

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

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

Committee II meeting

Eighth session: 11 November 2002: 14h10-17h30

Chairwoman: A.-M. Delahunt (Australia)

Secretariat: S. Baker  
J. Barzdo  
S. Nash  
J. Sellar  
J.-C. Vasquez  
M. Yeater

Rapporteurs: J. Caldwell  
C. Lippai  
R. Mackenzie  
P. Wheeler

The Chairwoman congratulated Kuwait on becoming a Party to the Convention.

Documents CoP12 Com. II Rep. 2, CoP12 Com. II Rep. 3 and CoP12 Com. II Rep. 4 were adopted without comment.

In relation to document CoP12 Com. II Rep. 5, the delegation of Mexico pointed out that they had not supported the 12 per cent increase in Parties' contributions, favouring the zero growth option. The delegation of Canada stated that they too had spoken against the 12 per cent increase. Document CoP12 Com. II Rep. 5 was adopted with these amendments, which would be made by the Secretariat.

**Strategic and administrative matters**

13. Establishment of committees

The chairman of the working group on implementation issues reported on the work of the group and introduced the draft decision contained under agenda item 13 in document CoP12 Com. II Rep. 3. He explained that the phrase 'clearing house' in paragraph c) was to be understood as a process taking place within the Standing Committee, rather than as a major electronic system such as existed within the Convention on Biological Diversity. He emphasized that the explanation of the term 'technical implementation issues' in parentheses in paragraph a) was not intended to prejudice consideration of agenda item 26, Compliance with the Convention.

The Chairwoman thanked the chairman and members of the working group. The draft decision was adopted by consensus.

## 16. Cooperation with other organizations

### b) CITES and FAO

The delegation of the United States of America introduced document CoP12 Doc. 16.2.1/16.2.2 addendum, which had been prepared jointly by Japan and the United States. They noted that those two delegations had set aside strongly-held but differing views on the role of CITES in relation to fisheries and urged other Parties to do likewise by adopting the draft decision contained in the Annex to the document. They clarified that the phrase 'exploited aquatic species' in paragraph a) of the draft decision referred to those that had been covered so far by the FAO process considering CITES listing criteria. The delegation of the United States withdrew its original proposal contained in document CoP12 Doc. 16.2.2. The delegation of Japan also urged the Committee to adopt the draft decision and indicated that Japan would then withdraw its proposal contained in document CoP12 Doc. 16.2.1.

General support for the proposed draft decision was expressed by the delegations of Canada, China, Iceland, and Nicaragua, as well as by the observers from the International Coalition of Fisheries Associations and IUCN-World Conservation Union. The delegations of China and Iceland welcomed the reference to the role of regional fisheries management organizations. The delegations of Norway and Sweden pointed out that there were additional issues that should be reflected in the terms of reference for the Memorandum of Understanding (MoU), such as cooperation in the production and dissemination of species identification and distribution manuals, or joint work on the problem of bycatch.

The delegation of Australia placed on record that their understanding of the term 'exploited aquatic species' was that it covered only those species defined by FAO in its first technical review of the CITES listing criteria for species exploited by fisheries in marine and large freshwater bodies. By contrast, there were a significant number of species about which it would not be appropriate to seek FAO views, including crocodiles, corals, freshwater and marine turtles and marine and freshwater mammals, particularly cetaceans. They stressed that the distinction should be made clear in any future MoU. Those comments were supported by the delegations of Brazil, Sweden and the United Kingdom.

The delegation of Japan, disagreeing with Australia's view, asked for its view to be noted that the definition referred to by the delegation of Australia was related to an FAO meeting to discuss CITES listing criteria and that it was not a more broadly accepted definition of FAO or any restriction on FAO activities. They said that such definitions were specifically not included in the draft decision prepared by Japan and the United States in order to avoid debate on the issue.

The delegation of Argentina suggested that in the preambular paragraph of the draft decision the words and of States should be added after "organizations". The delegations of Brazil, Denmark on behalf of the Member States of the EU, Norway and the United Kingdom indicated that they could accept the proposal, although some of them felt that it was not strictly necessary. The delegation of Japan, supported by the delegations of Iceland and the Republic of Korea, opposed the suggested change.

The delegation of Argentina suggested that in the preambular paragraph of the draft decision the word "primary" should be deleted. The delegation of the United Kingdom suggested that "primary" could be replaced by facilitating. The delegation of Denmark on behalf of the Member States of the EU suggested that in the preambular paragraph of the draft decision the word "and" after "role of FAO" should be replaced with in facilitating and securing the long-term sustainable development and utilization of the world's fisheries and aquaculture and that after "international trade" the words in wild fauna and flora should be added. The proposal was supported by the Russian Federation, with the additional proposal that the reference to wild fauna and flora should be replaced by endangered species of wild fauna and flora under CITES protection. The delegation of Japan supported the latter

proposal. The Secretariat and the observer from the International Environmental Law Project expressed the view that it was not appropriate to limit the reference to CITES to endangered species only.

The observer from FAO noted that positive cooperation between his organization and CITES had already been established and that future cooperation could be envisaged on scientific evaluation of listing proposals, capacity building, and enforcement, for example in relation to illegal, unreported and unregulated (IUU) fishing. He noted that the financial implications of a future MoU would need to be considered. He also pointed out the description of FAO in the preamble of the proposed draft decision should be consistent with the precise wording of FAO's mandate. In particular, he expressed the concern that the concept of 'facilitating' was too restrictive.

All of the above proposed amendments were rejected.

The delegation of Denmark on behalf of the Member States of the EU noted that it might not be possible to present the draft MoU in time for the 49th meeting of the Standing Committee, and proposed adding the words if possible before "the 49th meeting of the Standing Committee". The observer from Defenders of Wildlife pointed out that it would be difficult for the Standing Committee to consider and seek input on a draft MoU in time for the 25th meeting of COFI in February 2003 as envisaged in the draft decision. The observer from FAO pointed out that the Committee on Fisheries met only every two years, which meant that its 26th meeting would be after CoP13. The proposal of Denmark was accepted.

The draft decision as amended was accepted by consensus.

#### 17. Sustainable use of and trade in CITES species

Referring to document CoP12 Com. II. 3, the delegation of Australia proposed that paragraphs 8 and 9 of the preamble be deleted. The delegation of the United States further proposed the deletion of paragraph 11. They believed, supported by the delegations of Denmark on behalf of the Member States of the EU, and Mexico, that the draft resolution was redundant. These proposed amendments were rejected.

The delegation of Norway, seconded by the delegation of Iceland, asked that the draft resolution be decided by roll-call vote. The result of the vote was 11 in favour, 42 against and 32 abstentions and the draft resolution was rejected.

#### 18. Economic incentives and trade policy

Referring to document CoP12 Com. II. 1, the delegation of Brazil said that their proposed additional preambular paragraph, reported in document CoP12 Com. II Rep. 7, had received support from the region of Central and South America and the Caribbean. The result of a vote on this amendment by show of hands was 23 in favour, 26 against and 15 abstentions, and it was rejected.

The Chairwoman called for a vote on the draft resolution and the result was 2 in favour, 27 against and 22 abstentions. The draft resolution was rejected.

#### 19. Financing of the conservation of species of wild fauna and flora

The delegation of Denmark on behalf of the Member States of the EU suggested the text between "conservation" on line 2 and "as may be appropriate" on line 4 of the paragraph directed to the Parties in document CoP12 Com. II. 2 be replaced by of species of wild fauna and flora as well as capacity building for developing countries/countries with economies in transition with a view to furthering *inter alia* the implementation of the Convention at the national level as well as sustainable international trade

in species of wild fauna and flora. They suggested further that the same text be used in the second paragraph, directed to the Secretariat, between “conservation” on line 1 and “In its review” on line 4.

The delegation of Senegal pointed out that insertion of and observers after “Parties” in line 1 of the first paragraph under “Directed to the Parties” had been agreed previously and the Secretariat noted that “should” had been replaced by are invited to. Turning to line 5 of this paragraph, the delegation of Zimbabwe suggested that where possible be inserted after “government budgetary allocations”.

Under “Directed to the Secretariat”, the delegation of the United States proposed adding , depending on the availability of financial resources after “review” on line 1.

All of these amendments and the draft decisions were accepted by consensus.

## 26. Compliance with the Convention

The delegation of Japan, supported by the delegation of the United States, expressed support for the issue of compliance being discussed further at the Standing Committee. However, they were concerned about the punitive measures proposed in document CoP12 Doc. 26 for non compliance and questioned the legality of a suspension of rights and privileges, as recommended in paragraph 43 of the document. They suggested that the Convention had established procedures for dealing with non compliance and that additional punitive measures were not necessary. Regarding CITES’s relationship with WTO, they stressed the need for environment and trade regulations to be mutually supportive. Finally, the United States believed that the Vienna Convention on the Law of Treaties had been mistakenly interpreted in the document.

The delegations of Canada, China, Fiji, Malaysia, Mexico, the Russian Federation, the United Kingdom, Zimbabwe, and the observer from the IWMC–World Conservation Trust similarly shared the concerns regarding the need for capacity building and stressed that punitive measures should only be used as a last resort. The observer from the David Shepherd Wildlife Foundation emphasized that trade restrictions had worked in all cases where they had been used. The delegation of Norway was concerned that budgetary reductions would impact negatively on capacity building and compliance and urged the Secretariat to consider infraction procedures of other MEAs.

It was agreed by consensus that the Secretariat should develop guidelines for consideration by the Standing Committee.

The delegation of Fiji proposed two further draft decisions regarding capacity building in the Oceania region and small island developing States:

### Regarding capacity building in the Oceania region

*The Secretariat shall seek funding to convene a capacity-building workshop for the Oceania region before CoP13 in order to improve implementation of the Convention in the region and to encourage non Parties to accede to the Convention. Subject to available funds, the Secretariat shall invite the Parties of the Oceania region, Party observers, non-party States, and regional intergovernmental and non-government organizations as may be appropriate.*

### Regarding capacity building in Small Island Developing States

*The Secretariat shall, in collaboration with Fiji, develop a capacity-building initiative to improve the implementation of the Convention in Fiji. This initiative shall seek to integrate existing initiatives carried out through the Secretariat to improve legislation and the scientific basis for non-detriment findings and in collaboration with Parties of the Oceania region, importing Parties, and intergovernmental and non-government organizations, provide direct assistance to Fiji to improve the administrative, legal and scientific basis for CITES implementation in Fiji. The Secretariat shall assist*

*in obtaining funds from interested Parties, intergovernmental and non-governmental organizations, exporters, importers and other stakeholders, to support this initiative.*

These were accepted by consensus.

## 27. Enforcement matters

The Secretariat introduced document CoP12 Doc. 27 and highlighted that there were some recent updates to paragraph 13 because another alert had been issued regarding illicit trade from Nigeria, and to paragraph 26 because it doubted that its budget was sufficient to develop guidance on anti-corruption measures.

Regarding the first paragraph of the Annex, it recommended adding a colon after the first word "to" on line 3 and inserting the following text after "Secretariat" on line 4:

*; to assist the coordination of investigations regarding violations of the Convention; and to help maintain appropriate levels of confidentiality regarding law enforcement information.*

The delegation of the United States recognized the need for confidentiality. They voiced their concern regarding the issuance of fraudulent permits and urged greater dialogue between exporting and importing Parties. The delegations of Canada, China, Denmark on behalf of the Member States of the EU, India, Indonesia, Israel, Jamaica, Japan and Slovenia supported the draft decision. The delegation of Slovenia announced, with regard to paragraph 60, that they had now designated a Scientific Authority. The delegation of Denmark on behalf of the Member States of the EU understood that the proposed meeting of experts would include governmental enforcement agencies. The observer from the David Shepherd Wildlife Foundation noted that the Secretariat no longer provided a detailed Infractions Report. She believed this had diminished the capacity for developing countries and NGOs to assist in enforcement issues.

The Chairwoman indicated that there was general support for an expert meeting to go ahead and the draft decision, as amended, was accepted by consensus.

The session closed at 17h30.