

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

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Eleventh meeting of the Conference of the Parties  
Gigiri (Kenya), 10-20 April 2000

Interpretation and implementation of the Convention

DEFINITION OF THE TERM 'APPROPRIATE AND ACCEPTABLE DESTINATIONS'

1. This document has been submitted by Kenya.

COMMENTS FROM THE SECRETARIAT

- A. The draft resolution annexed to this document is referring to aspects of Annotations °604 and °605 in Appendices I and II of the Convention. The phrase 'appropriate and acceptable destinations' was first included in South Africa's proposal to transfer its population of the white rhinoceros to Appendix II for the exclusive purpose of, *inter alia*, allowing trade in live specimens. The Conference of the Parties agreed to the additional condition that such trade should be authorized only to 'appropriate and acceptable destinations'. The same words were subsequently used in an annotation in relation to trade in live African elephants from Botswana, Namibia and Zimbabwe, i.e. with the clear intention of ensuring adequate care of the specimens concerned, even after these populations were transferred to Appendix II.
- B. Judging from the preamble, it appears that the draft resolution in the Annex is being proposed because of disagreement relating to interpretation of the term 'appropriate and acceptable destinations' regarding one shipment of live elephants, rather than because of a persistent and ongoing problem in the interpretation of the term. If there is really a need for clarification of the term, as a matter of principle, the Secretariat suggests that it is inadvisable to adopt annotations that are recorded in the appendices, and then to adopt interpretations that are recorded in resolutions. It is preferable to ensure that the text of each annotation is absolutely clear (as is indicated in the draft resolution regarding annotations in the appendices in document Doc. 11.24). Therefore, any clarification should be provided by amending the relevant annotations in the appendices. In the present case, the necessary clarification can be achieved by adoption of proposal Prop. 11.25 to amend Annotation °604. (A similar amendment to the annotation relating to the white rhinoceros population of South Africa is also desirable, although this could not be done at the present meeting.)
- C. The Secretariat should point out that the text of paragraph c) under "AGREES" of the draft resolution creates a confusion by indicating that no re-export is permitted in cases where the term 'appropriate and acceptable destinations' is used in an annotation, in spite of what the annotation itself says, which might be different. In this case too, the clarification should be provided in the annotation (which is binding) and not in a resolution (which is not binding).
- D. Consequently, the Secretariat does not support the adoption of the draft resolution in the annex, which, incidentally, goes much further than is necessary to achieve clarification of the term being defined.



DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES

Definition of the term 'appropriate and acceptable destinations'

RECALLING that, at the ninth meeting of the Conference of the Parties, the South African population of southern white rhinoceros (*Ceratotherium simum simum*) was transferred to Appendix II of the Convention subject to an annotation stating, in part, "For the exclusive purpose of allowing international trade in live animals to appropriate and acceptable destinations and hunting trophies";

RECALLING ALSO that, at the 10th meeting of the Conference of the Parties, the African elephant (*Loxodonta africana*) populations of Botswana, Namibia and Zimbabwe were transferred to Appendix II of the Convention subject to an annotation stating, in part, "For the exclusive purpose of allowing export of live animals to appropriate and acceptable destinations";

NOTING that in neither case was the term 'appropriate and acceptable destinations' defined;

NOTING FURTHER that the Parties have given no direction regarding how the determination as to whether a destination is 'appropriate and acceptable' was to be made, nor regarding whether the determination was to be made by the exporting or the importing country;

NOTING FURTHER that it is unclear whether this term permits exports only, or whether animals exported in accordance with the annotation may be re-exported;

CONCERNED that a failure to provide these definitions and directions has already caused considerable difficulties, especially with respect to the export in 1998 of 30 elephant calves from the Tuli Block region of Botswana to South Africa;

CONVINCED, therefore, that there is an urgent practical need to clarify the meaning and applicability of the phrase 'appropriate and acceptable' as it is used in these annotations;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

AGREES:

- a) that, where the term 'appropriate and acceptable destinations' appears in an annotation to the listing of a species in Appendix II of the Convention with reference to the export of live animals, this term shall be defined to mean destinations where animals will be:
  - i) humanely treated;
  - ii) free to exhibit a normal range behaviour, including social behaviour; and
  - iii) able to contribute to the conservation of their species in the wild, including a likely possibility of successful breeding;
- b) that, if a number of potential destinations are available, priority should be given to destinations in range States where the animals can live in a wild or semi-wild state;
- c) that an annotation restricting trade in live animals to 'appropriate and acceptable destinations' shall be interpreted to mean that only export, and not re-export, is permitted under its terms; and
- d) that it is the responsibility of the Management Authority of the exporting State to determine that the terms of the annotation have been met;

RECOMMENDS that the Management Authority of a State of export, when considering whether to issue a permit for the export of live animals covered by such an annotation:

- a) consult with the Scientific Authority in the State of import to determine whether the intended destination in the State meets the definition set out in this Resolution;
- b) make any other enquiries necessary to determine whether the proposed destination meets the definition of 'appropriate and acceptable', including public consultation;
- c) refuse to issue the export permit if the Scientific Authority of the State of import states that the intended destination does not meet the definition set out in this resolution, or if other cogent evidence is available showing that the definition is not met; and
- d) prepare a report detailing the reasons why the export permit was granted or refused, and communicate this to the Secretariat;

REQUESTS the Scientific Authorities in countries of import to make every effort to assist the Management Authorities of countries of export with respect to the consultation described in paragraph a) under "RECOMMENDS" above; and

DIRECTS the Secretariat to communicate to the Parties, by means of a Notification, the findings in reports received in accordance with paragraph d) under "RECOMMENDS" above.