This document has been submitted by the United Kingdom of Great Britain and Northern Ireland on behalf of The Precautionary Principle Project – a partnership of Fauna and Flora International, IUCN, Resource Africa and TRAFFIC International.

CITES and the Precautionary Principle

1. The opening paragraph of the CITES Strategic Vision through 2005 (Doc 11.1 Annex 1) calls attention to the importance of the precautionary principle as the ultimate safeguard where there is scientific uncertainty about whether trade is sustainable. Furthermore, it indicates that one impact of successful implementation of the Strategic Plan will be a reduced need for recourse to the principle. As CITES formulates a renewed Strategic Vision and Plan over coming years, it will be useful to consider and discuss a number of issues relating to the meaning and implementation of the precautionary principle in more detail.

Science and uncertainty

2. As highlighted in Goal 2 of the Strategic Plan, strengthening the scientific basis for CITES COP and Committee decisions and for national implementation is a key priority. However, in practice, decisions will always need to be made where scientific knowledge is inadequate, incomplete, out of date or unreliable. Uncertainty frequently surrounds species' range, numbers and status, population dynamics, the impact of harvest on populations, what constitutes a sustainable level of harvesting, the role of species in their ecosystems, and the impact of policy and management decisions.

3. Moreover, for several reasons, even with sound scientific information, uncertainty is likely to always present a challenge for CITES decision-making. First, due to inherent complexity and stochasticity, biological systems may frequently be intrinsically unpredictable. Second, the impacts of a CITES decision (at COP, Committee or national authority level) depend not only on species or ecological characteristics, but on the social, economic and political matrix of management and trade. Better science can not resolve the uncertainties involved in predicting these impacts of a management decision.

The precautionary principle

4. In general, the precautionary principle, or precautionary approach, argues in favour of anticipating and taking action to avert potential harm, even where there is scientific certainty surrounding that harm.

5. Principle 15 of the 1992 Rio Declaration states:

> "In order to protect the environment the Precautionary Approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation".

The 1992 Convention on Biological Diversity provides some more guidance in the biodiversity context:

> "where there is a threat of significant reduction or loss of biological diversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize such a threat."

6. As it is usually understood in environmental policy, the principle does not mandate any particular outcome, but provides an argument in a particular direction.

The precautionary principle in CITES

7. The precautionary principle has been explicitly incorporated into the criteria for listing species in the CITES Appendices Res. Conf. 9.24 (Rev.) in several places. In the case of decisions on amendment of the Appendices under uncertainty, Res. Conf. 9.24 (Rev) requires Parties, by virtue of the precautionary principle, to act in the best interest of the conservation of the species.

8. More generally, the precautionary principle is potentially relevant as guidance for decision-making wherever decision-makers are confronted with scientific uncertainty. This includes, for instance, listing decisions, significant trade reviews, and setting of quotas and making of non-detriment findings by national authorities.

9. Precaution may also be a guiding principle for management approaches to harvest and trade of wild species, influencing selection of management strategy (e.g. ranching, captive breeding and artificial propagation), monitoring requirements, enforcement, etc.

10. Finally, the precautionary principle is frequently used in advocacy within the CITES forum.

Some questions for CITES concerning the precautionary principle

What is "the best interest" of the species?

11. For listing decisions, CITES Parties are instructed by Res. Conf. 9.24 (Rev) to act in the best interests of the species. This understanding or definition of the precautionary principle may be applied more broadly to guide Parties' application of precaution in other decision-making contexts.This raises the question of what is the best interests of the species?

12. Within CITES the precautionary principle is used almost invariably as an argument against trade. For instance, precaution is typically employed as an argument in favour of listing species or transfer to a higher Appendix, for lower quotas, or against the issue of export or import permits.

13. As recognised in Res. Conf. 8.3, however, under certain circumstances trade can be beneficial to wildlife populations through providing incentives for the conservation of wild species and wild lands.

14. Trade restrictions can remove these benefits through undermining conservation incentives. Moreover, trade restrictions, if inappropriately applied, may have other negative conservation impacts such as causing resentment of local people or weakening societal support for conservation.

15. The conservation threats and benefits of management strategies based on trade vs those restricting trade are complex, and may be of different types and over different time scales. How should the precautionary principle be understood and applied in these circumstances? Is the precautionary decision always the most trade-restrictive? Does precaution require some assessment and balancing of the various different risks raised by different decisions?

How absolute should application of the precautionary principle be?

16. Some groups employ the precautionary principle as an argument that particular activities, such as trade in wild species, should not be permitted to proceed unless it is clear that no harm will be caused. In other words, any uncertainty about potential impacts should mean that trade is prohibited. There are certain problems with this "absolute" version of the precautionary principle.

17. Taking this approach would require very large investments in research and science before trade was possible. This raises equity issues, as this is unlikely to be feasible in developing countries with limited scientific and technical resources.

18. Given the uncertainties set out above surrounding management and trade of wildlife, if consistently applied this version of the precautionary principle would be likely to lead to the prohibition of a great deal of wildlife trade, with consequent conservation and socio-economic consequences. This also raises equity issues, as it is in general developing countries for whom export of wild species is the most economically important.

19. In practice, this absolute version of the precautionary principle is usually only employed in relation to high-profile and charismatic species such as elephants and marine turtles. This has raised the suspicion that the precautionary principle can be misused to indefinitely block trade by groups opposed to sustainable use for ethical or ideological, rather than conservation, reasons.

20. The precautionary principle is a broad and flexible principle which can be used in a very strong, absolute sense, or in a more flexible manner. Should the precautionary principle be used to mean that trade should only proceed where risks can be shown to be negligible? How much risk is acceptable? Does this depend on other costs and benefits of the trade?

Should socio-economic considerations and livelihoods be taken into consideration?

21. Application of the precautionary principle involves action to avert potential conservation threats. However, action against such threats, particularly when involving strict trade restrictions, may have negative impacts on the livelihoods and incomes of those reliant on use and trade of wild species. These groups include some of the poorest and most politically marginal, including many rural poor people.

22. In the Strategic Plan the CITES Parties have recognised the major contribution that sustainable trade in wild species can make to sustainable development, while securing biodiversity conservation. There is an argument that CITES Parties should interpret and apply the Convention in the light of the many international agreements and policy statements concerning sustainable development and poverty alleviation goals, including the Millennium Development Goals.

23. Given the global priorities of poverty alleviation and sustainable development, does application of the precautionary principle need to consider the impacts on livelihoods, particularly of the rural poor?

The Precautionary Principle Project: a collaborative initiative for best-practice guidance on implementing the precautionary principle in biodiversity conservation and natural resource management

24. IUCN, Fauna & Flora International, TRAFFIC and ResourceAfrica are engaged in an initiative of research, workshops and dialogue examining the meaning and implementation of the precautionary principle in various different biodiversity and natural resource management contexts.

25. The major aim of this initiative is to collaboratively develop best-practice guidance for the implementation of the precautionary principle in biodiversity conservation and natural resource management, including within the CITES context. This initiative has been running for almost two years, and building on this process will be developing best-practice guidance through an open consultative process in the first half of 2005.