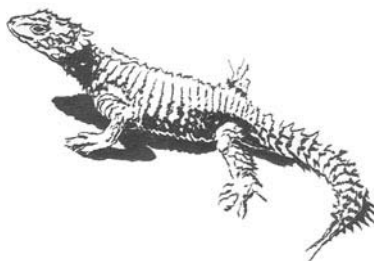


CONVENCIÓN SOBRE EL COMERCIO INTERNACIONAL DE ESPECIES
AMENAZADAS DE FAUNA Y FLORA SILVESTRES



Vigésima reunión del Comité de Fauna
Johannesburgo (Sudáfrica), 29 de marzo-2 de abril de 2004

Examen del comercio significativo de especímenes de especies del Apéndice II
(Resolución Conf. 12.8 y Decisión 12.75)

EVALUACIÓN DEL EXAMEN DEL COMERCIO SIGNIFICATIVO

1. Este documento ha sido preparado por el Grupo de trabajo sobre el examen del comercio significativo de especímenes de especies del Apéndice II.
2. En su 12ª reunión (Santiago, 2002), la Conferencia de las Partes adoptó la Decisión 12.75, que reza como sigue:

Los Comités de Fauna y de Flora redactarán el mandato para proceder a una evaluación del Examen del comercio significativo, a fin de someterlo a la consideración de la 13a. reunión de la Conferencia de las Partes.
3. A fin de asistir a los Comités de Fauna y de Flora a aplicar la Decisión 12.75, la Secretaría preparó un proyecto de mandato para la evaluación del examen del comercio significativo, que se somete a la consideración de ambos comités (véase el anexo al presente documento).
4. El proyecto de mandato fue examinado respectivamente por grupos de trabajo en las reuniones 12ª y 19ª de los Comités de Flora y de Fauna (Ginebra, agosto de 2003). Ambos grupos de trabajo acordaron que los comentarios sobre el proyecto deberían presentarse por escrito y remitirse a los observadores del Reino Unido y la Comisión Europea, los cuales acordaron preparar un solo proyecto revisado.
5. Se recibieron comentarios de los representantes regionales de América del Norte y Oceanía, así como de los observadores de Estados Unidos, Federación de Rusia y TRAFFIC Internacional. Se adjunta un proyecto revisado, en el que se toman en consideración esos comentarios.
6. El grupo de trabajo señala a la atención de ambos Comités lo siguiente:
 - a) no se logró consenso sobre la necesidad de abordar el impacto del comercio sobre las especies no incluidas en los Apéndices de la CITES. En el proyecto revisado se prevé esta posibilidad, pero para ello se precisa la aprobación de los Comités y de la Conferencia de las Partes;
 - b) en los grupos de trabajo y en los comentarios se plantean cuestiones sobre la utilización de términos como la "eficacia" y la "eficacia en función de los costos". Sin embargo, según sugerencia de TRAFFIC, hay consideraciones relativas a la eficacia y los costos que podrían

abordarse en el marco de la evaluación, como por ejemplo, si los fondos utilizados en el proceso aportaban beneficios comparables a los de otras actividades CITES, y si el calendario previsto en el proceso es demasiado largo para las especies objeto de rápida disminución; y

- c) de igual modo, sin perjuicio de considerar cuestiones socioeconómicas más amplias relativas a la reglamentación del comercio de vida silvestre, hay consideraciones económicas que pueden tener un impacto directo para la conservación y que deberían tenerse en cuenta en la evaluación, como los desplazamientos de la demanda a especies que no son objeto de examen o el aumento de los incentivos para comerciar ilegalmente especies sujetas a examen debido a que alcanzan precios más elevados.

Proyecto de mandato para la evaluación
del examen del comercio significativo

Objetivos

1. La evaluación del examen del comercio significativo tiene por finalidad:
 - a) evaluar la contribución del examen del comercio significativo para aplicar los párrafos 2 (a), 3 y 6 (a)¹ del Artículo IV;
 - b) evaluar el impacto a lo largo del tiempo de las medidas adoptadas en el marco del examen del comercio significativo sobre el comercio y el estado de conservación de las especies seleccionadas para proceder a su examen y sujetas a recomendaciones, tomando en consideración los posibles efectos de esas medidas sobre otras especies incluidas en los Apéndices de la CITES;
 - c) formular recomendaciones a tenor de los resultados y dictámenes de la evaluación y la estimación de los impactos; y
 - d) preparar un documento sobre la evaluación del examen del comercio significativo y las conclusiones y recomendaciones resultantes, para presentarlas a la consideración de la próxima reunión pertinente de la Conferencia de las Partes.

Proceso

2. La evaluación se iniciará después de la 13ª reunión de la Conferencia de las Partes, pendiente de la disponibilidad de fondos suficientes para completar la tarea². La evaluación del proceso en relación con las plantas o el examen por países no comenzará hasta después de la 14ª reunión de la Conferencia de las Partes.
3. Los Comités de Fauna y de Flora supervisarán la evaluación, que será administrada por la Secretaría. Podrán contratarse consultores para participar en esta labor³.
4. Un grupo de trabajo compuesto por miembros de los Comités de Fauna y de Flora, representantes de las Partes y expertos invitados se encargará⁴ de asesorar sobre el proceso de evaluación, revisando los resultados de la investigación asociada y formulando recomendaciones para que sean consideradas por las Partes.
5. La Secretaría informará regularmente sobre los progresos realizados en la evaluación en las reuniones de los Comités de Fauna y de Flora.

¹ TRAFFIC y Estados Unidos expresaron opiniones diferentes. Hemos acordado incluir las preocupaciones de TRAFFIC en el párrafo 7 y hemos adoptado el texto de Estados Unidos en este párrafo.

² Esta formulación tiene en cuenta el deseo del Comité de Fauna de comenzar lo antes posible, procurando también incluir la preocupación de Estados Unidos de que cabe la posibilidad de que se agoten los fondos antes de que pueda tomarse en consideración la situación sobre las plantas y el examen por países.

³ Refleja el espíritu de los comentarios de Estados Unidos, al tiempo que se reconoce la función de la Secretaría.

⁴ Se ha adoptado el texto de Estados Unidos.

6. Las Presidencias de los Comités de Fauna y de Flora (o la Secretaría, en su nombre) presentarán un informe final a la consideración de una próxima reunión de la Conferencia de las Partes. Ese informe podrá contener enmiendas propuestas a las resoluciones o decisiones en vigor, o a otras recomendaciones, e incorporar los comentarios de los Comités de Fauna y de Flora y de los Estados del área de distribución a que se hace alusión en el informe⁵. No obstante, el Presidente del Comité de Fauna podrá presentar un informe provisional en una reunión intermedia de la Conferencia de las Partes, si se estima necesario.

Contenido de la evaluación

7. En el marco de la evaluación del examen del comercio significativo deberían realizarse las siguientes actividades:
- a) evaluar:
 - i) el proceso utilizado para seleccionar especies a fin de someterlas a examen (inclusive la confianza en datos numéricos)⁶, y las especies seleccionadas como resultado;
 - ii) el proceso utilizado para compilar y revisar información sobre la aplicación de los párrafos 2 (a), 3 y 6 (a) del Artículo IV para las especies seleccionadas (inclusive las comunicaciones con los Estados del área de distribución), y el uso ulterior de esta información por los Comités de Fauna y Flora para categorizar las especies y formular recomendaciones⁷;
 - iii) los tipos y la frecuencia de las recomendaciones formuladas;
 - iv) la naturaleza y el índice de las respuestas a las recomendaciones, y los problemas identificados;
 - v) el uso de las recomendaciones por los Estados del área de distribución como orientación para la gestión de especies seleccionadas y otras especies [incluidas en la CITES]⁸ con características similares;
 - vi) la naturaleza y la magnitud del apoyo prestado a los Estados del área de distribución para aplicar las recomendaciones, incluso los proyectos de campo;
 - vii) el proceso en curso para supervisar y examinar la aplicación de las recomendaciones; y
 - viii) los impactos del proceso sobre otros aspectos de la aplicación de la CITES, inclusive como se abordaron los problemas planteados en el curso del examen, que no estaban directamente relacionados con la aplicación de los párrafos 2 (a), 3 y 6 (a) del Artículo IV;
 - b) realizar estudios de caso de una serie representativa de especies⁹ y países sujetos a las recomendaciones para evaluar los cambios subsiguientes a corto y largo plazo en:

⁵ A tenor de una sugerencia de Estados Unidos.

⁶ A tenor de las preocupaciones de México.

⁷ Texto de Estados Unidos utilizado aquí sin la referencia a la Resolución Conf. 12.8 y decisiones anteriores, ya que haría que el párrafo fuese demasiado largo).

⁸ Cabe señalar las divergentes opiniones expresadas sobre la necesidad de abordar el impacto sobre las especies no incluidas en los Apéndices. Esta cuestión debería ser abordada por los Comités pero, si se adoptase una decisión en este sentido, este es uno de los subpárrafos que podría enmendarse.

⁹ En varios comentarios se pone en tela de juicio la base para seleccionar las especies para los estudios de caso. La enmienda aquí trata de ofrecer orientación – “representativo” debería interpretarse en el sentido de que abarca características geográficas, taxonómicas y de utilización.

- i) el estado de conservación de los taxa seleccionados en los Estados del área de distribución¹⁰;
 - ii) los volúmenes y las pautas del comercio de los taxa seleccionados, considerando el comercio en el que participan los Estados del área de distribución sujetos a recomendaciones, otros Estados del área de distribución y otros Estados que no forman parte del área de distribución;
 - iii) las estrategias de producción o gestión para los taxa seleccionados;
 - iv) el desarrollo de mercado relevante para la conservación (como los cambios en el abastecimiento o la demanda)¹¹;
 - v) los costos y los beneficios asociados con la gestión y el comercio de los taxa seleccionados (como el aumento del comercio ilegal asociado con las suspensiones recomendadas);
 - vi) el estado de protección de los taxa seleccionados en los Estados del área de distribución, y las medidas reglamentarias fuera de los Estados del área de distribución;
 - vii) las pautas del comercio, el estado de conservación y la gestión de otras especies [incluidas en la CITES]¹² que pueden ser "sustitutos" adecuados para los taxa seleccionados; y
 - viii) los cambios en las políticas de conservación en los Estados del área de distribución como resultado del proceso¹³; y
- c) analizar la información para evaluar la eficacia, los costos y los beneficios del examen del comercio significativo tal como se ha aplicado hasta la fecha, en relación con el costo del proceso y el tiempo necesario, e identificar medios para mejorar la contribución al logro de los objetivos de la Convención, reduciendo las amenazas para las especies silvestres, en particular las especies incluidas en el Apéndice II¹⁴.

¹⁰ Supresión propuesta por Estados Unidos.

¹¹ Se tomó nota de los comentarios de Estados Unidos, pero en vez de suprimir este subpárrafo, se propone un texto alternativo ya que en el párrafo 7.b)(ii) no se deja suficientemente clara esta cuestión.

¹² Véase la nota al pie de la página 8.

¹³ La modificación de (b)(iv) exige que las cuestiones políticas se aborden por separado a fin de lograr mayor claridad.

¹⁴ Un texto de transacción para abordar las preocupaciones contradictorias de Estados Unidos y TRAFFIC. Se estimó que era necesaria una evaluación de los costos y los beneficios para abordar cuestiones como la duración del proceso (cuando la disminución de la población es más rápida) y los 'beneficios aportados' (en relación con la posibilidad de gastar el dinero en actividades de fomento de capacidad o proyectos *in situ*).

Annex I

Comments by the Plants Committee's regional representative of North America

In relation to the revision of the draft terms of reference for the evaluation of the Significant Trade Process (PC13 Doc. 12.1), Mexico would like to point out three issues that seem important to be included in this document.

1. It is important that the terms of reference reflect clearly that the Plant Committee is, by the mandate of the parties, in charge of coordinating the Significant Trade Process, with the support of the Secretariat.
2. Although the evaluation of the Significant Trade Process in plants should be done, it is important to wait until we get the results of one whole process. In other words, the Plant Committee should be evaluating the relevance and importance of a Significant Trade Process, once we have finished at least the first stage/phase.
3. Some general criteria should be included for the initial selection of species within the Significant Trade Framework, besides the numerical values. We are not worried about the taxa that can be initially selected and then deleted from the list, but we are concerned that by using only numerical values, we can be missing the taxa that really deserve special attention. The numerical values are misleading and, as far as we know, this is the only criterion that is being used. Some remarks regarding this issues might include selecting appropriate criteria. For example, it is necessary to consider the origin of the specimens (e.g. wild vs. artificially propagated) and the type of taxon (e.g. columnar cacti vs. insects). The criteria should then be taxon based and really try to reflect the possible negative impact of a "high" level of extraction for exportation.

Annex II

Comments by the Plants Committee's Regional Representative for Oceania

I made an intervention at Geneva relating to 1 b) and 7 a) v) and 7 b) vii). If an action has pushed trade onto other species - then the review should consider that impact regardless of whether the new trade is in CITES or non-CITES listed species. I still believe that this should be considered in the review.

7 b) How will the species and countries be selected for the case studies? I think there should be some explicit criteria so the consultant just doesn't pick the easy ones.

7 b) iv) A bit of confusion here. Does it mean to look at shifts in marketing and policy development OR does it mean shifts in actual markets. There are 2 different aspects here and perhaps they should both be covered under separate dot points.

Annex III

Comments from the participants at AC 19 on behalf of the Russian Federation

The draft of ToR for evaluation of the Review of Significant Trade (AC 19 Doc.8.5. Annex) is acceptable to us. We trust your new draft will be based on this one and those suggestions of the other parties which will not contradict its basic provisions.

Annex IV

Comments from the participants at PC 13 and AC 19 on behalf of the United States of America

We already submitted some comments at PC13 and AC19, which are contained in the working group reports.

Below are some specific comments on the draft ToR prepared by the Secretariat.

Objectives

- Paragraph 1 a)

What do the terms "*effectiveness*" and "*efficiency*" mean?

At PC13 and AC19, Colman suggested rephrasing this objective. We support that.

Building on Colman's proposed text from PC13 and AC19, we would suggest "*Evaluate the contribution of the Review of Significant Trade to the implementation of Article IV, paragraphs 2 (a), 3 and 6 (a)*"

- Paragraph 1 d)

We are still concerned about the idea of doing the evaluation on phases, starting with the AC and then the PC, as suggested by the working group at AC19. We may run out of money while conducting the evaluation in the AC, and then never carry out the evaluation for the PC. We would prefer the approach adopted by the working group at PC13 of postponing the evaluation until after COP14 to include Phase I of Sig Trade in the PC and the first country-wide review (Madagascar).

Process

- Paragraph 2

It reiterates the statement made in paragraph 7 of the background document that the evaluation of the significant trade process will be conducted "*contingent on the availability of funds.*" Doesn't the annual CITES budget include funds specifically allocated to the Animals and Plants Committees for the Significant Trade Review process? If so, why can't some of those funds be used for the evaluation of the Significant Trade Review process? If no, then we need to develop some mechanism for raising the necessary funds. Since the NGOs at AC19 were the ones pushing for the evaluation to begin after COP13, perhaps they should provide funds for the evaluation.

- Paragraph 3

We believe that the Animals and Plants Committees are responsible for the Significant Trade Review process, and the two technical committees should be responsible for coordinating and overseeing the evaluation. Moreover, since the Secretariat is always reminding Parties that it has limited resources and time for carrying out all its activities, and given that this will be a very time-consuming exercise, it would be more appropriate for the Animals and Plants Committees to coordinate the evaluation so that the Secretariat can focus on completing the many other tasks directly assigned to it by the Parties. Therefore, we propose that paragraph 3 be amended to read as follows:

*"The ~~Secretariat~~ **Chairs of the Animals and Plants Committees** will be responsible for coordinating the evaluation and may engage consultants to assist it in this regard."*

- Paragraph 4

Following along the lines of the statement made above, we propose that paragraph 4 be amended to read as follows:

~~"The Secretariat will work in close cooperation with the Animals and the Plants Committees, which may decide to set up a A working group, composed of representatives of the Animals and the Plants Committees, Parties, and invited experts-, The working group could will be responsible for advising on the evaluation process, reviewing the findings of associated research, and developing recommendations for wider consideration by the Parties."~~

- Perhaps a new paragraph should be added asking the working group above to seek comments from range countries referenced in the report (particularly those mentioned in the case studies).

- Paragraph 5

Once the issue of the timing of the evaluation is settled, this paragraph should be consistent with the wording of paragraph 2.

- Paragraph 6

Once the issue of the timing of the evaluation is settled, this paragraph should be consistent with the wording of paragraph 2.

We also propose that it be amended to read as follows:

*"A final report, which may include proposed amendments to existing Resolutions or Decisions, or other recommendations, and that will incorporate the comments of the Animals and Plants Committees, will be submitted by the ~~Secretariat~~ **Chairs of the Animals and Plants Committees** for consideration at the ~~14th~~ __ meeting of the Conference of the Parties."*

Content of the evaluation

- Paragraph 7 a) i)

What does "types of species" mean?

- Paragraph 7 a) ii)

We propose that it be amended to read as follows:

"... the process used to compile and review information concerning the implementation of Article IV, paragraphs 2 (a), 3 and 6 (a) for the selected species (including communications with the range countries), and the subsequent use of this information by the Animals and Plants Committees for the categorization of species and range countries (according to paragraph i of Resolution Conf. 12.8, or previous categories [i.e., as paragraph g of Decision 11.106, and Decision 10.79] and issuance of recommendations";

- Paragraph 7 a) iv)

Replace "constraints" by "**problems**".

- Paragraph 7 b)

How will the "selected taxonomic groups" be chosen?

With regards to the countries used as case studies, perhaps the study should focus on the main exporting countries that participated in the CITES workshop a few years ago. However, some of these countries may object.

What about evaluating species categorized as "not threatened by trade because Party is properly implementing Article IV"? The assumption is being made that these species were properly categorized. It will be useful to learn what happened to these species to evaluate if they were incorrectly removed from the Significant Trade Review process. Thus, we suggest that this paragraph be edited to read as follows:

"Conduct case studies of selected taxonomic groups and countries ~~subject to recommendations~~ subject to the review of significant trade to assess subsequent short- and longer-term changes in:"

- Paragraph 7 b) i)

We propose that it be amended to read as follows:

"conservation status of the target taxa in the range States ~~subject to recommendations~~;"

- Paragraph 7 b) iv)

It is not clear what the term "*markets*" means. It suggests an economical analysis, which we feel is outside the scope of this evaluation. If it means "*trends in wildlife trade*", then that is already covered in paragraph 7) b) ii).

We propose that it be amended to read as follows:

"~~markets and policies~~ developments"

- Paragraph 7 b) v)

What does "*costs and benefits*" mean?

As noted above, if the intent is to carry out an economical analysis, then this paragraph should be deleted as we feel that is outside the scope of this evaluation and is not relevant to the implementation of Article IV or the review of significant trade.

If it means "negative and positive effects on management of and trade in the target taxa", then these would be addressed by the previous paragraphs.

Regardless, we propose that paragraph 7 b) v) be deleted from the ToR.

- Paragraph 7 b) vi)

We propose that it be amended to read as follows:

"protection status of the target taxa within range States, ~~or~~ and regulatory measures outside range States; and"

- Paragraph 7 b) vii)

We propose that it be amended to read as follows:

"trade patterns, conservation status and management for other CITES-listed and ~~non-listed~~ species that might be suitable 'substitutes' for the target taxa"

- Paragraph 7 c)

We propose that it be amended to read as follows:

Analyze the information to assess the ~~effectiveness, costs and benefits~~ importance [or whatever wording is used in the Objectives section], as well as the negative and positive effects of the Review of Significant Trade as implemented thus far, and identify means to improve the impacts, ~~effectiveness and efficiency~~ of the Review of Significant Trade in reducing the threats to wild species, and particularly to Appendix-II species, in international trade.

Annex V

Comments from the participant at AC 19 on behalf of TRAFFIC

We were generally satisfied with the draft Terms of Reference as presented by the Secretariat, so will therefore restrict our comments to issues raised during the AC19 Working Group that discussed this issue.

Objectives of the evaluation

Objective 1a

Working Group members discussed the wording of Objective 1a, and in line with a recommendation resulting from the 13th meeting of the Plants Committee (PC13), the Group considered changing this from “Evaluate the effectiveness and efficiency of the Review of Significant Trade...”, to “Evaluate the importance of the review of Significant Trade and its contribution to implementation of Article IV paragraphs 2(a), 3, and 6(a).” Given the different approach so far adopted by the PC to the process generally, it is clear that a review of the importance of the review for animals might help the PC to determine the extent to which they should implement such reviews in future. However, in the context of the review for animals at least, it is extremely important that the review evaluates the effectiveness and efficiency of the process, so as to ensure a cost-effective outcome from the process. Indeed it may be difficult to formulate recommendations, as appropriate, for further changes to the process if the effectiveness and efficiency of the process is not a specific objective of the review. Therefore, we would support retention of [evaluate the] “effectiveness” and “efficiency” in Objective 1a.

High-level scope of the review

The proposed general scope of the review is to look at it in relation to Articles 2a, 3 and 6a. The rationale for this is understandable, given the text of Resolution Conf. 12.8. However, this scope will fail to identify many of the important impacts of the process, for example, the usefulness of the process in illuminating problems under Article 2b, i.e. the legality of specimens in trade. The TOR for consultants undertaking the reviews specifically tasks them to provide available information on illegal trade. Although any remedial actions taken to address such problems identified in the review strictly fall outside the remit of the process (and hence are usually referred to the Standing Committee or addressed by the Secretariat through other mechanisms), it is nevertheless important to assess the affect of the significant trade process in this respect. Widening the scope of the review to include Article 2b, would be in support of the recommendation made by China and others (as noted in the Working Group report) to also look at the wider impact of the review on legislation, regulations and enforcement.

Inclusion of non-CITES listed species

As endorsed by the Plants Committee, TRAFFIC fully supports the inclusion of an element in the TOR to review the impacts of the process on non-listed species. Indeed we believe strongly that this review presents an important opportunity to understand in a scientific and unbiased manner how trade may shift from one species to another. We appreciate the concerns of some Parties that this would widen the scope of the review and may have cost implications. However, we believe it is essential to include at least a limited number of case studies to look at the potential impacts of the process on unlisted species, which should not have significant budget implications. This is one of the issues where for many years there have been assumptions or questions raised that once a species has been selected for review, or once (particular types of) recommendations have been made, that this has a ‘knock on effect’, positive or negative, on other CITES-listed species as well as non-listed species. Notably, concerns have been raised that the process may result in the shifting of unsustainable international trade from species listed in Appendix II to species not regulated by the Convention. Understanding this issue will put the committees in a better position to assess the likelihood of such potential impacts and to take these into consideration when making recommendations. The Working Group members voiced opinions both for and against inclusion of non-listed species in the TOR and we therefore recommend that this issue be revisited at AC20.

Content of the evaluation

The USA raised concerns that various terms (e.g. types of species, constraints, markets, etc.) lacked clarity. We are unaware of whether the USA has proposed definitions for such terms in their comments, but we will be prepared to provide input regarding the definitions of these terms at AC20 as necessary. Indeed, since it is unlikely to be appropriate to include such definitions in the actual TOR, Parties at CoP 13 may benefit from text explaining the basic elements of the TOR to prevent any misunderstandings regarding the content of the evaluation. We disagree with the comment made by the USA that assessing the costs and benefits associated with the management of and trade in the target taxa, may not be within the remit of the AC nor relevant to the evaluation. Rather it would seem critical to gain a greater understanding of when and why the process has benefited the management of the species (e.g. Caspian sturgeon species), or may even have had a negative impact (e.g. long standing recommendations from the Standing Committee to suspend imports may conversely result in a lack of incentive to sustainably manage populations or cause a switch, at least in part, from legal trade to illegal trade).

Budget for the evaluation

It was reiterated at AC19 that the evaluation will be dependent on funds being made available. Adequate and timely funding is of course critical to the 'success' and timeliness of the review. One of the Working Group recommendations was that "Parties and the Budget Committee at CoP13 are encouraged to ensure that funds are available". To ensure this is not overlooked, it may be appropriate to include a draft recommendation in the AC20 discussion document that clearly states this.

Timing of the evaluation

We support the recommendation that the review for animals should not be delayed until sufficient information is available to assess the process for plants. This, in addition to budget availability, led to the recommendation that the process should be conducted in 'phases'. Naturally, further discussion on the timing of the review will take place at the next meeting. We believe that the entire evaluation for animals should take place in a single 'phase' (i.e. at one time) to increase efficiency, to decrease the cost of conducting the review as a whole, and to allow cross comparison of case studies.