

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

Forty-sixth meeting of the Standing Committee
Geneva (Switzerland), 12-15 March 2002

Criteria review for amendments to Appendices I and II

REPORT FROM THE CHAIRMAN OF THE PLANTS COMMITTEE

1. The Chairman of the Plants Committee hereby presents the Standing Committee, in accordance with the procedure described in Decision 11.2, section 14, a report on the review of the criteria for amending Appendices I and II that was prepared for the Conference of the Parties (CoP).
2. The Chairman of the Plants Committee participated in the process and co-chaired the joint Meeting of the Animals and Plants Committees, held in December, 2000, in the United States of America. She also participated in a meeting of the Chairmen that was held in Geneva in April, 2001, in order to prepare Notification to the Parties No. 2001/037. In this meeting Appendix 5 was excepted, to be treated at a second meeting of the Criteria Working Group (CWG) that was subsequently held in May.
3. Once the comments on Notification to the Parties No. 2001/037 were received, a joint meeting of the Chairmen was planned for November 5, in Geneva, to prepare a final report. This meeting was suddenly cancelled due to health problems of the Chairman of the CWG. The Chairman of the Plants Committee was not able to attend the meeting on the new date that was arranged, November 17, due to complications during her trip from America to Geneva and health problems. The meeting took place in the absence of the Chairman of the Plants Committee; she requested the draft prepared during this meeting for the final report and it was sent to her on November 21 by e-mail.
4. Since the Chairman of the Animals Committee had a full agenda until the beginning of January and the Chairman of the CWG until February, it was impossible to hold a joint meeting and meet the deadlines, given the schedule for the process.
5. On November 25, the Chairman of the Plants Committee sent her comments and conclusions for the final report and her comments on the draft for the final report that had been sent to her. On December 3, 2001, the Chairmen held a teleconference organised by the CITES Secretariat.
6. During the teleconference the Chairman of the Plants Committee expressed her serious doubts about the draft for the final report that had been sent to her on November 21. The Chairmen of the Animals and Plants Committees did not come to an agreement on the terms of a joint final report.
7. The Chairman of the Plants Committee prepared the annexed document to be presented at the CoP.
8. The Chairman of the Plants Committee expresses her deep thanks to the Parties and Organisations for the contributions and comments sent to Notification to the Parties No. 2001/037. She would also like to extend that thanks to the Animals and Plants Committees, the Criteria Working Group, the Secretariat, and all those who participated in the reviewing process.

9. Faced with a subject as vital as the Criteria for including species in Appendices I and II, and having read and examined the comments on Notification to the Parties No. 2001/037 sent in by the Parties, IGOs and NGOs, the Chairman of the Plants Committee has arrived at the following conclusions:
- a) The majority is of the opinion that the existing criteria were the result of a broad, in-depth consultation and were agreed to by consensus.
 - b) An important effort has been made.
 - c) The comments repeatedly point out that the taxon reviews set out in the Terms of Reference for the exercise have not been fully completed, nor have they informed the debate about the scientific validity of the existing criteria when they are applied to a wide range of taxonomic groups.
 - d) The comments express an evident concern about the lack of a broad and open debate, particularly in relation to critical Annex 5, which should have received the comments of the Animals and Plants Committees*.
 - e) There are very serious objections to any weakening of the precautionary principle.
 - f) There is concern about the increase in the workload and the difficulties that the Parties, especially the developing countries, will encounter in adopting the proposed changes to Resolution Conf. 9.24.
 - g) The specific comments show a lack of consensus in relation to the amendments that affect the fundamentals of the resolution.
 - h) The comments show a willingness to review the style and language, without affecting the fundamentals.
10. Given the wealth of comments that have been received and in order to voice the opinions expressed in them, the Chairman of the Plants Committee considers that it would be advisable to disseminate the comments and to include them in the Secretariat's Web page.
11. In view of the above, the Chairman of the Plants Committee considers that it is premature for the Chairmen to present a proposal for changes in Resolution 9.24 to CoP12. The procedure should be left open and the review of the criteria should be continued.

Recommendations to the Standing Committee

12. Since Decision 11.2 does not mean that amendments to Resolution Conf. 9.24 are obligatory, it is recommend that the Standing Committee should:
- a) Adopt the report of the Chairman of the Plants Committee (Annex) in order to present it at CoP12 meeting. The report makes a proposal to the CoP not change Resolution Conf. 9.24 as yet, as well as a recommendation to formulate a Decision that will allow the reviewing process to continue.
 - b) To implement a procedure to continue the review that will include stages of open consultation and close monitoring by the Animals and Plants Committees. In this way the primary objective of this review will have been accomplished: *"that the text and the Annexes of the current resolution be examined in detail to evaluate the scientific validity of the criteria, definitions, notes and guidelines and their applicability to all the groups of plants and animals"*.

Final Report from the Chairman of the Plants Committee to the CoP, as established in Decision 11.2 on the Terms of Reference for the Criteria Review to amend Appendices I and II.

First the Chairman of the Plants Committee would like to express her deep thanks to the Parties and Organisations for all of the contributions and comments sent to Notification to the Parties No. 2001/037. Likewise, she wishes to thank the Animals and Plants Committees, the Criteria Working Group, the Secretariat and all those who have participated in the reviewing process.

Initial material

- Notification to the Parties No. 2001/037
- Comments from the Parties received in reply to Notification to the Parties No. 2001/037 (33 Parties + Ireland): Australia; Germany; Belgium [comment made in the name of Germany, Austria, Belgium, Denmark, Spain, Finland, France, Greece, Italy, Luxembourg, the Netherlands, Portugal, Sweden, the United Kingdom + Ireland]; Botswana; Canada; Chile; Costa Rica; Ecuador; Spain; Slovakia; the United States of America; Hungary; India; Israel; Italy; Japan; Mexico; Namibia; Norway; New Zealand; the Netherlands; Romania; South Africa; the United Kingdom and Zimbabwe.
- Comments from the Organisations (12): FAO; Greenpeace; ITTO; IUCN; IWC/Species Survival Network; IWMC; NABU; Safari Club International; TRAFFIC; U.C.B.D.; Wildlife Conservation Society; WWF International.

Outcomes and Discussion after an analysis of the comments

The following outcome has been observed in response to Notification to the Parties No. 2001/037:

Totally in favour of the proposed amendments, with no objection: one Party and one Organisation.

With only a few very precise objections: 5 Parties.

The remaining Parties and Organisations include several observations and objections, and sometimes a large number of contrasting ones.

Analysis of the General Comments

It is highly significant that the majority feeling is that the existing criteria were the outcome of a broad, in-depth consultation and that they were agreed to by consensus.

The comments repeatedly express a deep concern that the process, approved at CoP11, to scientifically validate the criteria, has not been carried out. Therefore there is no scientific ground for any changes, especially when, as pointed out, the terms of reference have not been fully complied. There is a majority feeling that the process has become a discussion on which changes should be made to the application of the Appendices.

* The Plants Committee held a meeting in Malaysia in September. It would have been productive to have held a debate and to have received comments from all of the Representatives of the Committee, as well as from the Parties and the Observers who attended the meeting on Annex 5 that was prepared during the second meeting of the CWG. However, due to the schedule for the process, in September the Notification had already been circulated.

Indeed, the Chairman of the Plants Committee agrees with the analysis given in the majority of the comments. There is no scientific evidence, after a strict review of the taxa included in the Appendices, of any problems or shortcomings in the application of the criteria to a wide range of taxonomic groups. The Terms of Reference specifically mentioned such a review. This analysis should have taken place before any conclusions about changes were reached.

The evident concern about the lack of a broad and open debate is especially relevant, particularly in relation to critical Annex 5, which should have received the comments of the Animals and Plants Committees.

Indeed, it was a shortcoming that the Criteria Working Group had no opportunity at all to treat this Annex at its first meeting. This meant that the fundamental content of the Annex could not be debated during the joint meeting of the Animals and Plants Committees (United States of America, 2000). Therefore, the Committees agreed to hold a second meeting of the CWG, which took place in May.

The serious objections to any weakening of the precautionary principle are very relevant, as well as the increase in the workload and the difficulties that the Parties, especially the developing countries, will encounter in adopting the proposed changes to Resolution Conf. 9.24.

Some of the comments also seem to indicate the general impression that the corrections made in Resolution Conf. 9.24 are not applicable to most of the species. Furthermore, they seem to have been designed to facilitate removals from the Appendices while complicating inclusions or transfers from an Appendix offering less protection to one that offers more.

In relation to the Specific Comments on the proposed amendments to Resolution Conf. 9.24

The wealth of comments that have been received is very relevant. Clearly there is a lack of consensus, especially in the amendments that affect the fundamentals of the resolution. However, there is clearly an interest in revising the style and language used, without touching the fundamentals. However, this is a task for linguists than for the Chairmen of the Animals and Plants Committees.

Precisely due to the variety of the contributions and the crucial impact of the changes to Resolution Conf. 9.24, the Chairman of the Plants Committee wishes to point out to the Standing Committee how appropriate it would be to disseminate the comments to the Parties and Organisations. They could be presented as a table that would include:

- the proposed change included in Notification to the Parties No. 2001/037 and
- all of the comments that have been received (general and specific)

It must also be noted that the terms of reference do not make amendments to Resolution Conf. 9.24 obligatory.

Conclusions reached after examining the comments to Notification to the Parties No. 2001/037

Faced with a subject as vital as the Criteria for including species in Appendices I and II, and having read and examined the comments on Notification to the Parties No. 2001/037 sent in by the Parties, IGOs and NGOs, the Chairman of the Plants Committee has arrived at the following conclusions:

- a) The majority is of the opinion that the existing criteria are the result of a broad, in-depth consultation and were agreed to by consensus.
- b) An important effort has been made.

- c) The comments repeatedly point out that the taxon reviews set out in the Terms of Reference for the exercise have not been fully completed, nor have they informed the debate about the scientific validity of the existing criteria when they are applied to a wide range of taxonomic groups.
- d) The comments express an evident concern about the lack of a broad and open debate, particularly in relation to critical Annex 5, which should have received the comments of the Animals and Plants Committees*.
- e) There are very serious objections to any weakening of the precautionary principle.
- f) There is concern about the increase in the workload and the difficulties that the Parties, especially the developing countries, will encounter in adopting the proposed changes to Resolution Conf. 9.24.
- g) The specific comments show a lack of consensus in relation to the amendments that affect the fundamentals of the resolution.
- h) The comments show a willingness to review the style and language, without affecting the fundamentals.

In view of the above, the Chairman of the Plants Committee considers that it is premature for the Chairmen of CoP12 to present a proposal for changes in Resolution 9.24. The proposal should be left open and the review of the criteria should be continued.

Recommendations of the Chairman of the Plants Committee to CoP12

1. No modifications of Resolution Conf. 9.24 should be made during this Conference until the primary objective of the review exercise has been met.
2. A Decision should be formulated that will allow the review of the criteria to continue. A broad consultation should be carried out in order to achieve an broad consensus.
3. The Standing Committee should implement a procedure to continue the review of the criteria. This procedure should include stages of open consultation and close monitoring by the Animals and Plants Committees in order to achieve the primary objective of this review: *"that the text and the Annexes of the current resolution be examined in detail to evaluate the scientific validity of the criteria, definitions, notes and guidelines and their applicability to all the groups of plants and animals"*.

* The Plants Committee held a meeting in Malaysia in September. It would have been productive to have held a debate and to have received comments from all of the Representatives of the Committee, as well as from the Parties and the Observers who attended the meeting on Annex 5 that was prepared during the second meeting of the CWG. However, due to the schedule for the process, in September the Notification had already been circulated.