

## Interpretation and Implementation of the Convention

## Hybrids

## AMENDMENT OF RESOLUTION CONF. 2.13

1. This document has been prepared and submitted by the Secretariat.

Background

2. At its 12th meeting (Antigua, Guatemala, September 1995), the Animals Committee, while considering the treatment under the Convention of hybrids derived from Appendix-I species of deer, discussed the appropriateness and utility of Resolution Conf. 2.13. It was noted that the Resolution records a decision that, if the parents of a hybrid are included in different appendices, the provisions of the more restrictive appendix shall apply. The Secretariat expressed the view that, since hybrids of animals in trade are generally captive-bred specimens, this principle was contrary to the general principle in the Convention of applying less restrictive provisions to trade in captive-bred specimens. (The same general principle applies to plants.) The observer from the United States of America expressed concern about the possibility being provided, if the Resolution were repealed, for traders to evade controls by claiming that specimens being traded were hybrids. The observer from the Netherlands drew attention to the way in which hybrids of plants were now treated. It was agreed that the Secretariat should work with the observer from the United States of America and the Chairman of the Animals Committee to produce a proposal, for consideration at the 13th meeting, regarding the treatment of hybrids.
3. At the 13th meeting of the Animals Committee (Pruhonice, Czech Republic, September 1996), the Secretariat presented a draft resolution on treatment of animal hybrids to replace Resolution Conf. 2.13. Following discussion of the issue, a revised draft resolution was endorsed by the Animals Committee. However, it was noted that the draft did not refer to plants and that these would also need to be considered.
4. Consequently, the Secretariat has used the text agreed by the Animals Committee as a basis for a new draft resolution dealing with the treatment of hybrids of animals and plants. It has not changed in any way the substance of the text agreed by the Animals Committee, but has restructured the text to incorporate the recommendations that are currently in Resolution Conf. 9.18 relating to plant hybrids. The draft resolution prepared by the Secretariat is annexed to the present document.

Considerations relating to animals

5. In paragraph a) of Resolution Conf. 2.13 the following decision is recorded:
6. "that hybrids may be specifically included in the Convention appendices, but shall be included only if they form distinctive and stable populations in the wild".
7. This seems unobjectionable, although, it would be appropriate to transfer this text to the Resolution on the Criteria for Amendment of Appendices I and II (Resolution Conf. 9.24, in Annex 3 on Special Cases) when that is revised.
8. In paragraph b) of Resolution Conf. 2.13 the following decision is recorded:

9. "that hybrids are subject to the provisions of the Convention even though not specifically included in the Appendices if one or both of their parents are of taxa included in the appendices".
10. The reason why the provisions of the Convention should apply to hybrids of species included in the Appendices is to ensure that the protective measures applying to the parent species (or to listed species that are morphologically similar to the hybrids – which is a big problem in the case of plants) are not easily undermined. It should not be possible to evade controls simply by claiming that a specimen is a hybrid, leaving it to the authorities to prove that it is not. It is therefore appropriate that the provisions of the Convention should apply to hybrids of species included in the appendices.
11. Resolution Conf. 2.13 deals only with hybrids one or more of the parents of which is of a species included in the appendices. This means that it does not deal with hybrids whose parents are not of species included in the appendices, even if there were animals of such species in previous generations in their lineage. However, for the same reasons as those given in the previous paragraph, the latter hybrids should be covered by the provisions of the Convention. This has been done in the attached draft resolution.
12. It would be possible to specify that only the hybrids of certain, annotated species or higher taxa were covered by the provisions of the Convention, but this approach was not favoured by the Animals Committee and has not been adopted in the attached draft resolution.
13. In paragraph c) of Resolution Conf. 2.13 the following decision is recorded:
14. "that if the parents of a hybrid specimen are included in different appendices, the provisions of the more restrictive appendix shall apply".
15. Under the Convention, the general principle is that the controls applicable to captive-bred specimens are reduced. For hybrid specimens that are captive-bred, the same general principle should apply. As indicated above, the danger that needs to be avoided is that specimens of Appendix-I species be traded as hybrids in order to evade controls. Therefore, it should be clear that such specimens are really captive-bred, as that term has been defined by the Conference of the Parties.
16. The Animals Committee did not favour the solution adopted in the case of plants, to say that, if a species in Appendix I is annotated, the provisions relating to species in this appendix shall also apply to hybrids of the annotated species.
17. In paragraph d) of Resolution Conf. 2.13 the following decision is recorded:
18. "that determinations whether trade in unlisted hybrids will not be detrimental to survival [**sic**] shall be made with reference to survival of the included parental taxa or to survival of other taxa that were meant to be protected by inclusion of the parental taxa."

19. What is important is that trade in hybrids should not be detrimental to the survival of the listed species from which they are descended. This notion has been expressed more clearly in the attached draft resolution.

Considerations relating to plants

20. The considerations above relating to animals apply generally also to plants. However, at its ninth meeting (Fort Lauderdale, 1994), the Conference of the Parties, by the adoption of Resolution Conf. 9.18, took an approach different from that contained in Resolution Conf. 2.13 for artificially propagated hybrids of plants with Appendix-I species in their parentage.
21. The text relating to artificially propagated hybrids in Resolution Conf. 9.18 restricts the application of Resolution Conf. 2.13. In other words, the Conference of the Parties created a rule and then created an exception. However, if the Resolution is replaced by the draft resolution in the Annex, this will change the rule and the exception in Resolution Conf. 9.18 relating to hybrids will no longer be necessary.
22. The Conference of the Parties has decided that draft resolutions that are designed to treat a subject comprehensively or to make significant changes in the way in which a subject is dealt with should replace and repeal all existing Resolutions on the same subject. The draft resolution in the Annex, specifying the provisions relating to hybrids, is therefore designed to repeal Resolution Conf. 2.13 and the relevant part of Resolution Conf. 9.18.
23. The Plants Committee should consider whether 'cultivars' should be treated in the same manner as hybrids.

Draft resolution

24. When discussing this subject, the Animals Committee noted the need to refer to the lineage of hybrids and recognized the importance of qualifying the word "lineage" to avoid the need to apply the provisions of the Convention to domestic pets descended from species included in the Appendices (such as dogs). The Committee requested the Secretariat to find an appropriate form of words.
25. In this connection, a further consideration is the need to avoid, as far as possible enforcement problems that would be created if specimens of certain species were covered by the Convention but morphologically similar hybrids were excluded. The lineage to be taken into account should therefore be relatively long. In the case of orchids, it should be at least 150 years, since hybridization started that many years ago.
26. The draft resolution in the annex has been prepared taking into account the above points and is presented for consideration by the Conference of the Parties. It has been possible to take a uniform approach for animals and plants, and thus to simplify the provisions applicable to hybrids, because of the way in which the term "lineage" is qualified. If a shorter lineage is considered, it will be necessary to separate the text relating to animals and plants.
27. In this case, the provisions relating to hybrids of plants should be maintained in Resolution Conf. 9.18, although the text should be amended if Resolution Conf. 2.13 is repealed.

**Doc. 10.70 Annex**

DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES

Hybrids

RECALLING Resolution Conf. 2.13 on the problem of hybrids, adopted at the second meeting of the Conference of the Parties (San José, 1979);

RECALLING Resolution Conf. 9.18 on regulation of trade in plants, adopted at the ninth meeting of the Conference of the Parties (Fort Lauderdale, 1994), referring to the treatment of artificially propagated hybrids of plants; and

CONCERNED that trade in hybrids of species included in the appendices should be controlled in order to support the controls on trade in the species included in Appendices I and II;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

DECIDES that:

- a) hybrids may be specifically included in the appendices, but shall be included only if they form distinctive and stable populations in the wild;
- b) specimens of hybrid animals and plants that have one or more specimens of species that are included in Appendix I or II in the preceding 150 years of their lineage:
  - i) shall be subject to the provisions of the Convention even if the hybrid concerned is not specifically included in the appendices;
  - ii) shall be treated as specimens of species included in Appendix I if they are not bred in captivity in

accordance with Resolution Conf. 2.12 (Rev.), or artificially propagated in accordance with Resolution Conf. 9.18, and if at least one of the animals or plants in the preceding 150 years of their lineage is of a species included in Appendix I;

- iii) shall be treated in accordance with the applicable provisions of Article VII, paragraph 4 or 5, if they are bred in captivity in accordance with Resolution Conf. 2.12 (Rev.) or artificially propagated in accordance with Resolution Conf. 9.18; and
- iv) otherwise, shall be treated as specimens of species included in Appendix II;

RECOMMENDS that, when Parties are considering the making of non-detriment findings, in accordance with Article III, paragraph 2(a), or Article IV, paragraph 2(a), for specimens of hybrids that are subject to the provisions of the Convention, they take into account any potential detriment to the survival of the listed species; and

REPEALS the Resolutions, or parts thereof, listed hereunder:

- a) Resolution Conf. 2.13 (San José, 1979) – Problem of Hybrids; and
- b) Resolution Conf. 9.18 (Fort Lauderdale, 1994) – Regulation of Trade in Plants; the paragraph Regarding artificially propagated hybrids.

**Interpretation and Implementation of the Convention**

**Hybrids**

**PROPOSED AMENDMENT TO RESOLUTION CONF. 9.18**

**REGULATION OF TRADE IN PLANTS**

Following the repeal of Resolution Conf. 2.13, it is necessary to amend Resolution Conf. 9.18 since the latter makes reference to this repealed Resolution.

Also, document Prop. 10.68, adopted by consensus in Committee I, contained a reference to the need to amend Resolution Conf. 2.13 following its adoption.

The attached Annex contains the necessary amendments to Resolution Conf. 9.18.

**Doc. 10.70.1 Annex**

**PROPOSED AMENDMENT TO RESOLUTION CONF. 9.18**

Regulation of Trade in Plants

Regarding hybrids of plants

DETERMINES that:

- a) hybrids are subject to the provisions of the Convention even though not specifically included in the Appendices If one or both of their parents are of taxa included in the appendices unless taxa included in Appendices II or III are specifically annotated to exclude certain hybrids from CITES controls.
- b) regarding artificially propagated hybrids:
  - i) plant species or other taxa listed in Appendix I shall be annotated (in accordance with Article XV) if the

provisions relevant to the most restrictive appendix should apply;

- ii) if a plant species or other taxon listed in Appendix I is annotated, an export permit or re-export certificate shall be required for trade in specimens of all artificially propagated hybrids derived from it; but
- iii) artificially propagated hybrids derived from one or more unannotated Appendix-I species or other taxa shall be regarded as being included in Appendix II and entitled therefore to all exemptions applicable to artificially propagated specimens of species listed in Appendix II.