

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

Plenary meeting

Ninth session: 15 November 2002: 09h00-13h05

Chairman: S. Bitar (Chile)

Chairman of Committee I: D. Morgan (United Kingdom)
Chairwoman of Committee II: A.-M. Delahunt (Australia)

Secretariat: W. Wijnstekers
J. Armstrong
J. Barzdo
M. Lindeque
J. Sellar

UNEP: P. Chabeda

Rapporteurs: J. Caldwell
H. Gillett
K. Lochen
R. Mackenzie

Document CoP12 Plen. 7 was adopted without comment.

Consideration of proposals for amendment of Appendices I and II

66. Proposals for amendment of Appendices I and II

The delegation of Japan asked for clarification on the number of abstentions during the previous day's vote for Proposal 4. The Chairman confirmed the figures as five abstentions and zero spoiled papers.

The following proposals were adopted: Prop. 12.12, 12.13, 12.14, 12.15, 12.16, 12.17, 12.18, 12.20, 12.21, 12.22, 12.23, 12.24, 12.25, 12.26, 12.27, 12.28, 12.29, 12.31, 12.32 and 12.34.

Proposals Prop. 12.5, 12.9, 12.10 and 12.33 had been rejected in Committee I and this decision was confirmed. The delegation of Zimbabwe spoke of their disappointment at the rejection of proposal Prop. 12.10, stating that they considered that this had been based on political rather than conservation or scientific reasons, and calling on Parties to avoid introducing political issues in the future. The delegation of New Zealand expressed disappointment at the lack of support for proposal Prop. 12.33 but stated that they accepted the decision.

Proposals Prop. 12.11, 12.19 and 12.30 had been withdrawn.

The Chairman of Committee I introduced Prop. 12.6, 12.7 and 12.8, noting that the Committee had approved the proposed amendment to the annotation with further amendments recorded for the first two proposals in document CoP12 Com. I Rep. 9, and recorded for Prop. 12.8 in document CoP12 Com. I Rep. 10. The proposals were adopted as amended.

The delegation of Kenya asked for advice from the Secretariat concerning the presentation of document CoP12 Inf. 40. The delegation of Switzerland raised a point of order, querying whether the document had been distributed in sufficient time for discussion during the session. The Secretariat, referring to Rule 20.3 in document CoP12 Doc. 1.1 (Rev. 1), stated that they considered that the document had been submitted in adequate time and was admissible as the draft decisions presented in CoP12 Inf. 40 related to the discussion of documents CoP12 Doc. 34.1 and CoP12 Doc. 34.2. The Chairman approved Kenya's request and the delegation of Kenya presented their document. The delegations of India and Swaziland supported the proposals. The delegation of Namibia, supported by the delegation of Malawi, spoke against the proposals, and suggested the following amendment:

12.xx By its 49th meeting, the Standing Committee, in consultation with the MIKE Central Coordinating Unit and the IUCN is encouraged to define the geographical scope and the nature of the data that constitutes the baseline information from MIKE that must be provided before any exports can be approved.

12.xx The Standing Committee will determine how it would conclude that a detrimental impact on other elephant populations had occurred resulting from approved trade in ivory.

The delegation of the United States of America suggested an additional draft decision:

12.xx By its 49th meeting the Standing Committee is encouraged to recommend measures for improving law enforcement coordination between ivory producing and ivory importing States.

Following further comments from the delegation of Denmark on behalf of the Member States of the EU and the delegation of Kenya, the first amended proposal was altered, with replacement of "is encouraged to" with should. These three amendments were adopted by consensus.

The Chairman of Committee I noted that proposals Prop. 12.35 and 12.36 had been rejected, however the delegation of the Philippines requested reopening the debate on proposal Prop. 12.35 as they believed the vote in Committee I had taken place after many Parties had left the room. This was supported by the delegation of India, the delegation of Denmark on behalf of the Member States of the EU, and by the delegation of the United Kingdom who also wished to reopen the debate on proposal Prop. 12.36. The delegation of Singapore, supported by the delegation of Malaysia, opposed.

After a vote by a show of hands, the debate was reopened by the delegation of India, the co-proponent, who clarified points raised in Committee I. These included the complementary nature of FAO and CITES; that the listing would encourage sustainable use; that the trade had increased considerably in the last 10 years and that suitable identification material was available. They were supported by the delegations of Australia and South Africa who noted the effect the species' decline had had on eco-tourism, and by the delegation of Costa Rica on behalf also of El Salvador, Guatemala, Honduras, Nicaragua and Panama. The delegations of Germany and the Philippines, and the observers from the Shark Research Institute, SWAN International and Wild Aid also supported the proposal. The delegation of Malaysia opposed the proposal noting that a non-detriment finding would be difficult in the case of a widespread and migratory species. The delegations of Iceland, Japan, Norway and the Republic of Korea, and the observer from the International Wildlife Management Coalition were also opposed, believing that the listing would have a negative effect on conservation and was premature before the MoU between CITES and the FAO had been finalized. The delegation of Iceland requested a secret ballot, the result of which was 81 in favour, 37 opposed and three abstentions. The proposal was therefore approved. The delegation of the Philippines thanked the Parties for their support of this proposal.

The delegation of the United Kingdom proposed a motion to reopen the debate on proposal Prop. 12.36, inclusion of the basking shark *Cetorhinus maximus*, on Appendix II of CITES. The motion was supported by the delegations of India and Brazil, and opposed by the delegations of China and Norway. The motion to reopen the debate was accepted by 65 votes in favour and 20 against.

The delegation of the United Kingdom highlighted five issues in support of the proposal. They said that they were confident that the species met the criteria for listing in Appendix II set out in Resolution Conf. 9.24, as well as the suggested guidelines of the Food and Agriculture Organization of the United Nations (FAO). They stressed that the exploitation of the basking shark was driven by demand in international trade in fins; and that basking shark fisheries were not subject to any formal management measures through regional fisheries management organizations. They stated that Parties were increasingly recognizing that this proposal should be assessed on its own merits and not as a first step towards the listing of large numbers of sharks or other fish. Finally, they also stated that the proposal would help to establish measures for the long-term sustainable management of sharks and contribute to FAO's IPOA-Sharks. They thanked the Parties who had supported the proposal in Committee I, and expressed the view that this was a strong proposal based on sound science, which they strongly urged the Parties to support.

The proposal was supported by the delegations of the Czech Republic, Kenya and Peru, and the observers from Defenders of Wildlife, International Fund for Animal Welfare, International Wildlife Coalition, IUCN – The World Conservation Union and TRAFFIC.

The delegation of China opposed the proposal, arguing that the targeted catch of basking shark was very small and that international trade was low or non-existent. They stated that CITES listing was inappropriate as this was primarily a matter of fisheries management and habitat degradation and, moreover, that the species did not meet the Appendix-II listing criteria. They stated that the proposal was premature since DNA testing was beyond the reach of most Parties and there were identification problems for parts and derivatives. They said that the proposal did not provide sufficient data to support non-detriment findings under Article IV, paragraph 2(a), and that it would in effect result in no trade in the species. The delegation of Norway questioned the scientific data contained in the proposal and referred by way of example to paragraph 4.2.1 of the proposal. They expressed the opinion that some of the data in the proposal had been misused. They urged Parties to reject the proposal. The delegation of Iceland concurred with Norway and highlighted the issue of by-catch, stating that an Appendix-II listing would not address this problem and would indeed create an incentive for discards. The delegation of Japan drew attention to the need for more appropriate indices such as Catch Per Unit Effort. They concurred with the delegation of China that current listing criteria were inappropriate for marine species.

At the request of the delegation of China, supported by the delegation of Japan, a secret ballot was held on the proposal with 82 in favour, 36 against, three abstentions and one spoiled ballot. The proposal was accepted.

The delegation of the United States wished to point out that they had voted in favour of proposals Prop. 12.35 and 12.36.

The delegation of the United Kingdom thanked the Parties for supporting the proposal. The delegation of Mexico thanked India, the Philippines and the United Kingdom for proposals Prop. 12.35 and Prop. 12.36 and noted that the adoption of Prop. 12.35 would help promote sustainable use of whale sharks in range States. They recognized that the proposals did not signify the beginning of the indiscriminate listing of pelagic marine species in Appendix II. They also acknowledged the roles of various organizations in gathering data on marine species.

The delegation of China requested the debate be reopened on proposal Prop. 12.37, for the inclusion of *Hippocampus* spp. in Appendix II. The delegations of the Republic of Korea and Thailand supported this motion and the delegation of Germany opposed it. The motion to reopen the debate was rejected. Proposal Prop. 12.37 was accepted as amended by Committee I.

Proposal Prop. 12.38 had been rejected by Committee I and this was confirmed.

Proposals Prop. 12.39, 12.41, 12.44, 12.45 and 12.47 had been withdrawn.

Proposals Prop. 12.40, 12.42, 12.43, 12.46, 12.48 and 12.49 were accepted.

Proposal Prop. 50, as amended by Committee I, was adopted. The delegation of Brazil requested that the following statement be included in the record of the meeting:

Mr. President,

Brazil has participated in the debates held during this Conference on the inclusion of mahogany (Swetenia macrophylla) in Annex II of CITES convinced of the importance of adopting adequate measures for its conservation and sustainable use. This has been a concern of the Brazilian society, which, together with the Government, has firmly supported the strengthening of our laws and institutions for that purpose. Mahogany remains an important natural resource that has generated employment opportunities and income that are critical for the economic and social development of remote and poor areas of our country. Brazil, which included its populations of mahogany in Appendix III in 1998, has been implementing a series of measures aimed at halting the illegal and unsustainable exploitation of mahogany. Those measures include a ban on exploitation outside the context of Sustainable Forest Management Plans – SEMP and the imposition of export quotas. We also imposed a total ban on trade in mahogany in October 2001 pending the entry into force of a new System for Monitoring and Control of Forest Products – SISPROF. Therefore, the Brazilian position regarding the inclusion of the species in Appendix II should not be misconstrued as one that casts any doubts about the importance we afford to the environmentally sound management and conservation of our mahogany populations.

The international community has recognized, in several internationally adopted documents, the sovereign right of States to use their own natural resources. Brazil firmly believes that natural forests can be sustainably exploited, to the benefit of local communities, especially if their products are duly valued, in the context of sustainable forest management plans.

We have repeatedly stated in this Conference, as well as in other multilateral fora, our belief that the conservation of natural resources, especially those of high value in international markets, is compatible with open and transparent rules of international trade. We have repeatedly opposed proposals and procedures that may produce trade barriers to the sustainable exploitation of natural resources.

Our concern with the listing of mahogany in Annex II of CITES is related to the utilization of the Convention as a legal basis for hindering the access of this timber to consumer markets. We hope that the procedures established in the Convention for monitoring the international trade of mahogany, especially the monitoring of export permits by foreign scientific authorities, will be done taking fully into account the national laws and regulations of the export countries. As the international community unanimously agreed in the Implementation Plan adopted by the World Summit on Sustainable Development, in Johannesburg, last September, "trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade".

Proposals Prop. 12.51, 12.54 and 12.58, all as amended in Committee I, were accepted.

Proposals Prop. 12.52, 12.53, 12.55, 12.56, 12.57, 12.59 and 12.60 were accepted.

The Chairwoman of the Plants Committee thanked the Parties for their interest in the proposals of the Plants Committee, thanked Switzerland for their work on proposals Prop. 12.43, 12.44 and 12.45 and asked for full cooperation between range States and proponents in relation to such proposals.

The delegation of Argentina wished to place on record its position with respect to the proposals presented by Madagascar:

The additional information documents were considered during the analysis of the proposals, on the understanding that they had been submitted by Madagascar within the stipulated deadline and were then inadvertently lost. Otherwise, these documents could not be considered as an integral part of the proposals, since that is contrary to what is laid down in Article IX, paragraph 1, subparagraph a) of the Convention, and would then be purely for information.

58. Criteria for amendment of the Appendices I and II

The Chairman of Committee I introduced document CoP12 Com. I.6. He noted that a working group on this agenda item chaired by IUCN – The World Conservation Union, including representatives from all the regions as well as observers, had made some progress on this issue but had been unable to reach consensus. The draft decision contained in CoP12 Com. I. 6 provided for further consideration of this matter. The draft decision was adopted.

Conclusion of the meeting

67. Determination of the time and venue of the next regular meeting of the Conference of the Parties

The delegation of Thailand announced the offer of the Royal Thai Government to host the 13th meeting of the Conference of the Parties. The offer was accepted by acclamation. The delegation of Thailand expressed its appreciation for the Parties and looked forward to welcoming the delegations and observers. They acknowledged the excellent arrangements for the meeting in Chile. They then presented a short video.

The Chairman thanked the Ambassador of Thailand to Chile. He noted that CoP13 would be held in Thailand at the end of 2004 with exact dates to be determined in due course.

68. Closing remarks

The delegation of Chile, on behalf of the Government of Chile expressed its gratitude to all participants of the 12th meeting of the Conference of the Parties. They acknowledged all those who had been involved in the organization of the meeting. They stated that Chile is an environmentally friendly and conservation-conscious country committed to the Plan of Implementation of the World Summit on Sustainable Development. They thanked the Chairman, the Chairman of Committee I, the Chairwoman of Committee II and the Secretariat.

The delegation of Denmark on behalf of the Member States of the EU commended the spirit of cooperation and compromise that had characterized the meeting. They noted that the CoP12 had been a milestone in the Convention's history and that CITES had a sound future. They emphasized the importance of good and effective implementation. They thanked the Government of Chile, the Chairs of all the Committees and of the plenary, the Secretariat, the rapporteurs, the interpreters and the staff of the Earth Negotiations Bulletin, as well as all those who had worked behind the scenes of the meeting.

The delegations of Argentina and Spain thanked the Government of Chile and acknowledged the excellent work of the Chairman.

The delegation of Norway thanked the Government and people of Chile for their hospitality. They expressed serious concerns, however, regarding the distribution at the meeting of document CoP12 Inf. 16 which they considered contained factual inaccuracies and misrepresented Norway's whaling policy. The delegation of Germany considered it was not inappropriate to circulate a relevant Resolution of another Convention at CITES.

The delegation of Japan congratulated the Chairman for his leadership and thanked the people of Chile. They observed that the Conference of the Parties had made progress on a range of issues. While disappointed with some of the outcomes, they noted that this was inevitable in a meeting of this nature. They regretted that there had not been time for full discussion on all issues and suggested that there was room for improvement in a number of aspects in the functioning of the Conference of the Parties.

The delegation of Uganda extended their gratitude to Chile as well as to other Parties and observers, and to the Chairman. They noted that as Chair of the African Ministerial Conference on the Environment, Uganda appreciated the affirmative action in the decision on the budget to enable future participation of developing countries in the programmes and decision-making processes of CITES.

The delegation of the United States expressed satisfaction with the spirit of cooperation and collaboration and role of consensus at this meeting and remarked that this had been one of the most productive meetings of the Conference of the Parties. They thanked all Parties and non-governmental organizations, the Government and people of Chile, the Chairs and the Secretariat and expressed gratitude to Thailand for agreeing to host the next meeting of the Conference of the Parties.

The observer from IWMC – World Conservation Trust added his thanks to those of previous speakers and suggested certain improvements to the decision-making process in CITES. The observer of the Born Free Foundation speaking as a representative of the Species Survival Network thanked Chile. He noted that progress had been made on many issues at this meeting and expressed optimism for the future of CITES. However he had misgivings about certain decisions. He acknowledged the work of Veit Koester, the head of the Danish delegation, and noted his forthcoming retirement. The observer from World Wide Fund for Nature, speaking also on behalf of TRAFFIC, thanked Chile for an outstanding meeting and Parties for having taken bold decisions.

The Chairman conveyed his congratulations and thanks to all those involved in the meeting. He was impressed by the high democratic standards of CITES and its role in striking the balance between conservation and sustainable management. He noted the importance of consolidating scientific work, promoting education and securing financing as well as extending participation for the Convention. He also noted the challenge of linking CITES to marine and forestry resource management.

The Secretary-General thanked all of those who had been involved in the meeting and praised the professionalism and hard work of the Secretariat. He acknowledged that steps had been taken to establish firmer cooperation with FAO and CCAMLR and stated that progress had been made in repealing outdated decisions in enhancing compliance and enforcement. He hoped that the review of the listing criteria would be finalized in time for CoP13. He stressed the need to find a way to meet the goal in the Strategic Vision to ensure a sound financial and administrative basis for the Convention.

Jaime Campos, Minister of Agriculture, speaking on behalf of the Government of Chile, stated that this had been a rich meeting at which significant progress had been made. While much remained to be done, the spirit of CoP12 provided hope for the future. He congratulated the Secretariat, Parties, non-governmental organizations, and the Chairs of the meeting and of the Committees.

The meeting was closed at 13h05.