinkable under comparable trade treaties such as GATT: full consultation with affected Parties would be mandatory.
12. The valid cases in which it would be appropriate for a Party to advance a proposal without prior consultation with a range State are listed in this draft resolution.
13. It would appear appropriate that all States within the range of a species be consulted before proposals which affect that species are submitted. The primary concern of the proponents of the attached draft resolution is those proposals to list species in Appendix I. In such cases, which can involve significant opportunity costs, stronger measures are needed to protect range States' interests. A mechanism is proposed under which the Conference of the Parties will not consider proposals to list species in Appendix I which do not have the support of the majority of range States in which the species occurs.

Reference

Wijnstekers, Willem (1990). *The Evolution of CITES*. Note 36, page 26. CITES Secretariat, Lausanne, Switzerland. 284 pp.

DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES

Support of Range States for Amendments to Appendices I and II

NOTING that nowhere within the Articles of the Convention or Resolutions of the Conference of the Parties is it required that countries of origin should support proposals to amend Appendices I and II in respect of species which occur within their boundaries, prior to the submission of such proposals to a meeting of the Conference of the Parties;

OBSERVING that the addition of a species or taxon to a more restrictive appendix may be contrary to the interests of the peoples of range States and to the conservation of the species;

REMARKING that international treaties rely upon co-operation for their successful implementation;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

RECOMMENDS that any Party submitting a proposal to amend Appendix I or II of the Convention:

- a) advise the Management Authorities of the range States within which the species occurs of their intention to submit a proposal;
- b) consult with the Management and Scientific Authorities of the affected States on the substance of the proposal;
- c) include the opinions of these Authorities in section 6 of the proposal submitted in accordance with Resolution Conf. 2.17, adopted at the second meeting of the Conference of the Parties (San José, 1979) (except where no response has been received from a range State within a reasonable period of time); and
- d) ensure that each range State has received the full text of the draft proposal 60 days before it is submitted in accordance with the requirements of paragraph 1(a) of Article XV;

RESOLVES that, in the case of proposals to list species or taxa in Appendix I of the Convention, notwithstanding the compliance of the proponent with the foregoing recommendations, the following rules of procedure shall apply at meetings of the Conference of the Parties:

- a) any range State may request a vote, which is restricted to countries of origin of the species, immediately prior to the consideration of such a proposal by the Conference of the Parties in the appropriate Committee session;
- b) the issue to be voted on is whether the Parties will consider the proposal;
- c) the vote shall be conducted without adjournment, only Parties who are range States shall vote, and the vote will be a secret vote if so proposed by a range State and seconded; and
- d) if a majority of two-thirds (or, if there are fewer than three range States, a unanimous vote) of the range States are opposed to consideration of the proposal, it will be withdrawn; and

RECOGNIZES that the following categories of proposals are exempt from the provisions of the proceeding sections of this Resolution:

- a) where marine species or migratory birds are affected;
- b) where the species affected occurs in a non-party State and a competent authority can not be located with whom to consult;
- c) where a Party fails to comply with the provisions of the Convention or a Resolution;

- d) where a CITES Resolution provides for a default mechanism but where nevertheless a formal proposal is required (such a situation could occur under Resolution Conf. 7.14) and, in such a case, the Depositary Government will submit the proposal; and
- e) in cases where a Party has promised to take some action or to provide information within a given period and failed to do so.