

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

Seventeenth meeting of the Conference of the Parties
Johannesburg (South Africa), 24 September – 5 October 2016

Implementation and implementation mattersTrade control and traceabilityINTERNATIONAL TRADE IN LIVE APPENDIX-II ANIMALS
TO APPROPRIATE AND ACCEPTABLE DESTINATIONS

1. This document has been submitted by the United States of America.*

Background

2. The populations of southern white rhinoceros (*Ceratotherium simum simum*) in South Africa and Swaziland are listed in Appendix II with an annotation for the exclusive purpose of allowing international trade in live animals to “appropriate and acceptable destinations” and hunting trophies.
3. The populations of African elephant (*Loxodonta africana*) in Botswana, Namibia, South Africa, and Zimbabwe are listed in Appendix II with Annotation 6, for the exclusive purpose of allowing, among other things, trade in live animals “to appropriate and acceptable destinations, as defined in Resolution Conf. 11.20” for the populations of Botswana and Zimbabwe and to *in situ* conservation programs for the populations of Namibia and South Africa.
4. Resolution Conf. 11.20, *Definition of the term ‘appropriate and acceptable destinations,’* recalls that both of these annotations were agreed in conjunction with the adoption of proposals to transfer certain populations of southern white rhinoceros and African elephant from Appendix I to Appendix II. In Resolution Conf. 11.20, the Conference of the Parties agreed 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 or international trade in live animals, this term shall be defined to mean destinations where the Scientific Authority of the State of import is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it.”
5. Data in the CITES trade database indicate that between 2010 and 2014 more than 500 live southern white rhinoceroses and approximately 20 live African elephants were reported to have been exported from Appendix-II populations subject to an annotation requiring that they be placed in “appropriate and acceptable destinations.” Many of these exports were to destinations in non-range States. Recent information indicates that this trade in live animals is continuing.
6. Resolution Conf. 11.21 (Rev. CoP16), *Use of annotations in Appendices I and II,* directs the Secretariat “to report to the Standing Committee, for at least four years following the adoption of a proposal to transfer species from Appendix I to Appendix II subject to a substantive annotation, any credible information it receives indicating a significant increase in the illegal trade in or poaching of such species.” Further, Resolution Conf. 11.21 (Rev. CoP16) directs the Standing Committee “to investigate any such reports of illegal trade and to take appropriate action to remedy the situation, which may include calling on the Parties

* *The geographical designations employed in this document do not imply the expression of any opinion whatsoever on the part of the CITES Secretariat (or the United Nations Environment Programme) concerning the legal status of any country, territory, or area, or concerning the delimitation of its frontiers or boundaries. The responsibility for the contents of the document rests exclusively with its author.*

to suspend commercial trade in the affected species, or inviting the Depositary Government to submit a proposal to amend the annotation or to retransfer the species to Appendix I.”

7. Although these amendments were adopted more than four years ago, we believe that the unprecedented increase in poaching of rhinoceroses and elephants in recent years and the illegal trade in rhinoceros horn and elephant ivory warrants a re-evaluation of the conditions under which live rhinoceroses and elephants are traded.
8. Given the ongoing and unprecedented threats to elephant and rhinoceros populations, we believe it is appropriate to re-evaluate the measures in place under CITES for trade in live Appendix-II animals subject to “appropriate and acceptable destination” annotations.

Recommendation

9. Adopt the draft revisions to Resolution Conf. 11.20 contained in the Annex to the present document

COMMENTS FROM THE SECRETARIAT

- A. The original intent of Resolution Conf. 11.20 was to ensure that that “appropriate and acceptable destinations for live animals should be those that ensure that the animals are humanely treated,” as is stated in the last preambular paragraph. Secondly, the Resolution clarified that it was the Scientific Authority in the State of import that should be satisfied that the proposed recipient of a living specimen was suitably equipped to house and care for it.
- B. As a justification of the proposal, it is stated: “Given the ongoing and unprecedented threats to elephant and rhinoceros populations, we believe it is appropriate to re-evaluate the measures in place under CITES for trade in live Appendix-II animals subject to “appropriate and acceptable destination” annotations.”
- C. No information has been provided that the current guidance for the interpretation of ‘appropriate and acceptable’ destinations under the Resolution Conf. 11.20 is not being followed by Parties, or that any of the animals exported under the annotation or their offspring have been subsequently sport-hunted. Further, there seems to be no clear indication in the proposal of the nexus between trade in live animals of the two species to “appropriate and acceptable destination” and illegal trade in elephant ivory and rhino horn.
- D. More appropriate options to “re-evaluate the measures in place under CITES for trade in certain live Appendix-II animals” would be to reconsider the listing of the species in Appendix II or to amend the annotations for the Appendix II-listed populations of the species concerned. In this context, the Secretariat would like to recall that annotations are a part of the Appendices and thus considered to have the same legal status as the text of the Convention.
- E. The Secretariat draws the attention of the Parties to the fact that a number of relevant proposals with regard to the populations of the species concerned by the present proposal have been submitted for the consideration of the CoP:
 - a. A proposal to amend Resolution Conf. 10.10 (Rev. CoP16) on *Trade in elephants specimens* (document CoP17 Doc. 57.4) suggesting that ‘appropriate and acceptable destinations’ for export of live specimen of elephants “are *in situ* conservation programmes or secure areas in the wild within the species’ natural range, except in the case of temporary transfers in emergency situations.” This proposal concerns only elephants and not rhinos and would consequently lead to different definitions of the same term depending on the species for which it is used.
 - b. Two other proposals have been made to change the annotation 6 on *Loxodonta africana* (proposals 14 and 15) and one to change the annotation to *Ceratotherium simum simum* (proposal 7).
 - c. A proposal to transfer the populations of the *Loxodonta africana* currently listed in Appendix II to Appendix I has also been submitted for the consideration of the Conference (proposal 16). If

adopted, the present proposal would become redundant with regard to African elephants as the annotation would disappear if the populations concerned are transferred to Appendix I.

- F. The Secretariat suggests that this proposal be considered together with these proposals as they touch upon the same issues.
- G. Based on the above legal considerations, the Secretariat does not consider an amendment to the resolution as the most appropriate entry point for regulating trade in live animals, which rather should be addressed as a proposed amendment to the relevant annotations in the Appendices.

DRAFT REVISIONS TO RESOLUTION CONF. 11.20

Definition of the term 'appropriate and acceptable destinations'

Text to be deleted is ~~crossed out~~, proposed new text is underlined.

RECALLING that, at the ninth meeting of the Conference of the Parties (Fort Lauderdale, 1994) and the thirteenth meeting of the Conference of the Parties (Bangkok, 2004), the South African and Swaziland populations of southern white rhinoceros (*Ceratotherium simum simum*) were ~~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 ~~40~~tenth meeting of the Conference of the Parties (Harare, 1997), 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";

RECALLING FURTHER that, at the eleventh meeting of the Conference of the Parties (Gigiri, 2000), the African elephant population of South Africa was transferred to Appendix II of the Convention subject to an annotation stating, in part, "For the exclusive purpose of allowing trade in live animals for re-introduction purposes into protected areas formally proclaimed in terms of legislation of the importing country";

NOTING that the current annotation to the listing of the Appendix-II populations of African elephant, adopted at the fourteenth meeting of the Conference of the Parties (the Hague, 2007) states, in part, "For the exclusive purpose of allowing trade in live animals to appropriate and acceptable destinations, as defined in Resolution Conf. 11.20, for Botswana and Zimbabwe and for *in situ* conservation programmes for Namibia and South Africa";

NOTING FURTHER that the term 'appropriate and acceptable destinations' is yet to be fully defined;

NOTING FURTHER that the Parties have not indicated whether the determination that destinations are 'appropriate and acceptable' was to be made by the exporting or the importing country;

RECOGNIZING that there are annotations currently existing that refer to live animals, and that similar annotations may be adopted in future;

NOTING FURTHER that 'appropriate and acceptable destinations' for live animals should be those that ensure that the animals are humanely treated;

RECALLING FURTHER that Resolution Conf. 16.6 recognizes that *ex situ* production of live animals may lead to loss of revenues for rural communities and that positive incentives to promote *in situ* production systems may encourage benefits to these communities;

RECALLING FURTHER that Resolution Conf. 13.9 encourages cooperation between Parties with *ex-situ* breeding operations and those with *in-situ* conservation programs;

RECOGNIZING the unprecedented increase in poaching of rhinoceroses and elephants in recent years and the illegal trade in rhinoceros horn and elephant ivory, as well as global efforts to combat trafficking of and reduce demand for rhinoceros horn and elephant ivory; and

CONCERNED that trade in live rhinoceroses or elephants under an 'appropriate and acceptable destination' annotation should not undermine global efforts to combat trafficking of and reduce demand for rhinoceros horn and elephant ivory and should include safeguards against rhinoceros horn or elephant ivory from such animals or the offspring of such animals entering commercial trade;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

AGREES 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 or international~~ trade in live animals, this term shall be defined to mean destinations where:

- a) the Scientific Authority of the State of import is satisfied that the proposed recipient of a living specimen is suitably equipped to house and care for it; and
- b) the Scientific Authorities of the State of import and the State of export are satisfied that the trade would support *in situ* conservation, such as through cooperative measures between the State of import and the State of export.

AGREES that, any permit authorizing trade of live rhinoceroses or elephants under an 'appropriate and acceptable destinations' annotation will contain a condition stating that the rhinoceros horn or elephant ivory from those animals and from their offspring may not enter commercial trade and that those animals and their offspring may not be sport hunted.