

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

Twelfth meeting of the Conference of the Parties
Santiago (Chile), 3-15 November 2002

Interpretation and implementation of the Convention

Review of Resolutions and Decisions

REVIEW OF DECISIONS

1. This document has been prepared by the Secretariat.

Background

2. The Decisions did not exist as a separate series of recommendations until the ninth meeting of the Conference of the Parties (Fort Lauderdale, 1994). It was intended that the Resolutions would contain the texts that would be valid for a long period and that could be changed only by the Conference of the Parties, such as the budget of the Secretariat, interpretations of the provisions of the Convention, and the establishment of long-term processes such as the review of significant trade. It was intended that the Decisions, on the other hand, would be time-bound, mostly instructions to the permanent committees and to the Secretariat, and the list would be revised after each meeting of the Conference of the Parties when the Secretariat would delete those that had been implemented or that were no longer relevant.
3. The first list of Decisions, presented for adoption at the ninth meeting, was compiled from all of the recommendations that had previously been adopted but had not been recorded in Resolutions, and from instructions that had been included in Resolutions but had not yet been implemented. The aim was to make these texts more accessible by printing them in a single document. The result of the way in which the list was compiled is that a number of the Decisions in effect are not typical of those that should be included; many of them, for example, provide long-term guidance to the Parties and should therefore be included in Resolutions or repealed.
4. Decision 11.123 gives the Secretariat a responsibility to update the list of Decisions after each meeting of the Conference of the Parties and to exclude Decisions that have been implemented or that are no longer current. In some cases, however, there is no basis for determining when a Decision is no longer current. In these cases, only the Conference of the Parties can decide when such Decisions can be repealed.

Action by the Secretariat

5. The Secretariat has examined this subject in connection with three responsibilities:
 - a) as one of its functions laid down in the Convention. This states, in Article XII, paragraph 2 (h), that the Secretariat is "to make recommendations for the implementation of the aims and provisions of the present Convention". In fact, the Secretariat, in the course of its normal work, becomes aware of a number of problems regarding the interpretation and implementation of the Convention and of Resolutions and Decisions of the Conference of the Parties;

- b) as part of its work relating to problems in implementation of Resolutions, as required by Decision 11.136; and
 - c) as part of its work relating to Objective 1.11 of the *Strategic Vision through 2005*, adopted by the Conference of the Parties at its 11th meeting (Gigiri, 2000). This objective is, "To review and simplify, where possible, existing measures, procedures, mechanisms and recommendations for the implementation of the Convention". Action point 1.11.2 of the Action Plan for the Strategic Vision requires the Secretariat to "Make recommendations on possible review, modification and consolidation".
6. The Secretariat reported on its work in this area at the 46th meeting of the Standing Committee (Geneva, Switzerland, March 2002) in document SC46 Doc. 10 and was directed to continue the work in relation to the review of Decisions.
 7. The Secretariat has now identified those Decisions that it believes can be repealed and those that it suggests should be included in Resolutions. The remaining Decisions will comprise only decisions that have to be implemented within a specified time and will mostly be instructions to the Committees and to the Secretariat. It should consequently be noted that, in general, decisions should no longer be addressed to the Parties.
 8. Decision 11.123 lays out the basis for the Secretariat's work in maintaining the Decisions of the Conference of the Parties, as follows:

A document containing all the current decisions that have been made by the Conference of the Parties and recorded in the Proceedings of the meetings of the Conference shall be compiled. As far as possible, the decisions should be sorted according to the body to which they are directed. Where this is not possible, they should be sorted by subject, using the subjects of the Resolutions for guidance.

This document shall be updated after each meeting of the Conference of the Parties, to contain all the recommendations (or other forms of decision) that are not recorded in Resolutions and that remain in effect. The Secretariat shall distribute to the Parties a copy of the updated document soon after each meeting of the Conference.
 9. The second paragraph of this decision requires no change but, in the first paragraph the first sentence can be deleted as the list of Decisions has existed since the ninth meeting of the Conference of the Parties. Regarding the remainder of the first paragraph, in the light of experience, the Secretariat suggests that the decisions be sorted by subject (as is the case for Resolutions) and that, within the section on each subject, the decisions be sorted according to the body to which they are directed.
 10. Annex 1 of this document lists those Decisions that the Secretariat believes can be repealed and provides an explanation for its reasons in making such a recommendation.
 11. Annex 2 lists those Decisions that the Secretariat believes should be included in Resolutions and suggests appropriate places in the relevant resolutions where this could be achieved. To avoid this document becoming too lengthy, the Secretariat has not prepared complete draft versions of the relevant Resolutions showing the inserted text.

Recommendations

12. The Secretariat recommends that the Conference of the Parties agree to:
 - a) delete the Decisions listed in Annex 1;

- b) transfer the texts of the Decisions that are listed in Annex 2 to the Resolutions specified in the Annex, or to delete these Decisions if appropriate; and
- c) amend the first paragraph of Decision 11.123 to read as follows:

After each meeting of the Conference of the Parties, the Secretariat shall update the list of Decisions to contain all the recommendations (or other forms of decision) that are not recorded in Resolutions and that remain in effect. The list shall be sorted according to subject, using the subjects of the Resolutions for guidance, and within the section for each subject they shall be divided according to the body to which they are directed. The Secretariat shall distribute to the Parties a copy of the updated document soon after each meeting of the Conference.

Decision number	Justification
<u>Decisions 11.33 to 11.37</u> Regarding annual reports	The deletion of Decisions 11.33 to 11.37 is proposed and justified in document CoP12 Doc. 22.1. Any action to be taken as a result of the failure of Parties to submit annual reports should be agreed following discussions of that document and incorporated into a new Decision or a Resolution.
<u>Decision 11.38</u> Regarding biennial reports	This issue is addressed in document CoP12 Doc. 22.2. The submission of biennial reports is an obligation under Article VIII, paragraph 7, of the Convention and the recommendation in this Decision serves no useful purpose.
<u>Decisions 11.47 to 11.56</u> Regarding conservation of the tiger and trade in tiger specimens	These issues are discussed in document CoP12 Doc. 33. The Secretariat believes these matters have been addressed and the Decisions should be repealed.
<u>Decisions 11.60 and 11.61</u> Regarding trade in plants	The advice in Decision 11.60 relating to carefully checking material in trade is a basic principle of enforcement of the Convention and does not justify a specific decision directed to the Parties. Regarding the advice in Decision 11.61 that Parties should inform the Secretariat about nurseries that export CITES-listed plants, little or no information has been received from the Parties since this Decision was recorded at CoP9, other than information in the register of nurseries. This is consequently defunct.
<u>Decision 11.62</u> Regarding identification of timber	The information this Decision relates to was provided to the Parties in Notification to the Parties No. 1998/19 of 27 April 1998. This was reported to CoP11 in document Doc. 11.18.1. The Decision is therefore now defunct.
<u>Decision 11.63</u> Regarding the biological and trade status of <i>Harpagophytum</i> <u>Decision 11.66</u> Regarding communication	These issues are addressed in document CoP12 Doc. 46 and the Decision should now be repealed. The Secretariat believes the advice contained in this Decision reflects what is now common practice. It is also incorporated into training provided to Parties.
<u>Decision 11.69</u> Regarding implementation of the Quito Declaration	This Decision was included as a formal statement of the recognition given to the Quito Declaration and to enable the provision of a copy to all Parties. However, this is now in the historical record of CITES and the Decision does not need to be repeated in future lists of decisions adopted.

Decision number	Justification
<p><u>Decision 11.72</u></p> <p>Regarding consideration of draft resolutions</p>	<p>The text of this Decision is identical to that of Decision 11.13 but is directed to the Chairmen of Committees I and II rather than to the Parties. The Secretariat is recommending in Annex 2 of this document that the text should be inserted as a new paragraph in RECOMMENDS of Resolution Conf. 4.6 (Rev.) (Submission of draft resolutions and other documents for meetings of the Conference of the Parties). Consequently, this Decision is redundant and should be repealed.</p>
<p><u>Decision 11.157</u></p> <p>Regarding significant trade in Appendix-II species</p>	<p>The Secretariat believes it is not necessary or appropriate to restrict the coordination of field studies to IUCN, especially in view of the Secretariat's emphasis on developing local scientific capacities and that, consequently, this Decision should be repealed.</p>
<p><u>Decision 11.160</u></p> <p>Regarding trade in plants</p>	<p>This Decision requires the Secretariat to publish the information provided by Parties in accordance with Decision 11.61. However, as no such information has been received (see above reference to Decision 11.61) since this Decision was recorded at CoP9, this is defunct.</p>

DECISIONS THAT ARE PROPOSED TO BE TRANSFERRED TO RESOLUTIONS

Decision number	Resolution into which text should be inserted
<p><u>Decision 11.5</u> Regarding regional representation in the Standing Committee</p> <p><u>Decision 11.6</u> Regarding regional sessions at meetings of the Conference of the Parties and</p> <p><u>Decision 11.7</u> Regarding regional representation in the Animals and Plants Committee</p>	<p>The Secretariat recommends that the text from these Decisions be included in Resolution Conf. 11.1 on the establishment of committees or in any new Resolution that is adopted to replace it as a result of the discussion of documents CoP12 Doc. 13.1, 13.2 and 13.3.</p>
<p><u>Decision 11.9</u> Regarding entry into force of Resolutions and Decisions of the Conference of the Parties</p>	<p>This text should be inserted as a new <u>DECIDES further that</u> at the end of Resolution Conf. 4.6 (Rev.) (Submission of draft resolutions and other documents for meetings of the Conference of the Parties). However, it might be considered that decisions in the form of instructions directed to the committees and the Secretariat should enter into force as soon as they are adopted, in which case an amendment is required.</p>
<p><u>Decision 11.11</u> Regarding submission of amendment proposals, draft resolutions and other documents</p>	<p>This text should be inserted as a new paragraph under <u>AGREES</u> in Resolution Conf. 4.6 (Rev.) (Submission of draft resolutions and other documents for meetings of the Conference of the Parties).</p>
<p><u>Decisions 11.12 and 11.13</u> Regarding preparation of draft resolutions of the Conference of the Parties</p>	<p>This text should be inserted as new paragraphs before the existing paragraph d) under 'RECOMMENDS' in Resolution Conf. 4.6 (Rev.) (Submission of draft resolutions and other documents for meetings of the Conference of the Parties).</p>
<p><u>Decision 11.39 to 11.42</u> Regarding cooperation in monitoring illegal trade in whale parts and derivatives</p>	<p>This text should be included in a new section in Resolution Conf. 11.4 (Conservation of cetaceans, trade in cetacean specimens and relationship with the International Whaling Commission) with appropriate adaptations to the introductory text of each paragraph. (For example, "All countries concerned are encouraged" would become <u>ENCOURAGES all States concerned</u>.)</p>

Decision number	Resolution into which text should be inserted
<p><u>Decision 11.65</u></p> <p>Regarding listings of geographically separate populations in the Appendices</p>	<p>This Decision provides advice regarding the amendment of the Appendices. It should therefore be incorporated into the Resolution regarding the amendment of the Appendices.</p>
<p><u>Decision 11.67</u></p> <p>Regarding standard references and the status of species</p>	<p>This text should be inserted as a new paragraph under <u>DECIDES that</u> after the paragraphs under 'RECOMMENDS' in Resolution Conf. 11.22 (Standard nomenclature).</p>
<p><u>Decision 11.68</u></p> <p>Regarding names to use for <i>Tupinambis</i> species</p>	<p>The first sentence of this Decision should be deleted as it merely tells Parties to use the names in the Appendices with regard to <i>Tupinambis</i> species, a principle that applies to all species. However the second sentence should be inserted in section IX of Resolution Conf. 10.2 (Rev.) (Permits and certificates) as new subparagraph iv) under paragraph e) (with an appropriate grammatical adaptation).</p>
<p><u>Decisions 11.74 to 11.76</u></p> <p>Regarding duties of the regional representatives (Standing Committee)</p> <p><u>Decision 11.90</u></p> <p>Regarding duties of members of the Committee and their alternates (Animals Committee)</p> <p>and</p> <p><u>Decision 11.110</u></p> <p>Regarding duties of members of the Committee and their alternates (Plants Committee)</p>	<p>The Secretariat recommends that the text from these Decisions be included in Resolution Conf. 11.1 on the establishment of committees or in any new Resolution that is adopted to replace it as a result of the discussion of documents CoP12 Doc. 13.1, 13.2 and 13.3.</p>