

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

Species specific matters

CITES APPENDIX III - AN ADDED-VALUE FOR THE
CONSERVATION OF THREATENED WILDLIFE WITH RESTRICTED DISTRIBUTION

1. This document has been submitted by the European Union.*
2. *Appendix III CITES shall include all species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the cooperation of other Parties in the control of trade (Article II.3 CITES). Any Party may at any time submit to the Secretariat a list of species which it identifies as being subject to regulation within its jurisdiction for the purpose mentioned in paragraph 3 Article II (Article XVI.1 CITES).*
3. Provisions, criteria, and guidelines for including species in Appendix III are set out in Resolution Conf. 9.25 (Rev. CoP16).¹
4. This proposal's main objective is to encourage range states to use CITES Appendix III and to assist them in doing so. Appendix III is by far the least used and most poorly understood of all CITES Appendices and has not yet developed its full potential. The inclusion of species in Appendix III represents an important and simple method for range States in controlling trade in nationally protected wildlife and improve international cooperation to control trade. In addition, this enables importing States to assist in controlling that trade in (non-native) species protected under foreign national law.
5. Most national nature law is restricted to the protection of specific native species in order to prevent or restrict their exploitation. However, in case of international trade in these species, international cooperation may be needed so that international trade does not undermine those efforts and laws. This is even more important in an increasingly global world economy.
6. One option to address this issue chosen in some jurisdictions is to extend their national legal protection to non-native species taken in violation of any national or any foreign law. Even then, however, the challenge remains to know whether foreign laws exist for which species and whether regulations are transgressed in a certain case. The possibility of listing species in Appendix III enables Parties to make transparent which species are protected under their national law and inform other Parties accordingly. Such Appendix III listings provide other importing Parties with at least some legal measure of controlling the international trade in these specimens, namely by disallowing imports of specimens in the absence of a CITES export permit or a certificate of origin.
7. Species do especially benefit from an Appendix-III listing when these have a restricted distribution area, occur in international trade and are affected by illegal taking within their home range with the purpose of export for foreign markets.

* *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.*

¹ *See also Notification No. 2014/048 of 24 October 2014 with instructive examples for the permit requirements owing to different population listings in Appendix III CITES.*

8. Historically, there were many cases where non-range but importing states like EU member states, Japan or USA were aware of (illegal) trade in non-native species, especially also by pet trade, and took the initiative for listing of those species.² In that regard also the EU and its member states perceive their responsibility as importing countries and for its citizens when taking wildlife in violation of national law in other states.
9. Appendix III listings can support domestic measures and prevent at an early stage that international trade undermines those efforts. Appendix III has value as a first and immediate measure to prevent illegal activities. It can be easily achieved through a simple unilateral listing. Trade in specimens listed in Appendix III may be allowed when the specimen concerned was not obtained in contravention of the respective national laws (Article V.2a CITES) concerned. According to CITES in those cases there is no need for a non-detriment finding by a CITES Scientific Authority. Appendix III listings might also be the basis for non-range importing Parties to take legal measures for the protection of non-native species, allowing legal and preventing illegal trade, especially when specimens were illegally taken or collected from the nature.
10. If properly used, there are many cases where Appendix III CITES could be sufficient. However, in cases where species are more heavily affected by illegal international trade, an Appendix I or II CITES listing or stricter domestic measures of importing countries will remain necessary. An Appendix II or Appendix I CITES listing will often be required to ensure effective implementation in cases of species affected by high volumes of trade and wider distribution (e.g. *Swietenia macrophylla*, *Gonystylus spp.* - meanwhile both listed in Appendix-II - or other timber species).
11. For assisting range states in making full use of the potential of the instrument of Appendix III, it is recommended that a report should be prepared, for example by UNEP/WCMC, in consultation with IUCN (Red List). This report should identify species which may be prime candidates for an initial Appendix-III CITES listing as a method to enhance their control when being traded internationally.
12. In addition, it is recommended to develop a guidance document (e.g. a handbook) as manual of correct and reasonable use and application of Appendix-III CITES listing.
13. For those purposes the following Decisions are proposed for adoption by the Conference of the Parties.

COMMENTS FROM THE SECRETARIAT

- A. The Secretariat agrees with the observations in the document concerning the limited use of Appendix III by the Parties, and the potential to more actively apply this instrument to improve controls of trade in native species where a range State decides that this requires cooperation of other Parties. Resolution Conf. 9.25 (Rev. CoP16) recognizes additional problems, observing that many Parties seem unwilling to take on the administrative burden of implementing the provisions of the Convention with regard to Appendix III, and believing that this unsatisfactory implementation arises because Parties are not fully convinced of the effectiveness of Appendix III.
- B. The draft decisions in the Annex to the present document propose an interesting approach to assist and advise Parties on native species that they may consider for inclusion in Appendix III. The Secretariat recommends however that the terms of the proposed study in 17.X1 better reflect the provisions of the Convention in Article II, paragraph 3, by replacing “are threatened by international trade, in particular illegal trade,” by “subject to regulations by range States for the purpose of preventing or restricting exploitation, and needing the cooperation of other Parties in the control of trade”.
- C. With regard to the possible outputs of this study and the work directed to the Committees in 17.X2 and 17.X3, the Secretariat would like to remind the Parties that Resolution Conf. 9.25 (Rev. CoP16) indicates “that, at the moment, Appendix III contains species that occur rarely or not at all in international trade and for which the Convention is therefore not effective”. This may well be the case for many non-CITES listed

² *Examples of listed species are:* (Shinisaurus crocodilurus at CoP 7 (Prop. 41 by Germany; range State: China); Corucia cebrata at CoP 8 (Prop. 54 by Germany; range State: Solomon Islands), both species were included in Appendix-II although the proponent was a non-range state).

species that are “endemic or with extremely restricted distribution area”, are “threatened, vulnerable or endangered”, and [potentially] “threatened by international trade”, i.e. may be identified by the study. In order to keep the review manageable and the results targets and pertinent, the Committees should focus on instances where the Convention can effectively play a role, and formulate their advice in compliance with the provisions in Resolution Conf. 9.25 (Rev. CoP16).

- D. The Secretariat reiterates that it will remain each Party’s sovereign right to determine whether or not to include a native species in Appendix III for which it wishes to control international trade in cooperation with other Parties, and that in compliance with Article XVI of the Convention, a Party may at any time submit to the Secretariat a list of species which it identifies as being subject to regulation within its jurisdiction for the purpose mentioned in paragraph 3 of Article II of the Convention.
- E. The proposed budgets in the Annex seem realistic, noting that the Secretariat should be able to absorb the time for managing the study (estimated at 10,000 USD) within in normal budget, but that the costs for compiling the report (50,000 USD) may be an underestimation. The Secretariat is grateful to Germany for offering the external funding required to implement the decisions should they be adopted.

DRAFT DECISIONS OF THE CONFERENCE OF THE PARTIES
ON CITES APPENDIX III - AN ADDED-VALUE FOR THE CONSERVATION
OF THREATENED WILDLIFE WITH RESTRICTED DISTRIBUTION

Directed to the Secretariat

- 17.X1 The Secretariat shall commission a report in consultation with IUCN to identify species,
- a) that are endemic or with extremely restricted distribution area;
 - b) threatened, vulnerable or endangered (under the 'IUCN red list' or comparable evaluations); and
 - c) are threatened by international trade, in particular illegal trade,
- for which an Appendix-III CITES listing would present an added-value for the conservation of the species concerned.

Directed to the Animals and Plants Committee

- 17.X2 The Animals and Plants Committees shall review the findings of the report as outlined under Decision 17.X1 and convey their conclusions and recommendations to the Standing Committee for further consideration and evaluation.

Directed to the Standing Committee

- 17.X3 The Standing Committee shall, in consultation with the Secretariat, range States and other Parties, make appropriate recommendations to the 18th meeting of the Conference of the Parties.

In addition, the Standing Committee shall establish a working group to conclude whether a kind of guidance (e.g. a handbook) as manual of correct and reasonable use and application of Appendix-III CITES listing may be developed and make appropriate recommendations to the 18th meeting of the Conference of the Parties.

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Indicative budgets for the work envisaged in the attached draft decisions are:

- a) to undertake work requested to be done by the Secretariat
 - Secretariat staff time USD 10,000
 - Experts for report compilation USD 50,000
 - Printing, etc. USD 10,000
 - Communications USD 5,000

TOTAL USD 75,000

- b) to undertake work requested to be done by the Standing Committee
 - Secretariat staff time USD 15,000
 - Experts to produce draft report for CoP18 with recommendations USD 25,000
- TOTAL USD 40,000**

Germany would be prepared to provide external funding for the purpose of implementing the above decisions.