

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



Eighteenth meeting of the Conference of the Parties
Geneva (Switzerland), 17 - 28 August 2019

Summary record of the tenth session of Committee II

22 August 2019: 9h15 - 12h00

Chair: C. Hoover (United States of America)

Secretariat: D. Morgan
H. Okusu
M. Pikart

Rapporteurs: J. Caldwell
E. Jennings
C. Stafford
E. Vovk

Interpretation and implementation matters (cont.)

Regulation of Trade

41. Electronic systems and information technologies

Switzerland introduced document CoP18 Doc. 41 and noted the suggested amendments from the Secretariat to the original set of decisions, along with a further three draft decisions, in Annex 2 based on information received after Annex 1 had been written.

Argentina, Australia, speaking also on behalf of New Zealand and Samoa, the European Union and Sri Lanka supported the draft decisions, Sri Lanka explaining that they had already introduced eCITES in their country. The United States of America did not support the proposed amendments by the Secretariat as found in document CoP18 Doc. 41, Annex 2, and suggested an active working group should be continued to advise the Secretariat and Parties on harmonising the various electronic permitting systems.

The Secretariat of the Pacific Regional Environment Programme (SPREP) fully supported the implementation of eCITES and had some limited funds available to allow it to be established in their region. The International Wood Products Association urged implementation of these technologies with the minimum delay.

It was agreed to delete Decisions 17.156 to 17.159 and the four amended draft decisions and three new draft decisions in Annex 2 to document CoP18 Doc. 41 were accepted.

42. Traceability

Switzerland introduced document CoP18 Doc. 42 (Rev. 1), summarising the work of the intersessional working group. It noted that the Standing Committee had not considered it necessary at this time to develop a resolution on traceability; and drew attention to the draft decisions as amended by the Secretariat at Annex 1, proposing *inter alia* a working definition of CITES traceability.

The United States of America, supported by Egypt and Kenya, expressed support for the definition in draft decision 18.AA a) as a non-binding interim working definition, and also for the deletion of Decisions 17.152 - 17.155. They proposed the deletion of the proposed draft decision 18.BB a), and the following edits to proposed draft decisions 18.AA b) and 18.BB d) as amended by the Secretariat:

18.AA b) "~~to use~~ take note of the information available on the CITES webpage on traceability as appropriate such as the working definition of traceability; technical standards for CITES traceability; managerial best practice guidelines for planning and implementing CITES traceability systems; and ~~on~~ projects related to traceability, which can provide guidance to Parties that develop or implement CITES traceability projects."

18.BB d) "continue to work with the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT) and other relevant standard setting bodies on the potential for integration of CITES ~~requirements for~~ traceability systems into international traceability standards and recommendations for traceability; and"

The Chair noted the information provided in paragraph 10 of document CoP18 Doc. 42 (Rev. 1) and the conclusion of the Standing Committee that it is not necessary at this time to develop a resolution on traceability taking into account the current level of implementation of traceability in CITES.

It was agreed to delete Decisions 17.152 to 17.155. The draft decisions proposed in Annex 1 to document CoP18 Doc. 42 (Rev. 1) were accepted with the amendments proposed by the Secretariat and the United States of America.

43. Specimens produced from synthetic or cultured DNA

Mexico introduced document CoP18 Doc. 43, proposing the draft decisions showing the Secretariat's amendments in Annex 1 for consideration.

The Republic of Korea expressed support for the proposed draft decisions as amended by the Secretariat.

China warned of challenges in interpreting the phrase "readily recognizable" in this context, in terms of the means and level of recognition intended. It noted that many markets for natural products do not extend to synthetic alternatives; that the link between trade in synthetic products and wildlife survival was not clear; and that making the biotechnology sector aware of CITES would require significant resources.

The United States of America, supported by Canada and Egypt, encouraged further progress on the issue and proposed either amending Resolution Conf. 9.6 (Rev. CoP16) on *Trade in readily recognizable parts and derivatives* through the addition of a new paragraph 4, or adding a new draft decision to be directed to the Parties. The new paragraph 4 of Resolution Conf. 9.6 (Rev. CoP16) proposed by the United States of America read as follows: "4. AGREES also that Parties consider all material produced through biotechnology that meets the criteria in paragraph 1 to be readily recognizable, unless specifically exempted from the provisions of the Convention". Alternatively, the United States of America proposed to add a draft decision directed to the Parties that stated the following: "18.BB Parties shall treat all materials produced through biotechnology as readily recognizable that meet the criteria in paragraph 1 of Resolution Conf. 9.6 (Rev. CoP16), unless specifically exempted from the provisions of the Convention, as an interim measure."

Canada, supported by Senegal, expressed concern regarding the potential enforcement-related challenges, and proposed the following amendment of draft decision 18.CC a):

18.CCa) "discuss how to apply the term "readily recognizable part or derivative" to trade in products of biotechnology, which might potentially affect international trade in CITES-listed specimens in a way that would threaten their survival, including enforcement of CITES provisions;"

The European Union, supported by South Africa, called for a precautionary approach, and made reference to Convention on Biological Diversity Decision 14/19 on *Synthetic biology* and activities under that Convention's Cartagena and Nagoya Protocols. They did not support the proposal of the United States, considering such measures premature and proposed the following amendment of draft decision 18.CC a):

18.CCa) "discuss whether and how to apply the term "readily recognizable part or derivative" to trade in products of biotechnology, which might potentially affect international trade in CITES-listed specimens in a way that would threaten their survival;"

Brazil recalled that CITES should only regulate synthetic or cultured specimens that are not distinguishable, and their impacts on trade.

The Wildlife Conservation Society, supported by Lewis & Clark – International Environmental Law Project, speaking also on behalf of the Center for Biological Diversity, the Natural Resources Defense Council and WildAid supported the proposal of the United States of America and expressed its concern that the recommendations in document CoP18 Doc. 43 did not include provisions on how to regulate specimens produced by biotechnology, which they considered were covered by the provisions of CITES.

The four draft decisions in Annex 1 to document CoP18 Doc. 43 as amended by the Secretariat, Canada and the European Union were accepted, and it was agreed to delete Decisions 17.89 to 17.91.

49. Implications of the transfer of a species to Appendix I

49.1 Report of the Secretariat

and

49.2 Trade in 'pre-Appendix-I' specimens

The Secretariat introduced document CoP18 Doc. 49.1. It noted that the issue of trade in stockpiles of pangolin specimens (*Manis* spp.) that were legally obtained in accordance with the provisions of the Convention prior to the transfer of the pangolin species to Appendix I at the 17th meeting of the Conference of the Parties had first been raised at the 69th meeting of the Standing Committee. The principal question under consideration was whether specimens should be regulated according to the status of the taxon at the time of acquisition, or at the time of import, export or re-export. In light of these discussions, the Secretariat presented a proposed interpretation of the relevant provisions in the Convention, based on a legal analysis, the general conclusion of which was that, in cases where a species was transferred from Appendix III or II to Appendix I, the specimens concerned should be subject to the provisions applicable to them at the time of trade.

Nigeria, speaking also on behalf of Côte d'Ivoire and Senegal, introduced document CoP18 Doc. 49.2. It noted its agreement with the position of the Secretariat in document CoP18 Doc. 49.1.

Cameroon, Gabon, Liberia, Niger and Nigeria voiced their support for the document, but Gabon, Niger and Nigeria did not believe that the draft decision in Annex 1 to document CoP18 Doc. 49.1 was necessary, given that a clear position on this issue had already been reached. However, the United States of America and Canada believed that the draft decision would be useful to provide further guidance on the issue of provisions applicable to specimens in cases of Appendix transfer, particularly for plant species with annotations.

Brazil, Canada and the European Union expressed support for the intent of document CoP18 Doc. 49.2 but noted a preference for the approach outlined in document CoP18 Doc. 49.1.

Bangladesh, Brazil, Canada, China, the Democratic Republic of the Congo, the European Union, Guyana and the United States generally supported the conclusion of the Secretariat on this matter and agreed that its suggested amendments to Resolution Conf. 12.3 (Rev. CoP17) on *Permits and certificates* and Resolution Conf. 13.6 (Rev. CoP16) on *Implementation of Article VII, paragraph 2, concerning 'pre-Convention' specimens* provided clarity as well as practical guidance for Parties. Canada, supported by Brazil, Cameroon and New Zealand, suggested the following amendment to the Secretariat's proposed changes to paragraph 10 of Resolution Conf. 12.3 (Rev. CoP17) to ensure that it applied to all transfers between Appendices:

RESOLVES that in the case a species is transferred from ~~III to II or I, or from Appendix II to Appendix I~~ one Appendix to another, specimens concerned shall be subject to the provisions applicable to them at the time of export, re-export, import or introduction from the sea;

The proposed amendment to Resolution Conf. 13.6 (Rev. CoP16) on *Implementation of Article VII, paragraph 2, concerning 'pre-Convention specimens'* contained in Annex 3 to document CoP18 Doc. 49.1 and the proposed amendment to Resolution Conf. 12.3 (Rev. CoP17) on *Permits and certificates* included in Annex 2 to document CoP18 Doc. 49.1 as amended by Canada were accepted. The draft decision presented in Annex 1 was accepted.

Document CoP18 Doc. 49.2 was noted.

50. Amendments to Resolution Conf. 10.13 (Rev. CoP15) on *Implementation of the Convention for timber species*

The Chair of the Plants Committee, on behalf of the Standing Committee, introduced document CoP18 Doc. 50 and noted that discussions by the Plants and Standing Committees had resulted in the proposed amendments to Resolution Conf. 10.13 (Rev. CoP15) *Implementation of the Convention for timber species*, detailed in Annex 1 to the document. These amendments included deletion of para. 1 f) of the Resolution, following comments from the Secretariat.

Canada voiced its support for the amendments to Resolution Conf 10.13 (Rev. CoP15) outlined in Annex 1, in particular the addition of text recognising the importance of building capacity for wood identification and forensics as the best way to combat illegal forest products and illicit trade.

The European Union expressed its general support for the proposed amendments to Resolution Conf. 10.13 (Rev. CoP15), and the deletion of para. 1 f). It proposed a new paragraph j) in Annex 1 to document CoP18 Doc. 50, as follows:

- j) Parties are encouraged to make use of adequate conversion factors when making non-detriment findings (NDFs) and establishing voluntary annual national export quotas, aiming in particular at converting volumes of traded commodities into volumes of round wood.

The European Union, supported by Cameroon, additionally suggested minor amendments to Resolution Conf. 10.13 (Rev. CoP15) as follows:

In the preamble:

NOTING further that the objective of the Convention is to ensure the conservation of wild fauna and flora for this and future generations through the protection of certain tree species against over-exploitation through international trade;

In paragraph 1 h):

the range States pay particular attention to internationally traded tree species within their territories for which the knowledge of the ~~biological status and silvicultural requirements~~ biology, population density and structure, and the lack of appropriate silvicultural techniques gives cause for concern;

In paragraph 1 n):

Management Authorities work with governmental agencies (including local governments), nongovernmental organizations, industry and the general public to develop and provide information on the objectives, provisions and implementation of the Convention to counter the misconception that the inclusion of species in the Appendices represents a ban on the trade in specimens of these species, and to disseminate the message that international trade and utilization of tree species included in Appendices II and III are generally permitted and can be beneficial to tree species, conservation and livelihoods.

The International Tropical Timber Organization (ITTO) noted that the table in paragraph 1 a) of the Resolution included the African Timber Organization (ATO), which no longer existed as an operational entity. The World Resources Institute stated that this table appeared arbitrary and incomplete, and proposed that a revised list incorporating some key organizations could ensure the provision of adequate guidance to Parties.

The Committee agreed the proposed revision of Resolution Conf. 10.13 (Rev. CoP15) as amended by the European Union, along with the Secretariat's recommendations to delete paragraph 1 f). It additionally agreed to remove the African Timber Organization from the table in paragraph 1 a), and, in light of the intervention of the World Resources Institute, noted that the Secretariat would consider future revisions to the organizations included in this table.

51. Stocks and stockpiles

Israel introduced document CoP18 Doc. 51, noting that the work of the intersessional working group on stocks and stockpiles was presented in document SC70 Doc. 41. In light of a lack of consensus on issues raised during the working group, it proposed that the group be renewed and that Decision 17.170 (Rev. CoP18) be adopted. Israel concurred with the opinion of the Secretariat that this revised decision would help to provide clarity on the effectiveness and usefulness of existing provisions on stocks and stockpiles.

The European Union, echoed by Singapore and the United States of America, expressed support for the continuation of the working group, but argued that its activities should have a more focused scope and that it should not propose further tasks imposing administrative burdens. The United States highlighted the low response rate to Notification No. 2018/008 previously issued to Parties and noted the challenge of continuing discussion of these issues with little information.

The renewal of Decision 17.170 (Rev. CoP18) was accepted, taking note of the need referred to by Parties and the Secretariat that work on this matter should be more focussed than it was previously.

52. Introduction from the sea

As Chair of the Standing Committee, Canada introduced document CoP18 Doc. 52. Canada noted that the responses to Notification No. 2018/67 issued to implement Decisions 16.48 (Rev. CoP17) to 16.51 (Rev. CoP17) indicated that few Parties had legislation or regulations in place for the various scenarios outlined in Resolution Conf. 14.6 (Rev. CoP16) on *Introduction from the sea*, and that practical experience was limited. It additionally reiterated that at its 70th meeting, the Standing Committee had agreed that adding specific guidance regarding introduction from the sea certificates to Resolution Conf. 12.3 (Rev. CoP17) on *Permits and certificates* was deemed unnecessary.

Regarding the implementation of Decision 17.181, the Secretariat noted that it had continued to monitor the development of an internationally legally binding instrument under the United Nations Convention on the Law of the Sea (UNCLOS) on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ) and provided a brief update.

The two new draft decisions in document CoP18 Doc. 52 were accepted and it was agreed to delete Decisions 16.48 to 16.51 (Rev. CoP17) and maintain Decision 17.181.

The session was adjourned at 11h57.