

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



Eighteenth meeting of the Conference of the Parties
Colombo (Sri Lanka), 23 May – 3 June 2019

Strategic matters

Rural communities

PARTICIPATORY MECHANISM FOR RURAL COMMUNITIES

1. This document has been submitted by Botswana, Democratic Republic of Congo, Namibia, South Africa and Zimbabwe.*

Background

2. At the 17th meeting of the Conference of the Parties a proposal (CoP17 Doc. 13) was made to establish a Rural Communities Committee of the Conference of the Parties. The rationale for that proposal (and what follows in this document) can be summarized as follows and is applicable to many parts of the world and involving numerous species included in the Appendices of CITES and their habitats:
 - a) rural communities occupy important wildlife habitats and have the ability to displace wildlife unless an incentive system is in place to encourage co-existence with wildlife;
 - b) rural community livelihoods depend, to variable degrees, on wildlife;
 - c) rural communities have vested rights over the natural resources on which they depend;
 - d) rural communities bear the cost of living with wildlife including the direct costs from crop, livestock or infrastructure losses due to wildlife as well as the loss of human lives;
 - e) rural communities in many instances bear the cost of conserving wildlife through a wide range of long-term community activities such as setting land aside for wildlife habitat protection, monitoring wildlife, patrolling against illegal killing and harvesting - many of which activities are formalized through community structures and agreements;
 - f) community-based natural resource management (or community-based conservation) has been adopted by a number of Parties to CITES as well as Regional Economic Communities as an integral part of their conservation strategies, policies, legislation and protocols; and
 - g) community-based natural resource management have indisputably achieved important conservation outcomes for threatened species, threatened habitats and species included in the Appendices of CITES, on scales matching or exceeding the conservation efforts and outcomes in protected areas.
3. Rural communities are essential stakeholders in conservation in many parts of the world; yet the participation of indigenous peoples and rural communities in CITES decision-making processes has been neglected. The socio-economic impacts of listing of species in the Appendices and other trade measures are barely

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considered within CITES. Recognition of the contributions by rural communities to conservation is either not given or not adequately reflected in CITES decisions. The importance of establishing and safeguarding incentive systems to achieve the coexistence of people and wildlife is generally not appreciated within CITES. Most importantly, the rights of rural people over natural resources and their rights to be part of all decision-making concerning those resources, are not respected.

4. The Preamble of the Convention recognises that peoples and States are and should be the best protectors of their own wild fauna and flora. The people referenced here include rural communities living with wildlife and with cultural and economic interests in wildlife. These people have a particularly direct and interdependent relationship with wildlife and wildlife habitats that is unmatched in society. It has nevertheless proven difficult to get consensus within CITES on how to accommodate such rights and interests.
5. The global governance framework nevertheless requires that such accommodation be reached. Articles 18 and 41 of the UN Declaration on the Rights of Indigenous Peoples respectively affirm that indigenous people "have the right to participate in decision making in matters which would affect their rights" and that "ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established".
6. The Conference of the Parties through Resolution Conf. 8.3 (Rev. CoP13) on Recognition of the benefits of trade in wildlife already acknowledged that:
 - a) the majority of species of wild fauna and flora that CITES seeks to protect and enhance occur in the developing countries of the world;
 - b) the sustainable use of wild fauna and flora, whether consumptive or non-consumptive, provides an economically competitive land-use option;
 - c) unless conservation programmes take into account the needs of local people and provide incentives for sustainable use of wild fauna and flora, conversion to alternative forms of land use may occur;
 - d) The Conference of the Parties through the same Resolution recognized that commercial trade may be beneficial to the conservation of species and ecosystems or to the development of local people when carried out at levels that are not detrimental to the survival of the species in question; and that implementation of CITES-listing decisions should take into account potential impacts on the livelihoods of the poor.
7. Notwithstanding the adoption of Resolution Conf. 8.3 (Rev. CoP13), there has been little evidence of it in CITES outcomes.
8. In response to the proposal to CoP17 which sought to address this matter, the Conference of the Parties adopted Decisions 17.28 to 17.30 directed to the Standing Committee:

Decision 17.28: The Standing Committee shall establish an intersessional working group to consider how to effectively engage rural communities in the CITES processes and to present its findings and recommendations to the Standing Committee, for consideration at its 70th meeting.

Decision 17.29: In establishing the intersessional working group, which shall be comprised of Parties and representatives of rural communities, the Chair of the Standing Committee shall strive to achieve regional balance of Parties, with the number of members of rural communities not exceeding the number of Party delegates.

Decision 17.30: The Standing Committee shall make recommendations on the engagement of rural communities in CITES processes to the 18th Conference of the Parties.

9. The Standing Committee accordingly established this working group and received a report on its findings at its 70th meeting, as contained in SC70 Doc. 15. The Standing Committee concluded that further work is needed on the format of rural community participation in CITES processes and that it should propose to the 18th meeting of the Conference of the Parties that its mandate should be extended to CoP19.
10. Crucially, on 18 November 2018 the Third Committee of the General Assembly of the United Nations adopted by 119 votes in favour, 7 against and 49 abstentions a landmark "United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas". The Declaration was approved by the General Assembly on 17 December 2018.

11. The Declaration includes articles that are pertinent to CITES and in particular:

Article 1

1. *For the purposes of the present Declaration, a peasant is any person who engages or who seeks to engage alone, or in association with others or as a community, in small-scale agricultural production for subsistence and/or for the market, and who relies significantly, though not necessarily exclusively, on family or household labour and other non-monetized ways of organizing labour, and who has a special dependency on and attachment to the land.*
2. *The present Declaration applies to any person engaged in artisanal or small-scale agriculture, crop planting, livestock raising, pastoralism, fishing, forestry, hunting or gathering, and handicrafts related to agriculture or a related occupation in a rural area. It also applies to dependent family members of peasants.*
3. *The present Declaration also applies to indigenous peoples and local communities working on the land, transhumant, nomadic and semi-nomadic communities, and the landless engaged in the above-mentioned activities.*

Article 2

1. *States shall respect, protect and fulfil the rights of peasants and other people working in rural areas. They shall promptly take legislative, administrative and other appropriate steps to achieve progressively the full realization of the rights of the present Declaration that cannot be immediately guaranteed.*
2. *Particular attention shall be paid in the implementation of the present Declaration to the rights and special needs of peasants and other people working in rural areas, including older persons, women, youth, children and persons with disabilities, taking into account the need to address multiple forms of discrimination.*
3. *Without disregarding specific legislation on indigenous peoples, before adopting and implementing legislation and policies, international agreements and other decision-making processes that may affect the rights of peasants and other people working in rural areas, States shall consult and cooperate in good faith with peasants and other people working in rural areas through their own representative institutions, engaging with and seeking the support of peasants and other people working in rural areas who could be affected by decisions before those decisions are made, and responding to their contributions, taking into consideration existing power imbalances between different parties and ensuring active, free, effective, meaningful and informed participation of individuals and groups in associated decision-making processes.*
4. *States shall elaborate, interpret and apply relevant international agreements and standards to which they are a party in a manner consistent with their human rights obligations as applicable to peasants and other people working in rural areas.*
5. *States shall take all necessary measures to ensure that non-State actors that they are in a position to regulate, such as private individuals and organizations, and transnational corporations and other business enterprises, respect and strengthen the rights of peasants and other people working in rural areas.*
6. *States, recognizing the importance of international cooperation in support of national efforts for the realization of the purposes and objectives of the present Declaration, shall take appropriate and effective measures in this regard, between and among States and, as appropriate, in partnership with relevant international and regional organizations and civil society, in particular organizations of peasants and other people working in rural areas, among others. Such measures could include:*
 - (a) *Ensuring that relevant international cooperation, including international development programmes, is inclusive, accessible and pertinent to peasants and other people working in rural areas;*
 - (b) *Facilitating and supporting capacity-building, including through the exchange and sharing of information, experiences, training programmes and best practices;*
 - (c) *Facilitating cooperation in research and in access to scientific and technical knowledge;*

- (d) *Providing, as appropriate, technical and economic assistance, facilitating access to and sharing of accessible technologies, and through the transfer of technologies, particularly to developing countries, on mutually agreed terms;*
- (e) *Improving the functioning of markets at the global level and facilitating timely access to market information, including on food reserves, in order to help to limit extreme food price volatility and the attractiveness of speculation.*

Article 8

1. *Peasants and other people working in rural areas have the right to freedom of thought, belief, conscience, religion, opinion, expression and peaceful assembly. They have the right to express their opinion, either orally, in writing or in print, in the form of art, or through any other media of their choice, at the local, regional, national and international levels.*

Article 17

1. *Peasants and other people living in rural areas have the right to land, individually and/or collectively, in accordance with article 28 of the present Declaration, including the right to have access to, sustainably use and manage land and the water bodies, coastal seas, fisheries, pastures and forests therein, to achieve an adequate standard of living, to have a place to live in security, peace and dignity and to develop their cultures.*
2. *States shall take appropriate measures to remove and prohibit all forms of discrimination relating to the right to land, including those resulting from change of marital status, lack of legal capacity or lack of access to economic resources.*
3. *States shall take appropriate measures to provide legal recognition for land tenure rights, including customary land tenure rights not currently protected by law, recognizing the existence of different models and systems. States shall protect legitimate tenure and ensure that peasants and other people working in rural areas are not arbitrarily or unlawfully evicted and that their rights are not otherwise extinguished or infringed. States shall recognize and protect the natural commons and their related systems of collective use and management.*
4. *Peasants and other people working in rural areas have the right to be protected against arbitrary and unlawful displacement from their land or place of habitual residence, or from other natural resources used in their activities and necessary for the enjoyment of adequate living conditions. States shall incorporate protections against displacement into domestic legislation that are consistent with international human rights and humanitarian law. States shall prohibit arbitrary and unlawful forced eviction, the destruction of agricultural areas and the confiscation or expropriation of land and other natural resources, including as a punitive measure or as a means or method of war.*
5. *Peasants and other people working in rural areas who have been arbitrarily or unlawfully deprived of their lands have the right, individually and/or collectively, in association with others or as a community, to return to their land of which they were arbitrarily or unlawfully deprived, including in cases of natural disasters and/or armed conflict and to have restored their access to the natural resources used in their activities and necessary for the enjoyment of adequate living conditions, whenever possible, or to receive just, fair and lawful compensation when their return is not possible.*
6. *Where appropriate, States shall take appropriate measures to carry out agrarian reforms in order to facilitate the broad and equitable access to land and other natural resources necessary to ensure that peasants and other people working in rural areas enjoy adequate living conditions, and to limit excessive concentration and control of land, taking into account its social function. Landless peasants, young people, small- scale fishers and other rural workers should be given priority in the allocation of public lands, fisheries and forests.*
7. *States shall take measures aimed at the conservation and sustainable use of land and other natural resources used in their production, including through agroecology, and ensure the conditions for the regeneration of biological and other natural capacities and cycles.*

Article 18

1. *Peasants and other people working in rural areas have the right to the conservation and protection of the environment and the productive capacity of their lands, and of the resources that they use and manage.*
2. *States shall take appropriate measures to ensure that peasants and other people working in rural areas enjoy, without discrimination, a safe, clean and healthy environment.*
3. *States shall comply with their respective international obligations to combat climate change. Peasants and other people working in rural areas have the right to contribute to the design and implementation of national and local climate change adaptation and mitigation policies, including through the use of practices and traditional knowledge.*
4. *States shall take effective measures to ensure that no hazardous material, substance or waste is stored or disposed of on the land of peasants and other people working in rural areas, and shall cooperate to address the threats to the enjoyment of their rights that result from transboundary environmental harm.*
5. *States shall protect peasants and other people working in rural areas against abuses by non-State actors, including by enforcing environmental laws that contribute, directly or indirectly, to the protection of the rights of peasants or other people working in rural areas.*

11. At the meeting of the Rural Communities Working Group in Nairobi as reported in Doc SC70 Doc. 15 the final position was as follows:

Five mechanisms for engaging Rural Communities in CITES processes were proposed for consideration, i.e.

- i) Involvement of communities at national level;
- ii) A permanent CITES advisory body or committee that provides rural community input (e.g. reviewing proposals, decisions, and resolutions.);
- iii) Ensuring participation of Rural Communities in CITES meetings with support of secretariat;
- iv) Socio-economic assessment of proposals before submitted to CoP; and
- v) Reporting by States on how they have consulted with potentially affected Rural Communities before proposal submission to CoP.

Mechanisms i) and ii) are the subject of the present document while the last two are the subject of another document presented at this Conference.

12. Of particular importance were the discussions on the mechanism related to the creation of a permanent CITE advisory body or committee that provides rural community input. A number of options gained broad support from this meeting, as additional measures to be supported regardless of which major model for rural community engagement is adopted:

- i) Involvement of rural communities at national levels, including involvement by their government in review of any proposal that might affect them. This will include the review of documents and proposals submitted by other governments that may affect them;
- ii) Socioeconomic assessments of Appendix amendment proposals before being submitted to the CoP;
- iii) Establishing a reporting requirement, requiring that Parties must report on how they have consulted with potentially affected rural communities before the submission proposals to amend the Appendices. The meeting therefore proposed amendment of specific resolutions, proposals and decisions that would operationalise the national level options;
- iv) However, there was divergence on the two major options that emerged from discussion for increased engagement of communities in CITES processes. The two major options are the permanent CITES advisory body and the ensuring participation of Rural Communities in all CITES meetings.

13. The following is noted:

- a) The three groups formed at the meeting of the Working Group of Rural Communities held in Nairobi, Kenya, in assessing potential options, gave the maximum score to the attribute that “a permanent CITES advisory body or committee of rural communities” shall be a Permanent/ongoing mechanism.
- b) This overwhelming support now needs to be operationalized in a way that considers not only the representation issues that were indicated in the Working Group but especially the underlining question of what exactly would be the objectives of a permanent body.
- c) Importantly this whole initiative of the Rural Communities Working Group fits in the Environmental Rights Initiative launched recently by UN Environment and fulfils the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas.
- d) It is also worth noting that on the 4th of March 2018, 24 Governments from Latin America and the Caribbean concluded negotiations on a legal instrument that would protect the rights of access to information, public participation and justice in environmental matters in the Region. The draft text of the agreement is available here:

http://www.accessinitiative.org/sites/default/files/regional_agreement_on_access_to_information_-_costa_rica.pdf

14. Funding

- a) The costs involved in the operations of this Committee will be minimal if compared to the costs of trying to implement CITES without the engagement and support of local communities. Millions of dollars have been spent to counting elephants and their carcasses and yet little funding has been made available to assist communities in managing wildlife for their legal benefits. The implications for conservation are enormous. The World Bank estimated that over \$1.3 billion was invested globally in tackling illegal wildlife trade between 2010 and 2016. The majority of these funds have been invested in protected area management and law enforcement. But again, the focus on law enforcement alone has decreased people's livelihoods and caused local people hardship. A fundamental problem is that those in the best position to preserve wildlife, the rural communities, lack incentives to do so and this was one of the problems addressed in the proposed Resolution on the Establishment of the Rural Communities Committee at CITES CoP17.
- b) As decided at the Convention on Biological Diversity when faced with the same issue, the CBD through decision VII/16 G, paragraph 10, on Participatory mechanism for indigenous and local communities, the Conference of the Parties decided “ to establish a voluntary funding mechanism under the Convention to facilitate the participation of indigenous and local communities, giving special priority to those from developing countries and countries with economies in transition and small island developing States in meetings under the Convention, including meetings of the indigenous and local community liaison group and relevant meetings of ad hoc technical expert groups”. The Conference of the Parties to CBD at its eighth meeting adopted the draft criteria for the operation of such a Fund with Decision VIII/5 Annex D.
- c) Therefore, a Voluntary Trust Fund to Facilitate the Participation of Rural Communities in the Work of the CITES, could be created by the Conference of the Parties.

Recommendations

15. The Conference of the Parties is requested to:

- a) fully endorse at its 19th meeting, through a specific Resolution to be developed by the Secretariat in consultation with the Standing Committee, the United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas;
- b) establish a Rural Communities Committee with the following composition:
 - i) Parties shall be represented in this Committee as they are the decision makers under the Convention.
 - ii) Rural Communities Organizations shall be represented in accordance with the following criteria:

- A. Rural Communities Organizations whose objectives and functioning indicate they represent and further the interests of one or more identifiable communities and they are recognized by the Party concerned;
 - B. these communities are human populations living side-by-side or using both wild fauna and flora, including timber, outside of an urban or suburban setting, and;
 - C. the community is (or communities are) involved in management, conservation, sustainable use of, and international trade in CITES-listed species, or species that could be listed on the CITES Appendices in the future."
 - D. observers from *bonafide* Non-Governmental Organizations with a proven record of work in the field of community-based conservation could be admitted to the work of the Committee.
- c) The objectives of the Committee would be to operationalize principles embodied in the Preamble to the Convention as well as Resolution Conf. 8.3 (Rev. CoP13) on recognition of the benefits of trade in wildlife, and Resolution Conf. 16.6 (Rev. CoP17) on CITES and livelihoods and will be part of the process to achieve the Sustainable Development Goals of the UN 2030 Agenda for Sustainable Development and in particular Goals 1 and 15 with particular emphasis on the second paragraph of Goal 15c "*Enhance global support for efforts to combat poaching and trafficking of protected species, including by increasing the capacity of local communities to pursue sustainable livelihood opportunities*"
- d) Importantly, one of the roles of the Committee would also be to operationalize Resolution Conf. 10.4 (Rev. CoP14) on Cooperation and synergy with the Convention on Biological Diversity especially on the synergies on the work done by the Convention of Biological Diversity in the implementation of the provisions of Article 8(j).
- e) Specific tasks could include:
- i) practical implementation of the operative sections of Resolution Conf. 8.3 (Rev. CoP13) on Recognition of the benefits of trade in wildlife and Resolution Conf. 16.6 on CITES and livelihoods and Resolution Conf. 10.4 (Rev. CoP14) on Cooperation and synergy with the Convention on Biological Diversity especially on the synergies on the work done by the Convention of Biological Diversity in the implementation of the provisions of Article 8(j).
 - ii) providing advice to the Conference of the Parties and the Secretariat on issues related to wildlife trade, in order to assess also the potential social and economic impact of CITES overall decisions on rural communities;
 - iii) provide coordination and advice as required to other committees and provide direction and coordination of working groups established by the Committee itself or the Conference of the Parties;
 - iv) carry out activities related to the promotion of community-based programmes aimed at the management, conservation, sustainable use of, and international trade in CITES-listed species, or species that could be listed on the CITES Appendices in the future;
 - v) draft resolutions and decisions for consideration by the Conference of the Parties;
 - vi) report to the Conference of the Parties on the activities it has carried out between meetings of the Conference; and
 - vii) perform any other functions as may be entrusted to it by the Conference of the Parties.

16. The Conference of the Parties is further requested to adopt the following decisions:

Directed to the Secretariat

- 18.AA On the basis of the objectives detailed in document SC70 Doc. 15, the Secretariat shall prepare costed options for the establishment of:
- a) a permanent rural communities committee under Resolution Conf. 11.1 (Rev. CoP17); and

- b) a subcommittee of the Standing Committee on rural communities and submit a report on the matter, with its own recommendations to the Standing Committee for its consideration.

Directed to the Standing Committee

- 18.BB The Standing Committee shall consider the report of the Secretariat under Decision 18.AA and submit its conclusion and recommendations to the 19th meeting of the Conference of Parties.
- 18.CC The Standing Committee shall consider to extend the mandate of the Inter-sessional Working Group on Rural Communities, taking into account the present document, to continue its work and present its finding and recommendations to the Standing Committee, for consideration at its 73th meeting.

COMMENTS OF THE SECRETARIAT

- A. In relation to a similar document (see document CoP17 Doc. 13) submitted to the 17th meeting of the Conference of the Parties (Johannesburg, 2016), the Secretariat suggested to Parties that the implementation of CITES is better achieved with the engagement of rural communities, especially those which are traditionally dependent on CITES-listed species for their livelihoods. The Secretariat considers that the establishment of a full Committee of the Conference of the Parties would be a major step for the Convention.
- B. The intersessional activity undertaken by the Standing Committee to address the Decisions in document CoP17 Doc. 13 (Decisions 17.28 to 17.30), which are reported in document CoP18 Doc. 18.1, did not include a recommendation that a permanent rural communities committee should be established. The Secretariat cannot find any new information in the present document that might lead to a different conclusion than that which had been arrived at by the Conference of the Parties at their 17th meeting and by the Standing Committee in its intersessional work. Furthermore, the recommendations in paragraph 15 of the present document are not presented in the form of a Decision or a Resolution so they would be difficult to agree upon at the present meeting. The Secretariat would therefore not recommend adopting the proposed recommendation.
- C. Concerning the proposed draft Decisions in paragraph 16, the Secretariat draws the attention of the Parties that the rough costs of establishing such a committee was made at CoP17 (see document CoP17 Doc. 13, paragraphs E to I. If so instructed by the Conference of the Parties, the Secretariat could prepare a more detailed costed options as described in draft Decision 18.AA and 18.BB but would need more guidance from the Parties on the size and *modus operandi* of any permanent rural communities committee.
- D. Concerning draft Decision 18.CC, if the Conference of the Parties instructs the Standing Committee to re-establish a working group on rural communities, the Secretariat would recommend that its composition and mandate be clearly specified by the Conference of the Parties. Further, the Secretariat would recommend that such a working group involve a wide spectrum of Parties and observers in order to take into account all opinions.
- E. The Secretariat notes that many documents have been submitted to the present meeting touching upon the participation and the livelihoods of rural, local or indigenous communities (documents CoP 18 Doc.17.1, Doc.17.2, Doc.17.3, Doc.18.1, Doc.18.2, Doc.18.3 and Doc.19). Furthermore, some of these documents propose recommendations along similar lines.
- F. In order to bring these documents together, the proposed decisions contained in Annex 1 to the document CoP18 Doc.18.1 (Rev. 1) has been revised to reflect the Secretariat's recommendations found in documents CoP18 Doc. 17.2, 17.3, 18.2, and 18.3, including the proposed amendment to the draft decisions proposed in document CoP18 Doc. 18.2, and to propose an additional task to the Standing Committee to continue its discussion on how to work on this issue in a coordinated manner during the next intersessional period.

TENTATIVE BUDGET AND SOURCE OF FUNDING
FOR THE IMPLEMENTATION OF DRAFT RESOLUTIONS OR DECISIONS

According to Resolution Conf. 4.6 (Rev. CoP16) on *Submission of draft resolutions, draft decisions and other documents for meetings of the Conference of the Parties*, the Conference of the Parties decided that any draft resolutions or decisions submitted for consideration at a meeting of the Conference of the Parties that have budgetary and workload implications for the Secretariat or permanent committees must contain or be accompanied by a budget for the work involved and an indication of the source of funding.

The authors of this document propose that budget and source of funding to implement the decisions can be tentatively sunk in the budget of the Secretariat whilst a fund is established through voluntary donations or mobilisation of resources for specific preliminary activities.