

## Interpretation and Implementation of the Convention

## TRADE IN HUNTING TROPHIES OF SPECIES LISTED IN APPENDIX I

This document has been prepared and submitted by Namibia.

Background

In 1979, the CITES Parties adopted Resolution Conf. 2.11 (Annex 1), dealing with the international shipment of sport hunting trophies of species listed in Appendix I. According to its sponsors, the purpose of the Resolution was to correct the "differing procedures [for] the granting of permits for the trade in hunting trophies of Appendix-I species." [Doc. 2.13 (Rev.)]. Instead it has caused further confusion, expense and delay.

In the fifteen years since the adoption of Resolution Conf. 2.11, it has become recognized practice for some countries to allow, indeed encourage, the hunting of a limited number of Appendix-I species and to allow the exportation of the hunting trophies. This is called "tourist safari hunting", and it is an important component of the conservation regimes of a number of countries. In some cases, such as for leopards and cheetahs, the Conference of the Parties has established export quotas for trade in the resulting trophies.

Despite the importance of this activity to the conservation programmes of some range States, there is still a wide discrepancy in the practice of importing countries. Some countries, using Resolution Conf. 2.11, recommendation c), as their rationale, have refused to allow imports of hunting trophies whose exports has been approved by the range State, even when on quota. In many cases this is done without consultation, contrary to the meaning and spirit of Resolution Conf. 6.7. The result of these actions by importing countries has been to harm the conservation programmes of the range States.

Importance of this Proposal to Species Conservation and Biodiversity

Tourist safari hunting is a low-risk form of sustainable use of wildlife. The sustainable use of wildlife which is associated with benefits flowing to the local people has been recognized and endorsed by IUCN. At both its eighteenth and nineteenth General Assemblies, IUCN adopted resolutions confirming the benefits of this concept to the conservation of biodiversity.

Many countries, particularly in Africa, have begun to implement conservation programmes with sustainable use components. These include tourist safari hunting as one of the principal means of conserving wildlife beyond the borders of protected areas. It is a cost-effective method of providing incentives for conservation and needed revenue at little cost to the range State. It is an important option in unprotected areas, where most wildlife exists and where there are few other conservation tools.

The Nature of Tourist Safari Hunting

Few activities are taxed, licensed, levied and monitored on such an individualized basis as tourist hunting. The use of wildlife through tourist safari hunting is easy to regulate and the relevant authorities are motivated to regulate it because of the foreign exchange it provides per unit of effort. Each individual hunter is licensed, as is generally his guide, and permits are required for each separate animal taken. Limited permits are granted on an individual basis. The biological and ecological risk or impact of tourist safari hunting is virtually non-existent because of its low volume and the select characteristics of the trophy being sought. The export of the trophy is likewise easy to control. The trophy is

marked and the shipment is accompanied by export documentation. All of these matters are best governed and determined by the range State to which the hunted species is indigenous and which is in the best position and has the greatest interest.

The benefits of tourist safari hunting are high, especially when compared to both the ecological and development costs. The land on which such hunting occurs is often marginal land, and may not otherwise have marketable scenic value. The use of the area by hunting outfitters and hunters may represent the only economic value of any significance associated with that land in its wild state. Tourist safari hunting in such cases should not be made burdensome but should be facilitated.

Anti-poaching effectiveness and biological monitoring is also increased because of the tourist hunting presence and government game scouts that normally accompany the hunting parties into the field, at the hunter's expense. The presence of tourist hunters brings needed income to the people living in the rural areas where the hunting occurs, as well as revenue and incentive to the governing authorities.

The Problems with the Application of Resolution Conf. 2.11, Recommendation c)

The basic mechanism of CITES is an international permit system in which the exporting country issues an export permit based on its finding that the export will not be detrimental to the survival of the species. For the Appendix-I specimens, the importing country must also issue a permit for each transaction. The issuance of the import permit is based on a finding by the importing country that the purpose of the import will not be detrimental to the survival of the species. Thus each Appendix-I shipment requires two complementary but different permits based upon different determinations, one from the exporting country and one from the importing country. The Convention does not require each of the + 123 importing States to redetermine the finding made by the exporting State. Neither does it require the importing State to make a greater determination than the exporting State.

The Convention specifically assigns to each country a different role — the exporting country considers the impact of the removal of the animal from that country's wild population and the importing country considers the purpose of the import. This dual-permit system provides protection to Appendix-I species by assuring that each side of the transaction undertakes that task for which it is best suited. The exporting country is in the best position to determine the effect on the status of the wild population from which the specimen comes, the nature of its taking and the preparation of the specimen for export. The importing country, on the other hand, is best suited to determine the purpose or use of the import, since the importer and the use to which he intends to put it lie within its borders.

Some importing countries have used Resolution Conf. 2.11, recommendation c), as a basis for replacing the system specified in the Convention with their own requirements in which the importing country makes the judgements that CITES allocates to the exporting country. They have also replaced the CITES non-detriment standard with their own greater "enhancement" standard. The effect of this, whether intended or not, is that the importing countries are saying to the exporting Parties, "We do not trust your judgements, and we insist on replacing your views with our own". This patronizing approach is inappropriate for sovereign States in

a conservation partnership. In most cases, this is being done without even consulting with the exporting Parties. Import permits are being denied by importing authorities automatically because they lack the interest, first-hand knowledge and expertise of the range State. Therefore, an insistence that "enhancement" is necessary really means that the importing country has been given a greater burden than the exporting country, which is in the best position to make such a finding, i.e. even exporting countries do not have to find that trade provides "enhancement". Further confusion arises out of the use of the term "enhancement" in Resolution Conf. 2.11 because it is not defined and of course the Convention does not define it because it is not contained in the Convention and was expressly rejected when the Convention was concluded. Whether or not an exporting State can have a successful conservation programme based in part upon tourist safari hunting has come to depend upon the arbitrary interpretation of "enhancement" which is being separately defined by each importing country and therefore impeding imports although it is not in the Convention in the first place.

There are numerous problems with this approach:

1. it falsely assumes that the importing country has superior knowledge and expertise on species that do not exist within its boundaries;
2. it is often implemented without consultation with the exporting countries that it affects;
3. it has had harmful effects on the conservation programmes of the exporting countries and is restrictive;
4. it calls for duplication of effort, as opposed to the clear assignment by CITES of roles that do not overlap;
5. it is an unnecessary burden considering the select, minuscule volume of animals affected by tourist safari hunting;
6. there are no benefits to this approach in regard to the conservation of species and biodiversity, but there are significant costs to the conservation programmes of range States and in many instances a complete impasse;
7. it is beyond the Convention, i.e. the Convention does not require proof of "enhancement" rather it requires a "non-detriment" determination;
8. it is beyond the Convention in that it requires the remotely located importing State to make a greater and more thorough determination than the exporting State where the activity takes place and the species occurs;
9. it is offensive to developing countries and implies mistrust and disrespect;
10. the success of conservation programmes should not be dependent upon meeting standards set by the wealthiest of developed nations; and
11. it compounds the problem for species that have been incorrectly listed in the appendices.

#### History

From the time the Convention was drafted it has been intended that the importing country is not to replicate the findings that the exporting country is to make about wildlife that occurs within the national borders of the exporting country and is "precious to them most particularly". The intent was to have duplicate permits that complemented each other, not duplicate findings. The importing authority must be satisfied that, among other requirements, the specimen will not be used for primarily commercial purposes. However, the importing country's finding does not require it to replicate the basic biological fact finding that is

required of the exporting country. Inclusion of the word "purposes" in the finding required of the importing country indicates that the importing country's approach should differ and, in particular, that it should focus on the nature and quality of the activity in the importing country as it relates to species survival. The basic biological fact finding on Convention species is the responsibility of the exporting countries where the species occur in the wild.

On three separate occasions, attempts to require that the importing country replicate the findings of the exporting country and that enhancement or restoration be found by the importing country before trade in Appendix-I species is permitted have been rejected. Specifically, at the eighth plenary session of the Conference at which the Convention was signed (SR/8 Final- March 5, 1973) it was expressly rejected when an amendment (PA/III/4) that would have required the importing authorities to find that the import "will be for the purpose which require the importing authorities to find that the import will be for the purpose which will further the restoration of the species..." and would "prohibit any trade...unless...the trade...will be for restoration purposes" was withdrawn. The delegates indicated that they would "let the export State do what is proper for the export State and let the import State do what is proper for the import State, and this would be in the spirit of the Convention."

The second time was at the third meeting of the Conference of the Parties when a proposed resolution attached to Scientific Authority Review of Applications for Importation of Appendix-I Specimens... document Doc. 3.27 was proposed, then withdrawn [see Plen. 3.7 (Rev.), item XIV 8, page 117] because of opposition from the Parties. It too was an attempt to have the remote importing State replicate the determination made by the exporting State authorities and would have limited imports to when their purpose "enhanced species survival".

Third and most recently, during a negotiating session at the 8th meeting of the Conference of the Parties, provisions in the Role of the Scientific Authority, document Doc. 8.37, which would have recommended that importing State authorities determine that the "activity is likely to enhance" the survival of the species, were rejected by the Parties and the terms of the Convention Articles were substituted in their place.

Both documents Doc. 3.27 and the rejected components of Doc. 8.37 cite outdated Resolution Conf. 2.11 as part of their basis. It is long past due to correct the source of the confusion by amending the misleading language in Resolution Conf. 2.11, recommendation c).

#### The Proposed Draft Resolution and the CITES System

The proposed draft resolution (Annex 2) modifies Resolution Conf. 2.11 to reinstate the system of double control specified in the Convention.

The recent negotiation of the Biodiversity Convention clearly recognized that co-operative action between countries is essential to the conservation of biological diversity. In the case of CITES, this co-operation must include the access to markets where those markets are an important component of conservation. The proposed draft resolution accomplishes that goal.

#### Note from the Secretariat

The Secretariat recognizes the merits of this document and the value of the argumentation presented. It is however conscious that, if the draft resolution in Annex 2 is adopted, this would not prevent some Parties from implementing stricter domestic measures on the import of hunting trophies, in accordance with Article XIV, paragraph 1.

Conf. 2.11

Trade in Hunting Trophies of Species Listed in Appendix I

CONSIDERING the need of uniform interpretation of the Convention with regard to hunting trophies;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

RECOMMENDS

- a) that with the exception of the rare case of exemptions granted under paragraph 3 of Article VII of the Convention, trade in hunting trophies of animals of the species listed in Appendix I be permitted only in accordance with Article III, i.e. accompanied by import and export permits;
- b) that the scientific opinions under paragraphs 2 (a) and 3 (a) of Article III of the Convention cover the trade in dead specimens, too;

- c) that in order to achieve the envisaged double control (also in the scientific field) by the importing and the exporting country of the trade in Appendix-I specimens, the Scientific Authority have the possibility of comprehensive examination concerning the question of whether the importation is serving a purpose which is not detrimental to the survival of the species. This examination should, if possible, also cover the question of whether the killing of the animals whose trophies are intended for import would enhance the survival of the species; and
- d) that the scientific examination by the importing country in accordance with paragraph 3 (a) of Article III of the Convention be carried out independently of the result of the scientific assessment by the exporting country in accordance with paragraph 2 (a) of Article III, and vice versa.

DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES

Standard to be Applied to Trade in Lawfully Taken Hunting Trophies

RECALLING the Preamble to the Convention, which states that peoples and States are and should be the best protectors of their own wild fauna and flora;

REAFFIRMING the provisions of Articles III, IV and V of the Convention, which specifically require that different findings be made by exporting Parties and importing Parties, and which state that the condition for allowing the export of a specimen is that the State of export finds that there is no detriment to the survival of the species in the wild;

RECALLING Resolution Conf 8.3, adopted at the eighth meeting of the Conference of the Parties (Kyoto, 1992), recognizing the benefits of the use of wildlife;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

DECIDES to amend recommendation c) of Resolution Conf. 2.11 to read as follows:

- c) that in order to achieve the envisaged complementary control of trade in Appendix-I species by the importing and exporting countries in the most effective and comprehensive manner, the Scientific Authority of the importing country accept the finding of the Scientific Authority of the exporting country as to whether or not the exportation of the hunting trophy is detrimental to the survival of the species, and limit its examination to the purpose to which the specimen will be put upon reaching the importing country and to whether it is the lawfully taken trophy it is purported to be.