

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

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Twelfth meeting of the Conference of the Parties  
Santiago (Chile), 3-15 November 2002

Consideration of proposals for amendment of Appendices I and II

PROPOSALS TO AMEND APPENDICES I AND II

1. In accordance with the provisions of subparagraph a) of paragraph 1 of Article XV of the Convention, any Party may propose an amendment to Appendix I or II for consideration at the next meeting of the Conference of the Parties. Any proposal for amendment shall be communicated to the Secretariat at least 150 days before the meeting of the Conference.
2. By 6 June 2002, i.e. 150 days before the opening date of the 12th meeting of the Conference of the Parties, 24 Parties had communicated to the Secretariat their proposals for amendment of Appendices I and II, for consideration at that meeting. These were Argentina, Australia, Bolivia, Botswana, Chile, China, Costa Rica, Cuba, Georgia, Germany, India, Japan, Kenya, Mexico, Namibia, New Zealand, Nicaragua, the Philippines, South Africa, Switzerland, the United Kingdom, the United States of America, Zambia and Zimbabwe. Most of the proposals were accompanied by supporting statements presented in accordance with provisions of Decision 11.11 and in the format recommended by the Conference of the Parties (Annex 6 of Resolution Conf. 9.24, adopted at the ninth meeting, Fort Lauderdale, 1994). The proposal submitted by Cuba was subsequently withdrawn.
3. A further seven proposals were received before the deadline from Madagascar. These proposals were not submitted by the officially designated Management Authority. There were, at that time, two administrations purporting to represent the Government of Madagascar. The proposals in question were submitted by an agency belonging to an administration that was not, at that time, recognized by the international community as representing the Government of Madagascar. Moreover, the Permanent Mission of Madagascar to the United Nations Office at Geneva was unable to confirm that the proposals had been submitted on behalf of Madagascar. Consequently, the Secretariat could not accept and distribute the proposals. Since then, the new administration has gained international recognition, although the Secretariat has not at the time of writing (24 September 2002) received formal confirmation of the details of the new Management Authority of Madagascar. In view of these unusual circumstances, the Secretariat is prepared to consider the proposals in question to have been submitted in accordance with Article XV of the Convention if it receives confirmation before the 12th meeting of the Conference of the Parties, through the diplomatic channel, that the agency that submitted the proposals is the officially designated Management Authority of Madagascar. The Secretariat consulted the Standing Committee on this issue. The Committee advised the Secretariat to distribute the proposals to the Parties, so that the Conference of the Parties could decide on whether they should be considered. The Secretariat has therefore made the proposals in question available on its website and will communicate them to the Parties in the working languages of the Convention. However, the Secretariat has not included these proposals in the list of proposals in Annex 1 (with the exception of a proposal regarding *Rhincodon typus*, which had already been submitted by India and the Philippines) and has not provided comments on the proposals elsewhere in this document.
4. No proposals were received pursuant to the Resolution on Ranching (Resolution Conf. 11.16) and no proposals resulted from the periodic review of the Appendices by the Animals and Plants Committees.

5. The list of the proposals for amendments of Appendix I and II is provided in Annex 1.
6. The Secretariat consulted the Parties on the proposed amendments in accordance with the provisions of Article XV, paragraphs 1 (a), 2 (b) and (c), through Notification to the Parties No. 2002/037 of 24 June 2002. The proposals were also made available on the Secretariat's website. Provisional assessments of the proposals were provided to the Parties through Notification to the Parties No. 2002/043 of 9 August 2002, and are also included in Annex 2.
7. The responses from the Parties that are relevant to the amendment proposals are presented in Annex 2 to this document.
8. In accordance with the provisions of Article XV, paragraphs 1 (a) and 2 (b), of the Convention, the Secretariat has consulted intergovernmental bodies having a function in relation to marine species. The United Nations Food and Agriculture Organization (FAO) provided considerable assistance with this task, and communicated with a large number of regional fisheries management organizations. The list of intergovernmental bodies consulted and comments received are included in Annex 3 to this document.
9. In accordance with the provisions of Resolution Conf. 10.13, paragraph b), regarding international organizations, the Secretariat has further sought the views of ITTO, FAO and IUCN regarding the amendment proposal for a timber species. No comments had been received at the time that this document was prepared.
10. The report of the Panel of Experts on the African Elephant is presented in Annex 4 of this document.
11. On the basis of the above consultation procedures and comments received, as well as the information contained in the assessment of the amendment proposals prepared by IUCN and TRAFFIC (The IUCN/TRAFFIC Analyses of Proposals to Amend the CITES Appendices, available on [www.iucn.org](http://www.iucn.org)), the Secretariat has, where appropriate, revised its provisional assessment of the amendment proposals. Its resulting comments and recommendations are provided in Annex 2.

List of proposals

	Proposal number and proponent	Species covered by the proposal	Proposal
	1 Switzerland, as Depositary Government, at the request of the Standing Committee		Amendment of annotation °607 to read: The following are not subject to the provisions of the Convention: a) synthetically derived DNA that does not contain any part of the original; b) urine and faeces; c) synthetically produced medicines and other pharmaceutical products such as vaccines that do not contain any part of the original genetic material from which they are derived; and d) fossils.
<b>F A U N A</b>			
	2 Switzerland	<i>Agapornis</i> spp., <i>Platycercus</i> spp., <i>Barnardius</i> spp., <i>Cyanoramphus auriceps</i> , <i>C. novaezelandiae</i> , <i>Psittacula eupatria</i> , <i>P. krameri</i> and <i>Padda oryzivora</i>	Annotation with the following text: Colour morphs produced by captive breeding are considered as being of a domesticated form and are therefore not subject to the provisions of the Convention.
<b>CHORDATA</b>			
<u>MAMMALIA</u>			
CETACEA			
Delphinidae	3 Georgia	<i>Tursiops truncatus ponticus</i>	Transfer from Appendix II to Appendix I
Balaenopteridae	4 Japan	<i>Balaenoptera acutorostrata</i>	Transfer from Appendix I to Appendix II of the northern hemisphere populations (except the Yellow Sea, East China Sea and Sea of Japan populations) in accordance with Resolution Conf. 9.24, Annex 4 with the following annotation: For the exclusive purpose of allowing trade between Parties that are also signatories to the International Convention for the Regulation of Whaling and which have an effective DNA register system to monitor catches, introductions from the sea and imports from other States. To ensure that

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			<p>trade does not result in removals in excess of catch limits, the following additional measures shall be implemented:</p> <p>a) notwithstanding the provisions of CITES Article XIV, paragraphs 4 and 5, any trade shall be subject to the provisions of Article IV;</p> <p>b) calculation of a safe catch level using the IWC's Revised Management Procedure (RMP);</p> <p>c) establishment of export quotas that shall ensure that trade does not result in removals in excess of catch limits;</p> <p>d) indication on the trade documents of the number of animals involved when shipment of products are only parts of animals, and tracking of this number through DNA monitoring of imports;</p> <p>e) implementation of domestic legislation to ensure imports are from animals taken legally; and</p> <p>f) DNA registers to monitor catches, introductions from the sea and imports and a requirement that all imports be accompanied by certified DNA profiles.</p>
	5 Japan	<i>Balaenoptera edeni</i>	<p>Transfer from Appendix I to Appendix II of the western North Pacific population in accordance with Resolution Conf. 9.24, Annex 4 with the following annotation:</p> <p>For the exclusive purpose of allowing trade between Parties that are also signatories to the International Convention for the Regulation of Whaling and which have an effective DNA register system to monitor catches, introductions from the sea and imports from other States. To ensure that trade does not result in removals in excess of catch limits, the following additional measures shall be implemented:</p> <p>a) notwithstanding the provisions of CITES Article XIV, paragraphs 4 and 5, any trade shall be subject to the provisions of Article IV; and</p> <p>b) calculation of a safe catch level using the IWC's Revised Management Procedure (RMP);</p> <p>c) establishment of an export quota that shall ensure that trade does not result in removals in excess of catch limits;</p> <p>d) indication on the trade documents of the</p>

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			<p>number of animals involved when shipment of products are only parts of animals, and tracking of this number through DNA monitoring of imports;</p> <p>e) implementation of domestic legislation to ensure imports are from animals taken legally; and</p> <p>f) DNA registers to monitor catches, introductions from the sea and imports and a requirement that all imports be accompanied by certified DNA profiles.</p>
PROBOSCIDEA			
Elephantidae	6 Botswana	<i>Loxodonta africana</i>	<p>Amendment of annotation 604 regarding the population of Botswana to read: For the exclusive purpose of allowing in the case of the population of Botswana:</p> <p>a) trade in hunting trophies for non-commercial purposes;</p> <p>b) trade in live animals for commercial purposes to appropriate and acceptable destinations (and as determined by the national legislation of the country of import);</p> <p>c) trade in registered stocks of raw ivory (whole tusks and pieces) of Botswana origin owned by the Government of Botswana for commercial purposes only to CITES-approved trading partners who will not re-export ivory. No international trade in ivory to be permitted until 18 months after the adoption of the proposal (May 2004). Thereafter an initial amount of not more than 20,000 kg of ivory may be traded, followed by annual export quotas of not more than 4,000 kg from the year 2005 onward;</p> <p>d) trade in hides;</p> <p>e) trade in leather goods for non-commercial purposes; and</p> <p>f) trade in ivory carvings for non-commercial purposes.</p>
	7 Namibia	<i>Loxodonta africana</i>	<p>Amendment of annotation 604 regarding the Namibian population to read: For the exclusive purpose of allowing in the case of the population of Namibia:</p> <p>a) trade in hunting trophies for non-commercial purposes;</p> <p>b) trade in live animals for non-commercial purposes to appropriate and acceptable</p>

	Proposal number and proponent	Species covered by the proposal	Proposal
			<p>destinations (as determined by the national legislation of the country of import);</p> <p>c) trade in hides;</p> <p>d) trade in leather goods and ivory carvings for non-commercial purposes; and</p> <p>e) trade in registered stocks of raw ivory (whole tusks and pieces) of Namibian origin owned by the Government of the Republic of Namibia to trading partners that have been verified by the CITES Secretariat to have sufficient national legislation and domestic trade controls to ensure that ivory imported from Namibia will not be re-exported and will be managed according to all requirements of Resolution Conf. 10.10 (Rev.) concerning domestic manufacturing and trade. No international trade in ivory to be permitted until 18 months after the adoption of the proposal (May 2004). Thereafter, an initial amount of not more than 10,000 kg of ivory may be traded, followed by annual export quotas of not more than 2,000 kg of ivory, from the year 2005 onwards.</p>
	8 South Africa	<i>Loxodonta africana</i>	<p>Amendment of annotation ° 604 regarding the South African population to allow the initial sale of the Kruger National Park stockpile of ivory, 18 months after the adoption of the proposal and a subsequent annual quota of two tonnes.</p> <p>This proposal is for the exclusive purpose of allowing in the case of the population of South Africa:</p> <p>a) trade in hunting trophies for non-commercial purposes;</p> <p>b) trade in live animals for re-introduction purposes into protected areas formally proclaimed in terms of the legislation of the importing country;</p> <p>c) trade in hides and leather goods;</p> <p>d) trade in raw ivory of whole tusks of any size, and cut pieces of ivory that are both 20 cm or more in length and one kilogram or more in weight of Government-owned stocks originating from the Kruger National Park. An initial stockpile of 30,000 kg is proposed and a subsequent annual quota of 2,000 kg accumulated each year through annual mortalities and management practices.</p>

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			All other specimens shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly.
	9 Zambia	<i>Loxodonta africana</i>	Transfer of the Zambian population from Appendix I to Appendix II for the purpose of allowing: a) trade in raw ivory under a quota of 17,000 kg of whole tusks owned by Zambia Wildlife Authority (ZAWA) obtained from management operations; and b) live sales under special circumstances.
	10 Zimbabwe	<i>Loxodonta africana</i>	Amendment of annotation ° 604 regarding the population of Zimbabwe to read: For the exclusive purpose of allowing in the case of the population of Zimbabwe: a) trade for commercial purposes in registered stocks of raw ivory (whole tusks and pieces) of Zimbabwean origin owned by the Government of the Republic of Zimbabwe, to trading partners that have been verified by the CITES Secretariat to have sufficient national legislation and domestic trade controls to ensure that ivory imported from Zimbabwe will not be re-exported and will be managed according to all requirements of Resolution Conf. 10.10 (Rev.) concerning domestic manufacturing and trade. No international trade in ivory to be permitted until 18 months after the adoption of the proposal (May 2004). Thereafter, an initial one-off quota of not more than 10,000 kg of ivory may be traded, and a subsequent annual quota of not more than 5,000 kg of ivory; b) trade in hunting trophies for non-commercial purposes; c) trade in live animals for non-commercial purposes to appropriate and acceptable destinations; d) trade in hides and leather goods; and e) trade in ivory carvings for non-commercial purposes.
	11 India, Kenya	<i>Loxodonta africana</i>	Transfer to Appendix I of populations currently included in Appendix II, in accordance with Resolution Conf. 9.24, Annex 1, sections C i) and ii) and D, and in light of Annex 3 on 'Split-listing' and Annex 4 on 'Precautionary measures'.

	Proposal number and proponent	Species covered by the proposal	Proposal
<b>ARTIODACTYLA</b>			
Camelidae	12 Argentina	<i>Vicugna vicugna</i>	Transfer from Appendix I to Appendix II of the population of the province of Catamarca, for the exclusive purpose of allowing international trade in wool sheared from live animals, in cloth, derived manufactured products and other handicraft artefacts bearing the label 'VICUÑA – ARGENTINA'.
	13 Bolivia	<i>Vicugna vicugna</i>	Transfer to Appendix II of the populations of Bolivia that are in Appendix I, in accordance with Article II, paragraph 2 (a), of the Convention, with the exclusive purpose of allowing international trade in products made from wool sheared from live animals and bearing the label 'VICUÑA – BOLIVIA'
	14 Chile	<i>Vicugna vicugna</i>	Transfer from Appendix I to Appendix II of the population of the Primera Región of Chile through a modification of annotations -106 and + 211.
<b><u>AVES</u></b>			
<b>RHEIFORMES</b>			
Rheidae	15 Chile	<i>Rhea pennata pennata</i>	Transfer from Appendix I to Appendix II of the Chilean population, in accordance with Resolution Conf. 9.24, Annex 4, section B, paragraph 2. b).
<b>PSITTACIFORMES</b>			
Psittacidae	16 Costa Rica	<i>Amazona auropalliata</i>	Transfer from Appendix II to Appendix I
	17 Mexico	<i>Amazona oratrix</i>	Transfer from Appendix II to Appendix I
	18 Germany on behalf of the Member States of the European Community	<i>Ara couloni</i>	Transfer from Appendix II to Appendix I in accordance with Resolution Conf. 9.24, Annex 1, section D.
	19 South Africa	<i>Poicephalus robustus</i>	Transfer of the South African population from Appendix II to Appendix I in accordance with Resolution Conf. 9.24, Annex 1, sections A.ii), B.i) and C.ii)



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<u>REPTILIA</u> TESTUDINATA			
Platysternidae	20 China, United States of America	<i>Platysternon megacephalum</i>	Inclusion in Appendix II in accordance with Article II, paragraph 2 (a), of the Convention and Resolution Conf. 9.24, Annex 2 a, sections A and B.i).
Emydidae	21 China, Germany on behalf of the Member States of the European Community	<i>Annamemys annamensis</i>	Inclusion in Appendix II in accordance with Article II, paragraph 2(a), of the Convention and Resolution Conf. 9.24, Annex 2 a, sections A, and B.i) and ii)
	22 China, Germany on behalf of the Member States of the European Community	<i>Heosemys</i> spp.	Inclusion in Appendix II in accordance with Article II, paragraph 2(a), of the Convention and Resolution Conf. 9.24, Annex 2 a: a) sections A and B.i) for <i>H. depressa</i> ; b) section B.i) for <i>H. grandis</i> and <i>H. spinosa</i> ; and c) section A for <i>H. leytenensis</i> .
	23 China, United States of America	<i>Hieremys annandalii</i>	Inclusion in Appendix II in accordance with Article II, paragraph 2(a), of the Convention and Resolution Conf. 9.24, Annex 2 a, sections A and B.i).
	24 India, United States of America	<i>Kachuga</i> spp. (except <i>K. tecta</i> )	Inclusion in Appendix II with the exception of <i>K. tecta</i> in accordance with Article II, paragraph 2(a), of the Convention and: a) Resolution Conf. 9.24, Annex 2 a, sections A and B for <i>K. dhongoka</i> , <i>K. kachuga</i> , <i>K. sylhetensis</i> and <i>K. trivittata</i> ; and b) Resolution Conf. 9.24, Annex 2 b, section A for <i>K. smithii</i> and <i>K. tentoria</i> .
	25 China, Germany on behalf of the Member States of the European Community	<i>Leucocephalon yuwonoi</i>	Inclusion in Appendix II in accordance with Article II, paragraph 2(a), of the Convention and Resolution Conf. 9.24, Annex 2 a, sections A and B.i)

	Proposal number and proponent	Species covered by the proposal	Proposal
	26 China, United States of America	<i>Mauremys mutica</i>	Inclusion in Appendix II in accordance with Article II, paragraph 2(a), of the Convention and Resolution Conf. 9.24, Annex 2 a, sections A and B.i).
	27 China, Germany on behalf of the Member States of the European Community	<i>Orlitia borneensis</i>	Inclusion in Appendix II in accordance with Article II, paragraph 2(a), of the Convention and Resolution Conf. 9.24, Annex 2 a, section B.i)
	28 China, United States of America	<i>Pyxidea mouhotii</i>	Inclusion in Appendix II in accordance with Article II, paragraph 2(a), of the Convention and Resolution Conf. 9.24, Annex 2 a, sections A and B.i).
	29 China, United States of America	<i>Siebenrockiella crassicollis</i>	Inclusion in Appendix II in accordance with Article II, paragraph 2(a), of the Convention and Resolution Conf. 9.24, Annex 2 a, sections A and B.i).
Cheloniidae	30 Cuba <b>WITHDRAWN</b>	<i>Eretmochelys imbricata</i>	<p>Transfer of the population in Cuban waters* from Appendix I to Appendix II, pursuant to Resolution Conf. 9.24, for the exclusive purpose of allowing the Government of Cuba to export its stockpile of shell plates (7,800 kg), accumulated legally from its national conservation and management programme between 1993 and 2002, annotated as follows:</p> <p>a) the export will not take place until the CITES Secretariat has verified, within 12 months of the decision, that the importing country has adequate internal trade controls and will not re-export and the CITES Standing Committee accepts this verification; and</p> <p>b) the wild population in Cuban waters will continue to be managed as an Appendix-I species.</p> <p>* In accordance with Article I(a) of the Convention, the population for which a transfer is requested is defined as that segment of the regional Caribbean population bounded by the geographic limits of Cuban waters, which is under the jurisdiction of the Republic of Cuba, and is</p>

	Proposal number and proponent	Species covered by the proposal	Proposal
			the exclusive area from which the shell was derived.
Trionychidae	31 China, United States of America	<i>Chitra</i> spp.	Inclusion in Appendix II in accordance with Article II, paragraph 2(a), of the Convention and Resolution Conf. 9.24, Annex 2 a, sections A and B.i).
	32 China, United States of America	<i>Pelochelys</i> spp.	Inclusion in Appendix II a) <i>P. cantorii</i> : in accordance with Article II, paragraph 2(a), of the Convention, and Resolution Conf. 9.24, Annex 2 a, sections A and B.i); and b) <i>P. bibroni</i> : in accordance with Article II, paragraph 2(b), of the Convention, and Resolution Conf. 9.24, Annex 2b, section A.
<b>SAURIA</b>			
Gekkonidae	33 New Zealand	<i>Hoplodactylus</i> spp. and <i>Naultinus</i> spp.	Inclusion in Appendix II in accordance with Article II, paragraphs 2(a) and 2(b), of the Convention
Teiidae	34 United States of America	<i>Cnemidophorus hyperythrus</i>	Deletion from Appendix II
<b>ELASMOBRANCHII</b>			
<b>ORECTOLOBIFORMES</b>			
Rhincodontidae	35 India, the Philippines	<i>Rhincodon typus</i>	Inclusion in Appendix II
<b>LAMNIFORMES</b>			
Cetorhinidae	36 United Kingdom of Great Britain and Northern Ireland on behalf of the Member States of the European Community	<i>Cetorhinus maximus</i>	Inclusion in Appendix II
<b>ACTINOPTERYGII</b>			
<b>SYNGNATHIFORMES</b>			
Syngnathidae	37 United States of America	<i>Hippocampus</i> spp.	Inclusion in Appendix II a) <i>Hippocampus comes</i> , <i>H. spinosissimus</i> , <i>H. barbouri</i> , <i>H. reidi</i> , <i>H. erectus</i> , and <i>H. ingens</i> in accordance with Article II, paragraph 2(a), of the Convention and

	Proposal number and proponent	Species covered by the proposal	Proposal
			Resolution Conf. 9.24, Annex 2 a, section B.i); and  b) the other 26 described species in accordance with Article II, paragraph 2(b), of the Convention, and Resolution Conf. 9.24, Annex 2 b, section A.
PERCIFORMES			
Labridae	38 United States of America	<i>Cheilinus undulatus</i>	Inclusion in Appendix II in accordance with Resolution Conf. 9.24, Annex 2 a, section B.
Nototheniidae	39 Australia	<i>Dissostichus eleginoides</i> and <i>D. mawsonii</i>	Inclusion of <i>D. eleginoides</i> in Appendix II, in accordance with Article II, paragraph 2(a), of the Convention; and  inclusion of <i>D. mawsonii</i> in Appendix II, in accordance with Article II, paragraph 2(b), of the Convention;  with the following annotation:  The conservation, management or other relevant measures or resolutions adopted for <i>Dissostichus</i> spp. by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), relating to <i>Dissostichus</i> spp. harvested from within the CCAMLR Convention Area, shall apply for the purposes of regulating trade in <i>Dissostichus</i> spp. under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) including for the purposes of Article IV of CITES.  States party to CITES conducting trade in <i>Dissostichus</i> spp. harvested and traded in compliance with the conservation, management and other relevant measures or resolutions adopted by CCAMLR, including the Catch Documentation Scheme for <i>Dissostichus</i> spp., shall be regarded as having fulfilled their obligations under CITES as regards trade in <i>Dissostichus</i> spp.  Trade in <i>Dissostichus</i> spp. harvested outside the CCAMLR Convention Area shall be subject to the relevant provisions of CITES and shall be regulated accordingly.

	Proposal number and proponent	Species covered by the proposal	Proposal
<b>ARTHROPODA</b>			
<u>INSECTA</u>			
LEPIDOPTERA			
Papilionidae	40 Germany on behalf of the Member States of the European Community	<i>Atrophaneura jophon</i> and <i>A. pandiyana</i>	Inclusion of <i>Atrophaneura jophon</i> in Appendix II in accordance with Article II, paragraph 2(a), of the Convention and Resolution Conf. 9.24, Annex 2 a, section A; and  inclusion of <i>Atrophaneura pandiyana</i> in Appendix II in accordance with Article II, paragraph 2(b), of the Convention and Resolution Conf. 9.24, Annex 2 b, section A.
	41 Germany on behalf of the Member States of the European Community	<i>Papilio aristophontes</i> , <i>P. nireus</i> and <i>P. sosia</i>	Inclusion of <i>Papilio aristophontes</i> in Appendix II in accordance with Article II, paragraph 2(a), of the Convention and Resolution Conf. 9.24, Annex 2 a, section A; and  inclusion of <i>P. nireus</i> and <i>P. sosia</i> in Appendix II in accordance with Article II, paragraph 2(b), of the Convention and Resolution Conf. 9.24, Annex 2 b, section A.
<b>F L O R A</b>			
ARAUCARIACEAE	42 Argentina	<i>Araucaria araucana</i>	Inclusion of <i>Araucaria araucana</i> in Appendix I, replacing <i>Araucaria araucana</i> ** + 219 (populations of Argentina and Chile), and deletion of <i>Araucaria araucana</i> * -114 #1 in Appendix II
CACTACEAE	43 Switzerland	All taxa listed in Appendix II	Amendment of the text of the annotation ° 608 that refers to artificially propagated specimens of <i>Gymnocalycium mihanovichii</i> (cultivars) forms lacking chlorophyll, to read as follows:  Cactaceae spp. colour mutants lacking chlorophyll, grafted on the following grafting stocks: <i>Harrisia "Jusbertainii"</i> , <i>Hylocereus trigonus</i> or <i>Hylocereus undatus</i> .
	44 Switzerland	Opuntioideae spp.	Deletion from Appendix II
	45 Switzerland	Pereskioideae spp., <i>Pereskopsis</i> spp. and <i>Quiabentia</i> spp.	Deletion from Appendix II

	Proposal number and proponent	Species covered by the proposal	Proposal
	46 United States of America	<i>Sclerocactus nyensis</i>	Transfer from Appendix II to Appendix I
	47 United States of America	<i>Sclerocactus spinosior</i> ssp. <i>blainei</i>	Transfer from Appendix II to Appendix I
CRASSULACEAE	48 United States of America	<i>Dudleya traskiae</i>	Transfer from Appendix I to Appendix II
LILIACEAE	49 South Africa	<i>Aloe thorncroftii</i>	Transfer from Appendix I to Appendix II in accordance with Resolution Conf. 9.24, Annex 4, section B, paragraph 2.a)
MELIACEAE	50 Guatemala, Nicaragua	<i>Swietenia macrophylla</i>	Inclusion in Appendix II of the neotropical populations, including logs, sawn wood, veneer sheets and plywood in accordance with Article II, paragraph 2(a), of the Convention and Resolution Conf. 9.24, Annex 2 a.
ORCHIDACEAE	51 United States of America	Appendix-II ORCHIDACEAE spp.	<p>Annotation of Orchidaceae in Appendix II</p> <p>The annotation to specifically read as follows:</p> <p>Artificially propagated specimens of hybrids within the genera <i>Cattleya</i>, <i>Cymbidium</i>, <i>Dendrobium</i> (<i>phalaenopsis</i> and <i>nobile</i> types only), <i>Oncidium</i>, <i>Phalaenopsis</i> and <i>Vanda</i>, including their intergeneric hybrids, are not subject to the provisions of the Convention when:</p> <p>a) specimens are traded in shipments consisting of individual containers (i.e. cartons, boxes, or crates) containing 100 or more plants each;</p> <p>b) all plants within a container are of the same hybrid, with no mixing of different hybrids within a container;</p> <p>c) plants within a container can be readily recognized as artificially propagated specimens by exhibiting a high degree of uniformity in size and stage of growth, cleanliness, intact root systems, and general absence of damage or injury that could be attributable to plants originating in the wild;</p> <p>d) plants do not exhibit characteristics of wild origin, such as damage by insects or other animals, fungi or algae adhering to</p>

	Proposal number and proponent	Species covered by the proposal	Proposal
			leaves, or mechanical damage to roots, leaves, or other parts resulting from collection; and  e) shipments are accompanied by documentation, such as an invoice, which clearly states the number of plants and which of the six exempt genera are included in the shipment, and is signed by the shipper. Plants not clearly qualifying for the exemption must be accompanied by appropriate CITES documents.
OROBANCHACEAE	52 China	<i>Cistanche deserticola</i>	Deletion of the annotation to <i>Cistanche deserticola</i> in Appendix II
PORTULACACEAE	53 United States of America	<i>Lewisia maguirei</i>	Deletion from Appendix II
ZYGOPHYLLACEAE	54 Germany on behalf of the Member States of the European Community	<i>Guaiaacum</i> spp.	Inclusion in Appendix II in accordance with Article II, paragraph 2(b), of the Convention, annotated as follows:  Designates all parts and derivatives, including wood, bark and extract.





Comments from the Parties and comments and recommendations from the Secretariat

**Proposal 1**

**Amendment of Annotation °607 to read:**

**The following are not subject to the provisions of the Convention:**

- a) synthetically derived DNA that does not contain any part of the original;**
- b) urine and faeces;**
- c) synthetically produced medicines and other pharmaceutical products such as vaccines that do not contain any part of the original genetic material from which they are derived; and**
- d) fossils.**

**(Switzerland, as depositary Government, at the request of the Standing Committee)**

Provisional assessment by the Secretariat

At its 46th meeting, the Standing Committee, in the context of Decision 11.87, and as part of a series of proposals on the issue of trade in time-sensitive biological samples, requested the Depositary Government to prepare this proposal for consideration at the 12th meeting of the Conference of the Parties (CoP12). The Secretariat supports the proposal to amend Annotation °607, which currently excludes fossils, to accommodate these exemptions and to make them applicable to all species. This issue is related to trade in time-sensitive biological samples, which is also addressed in document CoP12 Doc. 51. This proposal, if adopted, will apply to all species.

Comments from Parties

None

Recommendation by the Secretariat

The Secretariat has, since the submission of this proposal, become aware of problems concerning the regulation of trade in vaccines containing traces of the original genetic material from which they are derived. It is likely that most Parties would not wish to regulate trade in such vaccines through CITES, but it will not be possible to expand the proposed annotation to include other items at this stage. It may be possible in future, and after consultation with specialized bodies, to propose the exemption of certain other vaccines from the provisions of the Convention. Concerns have been raised that paragraph c) of the proposed annotation could lead to the incorrect exemption of products such as medicines that contain parts and derivatives of CITES-listed species (see the IUCN/TRAFFIC analysis of this proposal). The Secretariat is of the opinion that the use of the term 'synthetically' excludes any manufacturing process that would result in the presence of readily recognizable parts and derivatives of CITES-listed species in the final product. The Secretariat recommends the adoption of this proposal.

**Proposal 2**

***Agapornis* spp., *Platycercus* spp., *Barnardius* spp., *Cyanoramphus auriceps*, *C. novaehollandiae*, *Psittacula eupatria*, *P. krameri* and *Padra oryzivora* – Annotation with the following text:**

**Colour morphs produced by captive breeding are considered as being of a domesticated form and are therefore not subject to the provisions of the Convention.**

**(Switzerland)**

Provisional assessment by the Secretariat

This proposed annotation refers to the problem of controlling trade in colour morphs of certain bird species that are obtained through captive breeding, produced in high numbers and traded in high volumes, therefore requiring the input of significant resources to manage and regulate a trade that is of little or no relevance to

the conservation of the wild populations of the species. The Secretariat endorses the principle behind this proposal, namely to exclude clearly domesticated forms that do not occur in the wild from the provisions of CITES. However, as this annotation will have implications for Management Authorities and border inspection authorities, the Secretariat can only support this proposal if identification materials clearly illustrating the colour morphs excluded from the Appendices are prepared for all concerned species, and made available for inclusion in the CITES Identification Manual, or if there is some way to identify them other than visually. If the proposal is adopted, the Conference of the Parties should task the Secretariat to report to the Standing Committee, not later than six months before the 13th meeting of the Conference of the Parties, whether the exemption has caused significant implementation problems or has given rise to fraud.

#### Comments from Parties

Switzerland: "We have taken note of the remarks by the Secretariat and can confirm that we are prepared to create and make available identification material, should the proposal be accepted. Whether this identification material should consist in clearly illustrating the many colour morphs, to be excluded from the Appendices, which, should the proposal be accepted, would then not be subjected to the provisions of CITES anylonger or whether it should consist in assisting to identify more clearly the wild form, which would still be subject to the provisions of CITES, is a matter to be discussed."

#### Recommendation by the Secretariat

The Secretariat, noting concerns in the IUCN/TRAFFIC analysis of this proposal, recommends adoption of this proposal but also recommends that the Conference of the Parties agrees to delay the implementation of the amendment until appropriate identification material, preferably illustrating wild colour forms that are not subject to the proposed annotation, has been distributed. Correspondingly, the Secretariat should be tasked to report to the Standing Committee within a time-frame appropriate to the date of implementation of the amendment, whether the exemption has caused significant implementation problems or has given rise to fraud.

### **Proposal 3**

#### ***Tursiops truncatus ponticus* – Transfer from Appendix II to Appendix I (Georgia)**

#### Provisional assessment by the Secretariat

*Tursiops truncatus ponticus* is probably confined to the Black Sea. A proposal similar to the current one was submitted by the United States of America and Georgia at the 11th meeting of the Conference of the Parties (CoP11), but was withdrawn. However, the Conference of the Parties adopted Decisions 11.91 and 11.139, *inter alia* to obtain more information from range States on levels of harvest, trade, population status and incidental killings of *T. t. ponticus*. Information was obtained from three of the six range States (Bulgaria, the Russian Federation and Ukraine), and presented and evaluated at the 18th meeting of the Animals Committee in April 2002 (AC18; see document AC18 Doc. 16.1), but is not reflected in the proposal.

The proposal indicates that the subspecies declined greatly because of commercial exploitation for meat and blubber oil, which peaked around the middle of the last century, but was banned in the former USSR, Bulgaria and Romania in the 1960s, and in Turkey in 1983. In recent decades, the main threat to the subspecies appears to have been habitat degradation through marine and land-based pollution, coastal development and depletion of food resources. Accidental mortalities through fishery bycatch, disease and directed killings or harvests are known to be additional threats. Significant progress has been made in recent years in regional cooperation to address these problems, including agreements to limit pollution, protect and rehabilitate Black Sea ecosystems, and sustainably use its resources. Although the impact of these measures on the conservation status of Black Sea bottlenose dolphins is not discussed in the proposal, it is noteworthy that the three range States that have provided information in accordance with Decision 11.139 have reported that numbers of this species in the Black Sea have been increasing in recent years.

Annual trade data presented at AC18 indicate that, during the last 10 years, international trade in Black Sea bottlenose dolphins has largely been confined to small numbers of live specimens exported from the Russian Federation and Ukraine (around 112 animals in total, including nine captive-bred individuals, but it is possible that not all exports are *T. t. ponticus* because in one exporting range State, the Russian Federation, other populations or subspecies occur and trade is reported only at species level). The proposal indicates that exports may not always have been in compliance with the provisions of the Convention relating to transport of live animals, but does not contain evidence of noteworthy illegal international trade in specimens of this subspecies. The Secretariat therefore cannot confirm the proponent's statement that "there clearly has been a substantial international commercial trade in bottlenose dolphins from the Black Sea". Some national utilization of live animals in range States for local dolphinaria is reported, but no species-specific information is provided (responses from the Russian Federation and Ukraine to Decision 11.139 state overall levels of capture of Black Sea bottlenose dolphins, but do not indicate the number of animals that are used nationally).

The results of recent but limited research into the genetic differentiation of Black Sea bottlenose dolphin populations are presented in the proposal, concluding that mitochondrial DNA of Black Sea bottlenose dolphins showed no significant difference from that of bottlenose dolphins in the Mediterranean Sea (but showed significant difference from that of animals from the eastern North Atlantic population). This may suggest that the Black Sea population could be well-defined as a management unit, but less so as a subspecies (reviewers of the proposal presented at CoP11 commented that there was no clear evidence that the Black Sea population is completely isolated from the adjacent Mediterranean population, as the species is present in the straits linking the two seas). *T. t. ponticus* is not easy to distinguish from other *T. truncatus* subspecies, which may also occur in Turkey and in the Russian Federation. The control of trade in virtually indistinguishable specimens of populations included in two different Appendices, as would result from split-listing<sup>1</sup>, would therefore be very difficult to implement. In section 5, the supporting statement outlines options for the marking of live bottlenose dolphins in trade. If this proposal is adopted, the use of such or other marking systems will be essential.

The proposal does not present information to support its conclusion that *T. t. ponticus* is inferred to decline in numbers of individuals in the wild at current levels of international trade or exploitation, or on the basis of threats from extrinsic factors [see Resolution Conf. 9.24, Annex 1, paragraph C. ii)], and information presented at AC18 suggests that the population may have started to recover. Although the proposal states that the habitat of *T. t. ponticus* is "a narrow strip close to the shore, as opposed to the broad pelagic habitat of the common dolphin", the size of the Black Sea would suggest that the wild population of *T. t. ponticus* can not be regarded as having a restricted area of distribution (see Resolution Conf. 9.24, Annex 1, paragraph B). Other biological criteria for listing *T. t. ponticus* in Appendix I are not mentioned in the proposal, and may not be applicable.

There is accordingly no justification for a transfer to Appendix I of *T. t. ponticus*. While recognizing that the reproductive potential of Black Sea bottlenose dolphins is low, and that the population is under pressure from habitat degradation and bycatch, the Secretariat believes that trade in specimens can be adequately controlled through the correct implementation of Article IV, meaning that exports should only be authorized on the basis of a determination that the export is non-detrimental and that the specimens concerned have been legally acquired. The Secretariat recognizes the conservation efforts of other intergovernmental and international bodies to conserve and protect Black Sea bottlenose dolphins, and supports such measures where they are compatible with the goals, fundamental principles (including the criteria for listing species in the Appendices) and practices of the Convention. It would seem to be most appropriate in this instance to establish annual quotas through one of the regional mechanisms to ensure that the combined offtake of animals in the Black Sea for international trade is sustainable. If the number of animals harvested for international trade is unsustainable, the Animals Committee should consider including this population in its Review of Significant Trade.

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<sup>1</sup> The listing of a species in more than one Appendix should in general be avoided in view of enforcement problems it creates and, when it occurs, it should generally be on the basis of national or continental populations, rather than subspecies. Taxonomic names below the species level should not be used in the Appendices unless the taxon in question is highly distinctive and the use of the name would not give rise to enforcement problems (see Resolution Conf. 9.24, Annex 3).

### Comments from Parties

Japan: "Japan shares the view of the Secretariat that this proposal does not contain adequate information, and that international trade of several specimens a year cannot be considered to constitute a major cause to drive this species to extinction. Japan is opposed to this proposal because it believes there is no rational ground to transfer this subspecies to Appendix I."

Switzerland: "In our opinion this proposal does not differ much from the one submitted at CoP11, where it was rejected. We refer also to pertaining discussions in the Animals Committee, where several Parties clearly stated that in view of the evidence at hand, they considered this matter definitively closed, in particular also since no new material had been presented since CoP11. The biochemical analyses of which we now are informed through the proposal are not conclusive, in fact they are further confusing. The doubts remain about the validity of this subspecies and the suggestion by the Secretariat to define the Black Sea population rather as a management unit than as a subspecies seems quite convincing. Among other things it is also our opinion that the trade in specimens of this population – according to the data presented – is neither alarming nor threatening the existence of this population. The threats to the population are habitat degradation and bycatch. These problems have to be dealt with however on a local and regional basis. In relation to another proposal, the Secretariat said that it "advises against amendment proposals that do not seem to address the real conservation threat". We concur with this opinion. Therefore – like the Secretariat – we see no justification for a transfer to Appendix I of this 'subspecies' but believe that trade issues can be adequately dealt with by correctly applying the provisions of Article IV."

### Recommendation by the Secretariat

The available information does not, however, indicate that this subspecies meets the biological criteria for inclusion in Appendix I, which together with uncertainty about the taxonomic status of this subspecies and the enforcement problems that will result from a split-listing, suggest that the proposal should not be accepted. The Secretariat has already requested the Russian Federation and Ukraine to ensure that further exports are based on adequate non-detriment findings, and any further concern about the impact of such trade should be addressed by the Animals Committee through its Review of Significant Trade.

The Secretariat notes that bodies representing two regional agreements support this proposal (see Annex 3). Both of these agreements require contracting parties to prohibit all harvesting of cetaceans, irrespective of the status of stocks or the actual impact from trade. One agreement further requires contracting parties to prohibit the possession of and internal trade in cetaceans. However, the Conference of the Parties to CITES is not required to adopt similar prohibitions unless they are warranted by the criteria for amending the Appendices. In this case, CITES criteria do not require that commercial international trade be prohibited. The Secretariat also notes that CITES Parties include some range States of this species that are not members of the two regional agreements.

The Secretariat recommends that the proposal be rejected.

### **Proposal 4**

***Balaenoptera acutorostrata* – Transfer from Appendix I to Appendix II of northern hemisphere populations (except the Yellow Sea, East China Sea and Sea of Japan populations) in accordance with Annex 4, of Resolution Conf. 9.24, with the following annotation:**

**For the exclusive purpose of allowing trade between Parties that are also signatories to the International Convention for the Regulation of Whaling and which have an effective DNA register system to monitor catches, introductions from the sea and imports from other States. To ensure that trade does not result in removals in excess of catch limits, the following additional measures shall be implemented:**

- a) notwithstanding the provisions of CITES Article XIV, paragraphs 4 and 5, any trade shall be subject to the provisions of Article IV;**
- b) calculation of a safe catch level using the IWC's Revised Management Procedure (RMP);**
- c) establishment of export quotas that shall ensure that trade does not result in removals in excess of catch limits;**

- d) indication on the trade documents of the number of animals involved when shipment of products are only parts of animals, and tracking of this number through DNA monitoring of imports;
- e) implementation of domestic legislation to ensure imports are from animals taken legally; and
- f) DNA registers to monitor catches, introductions from the sea and imports and a requirement that all imports be accompanied by certified DNA profiles.

(Japan)

#### Provisional assessment by the Secretariat

This species was included in Appendix I in 1986 following the establishment of zero catch quotas by the IWC. In addition, Resolution Conf. 11.4 recommends that Parties agree not to issue any CITES permits or certificates for primarily commercial purposes for any specimen of a species or stock protected from commercial whaling by the International Convention for the Regulation of Whaling (ICRW).

The IWC recognizes seven stocks of minke whales in the northern hemisphere. The West Greenland stock is included in Appendix II. Of the remaining six stocks, the proposal provides information on the Okhotsk Sea - West Pacific stock, Northeast Atlantic stock and North Atlantic Central stock. The proposal, with its annotation, is intended to meet criteria B.2.b) and B.2.d) of Annex 4 of Resolution Conf. 9.24. The proposed annotation is intended to limit trade to Parties that are signatories to the ICRW and that have DNA registers to monitor trade. Export quotas would be based on catch limits using a method developed by the International Whaling Commission.

The current Schedule of the ICRW sets a zero catch limit on commercial harvest of *B. acutorostrata*, as a management measure. Under the ICRW, this catch limit can only be amended by the International Whaling Commission on the advice of its Scientific Committee using the Revised Management Procedure (RMP). It would therefore be premature to transfer this stock to Appendix II for the purpose of commercial trade between signatories of the ICRW while no commercial harvests are possible under the ICRW, or to endorse the application of the RMP at the national level when such a catch limit was not agreed by the IWC and may undermine the IWC's management measures.

As the Secretariat indicated in relation to proposals for whale stocks submitted to CoP11, Article XV, paragraph 2(b), of the Convention requires that coordination with any conservation measures enforced by the ICRW be ensured. That coordination is best ensured by maintaining CITES Appendix-I listing for whale stocks that are subject to zero catch quotas under the ICRW.

#### Comments from Parties

Australia: "Australia agrees fully with the provisional assessment made by the Secretariat and, in addition, wishes to provide the following information. It has now been several years since the Revised Management Procedure (RMP) was adopted by the IWC Scientific Committee and a greater understanding of the limitations of the RMP has emerged: The RMP sub-committee of the IWC Scientific Committee has the task of running implementation trials of the RMP for different species and regions to investigate how it might perform. In order to do this they must consider a range of hypotheses (in particular dealing with stock structure), assess the plausibility of these hypotheses, and run the trials. Progress on these implementation trials has continued to be delayed for three main reasons:

- Poor understanding of stock structure (current models are too simplistic and fail to accommodate for realistic stock scenarios.) For example, in the North Pacific it appears there are three populations of minke whales, J, O and W, and these mix in a way that is not yet well understood. This means that hunted whales could come from any stock, and one stock could become depleted.
- Harvest strategies that take whales from concentrated coastal areas, migratory pathways and feeding zones. The RMP is a model that has no spatial or temporal context. It runs only on an estimate of population size and harvest rates. It is not designed to allow for harvests that 'double-dip' and which

concentrate effort. Rather, it is designed to cope with a more widespread harvest at either a feeding or breeding areas.

- Disagreement over what is a 'plausible' scenario including how complex and how many scenarios should be used.

This means the RMP is currently not performing in a manner that takes into account the realities of complex stock structure and harvest schedules. While some members of the Scientific Committee argued the RMP could be adapted to handle these concerns, the fact is that it currently is not able to address these concerns, which are particularly relevant to any harvest and trade in coastal minke whales as proposed by Japan.

Much of the information source from the International Whaling Commission (IWC) that is cited in the proposal document from Japan does not take into account the more balanced information that is contained in the relevant reports of the IWC and its Scientific Committee. The proposal document states that the Scientific Committee never provided scientific support to support the current moratorium on commercial whaling. It would be more accurate to note that some members of the Scientific Committee stated their view that there was no scientific basis for a moratorium, with other members noting that "*...cessation of commercial whaling was a reasonable alternative to other methods that have been tried to ensure the future productivity of whale resources.*" (Rep. Int. Whal. Commn. 33,1983 p47). The management arrangements proposed by Japan are the same as those that have already been rejected by the majority of IWC members as unsatisfactory as they represent little more than a 'business as usual' set of arrangements.

Japan undertakes a number of commitments it will make if the downlisting is agreed. However, Japan appears to fail to recognize the multilateral nature of CITES and that the downlisting, if successful, can be used by any party to CITES to commence trade in species that have zero quotas established by the IWC without the additional undertakings, including the use of Article XIV, paragraph 4. In this regard, Parties to CITES that were members of the IWC at the time of CITES coming into effect (but may or may not still be members of the IWC and thus no longer subject to the moratorium on commercial whaling) could conceivably engage in the hunting and trading of minke and Bryde's whales without any international control or regulation."

Japan: "At the outset, we wish to note that we are disappointed with the Secretariat's provisional assessment. We very much agreed with the Secretary-General's comment in the provisional assessments related to CoP11 that he did not want to import the political problems of IWC into CITES and, we have worked hard to find a way around this. We also appreciated the Secretary-General's letter to the Chairman of the IWC on the matter of implementing an RMS. However, we believe that the provisional assessment has dismissed our efforts to find a solution to this problem without really analyzing the implications of our annotation to the proposed transfer and without assessing our proposals on the basis of science and the CITES listing criteria. The stocks we have proposed for transfer to Appendix II are abundant. They are not threatened with extinction and do not meet the CITES criteria for listing on Appendix I.

We are concerned that the Secretariat's overly strict interpretation of Article XV and the provisional assessments have the unwanted effect of importing the political problems of IWC into CITES. In essence we believe that this means a majority of 20 something members of a dysfunctional IWC are dictating to the 160 members of CITES.

In this regard, we believe that with the annotation that would restrict trade to IWC members we have in fact addressed this concern because except for Norway and Russia all members of the IWC are bound by the moratorium. The use of RMP as intended by our proposals would therefore not be used to amend the zero quotas as suggested in the provisional assessments. In our view, this does in fact ensure coordination with conservation measures of IWC. Nothing in our proposal detracts from the authority of the IWC or its management measures. It is not our intention to go around the IWC or subvert it. Japan is committed to working within the IWC to try to normalize its operations. Further, contrary to the statement in the provisional assessment that no commercial harvests are possible under the ICRW, Norway and Russia can

legally engage in commercial whaling without restrictions on catch levels, our proposals are therefore more strict.

For these reasons, we appreciate that you have agreed to review the implications of the proposed annotations and assess the proposals from the view of the CITES criteria for listing and the precautionary measures of Annex 4 of Resolution Conf. 9.24. In this regard, we would also like to recall your comments reflected in the proceedings of the CoP 11 plenary session concerning cooperation and synergy with other Conventions where you said "there was no intention to make CITES dependent on other conventions."

In summary, we believe that the stocks proposed for transfer do not meet the criteria for listing in Appendix I, that the precautionary measures of Annex 4 of Resolution conf. 9.24 are fully met and that the transfer could be done in a manner that ensures coordination with conservation measures under the ICRW.

We would also like to comment on the statement in the provisional assessment of the proposal for the transfer of certain stocks of minke whales that information is only provided on three out of seven stocks. This is because only these 3 stocks would be subject to trade. One stock is specifically excluded, one stock is already on Appendix II and the remaining two stocks have not been subject to whaling or trade for many years and are unlikely to be in the future.

Further, as there have been a number of questions related to the statements in both of our proposals concerning the setting of quotas using the IWC's RMP, we would like to make the following clarifications. As RMP is designed to set catch quotas for commercial whaling it is not our intention that it would be applied to catches for research purposes under Article VIII of the ICRW however, except for "introduction from the sea", products derived from such catches by Japan will not enter into trade. If our proposals are adopted, where RMP is applied it will be done so in an open and transparent manner."

Switzerland: "We are somewhat disappointed that the Secretariat, referring to Resolution Conf. 11.4 has not evaluated this proposal on its own merits and according to the criteria set forth in the Convention itself and in Resolution Conf. 9.24. In fact we are of the opinion that there is nothing in Resolution Conf. 11.4, which would prevent the Secretariat – or the Parties – to make such an evaluation. We are of the opinion that although there exists a close relation between the IWC and CITES, this cannot go so far as to make CITES unable to independently make its own decisions on trade matters based on its own rules and regulations. We are convinced that also the IWC is fully aware of that fact. Thus – in order to compare with our own evaluation – we would have liked to hear whether e.g. the Secretariat thinks that this population qualifies still for Appendix I according to Article II of the Convention, and according to the criteria of Resolution Conf. 9.24. In particular it would have been interesting to hear which biological criteria according to the Secretariat still would qualify this population for Appendix I rather than II and if not the conditions of the precautionary principle are met in this proposal, which would allow a downlisting of this population."

#### Recommendation by the Secretariat

Extensive comments on this proposal were also received from the North Atlantic Marine Mammal Commission (NAMMCO) (see Annex 3). NAMMCO supports the proposal, with particular reference to the Northeast Atlantic stock and North Atlantic Central stock.

The Secretariat had, in its provisional assessment of this proposal, drawn attention to Article XV, paragraph 2 (b), of the Convention, which requires CITES to ensure coordination with any conservation measures enforced by the ICRW. The Secretariat is still of the opinion that this coordination is best ensured by maintaining CITES Appendix-I listing for whale stocks that are subject to zero catch quotas under the ICRW.

The Secretariat, on the basis of the information available to it, and as also found in the IUCN/TRAFFIC analysis of this proposal, believes that the stocks in question do not meet the biological criteria for inclusion in Appendix I. It is not apparent, however, that the precautionary measures contained in Annex 4 of Resolution Conf. 9.24 have been met. Both paragraphs B.2 b) and c) apply in this instance. Concerning

paragraph B.2 b) i), and paragraph B.2 c), the principal concern is that introduction from the sea and exports should be non-detrimental, based on an appropriate management system such as an export quota. While recognizing that some Parties are able to conduct whaling on the basis of provisions for scientific research or under objection to elements of ICRW, the principal measure to ensure that commercial whaling is not detrimental to survival of the species in the wild, as required under Article IV of CITES, is the RMS of ICRW. It is through this procedure that ICRW intends to establish sustainable harvest limits. The Secretariat considers that this conservation measure of the ICRW should not be replaced by an alternative approach in CITES, because of the requirement to maintain coordination with such measures established by ICRW, as also reflected in Resolution Conf. 11.4. The procedure proposed by Japan to establish quotas does not seem to comply with the RMS, and it is not clear how it could be determined other than through ICRW, that such a procedure is appropriate.

Regarding paragraph B.2 b) i), which refers to enforcement controls, it is not clear that the principal enforcement control outlined by the proponent, namely DNA registers, will be adequate at this stage. It seems that existing DNA registers are still incomplete or have not been reviewed by the IWC body as the body competent in this field. It should be acknowledged, however, that DNA registers amount to extraordinary measures to regulate trade in whale specimens compared to other species in CITES. Yet without such registers, it is not evident how adequate enforcement controls will be achieved.

The Secretariat recommends that the proposal be rejected.

#### **Proposal 5**

***Balaenoptera edeni* – Transfer from Appendix I to Appendix II of the western North Pacific population in accordance with Annex 4, of Resolution Conf. 9.24, with the following annotation:**

**For the exclusive purpose of allowing trade between Parties that are also signatories to the International Convention for the Regulation of Whaling and which have an effective DNA register system to monitor catches, introductions from the sea and imports from other States. To ensure that trade does not result in removals in excess of catch limits, the following additional measures shall be implemented:**

- a) notwithstanding the provisions of CITES Article XIV, paragraphs 4 and 5, any trade shall be subject to the provisions of Article IV; and**
- b) calculation of a safe catch level using the IWC's Revised Management Procedure (RMP);**
- c) establishment of an export quota that shall ensure that trade does not result in removals in excess of catch limits;**
- d) indication on the trade documents of the number of animals involved when shipment of products are only parts of animals, and tracking of this number through DNA monitoring of imports;**
- e) implementation of domestic legislation to ensure imports are from animals taken legally; and**
- f) DNA registers to monitor catches, introductions from the sea and imports and a requirement that all imports be accompanied by certified DNA profiles.**

**(Japan)**

#### Provisional assessment by the Secretariat

This species was included in Appendix I in 1983 following the establishment of zero catch quotas by the IWC. In addition, Resolution Conf. 11.4 recommends that Parties agree not to issue any CITES permits or certificates for primarily commercial purposes for any specimen of a species or stock protected from commercial whaling by the International Convention for the Regulation of Whaling (ICRW).

This proposal to transfer the western North Pacific stock of *B. edeni* from Appendix I to Appendix II, as annotated, is intended to meet criteria B.2.b) and B.2.d) of Annex 4 of Resolution Conf. 9.24. The proposed annotation limits trade to Parties that are signatories to the ICRW and which have DNA registers to monitor trade. Export quotas would be based on catch limits for individuals using a method developed by the International Whaling Commission.

The current Schedule of the ICRW sets a zero catch limit on commercial harvest of *B. edeni*, as a management measure. Under the ICRW, this catch limit can only be amended by the International Whaling



Commission on the advice of its Scientific Committee using the Revised Management Procedure (RMP). It would therefore be premature to transfer this stock to Appendix II for the purpose of commercial trade between signatories of the ICRW while no commercial harvests are possible under the ICRW, or to endorse the application of the RMP at the national level when such a catch limit would have no status within the IWC and may undermine the IWC's management measures.

As the Secretariat indicated in relation to proposals for whale stocks submitted to CoP11, Article XV, paragraph 2(b) of the Convention requires that coordination with any conservation measures enforced by the ICRW be ensured. That coordination is best ensured by maintaining CITES Appendix-I listing for whale stocks that are subject to zero catch quotas under the ICRW.

#### Comments from Parties

Australia: (see comments under Proposal 12.4)

Japan: (see comments under Proposal 12.4)

Switzerland: "The general remarks made in regard to proposal 4, apply also to proposal 5. What concerns the specifics of this proposal, we think however that there are differences between 4 and 5 that need a closer look, in particular the ongoing discussions on stock identity and stock boundary of this population in the Scientific Committee of the IWC and that the Implementation Simulation Trials for this population have not been run and recommendations for catch limits for this population have not been elaborated yet by the said committee."

#### Recommendation by the Secretariat

The Secretariat had, in its provisional assessment of this proposal, drawn attention to Article XV, paragraph 2 (b), of the Convention, which requires CITES to ensure coordination with any conservation measures enforced by the ICRW. The Secretariat is still of the opinion that this coordination is best ensured by maintaining CITES Appendix-I listing for whale stocks that are subject to zero catch quotas under the ICRW. The IUCN-TRAFFIC review of this proposal, states that the stock in question does not meet the biological criteria for inclusion in Appendix I, although there is some uncertainty concerning aspects of this stock referred to in the comment from Switzerland as well as the IUCN/TRAFFIC analysis of this proposal. Concerning compliance with the precautionary measures applicable to this proposal, see the comments under Proposal 4.

The Secretariat recommends that the proposal be rejected.

#### **Proposal 6**

***Loxodonta africana* – Amendment of annotation <sup>o</sup>604 regarding the population of Botswana to read:**

**For the exclusive purpose of allowing in the case of the population of Botswana:**

- a) trade in hunting trophies for non-commercial purposes;
  - b) trade in live animals for commercial purposes to appropriate and acceptable destinations (and as determined by the national legislation of the country of import);
  - c) trade in registered stocks of raw ivory (whole tusks and pieces) of Botswana origin owned by the Government of Botswana for commercial purposes only to CITES-approved trading partners who will not re-export ivory. No international trade in ivory to be permitted until 18 months after the adoption of the proposal (May 2004). Thereafter an initial amount of not more than 20,000 kg of ivory may be traded, followed by annual export quotas of not more than 4,000 kg from the year 2005 onward;
  - d) trade in hides;
  - e) trade in leather goods for non-commercial purposes; and
  - f) trade in ivory carvings for non-commercial purposes.
- (Botswana)

### Provisional assessment by the Secretariat

With this proposal, Botswana requests that annotation 604 be amended to provide for the exportation of registered, government-owned stocks of raw ivory of up to 20,000 kg in 2004 (i.e. not before 18 months after the adoption of the proposal), followed by annual export quotas of not more than 4,000 kg from 2005 onwards, and to trade hides, leather goods and ivory carvings. The current annotation already allows Botswana to trade in hunting trophies for non-commercial purposes and in live specimens.

#### a) General comments

The basic rationale for this proposal, as outlined in section C4, is that elephant populations in Botswana are large and growing, and that benefits for rural communities derived from the utilization of elephants can contribute to both the long-term conservation of elephants and their habitats, and to the well-being of people who have to share land and natural resources with elephants. Botswana has invested considerably in enforcement and anti-poaching activities, in habitat conservation and protection, and in monitoring programmes concerning elephant populations and their habitats. The long-term management of Botswana's elephant populations requires long-term commitment to maintain and where necessary expand these investments. If this proposal is adopted, Botswana should consider providing at the next meeting of the Conference of the Parties, a detailed account of progress made with its national elephant conservation programme in order to promote a better understanding of the role of trade in its national elephant conservation programme. It will be informative if such an account could also cover Botswana's implementation of provisions and guidelines elaborated by the Convention on Biological Diversity and IUCN concerning community participation in the conservation of arid savannah ecosystems.

For the population of African elephants in Botswana, Article IV of the Convention is the principal instrument to ensure that trade in specimens of such species is legal and not detrimental to the survival of that species. Resolution Conf. 8.9 (Rev.) on trade in specimens of Appendix-II species taken from the wild provides mechanisms to determine and resolve possible problems and to ensure such trade is not detrimental to the survival of the species in the wild, as required in Article IV, paragraphs 2(a). The Parties adopted additional specific safeguards and mechanisms concerning trade in elephant specimens, as laid out in Resolution Conf. 10.10 (Rev.), including systems to monitor illegal trade in ivory and other elephant specimens, and to monitor illegal hunting in elephant range States. In this proposal, Botswana commits to several supplementary measures to complement and further strengthen these and other CITES mechanisms.

#### b) Scope of the proposed trade

- i) Raw ivory of Botswana origin owned by the Government of Botswana, amounting initially to not more than 20,000 kg of ivory (to be traded after May 2004), and subsequently to annual export quotas of not more than 4,000 kg (from 2005 onwards)

The proposal indicates that, by June 2002, Botswana had accumulated 25,403.04 kg of ivory of Botswana origin from natural mortalities and from management-related practices such as problem-animal control, and 7,639.75 kg from seizures. In its proposal for CoP11, Botswana stated that it had accumulated until November 1999 17,694 kg of ivory from natural mortality and problem-animal control, and 7,112 kg of ivory from seizures or specimens of unknown origin. As the proposal was withdrawn, no exportation of ivory has taken place since that time. This suggests that the amount of ivory recovered from natural mortality and management operations, which is the only ivory proposed for exportation, increased by 7,709 kg over a period of 30 months, an average of around 3,000 kg per year. This is well below a theoretical production of between 10,000 and 50,000 kg of ivory per year at a low crude average combined tusk weight of 10 kg per individual from a population of 100,000 elephants subjected to a natural mortality rate of 1 to 5 per cent per annum. Not all ivory from natural mortalities is recovered, and mortality rates may vary considerably from year to year, but this calculation indicates that the proposed annual quota of 4,000 kg is realistic and relatively conservative given the size and the ongoing expansion of the elephant

population in Botswana, which is occurring in a large, continuous range. However, to ensure better analysis, Botswana should preferably record and report ivory recovered from natural mortality separately from ivory obtained through management activities such as the killing of problem animals.

Law enforcement and anti-poaching efforts seem to have been effective in maintaining illegal killings of elephants at an insignificant level in Botswana. The proposal indicates that illegal trade in Botswana is low, while the stock of seized ivory has increased very little since the last meeting of the Conference of the Parties. Botswana has also confirmed its previous undertakings to monitor its elephant population annually, and to implement the programme known as Monitoring of Illegal Killing of Elephants (MIKE) [cf. Resolution Conf. 10.10 (Rev.)].

The intended exports of the quota amounts can be traced to an appropriate source within Botswana since the Management Authority maintains an ivory registration and inventory system similar to the one developed for the experimental trade in raw ivory conducted in 1999 pursuant to Decision 10.1 under the supervision of the Secretariat. This computerized system records the identity, source and origin of each ivory specimen. Botswana states that its computerized ivory stock management system is being audited by TRAFFIC, and that it will provide to the Secretariat a detailed inventory of the specimens included in the proposed quotas.

Although not explicitly stated in the proposal, the ivory to be exported should be raw ivory as defined in Resolution Conf. 10.10 (Rev.). Botswana complies with the recommendations in Resolution Conf. 10.10 (Rev.) regarding the marking of whole tusks and of cut pieces of ivory that are both 20 cm or more in length and one kilogram or more in weight, adding a useful code to denote the origin of the tusk within the country. The inclusion in the annual quota of pieces of ivory that are smaller than 1 kg and 20 cm in length should not be problematic provided that such pieces derive from natural breakage or another verifiable origin and are not finished or partly finished products (i.e. that such pieces do not meet the definition of 'worked ivory' in Resolution Conf. 10.10 (Rev.).

The proposal indicates that the ivory will be exported only to CITES-approved trading partners that have adequate internal controls and have made the commitment not to re-export. Concerning the sale, shipment and exportation of raw ivory, Botswana commits in section C3 of its proposal to a series of precautionary undertakings that are similar to those proposed by the Secretariat to the Standing Committee for the experimental trade in raw ivory undertaken in 1999, pursuant to Decision 10.1 (see document Doc. 11.31.1). Much in line with the basic rationale of the proposal, the revenues from ivory sales are to be deposited in an existing Trust Fund earmarked for conservation and management activities and for the development of communities living adjacent to elephant ranges.

Although the reason for the proposed delay for 18 months until trade is allowed is not explained in the proposal, the Secretariat assumes that this would allow independent monitoring of the export procedures and the identification and approval of potential trading partners. This period would also allow further data to be obtained from the implementation of the MIKE and ETIS monitoring programmes. The proposal refers to trading partners that should be approved by CITES, but does not explain how this approval would have to take place.

ii) Trade in live specimens

The proposal does not indicate the number of live specimens that Botswana intends to allow export of, but it seems that most exports to date have involved translocations of elephant family groups for reintroduction programmes in southern Africa. The proposal states for instance that 300 elephants were donated to Angola for repopulating a national park. Annual report data indicate that the only recorded exports between 1991 and 2001 were 34 live specimens in 1992 and 30 in 1998. The proposal intends to restrict such trade to appropriate and acceptable destinations, as defined in annotation <sup>o</sup>605.

iii) Trade in hunting trophies

The current level of sport hunting exports is conservative since it is far below the sustainable limit for this population.

iv) Trade in hides

Botswana has so far not recovered or stockpiled hides, but expresses an interest in doing so. The Secretariat is not aware that any problems exist concerning the control of this trade, and has no evidence to suggest that elephants have been illegally killed for trade in skins.

v) Trade in leather goods for non-commercial purposes<sup>1</sup>

The Secretariat is not aware of any manufacturing of elephant leather goods in Botswana for commercial trade, although such manufacturing could be initiated if the proposal is adopted.

vi) Trade in ivory carvings for non-commercial purposes<sup>1</sup>

The proposal does not contain information on ivory carving operations in Botswana, and Botswana should clarify whether the reference to such items may refer to the planned re-export of material to be imported from another country. Resolution Conf. 10.10 (Rev.) regarding trade in elephant specimens provides recommendations for Parties in whose jurisdiction there is an ivory carving industry that is not yet structured, organized or controlled concerning registration of traders and recording and inspection procedures. In as much as it has not done so already, Botswana should fully implement these provisions.

The Secretariat believes that it would be premature to formulate a definitive recommendation on this proposal, particularly where its ivory-trade-related aspects are concerned. Such a recommendation can in its view only be established in the light of an in-depth discussion at the planned dialogue meeting of African elephant range States.

Comments from Parties

Switzerland: "We will be very interested to hear how the proponents will organize the control of the production and trade of ivory carvings for non-commercial purposes, in particular how it will be prevented that ivory from other range States will enter this market. For deciding on our position we will also take into consideration the results of the planned dialogue meeting of African range States, mentioned by the Secretariat (this also with regard to Proposals 8, 9 and 10), and – with regard to proposal 9 – we will also be very interested to hear the opinion of the Panel of Experts, established for the evaluation of this proposal and the pertaining situation in the range State in question."

Recommendation by the Secretariat

The Secretariat recommends that the proponent should provide further explanation concerning the envisaged controls over trade in worked ivory. In accordance with its provisional assessment, the Secretariat further recommends that the ivory-trade related aspects of this proposal are discussed in depth at the planned dialogue meeting of African elephant range States.

**Proposal 7**

***Loxodonta africana* – Amendment of annotation ° 604 regarding the Namibian population to read:**

**For the exclusive purpose of allowing in the case of the population of Namibia:**

**a) trade in hunting trophies for non-commercial purposes;**

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<sup>1</sup> If this proposal is adopted, the Secretariat recommends that the proponent consults Zimbabwe in order to achieve a harmonized implementation of this annotation.

- b) trade in live animals for non-commercial purposes to appropriate and acceptable destinations (as determined by the national legislation of the country of import);
- c) trade in hides;
- d) trade in leather goods and ivory carvings for non-commercial purposes; and
- e) trade in registered stocks of raw ivory (whole tusks and pieces) of Namibian origin owned by the Government of the Republic of Namibia to trading partners that have been verified by the CITES Secretariat to have sufficient national legislation and domestic trade controls to ensure that ivory imported from Namibia will not be re-exported and will be managed according to all requirements of Resolution Conf. 10.10 (Rev.) concerning domestic manufacturing and trade. No international trade in ivory to be permitted until 18 months after the adoption of the proposal (May 2004). Thereafter, an initial amount of not more than 10,000 kg of ivory may be traded, followed by annual export quotas of not more than 2,000 kg of ivory, from the year 2005 onwards.

(Namibia)

#### Provisional assessment by the Secretariat

Namibia requests that annotation °604 be amended to provide for the exportation of registered, government-owned stocks of raw ivory of Namibian origin of up to 10,000 kg in 2004 (i.e. not before 18 months after the adoption of the proposal), followed by annual export quotas of not more than 2,000 kg from 2005 onwards, to trade hides, and to trade leather goods and ivory carvings for non-commercial purposes. The current annotation allows Namibia to trade in live specimens and hunting trophies for non-commercial purposes.

#### a) General comments

The basic rationale for this proposal, as outlined in section C, is that elephant populations in Namibia are secure, are growing and spreading into new areas. A strong incentive to maintain and tolerate elephants outside protected areas in Namibia, which include important dispersal and migration ranges for this population, is for rural communities who share the same land and natural resources with elephants to benefit from the use of and trade in elephants. Benefits from trading in elephant specimens can furthermore generate resources to conserve elephants and their habitats more efficiently, as is proposed by Namibia. Namibia has invested significantly in elephant conservation, monitoring and management programmes in the country. As is the case with Proposal 6, the long-term management of elephant populations requires long-term commitment to maintain and where necessary expand these efforts in Namibia. If this proposal is adopted, Namibia should consider providing at the next meeting of the Conference of the Parties, a detailed account of progress made with its national elephant conservation programme in order to promote a better understanding of the role of trade in its national elephant conservation programme. It will be informative if such an account could also cover Namibia's implementation of provisions and guidelines elaborated by the Convention on Biological Diversity and IUCN concerning community participation in the conservation of arid savannah ecosystems.

For additional general comments, the Secretariat refers to its provisional assessment of Proposal No. 6 under paragraph a). Namibia commits to several supplementary measures to further strengthen the existing CITES mechanisms concerning trade in Appendix-II listed species and trade in elephant specimens in particular, as laid out in Resolution Conf. 10.10 (Rev.).

#### b) Scope of the proposed trade

- i) Raw ivory of Namibian origin, registered and owned by the Government of Namibia, amounting initially to not more than 10,000kg of ivory (to be traded after May 2004), and subsequently to annual export quotas of not more than 2,000 kg (from 2005 onwards)

The proposal indicates that by June 2002, Namibia had accumulated 6,853 kg of ivory of legal Namibian origin from natural mortality or from management-related practices such as problem-animal control, and 39,096 kg from seized or unknown origins. In its proposal for CoP11, Namibia

indicated that, in November 1999, 3,349 kg of ivory from natural mortality and problem animal control had been accumulated, as well as 31,604 kg of ivory from seizures or specimens of unknown origin. The proposal was withdrawn and no export of ivory has taken place since that time.

The amount of ivory recovered from natural mortalities and management operations, which is the only ivory proposed for export, increased by 3,503 kg in about 30 months, or by an average of around 1,400 kg per year. This is comparable with a theoretical production described in section 3.1 of the proposal of between 1,000 and 5,000 kg of ivory per year from a population of that size and subject to a natural mortality rate of 1 to 5 per cent per annum. The proposed annual quota of up to 2,000 kg is therefore realistic and relatively conservative in view of the growing elephant population in Namibia, which seems well protected, and is expanding its range, while the habitat availability improves. Namibia records ivory recovered from natural mortality separately from ivory obtained through management activities such as the killing of problem animals, and has reported such data to the Secretariat.

Incidents of illegal killing appear to be very low in Namibia. The number of seizures has declined over the years, and reportedly concern mostly tusks passing through Namibia. As the proponent notes, seizure levels can indicate the effectiveness of law enforcement efforts. Namibia fully participates in and implements the Monitoring of Illegal Killing of Elephants (MIKE) programme and the Elephant Trade Information System (ETIS) outlined in Resolution Conf. 10.10 (Rev.).

Namibia maintains a comprehensive computer database and documentation on the source of all ivory tusks and ivory pieces that it recovers. All tusks and ivory pieces are marked. The registration and inventory system was developed for the experimental trade in raw ivory of 1999, and has been maintained since.

Although not explicitly stated in the proposal, the ivory to be exported should be raw ivory as defined in Resolution Conf. 10.10 (Rev.). Namibia complies with the recommendations in Resolution Conf. 10.10 (Rev.) regarding the marking of whole tusks and of cut pieces of ivory that are both 20 cm or more in length and one kilogram or more in weight. The inclusion in the exportation of pieces of ivory that are smaller than 1 kg and 20 cm in length should not be problematic provided that such pieces derive from natural breakage or another verifiable origin and are not finished or partly finished products (i.e. that such pieces do not meet the definition of 'worked ivory' in Resolution Conf. 10.10 (Rev.).

The proposal indicates that the ivory will be exported only to trading partners that were verified by the Secretariat to have sufficient national legislation and domestic trade controls to ensure that ivory imported from Namibia will not be re-exported and will be managed according to all requirements of Resolution Conf. 10.10 (Rev.) concerning trade in elephant specimens. It is further specified that the revenue from the ivory sales shall be managed through an existing trust fund, and will exclusively be used for elephant conservation, rural community development and conservation programmes, and to continue monitoring elephant populations, illegal trade and the impact of trade.

Namibia commits itself to specific precautionary measures concerning the origin, marking, sale, export of and trade in ivory from Namibia, which are detailed in section 6 of the proposal. These are similar to those proposed to the Standing Committee by the Secretariat for the experimental trade in raw ivory in 1999 pursuant to Decision 10.1 (see document Doc. 11.31.1). The proponent proposes that no international trade in ivory should be permitted until 18 months after the adoption of the proposal (i.e. May 2004). It is explained that this would allow potential trade partners to develop additional trade controls where necessary, and the Secretariat to verify *inter alia* compliance with Resolution Conf. 10.10 (Rev.) in the country intending to import ivory from Namibia. The Secretariat believes that in addition, this delay would allow further data to be obtained from the implementation of the MIKE and ETIS monitoring programmes.

ii) Trade in live specimens for non-commercial purposes

The proposal does not indicate the number of live specimens that Namibia intends to allow export of, but annual report data indicate that from 1991 to 2001, 20 live animals were exported from Namibia, 12 of which in 1998. No exports were reported after that year. It is proposed that trade only be for non-commercial purposes, and that it be restricted to appropriate and acceptable destinations (as defined in annotation <sup>o</sup>605).

iii) Trade in hunting trophies

The current level of sport hunting exports is conservative since it is below the sustainable limit for this population.

iv) Trade in hides

Namibia does not routinely recover or stockpile hides. Only hides of trophy animals are collected at the moment, but Namibia intends to start recovering hides from problem animals as well, which would average fewer than 20 per annum. The Secretariat is not aware that any problems exist concerning the control of this trade, and has no evidence to suggest that elephants have been illegally killed for trade in skins.

v) Trade in leather goods and ivory carvings for non-commercial purposes<sup>1</sup>

Namibia states that it intends to develop control measures for an elephant carving and elephant leather goods industry to allow communities to fully benefit from elephant mortalities (natural of management related) in their areas, and to ensure that excess leather from trophy animals can be used. It therefore wants to promote a controlled trade in leather and worked ivory, but at the same time, the proposal mentions that exportations would be for non-commercial purposes only. The Secretariat is aware that Namibia has a strict registration system for the manufacturing of and trade in elephant products, although recent levels of manufacturing have been low because of a limited domestic demand. In as much as it has not done so already, Namibia should fully implement the provisions of Resolution Conf. 10.10 (Rev.) regarding control of internal ivory trade and ivory carving industries.

The Secretariat believes that it would be premature to formulate a definitive recommendation on this proposal, particularly where its ivory trade related aspects are concerned. Such a recommendation can in its view only be established in the light of an in-depth discussion at the planned dialogue meeting of the African elephant range States.

Comments from Parties

Namibia: "Namibia will be willing to provide at the next meeting of the Conference of the Parties a detailed account of progress made with her national elephant conservation programme, as suggested under paragraph a) of the provisional assessment on Proposal 7. Namibia already has legal provisions dealing with control of elephant products, i.e.: Section 36 (3&4) of Ordinance 4 of 1975 establishes comprehensive controls over the possession of elephant and rhinoceros trophies (including tusks, horns, hide, etc.); Regulations 118(A-I) establish comprehensive procedures and requirements regarding manufacturing and trade involving parts and derivatives of elephants and rhinos; and Proclamation No. AG 42 of 1980 (Controlled Game Products Proclamation, 1980) provides controls over the import, export and possession of and trading in controlled game products (including most commercially important parts and derivatives of elephants and rhinos) and for matters connected therewith. This proclamation prohibits the import, export or possession of controlled game products without a permit. With respect to the trade in ivory carvings,

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<sup>1</sup> *If this proposal is adopted, the Secretariat recommends that the proponent consults Zimbabwe in order to achieve a harmonized implementation of this annotation.*

Namibia will adopt the CITES definition of worked ivory [Resolution Conf. 10.10 (Rev.)]. Namibia will thoroughly review current control measures, and ensure that comprehensive internal legislative, regulatory and enforcement measures are adopted to:

- a) register or license all importers, manufacturers, wholesalers and retailers dealing in raw, semi-worked or worked ivory products; and
- b) introduce recording and inspection procedures to enable the Management Authority and other appropriate government agencies to monitor the flow of ivory within the State, particularly by means of:
  - i) compulsory trade controls over raw ivory; and
  - ii) a comprehensive and demonstrably effective reporting and enforcement system for worked ivory.

as recommended through Resolution Conf. 10.10 (Rev.).

Before any leather goods or ivory carving industry is allowed, a control system will be developed and submitted to the Secretariat for approval. Only after receiving approval will the system be implemented. Namibia is aware of shortcomings in current internal ivory trade systems, and will liaise closely with TRAFFIC to ensure that any system developed will address shortcomings identified elsewhere. Namibia wishes to confirm that the trade in registered stocks of raw ivory (whole tusks and pieces) only refers to raw ivory as defined in Resolution Conf. 10.10 (Rev.). As stated in the supporting statement, Namibia, in recognition of the delay in implementing MIKE within Africa, built in an 18-month delay to provide a further opportunity to collect baseline data prior to the next ivory exports. The delay will also provide the opportunity for potential trade partners to develop additional trade controls where necessary.

Switzerland: (see comments under Proposal 6)

#### Recommendation by the Secretariat

Namibia has provided the full text of the provisions referred to in its comments, and these can be obtained from the Secretariat upon request. The Secretariat welcomes the opportunity to provide input concerning Namibia's legal provisions concerning the regulation of trade in worked ivory, and possible improvements, but it has not been possible to complete a thorough review before completion of the present document. In accordance with its provisional assessment, the Secretariat recommends that the ivory-trade related aspects of this proposal are discussed in depth at the planned dialogue meeting of African elephant range States.

#### **Proposal 8**

***Loxodonta africana* – Amendment of annotation ° 604 regarding the South African population to allow the initial sale of the Kruger National Park stockpile of ivory, 18 months after the adoption of the proposal and a subsequent annual quota of two tonnes.**

**This proposal is for the exclusive purpose of allowing in the case of the population of South Africa:**

- a) trade in hunting trophies for non-commercial purposes;
- b) trade in live animals for re-introduction purposes into protected areas formally proclaimed in terms of the legislation of the importing country;
- c) trade in hides and leather goods;
- d) trade in raw ivory of whole tusks of any size, and cut pieces of ivory that are both 20 cm or more in length and one kilogram or more in weight of Government-owned stocks originating from the Kruger National Park. An initial stockpile of 30,000 kg is proposed and a subsequent annual quota of 2,000 kg accumulated each year through annual mortalities and management practices.

**All other specimens shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly.**

**(South Africa)**



### Provisional assessment by the Secretariat

South Africa proposes to amend annotation 604 to provide for the exportation of Government-owned stocks of raw ivory (limited in the proposal to whole tusks and to ivory pieces of more than 20 cm in length and one kilogram in weight) originating from the Kruger National Park. This would initially be 30,000 kg. Subsequently, 2,000 kg of ivory originating from natural mortalities and management practices would be traded annually. Ivory from unknown origins or from seizures and confiscations would not be exported. The other elements of the proposal, i.e. allowing for trade in live animals, hunting trophies, hides and leather goods, are already mentioned in the current annotation.

#### a) General comments

The elephant populations in the Kruger National Park and in certain other parts of South Africa are secure and growing. The elephant population in the Kruger National Park is well monitored, and effective anti-poaching and enforcement measures are in place. Benefits derived from its utilization can contribute substantially to elephant management and conservation activities in and around the park. As explained in the proposal, there is broad consensus that some form of population management may be needed in situations where elephant movements are restricted by fences or surrounding human settlement, as is the case in Kruger National Park. If this proposal is adopted, South Africa should consider providing at the next meeting of the Conference of the Parties, a detailed account of progress made with its revised national elephant management plan, in order to promote a better understanding of the role of trade in its national elephant conservation programme. For additional general comments, the Secretariat refers to its provisional assessment of Proposal No. 6 under paragraph a). South Africa commits to several supplementary measures to further strengthen the existing CITES mechanisms concerning trade in Appendix-II listed species and trade in elephant specimens in particular. Although not part of the proposed amendment to the annotation, South Africa indicates in its proposal that the initial sale of the stockpile of 30,000 kg of ivory would not take place before 18 months after the adoption of the proposal (i.e. not before May 2004 at the earliest).

#### b) The scope of proposed trade

- i) Raw ivory (defined in the proposal as whole tusks of any size, and ivory pieces of more than 20 cm in length and one kilogram in weight) originating in Kruger National Park and owned by the Government of South Africa, amounting initially to 30,000 kg of ivory (to be traded after May 2004), and subsequently to annual export quotas of 2,000 kg (from 2005 onwards)

The proposal indicates that by June 2002, the Kruger National Park had 32,113.24 kg of ivory in stock. Ivory originating from natural breakage (5.7 per cent), natural mortality (49.1 per cent), management of problem animals (23.5 per cent), management culling (21.6 per cent) and other management measures (0.1 per cent) is proposed to be exported, and totals 31,523 kg. The remaining 590 kg of ivory is of unknown origin or from seizures and confiscations, and would not be part of the export quotas.

A population of 9,000 animals, such as the one in Kruger National Park, with a natural mortality rate of 1 to 5 per cent per annum, would produce between 900 and 4,500 kg of ivory a year at a crude average combined tusk weight of 10 kg per individual. Not all ivory from natural mortalities is recovered, and mortality rates may vary considerably from year to year, but this calculation indicates that the proposed annual quota of 2,000 kg is realistic and relatively conservative given the size and growth of the elephant population in Kruger National Park. However, to ensure better analysis of this aspect, South Africa should provide additional information on the size of the tusks and the accumulation rate of ivory recovered from natural mortality. Similar information on ivory that is collected from natural breakage would be useful.

Law enforcement, anti-poaching efforts and species management and protection seem to be effective. Illegal trade is reportedly not a significant problem and poaching is under control and very

low. South Africa annually monitors elephant populations in most of the publicly owned conservation areas.

The ivory that is stockpiled in the Kruger National Park is duly registered and each piece is accompanied by documents. It is therefore possible for the ivory intended for export to be traced to an appropriate source within the Kruger National Park. The supporting statement does not mention whether a computerized ivory stock management system exists or would be developed.

Although not explicitly stated in the proposal, the ivory to be exported should be raw ivory as defined in Resolution Conf. 10.10 (Rev.). South Africa states that it will comply with the recommendations in Resolution Conf. 10.10 (Rev.) regarding the marking of whole tusks and of cut pieces of ivory that are both 20 cm or more in length and one kilogram or more in weight.

The proposal indicates that South Africa would sell and export raw ivory to CITES Parties that meet conditions of national legislation and domestic trade as set by the Secretariat. South Africa furthermore commits in section 3.5 of its proposal to several precautionary undertakings that are similar to those proposed by the Secretariat to the Standing Committee for the experimental trade in raw ivory in 1999, pursuant to Decision 10.1 (see document Doc. 11.31.1). In line with the basic rationale of the proposal, the revenues from ivory sales are to be used for projects that promote conservation of elephants, and that are detailed in section 3.5.

South Africa proposes that no international trade in ivory should be permitted until 18 months after the adoption of the proposal (i.e. May 2004). Although the reason for this delay is not explained in the proposal, the Secretariat assumes that this would allow independent monitoring of the export procedures and the identification and approval of potential trading partners. The proposed delay before exports are allowed would also enable further data to be obtained from the implementation of the MIKE and ETIS monitoring programmes.

ii) Trade in live specimens

The proposal indicates that since 1980, 1,759 live elephants have been translocated from the Kruger National Park to other protected areas within South Africa and abroad. This practice is stated to continue as part of management measures in the Kruger National Park to maintain the elephant population within certain limits. It may for instance be necessary to remove 1,022 elephants during the first year of implementing the new elephant management plan for the park. Translocation of these animals is the preferred option. The proposal notes that entire family groups are translocated, and no longer single juveniles. Annual report data indicate that recorded exports from South Africa between 1991 and 2001 were 251 live specimens originating in the country. The proposal restricts such trade to exports for re-introduction purposes into areas formally proclaimed as protected in terms of the legislation of the importing country.

iii) Trade in hunting trophies

The current level of sport hunting exports is conservative, since it is below the sustainable limit for this population, and to the Secretariat's knowledge has not given rise to concerns.

iv) Trade in hides and leather goods

The proposal indicates that current stocks of elephant hide in the Kruger National Park currently amount to more than 150,000 kg. After CoP11, 50,000 kg of hides were sold in 2000. The Secretariat is not aware that any problems exist concerning the control of this trade, and has no evidence to suggest that elephants have been illegally killed for trade in skins. The proponent indicates that the income from the hide trade would be used for projects related to conservation of elephants, which are presumably those enumerated in section 3.5 of the proposal. Annual report data indicate that South Africa exports only small numbers of leather goods made of elephant hides.

The Secretariat believes that it would be premature to formulate a definitive recommendation on this proposal, particularly where its ivory-trade-related aspects are concerned. Such a recommendation can in its view only be established in the light of an in-depth discussion at the planned dialogue meeting of African elephant range States.

#### Comments from Parties

Switzerland: (see comments under Proposal 6)

#### Recommendation by the Secretariat

It should be noted that the summary of this proposal produced by the Secretariat has been corrected after its initial distribution, and that an 18-months' delay in export, after the adoption of the proposal, is an integral part of the proposal. In accordance with its provisional assessment, the Secretariat recommends that the ivory-trade related aspects of this proposal be discussed in depth at the planned dialogue meeting of African elephant range States.

#### **Proposal 9**

***Loxodonta africana* – Transfer of the Zambian population from Appendix I to Appendix II for the purpose of allowing:**

- a) **trade in raw ivory under a quota of 17,000 kg of whole tusks owned by Zambia Wildlife Authority (ZAWA) obtained from management operations; and**
  - b) **live sales under special circumstances.**
- (Zambia)**

#### Provisional assessment by the Secretariat

The Secretariat does not wish to pre-empt the findings of the Panel of Experts, which is to advise on the merits of this proposal under Resolution Conf. 10.9 concerning consideration of proposals for the transfer of African elephant populations from Appendix I to Appendix II, and will therefore comment at a later stage.

#### Comments from Parties

Switzerland: (see comments under Proposal 6)

#### Recommendation by the Secretariat

The report of the Panel of Experts was not available at the time of preparation this document, and no recommendation can be made at this stage.

#### **Proposal 10**

***Loxodonta africana* – Amendment of annotation ° 604 regarding the population of Zimbabwe to read:**

**For the exclusive purpose of allowing in the case of the population of Zimbabwe:**

- a) **trade for commercial purposes in registered stocks of raw ivory (whole tusks and pieces) of Zimbabwean origin owned by the Government of the Republic of Zimbabwe, to trading partners that have been verified by the CITES Secretariat to have sufficient national legislation and domestic trade controls to ensure that ivory imported from Zimbabwe will not be re-exported and will be managed according to all requirements of Resolution Conf. 10.10 (Rev.) concerning domestic manufacturing and trade. No international trade in ivory to be permitted until 18 months after the adoption of the proposal (May 2004). Thereafter, an initial one-off quota of not more than 10,000 kg of ivory may be traded, and a subsequent annual quota of not more than 5,000 kg of ivory;**

- b) trade in hunting trophies for non-commercial purposes;
  - c) trade in live animals for non-commercial purposes to appropriate and acceptable destinations;
  - d) trade in hides and leather goods; and
  - e) trade in ivory carvings for non-commercial purposes.
- (Zimbabwe)

#### Provisional assessment by the Secretariat

With this proposal, Zimbabwe requests that annotation 604 be amended to provide for the exportation of registered, Government-owned stocks of raw ivory of up to 10,000 kg in 2004 (i.e. not before 18 months after the adoption of the proposal), followed by annual export quotas of not more than 5,000 kg from 2005 onwards. The amendment also seeks to limit the trade in live animals to non-commercial purposes, and to remove current restrictions on the trade in leather goods. At present, the annotation allows Zimbabwe to trade in hunting trophies for non-commercial purposes, live animals to appropriate and acceptable destinations, hides, and ivory carvings and leather goods for non-commercial purposes.

#### a) General comments

The basic rationale for this proposal, as outlined in its introduction, is that elephant populations in Zimbabwe are large and have been growing since 1980 to reach approximately 87,000 animals in 2001. Loss of habitat and conflicts with humans are threats that can be alleviated by ensuring that benefits derived from the utilization of elephants are used for elephant conservation and rural community development programmes. Zimbabwe has invested in enforcement and anti-poaching activities, in habitat conservation and protection, and in monitoring programmes concerning elephant populations and their habitats. Long-term management of elephant populations requires long-term commitments to maintain, and where necessary expand these investments in Zimbabwe. The Secretariat is however concerned that this may be difficult under the current economic climate in the country. The Secretariat also notes that particularly in the Zambezi Valley in the northern part of the country, illegal hunting continues to threaten elephant populations and requires permanent law enforcement efforts.

If this proposal is adopted, Zimbabwe should consider providing at the next meeting of the Conference of the Parties, a detailed account of progress made with its national elephant conservation programme in order to promote a better understanding of the role of trade in its national elephant conservation programme. It will be informative if such an account could also cover indicating its implementation of provisions and guidelines elaborated by the Convention on Biological Diversity and IUCN concerning community participation in the conservation of arid savannah ecosystems.

For additional general comments, the Secretariat refers to its provisional assessment of Proposal No. 6 under paragraph a). Zimbabwe commits to several supplementary measures to further strengthen the existing CITES mechanisms concerning control of trade in Appendix-II species and trade in elephant specimens in particular, as laid out in Resolution Conf. 10.10 (Rev.).

#### b) Scope of the proposed trade

- i) Raw ivory of Zimbabwe origin owned by the Government of Zimbabwe, amounting initially to not more than 10,000 kg of ivory (to be traded after May 2004), and subsequently to annual export quotas of not more than 5,000 kg (from 2005 onwards)

The proposal indicates that on 31 December 2001, Zimbabwe held 20,982.31 kg of raw ivory in the Central Ivory Store of the Management Authority. It is however not clear how much ivory was held at the time that the proposal was submitted in June 2002. The ivory derives mainly from natural mortality and natural breakage, and from problem-animal control. Legal hunting, management hunting, seizures, confiscations, etc. are mentioned as other sources of ivory.

The proposal indicates that the same measures and conditions that applied to the experimental export of ivory pursuant to Decision 10.1 would apply to future exports of raw ivory. It would however be preferable to have these measures clearly spelled out in the current proposal. Furthermore, the proponent refers to its proposal at the 10th meeting of the Conference of the Parties (Prop. 10.27) concerning "further details on conditions and precautions" that would apply to trade in raw ivory, but does not stipulate what elements of that proposal it is referring to. It is also unclear from the proposal whether Zimbabwe intends to restrict export authorization to ivory from certain origins only. Its proposal at CoP10 specified for instance that exports would not include confiscated ivory of unknown origin or which is known to be non-Zimbabwean. The proponents should clarify whether it intends to maintain this constraint or not.

The proposal details the annual accumulation rate of the stockpiled ivory from 1998 to 2001 by origin, averaging well over 8,000 kg per year: 3,800 kg of ivory is annually recovered from natural mortalities, natural breakage and parks estates; 3,700 kg from problem-animal control and other management measures; 1,000 kg from confiscations and poaching; and 280 kg from legal hunting. No ivory was recovered from culling or from unknown origins during the four years. The theoretical production of ivory is between 8,500 and 42,500 kg of ivory per year at a low crude average combined tusk weight of 10 kg per individual, from a population of 85,000 elephants subjected to a natural mortality rate of 1 to 5 per cent per annum. Not all ivory from natural mortalities is recovered, and mortality rates may vary considerably from year to year, but this calculation serves as an indication that the proposed annual quota of 5,000 kg is realistic and conservative.

The proposal indicates that illegal trade in Zimbabwe is relatively low, but probably increasing. The basis for this statement is not very clear, as it is not supported by the data on elephant poaching in the country or the levels of seizures of ivory, which appear to have remained stable in recent years. The proposal indicates that expenditure on elephant conservation and protection efforts per square kilometre increased from an average of USD 49 per km<sup>2</sup> in 1996 to over USD 90 per km<sup>2</sup> in December 2001. It is however not clear whether these efforts have continued into 2002, or can be maintained in the long term.

Zimbabwe has monitored its elephant populations practically every year since 1980. Zimbabwe has implemented fully the Monitoring of Illegal Killing of Elephants (MIKE) programme, and contributed to the Elephant Trade Information System (ETIS) [cf. Resolution Conf. 10.10 (Rev.)]. It expresses support to both systems as objective means to monitor the effects of amending the listing of the African elephant under CITES.

Zimbabwe maintains a computerized database, developed with the assistance of TRAFFIC. All ivory specimens that are collected are marked and their source is documented. The registration and inventory system was developed for the experimental trade in 1999, and records the identity and origin of each specimen. Therefore, the ivory intended to be exported can be traced to an appropriate source within Zimbabwe.

Although not explicitly stated in the proposal, the export should only apply to raw ivory as defined in Resolution Conf. 10.10 (Rev.). Zimbabwe states that it will comply with the recommendations in Resolution Conf. 10.10 (Rev.) regarding the marking of whole tusks and of cut pieces of ivory that are both 20 cm or more in length and one kilogram or more in weight. The inclusion in the annual quota of pieces of ivory that are smaller than 1 kg and 20 cm in length should not be problematic provided that such pieces derived from natural breakage or another verifiable origin and are not finished or partly finished products (i.e. that such pieces do not meet the definition of 'worked ivory' in Resolution Conf. 10.10 (Rev.)).

The proposal indicates that trade in ivory will only take place with countries that have been verified by the Secretariat to have sufficient national legislation and domestic trade controls to ensure that no re-exports of ivory will take place and that requirements regarding control of internal ivory trade, laid out in Resolution Conf. 10.10 (Rev.) on trade in elephant specimens, are fully implemented. As

mentioned above, the proponent commits to “the same precautionary measures and conditions that applied for the last experimental trade”, but does not specify these measures. Presumably, Zimbabwe would apply the precautionary undertakings that were proposed by the Secretariat to the Standing Committee for the experimental trade in raw ivory in 1999, pursuant to Decision 10.1 (see document Doc. 11.31.1). The revenues generated from wildlife products derived from the management killings or natural mortality of elephants, including ivory, hides and trophies, are retained by the Management Authority, or are deposited in special funds of local communities. They are used for conservation management activities and for the development of rural communities living adjacent to elephant ranges.

The Secretariat notes that Zimbabwe proposes that no international trade in ivory should be permitted until 18 months after the adoption of the proposal (i.e. May 2004). This is presumably to allow independent monitoring of the export procedures and the identification and approval of potential trading partners, and for the Secretariat to verify *inter alia* compliance with Resolution Conf. 10.10 (Rev.) in the country intending to import ivory from Zimbabwe. The proposed delay before exports are allowed would also enable further data to be obtained from the implementation of the MIKE and ETIS monitoring programmes.

ii) Trade in live specimens for non-commercial purposes

The proposal does not indicate the number of live specimens that Zimbabwe intends to trade, but it seems that only very few animals have been exported in recent years. The proposal restricts such trade to appropriate and acceptable destinations, as defined in annotation <sup>o</sup>605, and for non-commercial purposes.

iii) Trade in hunting trophies

The current quota for sport-hunted elephants of 400 is within the guideline of 0.005 per cent of the standing population (i.e. approximately 425 to 445). This guideline, developed in Zimbabwe, is conservative and is not the only way to determine a sustainable hunting offtake, but should be used unless other information on the recruitment of adult males is provided. Annual report data indicate that, from 1997 to 2000, Zimbabwe exported some 350 trophies per year. In 2001, however, only 13 were recorded, which may be explained by incomplete reporting.

iv) Trade in hides and leather goods

The proposal indicates that a stockpile of 30,000 kg of elephant hides has accumulated in the central store from problem-animal control, legal hunting operations, and from animals that were killed for other management reasons. Approximately 100,000 kg of hides were internationally auctioned in 1998 and 1999. Benefits of these sales have gone to conservation management activities and to stakeholders. The Secretariat is not aware of problems concerning the control of this trade, and has no evidence to suggest that elephants have been illegally killed for trade in skins. Annual report data indicate that Zimbabwe regularly exported leather goods made of elephant hides. Although limited to exports for non-commercial purposes, the trade seemed to be increasing. With the current proposal, Zimbabwe seeks to extend the trade in leather goods to commercial exports to increase the benefits that rural communities and the local leather industries can make from elephant hides.

vi) Trade in ivory carvings for non-commercial purposes

Sixty-five registered carvers produce items that can be exported by tourists as personal effects. UNEP-WCMC data suggest that relatively small numbers of ivory carvings were exported from Zimbabwe. Although limited to exports for non-commercial purposes, trade appeared to be gradually increasing until 2000, when more than 900 items were reportedly exported. In as much

as it has not done so already, Zimbabwe should fully implement the measures regarding controls of internal ivory trade and ivory carving industries referred to in Resolution Conf. 10.10 (Rev.).

The Secretariat believes that it would be premature to formulate a definitive recommendation on this proposal, particularly where its ivory-trade-related aspects are concerned. Such a recommendation can in its view only be established in the light of an in-depth discussion among elephant range States at the planned dialogue meeting of African elephant range States.

#### Comments from Parties

Switzerland: (see comments under Proposal 6)

#### Recommendation by the Secretariat

In accordance with its provisional assessment, the Secretariat recommends that the ivory-trade related aspects of this proposal be discussed in depth at the planned dialogue meeting of African elephant range States.

#### **Proposal 11**

***Loxodonta africana* – Transfer to Appendix I of populations currently included in Appendix II, in accordance with Annex 1, sections C. i) and ii) and D, of Resolution Conf. 9.24, and in light of Annex 3 on ‘Split-listing’ and Annex 4 on ‘Precautionary measures’ (India, Kenya)**

#### Provisional assessment by the Secretariat

The proposal from India and Kenya requests the transfer of the populations of *Loxodonta africana* of Botswana, Namibia, South Africa and Zimbabwe to Appendix I. It does not contain specific or up-to-date information on the four populations that are the subject of the proposal, contrary to Resolution Conf. 9.24, third RESOLVES. The Secretariat notes the absence in the supporting statement of the section which should provide details of the consultation undertaken to secure comments on the proposal from the range States of the species, either through direct contact or via the Secretariat. It is therefore unclear whether the proponents have complied with the recommendations in Resolution Conf. 8.21 regarding the consultation with range States on proposals to amend Appendices I and II.

The data on the size, distribution and trends of the elephant populations in Botswana, Namibia, South Africa and Zimbabwe presented in this proposal, and in a more extensive and up-to-date way in Proposals 6, 7, 8 and 10, do not support the claim that any of the four populations meets criteria C. i) and ii) in Annex 1 of Resolution Conf. 9.24 on criteria for amendment of Appendices I and II. On the contrary, the four populations are not small and have been growing continuously for more than 10 years; the area of distribution, and the quality and availability of habitat is reportedly increasing in Botswana, Namibia and South Africa; current levels of exploitation are not a threat to the species and contribute to elephant conservation and management in the four countries; and there are no reported threats from extrinsic factors or a decreasing reproductive potential.

The proposal does not clarify why the elephant populations of Botswana, Namibia, South Africa and Zimbabwe would meet criterion D of Annex 1 of Resolution Conf. 9.24. The conservation status of elephants in the four countries is secure and has been improving over the last decade. There are no indications at this stage that elephants in these countries are likely to satisfy one or more of the biological criteria for inclusion in Appendix I, outlined in sections A, B and C in Annex 1 of Resolution Conf. 9.24, within a period of five years.

The supporting statement refers to Annex 3 of Resolution Conf. 9.24 on split-listing to justify a proposed transfer of the elephant populations of Botswana, Namibia, South Africa and Zimbabwe from Appendix II to Appendix I. It is correct that listing of a species in more than one Appendix should be avoided in general in

view of enforcement problems it creates. When it occurs, this should generally be on the basis of national or continental populations, rather than subspecies, as was the case for the populations in the four countries concerned.

The supporting statement further refers to Annex 4 of Resolution Conf. 9.24 on Precautionary measures, but does not specify why or how Annex 4 is relevant to the four populations that it proposes for transfer from Appendix II to Appendix I. Section A of Annex 4 requires Parties to act in the best interest of the conservation of the species when considering proposals to amend the Appendices. This was taken into consideration by the Conference of the Parties when deciding to agree to transfer the four populations from Appendix I to Appendix II at CoP10 (for the populations of Botswana, Namibia and Zimbabwe) and CoP11 (for the population of South Africa). Section B relates to the transfer of species from Appendix I or II and the deletion of species from Appendix II, but not to the transfer of species to Appendix I. The only precautionary measures in Annex 4 of Resolution Conf. 9.24 that apply to a population already in Appendix II are contained in sections C and D, which provide for specific remedial procedures through the Secretariat and the Standing Committee in instances that export quotas approved by the Conference of the Parties are part of amendment proposals. The Appendix-II listing of the elephant populations of Botswana, Namibia and Zimbabwe was in compliance with section B. 2. c) of Annex 4 of Resolution Conf. 9.24. Consequently, it should have been possible for any Party to draw attention to problems in compliance with the management measures and export quotas applicable to these populations, in accordance with Annex 4, Section C.1 of the Resolution. However, this has never been done and the measures foreseen by the Conference of the Parties have never been invoked. Section D of Annex 4 is not relevant to these populations. The listing in Appendix II of the population of South Africa was subject to a zero quota for trade in raw ivory originating from the Kruger National Park, and the procedures called for in sections C and D are therefore not relevant.

The supporting statement provides exhaustive lists of cases of illegal trade in or seizures of ivory, and of elephant poaching incidents that were reported to have occurred throughout the world in 2000, 2001 and 2002. These cases concern ivory from the African elephant, *Loxodonta africana*, as well as the Asian elephant, *Elephas maximus*. Only a few reported incidents relate to Botswana, Namibia, South Africa and Zimbabwe. Proposals 6, 7, 8 and 10 provide additional details of illegal trade, ivory seizures and poaching trends and incidents in these four countries.

The general information is summarized in two tables, according to which, between 1 January 2000 and May 2002, 690 tusks, 2,540 ivory pieces or objects, and 4,960 kg of ivory originating from Africa were seized, and 965 poaching incidents concerning African elephants reported (other information relates to ivory seizures from Asian and unknown origins, and to a small number of Asian elephant poaching incidents). This demonstrates that illegal killing of and trade in African elephants is a continuing problem in many parts of the species' range, suggesting that law enforcement and conservation management are often under-resourced, insufficient or ineffective. The Secretariat is concerned about the failure to generate long-term support to range States to enhance elephant conservation, despite several attempts to generate more funding for such activities in the past (see for instance Decision 11.3). The proponents indicate in this regard that for instance systems to monitor illegal trade in ivory and other elephant specimens (ETIS) and illegal hunting in elephant range States (MIKE), as described in Annexes 1 and 2 of Resolution Conf. 10.10 (Rev.) on trade in elephant specimens, have proven to be difficult to implement.

The main concern of the proponents of this proposal, as indicated in its introductory rationale, appears to be the ongoing poaching of and illegal trade in elephants from populations and species that are listed in Appendix I. The supporting statement furthermore argues that the current split-listing of the African elephant is likely to confuse consumers of ivory objects, and that this has probably already led to increase in illegal trade or to poaching of elephants and stockpiling of ivory. However, no information is provided in the proposal to substantiate this hypothesis. The information in Proposals 6, 7, 8 and 10 does not support this assumption, while a report that is often quoted in the proposal (The South and Southeast Asian ivory markets - Martin, E. and Stiles, D. 2002, Save the elephants, Nairobi and London) concluded that the experimental sale of raw ivory from Botswana, Namibia and Zimbabwe in 1999 did not cause the ivory trade to increase in South and Southeast Asia.



The Secretariat believes that it would be premature to formulate a definitive recommendation on this proposal. Such a recommendation can in its view only be established in the light of the planned dialogue meeting of African elephant range States.

#### Comments from Parties

Switzerland: "To our knowledge an uplisting proposal for these populations should – if at all – be entered by the Depositary upon request by the Standing Committee, not by India nor Kenya. Obviously the Standing Committee has not seen any reason whatsoever for such a request and the Depositary therefore has not had any cause to enter such a proposal."

#### Recommendation by the Secretariat

In accordance with its provisional assessment, the Secretariat recommends that this proposal be discussed in depth at the planned dialogue meeting of African elephant range States.

#### **Proposal 12**

***Vicugna vicugna* – Transfer from Appendix I to Appendix II of the population of the province of Catamarca, for the exclusive purpose of allowing international trade in wool sheared from live animals, in cloth, derived manufactured products and other handicraft artefacts bearing the label 'VICUÑA – ARGENTINA' (Argentina)**

#### Provisional assessment by the Secretariat

This proposal refers to the wild populations of the province of Catamarca. The semi-captive populations in this province are already included in Appendix II. The animals in all these populations have originated from elsewhere in Argentina. The information provided in the supporting statement indicates that the population does not meet the biological criteria for Appendix I, as outlined in Annex 1 of Resolution Conf. 9.24. The management programme annexed to the proposal contains sufficient safeguards that the wild populations, once transferred to Appendix II, will not be overexploited. The proposal is therefore consistent with the provisions of Annex 4, section B.2.b) of Resolution Conf. 9.24.

#### Comments from Parties

None

#### Recommendation by the Secretariat

The IUCN/TRAFFIC analysis questions the conservation benefits of the captive management system annexed to the proposal, specifically whether it provides strong incentives for the protection of the wild population of vicuña, or their habitat, in this province. The Secretariat supports the proposal and also recommends that Argentina and the other range States of this species consider, under the auspices of the Convenio de la Vicuña, the need to strengthen the operation and oversight of captive management as well as the need to address the potentially detrimental effect of captive management on the status of wild populations.

#### **Proposal 13**

***Vicugna vicugna* – Transfer to Appendix II of the populations of Bolivia that are in Appendix I, in accordance with Article II, paragraph 2 (a), of the Convention, with the exclusive purpose of allowing international trade in products made from wool sheared from live animals and bearing the label 'VICUÑA – BOLIVIA' (Bolivia)**

#### Provisional assessment by the Secretariat

The same proposal was submitted for consideration at CoP11, but was withdrawn by Bolivia to facilitate further dialogue between the signatory countries to the *Convenio para la Conservación y Manejo de la*

*Vicuña*. The information provided in the supporting statement indicates that the populations do not meet the biological criteria for Appendix I, as outlined in Annex 1 to Resolution Conf. 9.24. Noting the low incidence of illegal trade, the size and trend of the Bolivian vicuña populations, expanding community involvement in vicuña management, existing international agreements and the low impact of shearing on wild populations of the vicuña as a management method, the proposal is therefore consistent with the provisions of Annex 4, section B.2.b) of Resolution Conf. 9.24.

#### Comments from Parties

None

#### Recommendation by the Secretariat

The Secretariat recommends the adoption of this proposal and also recommends that Bolivia and the other range States of this species consider, under the auspices of the Convenio de la Vicuña, the need to strengthen the operation and oversight of captive management as well as the need to address the potentially detrimental effect of captive management on the status of wild populations.

#### **Proposal 14**

***Vicugna vicugna* – Transfer from Appendix I to Appendix II of the population of the Primera Región of Chile through a modification of annotations –106 and +211 (Chile)**

#### Provisional assessment by the Secretariat

The supporting statement to this proposal does not follow the format provided in Annex 6 of Resolution Conf. 9.24 and does not address all elements of the proposal format. The Secretariat advises the proponent to provide the missing information where possible. From the information provided it is clear that the population of *Vicugna vicugna* has been increasing over the past years and has now reached a stable level of almost 17,000 animals. A programme is being developed to improve the involvement of local communities in the management of the wild populations (the semi-captive population of this region is already included in Appendix II). A transfer of the population to Appendix II would therefore be in accordance with the precautionary guidance provided in Annex 4 of Resolution Conf. 9.24.

#### Comments from Parties

None

#### Recommendation by the Secretariat

No further information has been received from Chile, and uncertainty remains over some aspects of the proposed management of the relevant population, as also highlighted in the IUCN/TRAFFIC analysis of this proposal. The Secretariat recommends the adoption of this proposal and also recommends that Chile and the other range States of this species consider, under the auspices of the Convenio de la Vicuña, the need to strengthen the operation and oversight of captive management as well as the need to address the potentially detrimental effect of captive management on the status of wild populations.

#### **Proposal 15**

***Rhea pennata pennata* – Transfer from Appendix I to Appendix II of the Chilean population, in accordance with Annex 4, section B.2.b), of Resolution Conf. 9.24 (Chile)**

#### Provisional assessment by the Secretariat

*Rhea pennata pennata* has been included in Appendix II since the Convention entered into force, and was transferred to Appendix I at the second meeting of the Conference of the Parties (San Jose, 1979) following the adoption of a proposal submitted by Peru. The supporting statement of that proposal largely referred to the status of *R. p. tarapacensis* in Peru, and contained no information on the population status of the other two subspecies. The current proposal is well prepared and contains all information in the required detail, indicating that, although the population is not very large, it does not meet the criteria for inclusion in Appendix I. An important element in this proposal is that Chile has the intention of allowing trade only in specimens from breeding operations. The proposal is therefore consistent with the provisions of Annex 4, section B.2.b), of Resolution Conf. 9.24.

#### Comments from Parties

Switzerland: "We would be interested to know how any parts and derivatives (e.g. meat, skins, feathers) will be identified as originating from captive bred and not from wild-caught animals, should the proposal be accepted."

#### Recommendation by the Secretariat

Concerning potential enforcement problems related to the trade in captive-bred specimens only, or the potential impact on other subspecies, it remains the responsibility of the Management Authority to determine that specimens are exported in compliance with Article IV. The Secretariat recommends that this proposal be adopted.

#### **Proposal 16**

#### ***Amazona auropalliata* – Transfer from Appendix II to Appendix I (Costa Rica)**

#### Provisional assessment by the Secretariat

Very little information is provided on the population size of this species in the various range States. The proposal indicates that the serious loss of habitat owing to deforestation is the most serious threat to the survival of this species.

The most recent information is available for Nicaragua, where the population was estimated in 1999 at 85,000 specimens. The offtake of young animals is well managed and is subject to a quota, for 2002 set at 650 specimens. Population estimates conducted in a part of Honduras in 1993 mention 40,290 individuals. Concerning Costa Rica, El Salvador, Guatemala and Mexico, no population data are provided, but for all these countries the severe reduction of the species' habitat is given as a major reason for the rapid decline in population size. In the case of Costa Rica, however, the proposal notes that the species has been considered common and stable in the protected areas. It is not clear from the proposal whether the same may be true in other range States. Frequent reference is made to the plundering of nests and nesting trees for the purpose of illegal trade, but unfortunately no information is provided on confiscations of illegal shipments or other enforcement actions. Illegal harvesting is reported for what appears to be a significant but mostly illegal internal market involving thousands of birds (e.g. Costa Rica alone has a captive population of approximately 22,000 specimens), as well as for illegal international trade. From the supporting statement it is not clear whether all the range States have been consulted. The Secretariat would be particularly interested in the opinion of Nicaragua, since it is the only range State that is regularly trading this species from a population of apparently 85,000 birds.

Although in decline, the species does not seem to meet the biological criteria for listing in Appendix I in view of the overall size of the wild population and its large distribution area. The Secretariat is of the opinion that a transfer of this species to Appendix I would not necessarily address the main threats to the species, and

that better implementation of domestic legislation, improved controls of national and international trade, and measures to protect the remaining habitat would produce more important conservation benefits.

#### Comments from Parties

Switzerland: "These two proposals show that taxonomic changes can lead to a rather complex situation. Two earlier subspecies of *A. ochrocephala*, which have been traded for many years as *A. ochrocephala* (Appendix II) are now proposed for Appendix I. In addition, each of the 'new' species (*A. auropalliata*, *A. oratrix*) has now three subspecies and *A. ochrocephala* has two. We are concerned about the general confusion. We are equally concerned about whether only adult or semi-adult birds or also juveniles are 'readily identifiable'. We are concerned also about what is going to happen to all those now *A. auropalliata* and *A. oratrix* in the hands of private owners and breeders worldwide that have been exported, imported, registered, bred, etc. for many years as *A. ochrocephala*. Will it really be possible to change their status, their species denomination and all the references made in regard to them in all the data files? From the information in the proposal we gather that the main threat is loss of habitat and/or the plundering of nests and nesting trees for the purpose of illegal international and, above all, national trade. These threats will remain, even when the species is transferred to Appendix I. In fact the Secretariat in its comments on Proposal 17 states that it is doubtful that the problem of trade in illegally caught specimens could be resolved with an Appendix-I listing. On the other hand we see in the information that a sustainable use (through a quota system and good management practice) seems possible and could well be in the interest of conservation. Management programmes ('ranching') would however cease, should the species be on Appendix I. We doubt therefore that a transfer would be in the best interest of the species and believe that issues related to international trade could be adequately dealt with by correctly applying the provisions of Article IV."

#### Recommendation by the Secretariat

As also found in the analysis of the proposal by IUCN/TRAFFIC, insufficient information exists to determine that the biological criteria for inclusion in Appendix I have been met. It is furthermore unlikely that the current level of exports from the one Party with the largest remaining population represents a significant threat. The Secretariat therefore recommends that this proposal be rejected.

#### **Proposal 17**

##### ***Amazona oratrix* – Transfer from Appendix II to Appendix I (Mexico)**

#### Provisional assessment by the Secretariat

As in the case of *Amazona auropalliata* (Proposal 16), the supporting statement provides very little detail on the current population sizes of the various subspecies, other than for *A. o. tresmariae*. It is therefore difficult to verify the suggested population decline of 68 per cent in the last 10 years (but an even higher decline has been estimated in another source<sup>1</sup>), but such a decline would be consistent with the scale of habitat loss. Although probably heavily traded in the 1970s and 1980s, hardly any legal trade for commercial purposes has taken place in the 1990s. Trade in live specimens was mainly in captive-bred birds. The supporting statement identifies a considerable trade in illegally caught specimens, but it is doubtful that this problem could be resolved with an Appendix-I listing only. The supporting statement does not mention whether the other range States have been consulted, although paragraph 7 seems to indicate that there has been contact with Costa Rica and Guatemala.

As recognized in the proposal, loss of habitat through deforestation has had a major impact on this species, and the range States would need to complement the control of trade with measures to secure the habitat of this species in order to promote its recovery. This species qualifies for inclusion in Appendix I under the provisions of Annex 1, criteria C.i) and C.ii), of Resolution Conf. 9.24.

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<sup>1</sup> BirdLife International (2000), *Threatened birds of the world*, Barcelona and Cambridge, Lynx Edicions and BirdLife.

#### Comments from Parties

Switzerland: (see comments under Proposal 16)

#### Recommendation by the Secretariat

While recommending that the proposal be adopted, the Secretariat remains concerned that other measures than an Appendix-I listing will be needed to halt the decline of this species.

#### **Proposal 18**

***Ara couloni* – Transfer from Appendix II to Appendix I in accordance with Annex 1, section D, of Resolution Conf. 9.24**

**(Germany on behalf of the Member States of the European Community)**

#### Provisional assessment by the Secretariat

There is insufficient information to determine whether the species meets the criteria for inclusion in Appendix I on the basis of Annex I, section D, of Resolution Conf. 9.24. The proposal indicates that the range States either prohibit exports or only allow a small number in international trade annually, but that internal trade is not regulated in Peru and Bolivia, where the species is stated to be unprotected. Furthermore, it is stated that internal trade occurs openly in Brazil despite the fact that the species is under protection and that no imports have been authorized. The proposal indicates that population monitoring is poor, few areas of habitat are under national protection, legal protection is inefficient or absent, and no specific management measures exist for this species.

In view of the above, the Secretariat is not convinced that a transfer of this species to Appendix I would contribute significantly to the species' conservation and is of the opinion that the management measures outlined in section 4.2.3 of the proposal would result in more important conservation benefits.

#### Comments from Parties

Germany: Germany has received written confirmation of support from Peru for this proposal.

Switzerland: "In view of the fact that there is obviously a significant internal trade in this species and that it is also hunted for food, we refer again to the statement by the Secretariat mentioned above, which advises against amendment proposals that do not seem to address the real conservation threats. We also have taken note that legal protection of the species is inefficient or absent in a considerable part of its range, only few areas of habitat are under national protection, population monitoring is poor and no specific management measures exist for this species. Instead of a transfer to Appendix I, the fixation of an annual export quota (which would involve a non-detriment finding) by the range States – in particular Peru – and the introduction of good management programmes might be more advisable."

#### Recommendation by the Secretariat

This species is legally protected in Bolivia, Brazil and Peru. However, insufficient information is available to determine that it meets the biological criteria for inclusion in Appendix I. It is unclear whether any further measures under CITES, other than the inclusion of the species in Appendix II, are needed when the range States do not intend to allow exports. Stricter controls at domestic level may, however, be needed to regulate harvesting and trade. It also seems to be important to conduct a comprehensive assessment of the status of this species and its habitat in all three range States. The Secretariat recommends that this proposal be rejected.

#### **Proposal 19**

***Poicephalus robustus* – Transfer of the South African population from Appendix II to Appendix I in accordance with Annex 1, sections A.(ii), B.(i) and C.(ii), of Resolution Conf. 9.24**

## **(South Africa)**

### Provisional assessment by the Secretariat

The rationale for this proposal seems to be a concern that a potential increase in demand for the species may result from a recent taxonomic change, which elevated a relatively small subpopulation of *P. robustus* to the species level. This subpopulation is endemic to South Africa, has a very small total population size and appears to be inadequately protected and thus endangered. This taxonomic change has not yet been adopted by the Conference of the Parties, which explains why the reference in the proposal is to the South African population of *P. robustus*. The small size of this subpopulation and its fragmented distribution indicate that the species may qualify for inclusion in Appendix I under Annex 1, sections A.ii) and B.i), of Resolution Conf. 9.24. The information provided suggests that the population is small but stable, and that the fragmented forest habitat is protected. It is therefore not clear that Annex 1, criterion C.ii), of Resolution Conf. 9.24 has been met, as contended in the proposal.

The proposal does not explain why an Appendix-I listing is necessary to avert the threat of commercial trade, as stated in the proposal. It should be noted that South Africa has not authorized the export of any wild specimens since 1989 and only a total of six wild specimens since 1978, none for the purpose of commercial trade. It clearly does not intend to allow export in the near future either. If the threat of commercial trade refers to illegal trade, it is unlikely that an Appendix-I listing would reduce or eliminate that. Appendix II provides adequate measures to control trade for the newly described endemic species.

The proposal, although asserting that commercial trade is a major threat, presents a clear argument that the most important threats to this species relate to the loss of habitat, unsustainable logging of the *Podocarpus* forests and agriculture. In fact, a strong case has been built that the relict *Podocarpus* forests, which are vital habitat for this species, should be much better protected than they are at present.

The Secretariat generally advises against amendment proposals that do not seem to address the real conservation threat. In this instance, increased national protection for the species and the *Podocarpus* forests that it so much depends upon is likely to have a greater effect on the conservation of this parrot.

### Comments from Parties

Switzerland: "As with the proposals 16 and 17, we see problems with the implementation, when the national population of a species (*P. robustus*) suddenly acquires species status and should be transferred to Appendix I, while other populations, so far very frequently traded under the same species denomination (*P. robustus*) suddenly belong to a different taxon, whilst remaining in Appendix II. In view of the fact that the range State, already now, does not permit any exports, and also that this population ("newly described endemic species") is a habitat specialist and that the vital habitats seem not to be adequately protected, we find the suggestion of the Secretariat quite noteworthy that Appendix II provides adequate measures to control trade and that the relict habitat (*Podocarpus* forests) should benefit from better protection. In this respect we raise the question, whether it is in accordance with Article II, paragraph a), of the Convention to list species on Appendix I as a pure precautionary measure."

### Recommendation by the Secretariat

While the population in question seems to meet the criteria for inclusion in Appendix I, the added conservation value of such a transfer remains unclear, particularly since the sole range State already does not authorize exports. As noted by Switzerland, the transfer may complicate enforcement, especially since specimens from other subspecies are exported from South Africa. The Secretariat therefore recommends that this proposal be rejected.

## **Proposal 20**

***Platysternon megacephalum* – Inclusion in Appendix II in accordance with Article II, paragraph 2 (a), of the Convention and Annex 2.a, sections A and B.i), of Resolution Conf. 9.24**

**(China, United States of America)**

Provisional assessment by the Secretariat

This proposal stems from a workshop convened by the Secretariat pursuant to Decision 11.150, in Kunming, China, in March 2002, and appears to be supported by all the range States that participated. The Lao People's Democratic Republic was invited but could not attend. Little information is available on the population status and trend for this species (and indeed most other freshwater turtle species) but the proposal presents a well-researched summary of the available information. The species appears to be in trade in significant volumes or in demand for trade (as food items or as live specimens), with extensive evidence of illegal trade and recent declines in availability in some markets, which may suggest overexploitation. The species qualifies for inclusion in Appendix II under Article II, paragraph 2(a) of the Convention, and criteria A and B.i) of Annex 2 a of Resolution Conf. 9.24.

It is not clear that all populations are equally under threat, but the inclusion of this species in Appendix II is likely to be beneficial across its range. Other actions should however be taken to complement an Appendix-II listing, because not all threats stem from international trade. Such actions were identified at the workshop in Kunming (cf. document CoP12 Doc. 39). Range States should maintain strict control over trade in addition to improving measures to protect the relevant populations *in situ*. It seems to be very important to improve the regulation and monitoring of domestic markets for freshwater turtles in general, in addition to developing and implementing any measures aimed at improving management of international trade.

Comments from Parties

Switzerland: "We fully concur with the statement by the Secretariat that, whatever the decision of the CoP may be with regard to these proposals, range States should improve measures to protect the relevant populations *in situ*, as well as improve the regulation and monitoring of domestic markets for freshwater turtles in general."

Recommendation by the Secretariat

The Secretariat recommends that this proposal be adopted.

**Proposal 21**

***Annamemys annamensis* – Inclusion in Appendix II in accordance with Article II, paragraph 2(a), of the Convention and Annex 2 a, sections A, and B.i) and ii), of Resolution Conf. 9.24**

**(China, Germany on behalf of the Member States of the European Community)**

Provisional assessment by the Secretariat

The Nomenclature Committee advised the Secretariat that the name *Annamemys annamensis* should be used for the taxon referred to by the proponents as *Mauremys annamensis* in their proposal. The proposal was discussed at the Kunming workshop on freshwater turtles convened by the Secretariat pursuant to Decision 11.150. The species appears to be traded in significant volumes or to be in demand for trade (as food items or as live specimens), with extensive evidence of illegal trade. The species qualifies for inclusion in Appendix II under Article II, paragraph 2(a) of the Convention, and meets criteria A, B.i) and ii) of Annex 2 a, of Resolution Conf. 9.24. The comments in the last paragraph of the assessment of Proposal 20 also apply to this species.

Comments from Parties

Switzerland: (see comments under Proposal 20)

#### Recommendation by the Secretariat

The Secretariat recommends that this proposal be adopted.

#### **Proposal 22**

***Heosemys* spp. – Inclusion in Appendix II in accordance with Article II, paragraph 2 (a), of the Convention and Annex 2 a of Resolution Conf. 9.24:**

- a) sections A and B.i) for *H. depressa*;
- b) section B.i) for *H. grandis* and *H. spinosa*; and
- c) section A for *H. leyensis*.

**(China, Germany on behalf of the Member States of the European Community)**

#### Provisional assessment by the Secretariat

This proposal was discussed at the Kunming workshop convened by the Secretariat pursuant to Decision 11.150. The scope of the proposal is confusing as it refers to the entire genus but lists only four species in paragraphs a) to c). The supporting statement says that another taxon, *Heosemys sylvatica*, is specifically excluded from the proposal because of uncertainty about its taxonomy. The name *H. sylvatica* is nevertheless included in the standard reference for the names of turtles adopted by the Conference of the Parties (Wermuth & Mertens, 1996). It is therefore necessary that the proposal be amended to refer only to the inclusion in Appendix II of *H. depressa*, *H. grandis*, *H. spinosa* and *H. leyensis*, and not to the inclusion of *Heosemys* spp.

All four species appear to be traded in significant volumes or to be in demand for trade (as food items or as live specimens). There is extensive evidence of illegal trade and recent declines in availability in some markets, which may suggest overexploitation. The species qualify for inclusion in Appendix II under Article II, paragraph 2(a), of the Convention and meet criteria A and B.i) of Annex 2 a of Resolution Conf. 9.24 as outlined in the proposal. The comments in the last paragraph under Proposal 20 also apply to these species.

#### Comments from Parties

Switzerland: (see comments under Proposal 20)

#### Recommendation by the Secretariat

The Secretariat recommends that this proposal be adopted, provided that it is amended to refer only to the inclusion in Appendix II of *H. depressa*, *H. grandis*, *H. spinosa* and *H. leyensis*.

#### **Proposal 23**

***Hieremys annandalii* – Inclusion in Appendix II in accordance with Article II, paragraph 2(a), of the Convention and Annex 2 a, sections A and B.i), of Resolution Conf. 9.24**

**(China, United States of America)**

#### Provisional assessment by the Secretariat

This proposal originates from the Kunming workshop on freshwater turtles convened by the Secretariat pursuant to Decision 11.150, and concerns one of the species identified at this workshop for inclusion in Appendix II. While very little quantitative information seems to be available on the status of this species, the general impression is that the species is under extensive pressure from harvesting for international trade and domestic consumption, and has severely declined in some localities. The species qualifies for inclusion in Appendix II under Article II, paragraph 2(a) of the Convention, and meets criteria A and B.i) of Annex 2 a of Resolution Conf. 9.24. The comments in the last paragraph of the assessment of Proposal 20 also apply to this species.



#### Comments from Parties

Switzerland: (see comments under Proposal 20)

#### Recommendation by the Secretariat

The Secretariat recommends that this proposal be adopted.

#### **Proposal 24**

***Kachuga* spp. (except *K. tecta*) – Inclusion in Appendix II with the exception of *K. tecta* in accordance with Article II, paragraph 2 (a), of the Convention and:**

- a) **Annex 2 a, sections A and B, of Resolution Conf. 9.24 for *K. dhongoka*, *K. kachuga*, *K. sylhetensis* and *K. trivittata*; and**
- b) **Annex 2 b, section A, of Resolution Conf. 9.24 for *K. smithii* and *K. tentoria* (India, United States of America)**

#### Provisional assessment by the Secretariat

Ample information is presented in this proposal, which stems from the Kunming workshop on freshwater turtles convened by the Secretariat pursuant to Decision 11.150, to demonstrate that the genus (of which *Kachuga tecta* is already included in Appendix I) merits inclusion in Appendix II. Although limited information exists on the population status and trends for any of the species concerned, the proposal sufficiently describes the current threats posed by international trade and the impact or potential impact of trade on this genus. The comments in the last paragraph of the assessment of Proposal 20 also apply to these species.

#### Comments from Parties

Switzerland: (see comments under Proposal 20)

#### Recommendation by the Secretariat

The taxonomic status of *Kachuga trivittata* in relation to *Callagur borneoensis* seems to be unclear. It is hoped that confirmation of the validity of *Kachuga trivittata* can be obtained prior to the discussion of this proposal at CoP12, or the Conference of the Parties should agree that this name can be deleted from Appendix II if it proves to be covered by the existing listing of *Callagur borneoensis* in Appendix II. It furthermore seems as if all rather than some of the species included in the proposal meet the criteria for inclusion in Appendix II under Annex 2 a of Resolution Conf. 9.24, but the Secretariat recommends that the proposal be adopted.

#### **Proposal 25**

***Leucocephalon yuwonoi* – Inclusion in Appendix II in accordance with Article II, paragraph 2 (a), of the Convention and Annex 2 a, sections A and B.i), of Resolution Conf. 9.24  
(China, Germany on behalf of the Member States of the European Community)**

#### Provisional assessment by the Secretariat

Although the name *Leucocephalon yuwonoi* is widely used for this species, the standard reference for the names of turtles adopted by the Conference of the Parties (Wermuth & Mertens, 1996) uses the name *Geoemyda yuwonoi*. If the proposal is adopted, this is the name that will be used in the Appendices unless the Conference of the Parties decides otherwise.

This proposal was discussed at the Kunming workshop on freshwater turtles convened by the Secretariat pursuant to Decision 11.150, and concerns one of the species identified at this workshop for inclusion in Appendix II. While very little quantitative information seems to be available on the status of this species, this brief but adequate proposal shows that it is under extensive pressure of harvesting for international trade

and domestic consumption, and has severely declined in some localities. The species qualifies for inclusion in Appendix II under Article II, paragraph 2(a) of the Convention, and meets criteria A and B.i) of Annex 2 a of Resolution Conf. 9.24. It is striking that this species is not protected, does not occur in any protected areas, is not monitored and already has been severely impacted by harvesting, which is also evidenced by its rapid decline in availability on markets. The comments in the last paragraph of the assessment of Proposal 20 also apply to this species.

#### Comments from Parties

Switzerland: (see comments under Proposal 20)

#### Recommendation by the Secretariat

The Secretariat recommends that this proposal be adopted and draws attention to the fact that the Nomenclature Committee, in its report for CoP12, has proposed an addition to the standard reference for turtles in order to be able to use the name *Leucocephalon yuwonoi* in CITES.

#### **Proposal 26**

***Mauremys mutica* – Inclusion in Appendix II in accordance with Article II, paragraph 2(a), of the Convention and Annex 2 a, sections A and B.i), of Resolution Conf. 9.24 (China, United States of America)**

#### Provisional assessment by the Secretariat

This proposal originates from the Kunming workshop on freshwater turtles convened by the Secretariat pursuant to Decision 11.150, and concerns one of the species identified at this workshop for inclusion in Appendix II. While very little quantitative information seems to be available on the status of this species, it is evident that the species has been severely impacted by unregulated harvesting and international trade. The general impression is that the species is under extensive pressure of harvesting for international trade and domestic consumption, and has severely declined in some localities. The species qualifies for inclusion in Appendix II under Article II, paragraph 2(a) of the Convention, and meets criteria A and B.i) of Annex 2 a of Resolution Conf. 9.24. The comments in the last paragraph of the assessment of Proposal 20 also apply to this species. It is striking that although recently described as one of the commonest turtles for sale in Chinese food markets, the species has become endangered. It is essential that better controls be placed on domestic harvesting of and trade in this species.

#### Comments from Parties

Japan: "Japan appreciates the efforts of the Government of China and of the United States of America for drafting this proposal, in accordance with the consensus recommendation of the CITES-sponsored Technical Workshop on Conservation of and Trade in Freshwater Turtles and Tortoise in Asia held in March 2002. Unfortunately, the status of this species in Japan is not adequately included in this proposal since Japan could not attend the Technical Workshop in March and also the document of consultation has not reached the Scientific Authority for CITES in Japan for unknown reasons. Japan would therefore like to take this opportunity to provide available information on the status of *Mauremys mutica* in Japan. Part of the information described below is provided by the Japan Wildlife Research Center, an incorporated foundation (August 2002). While it is still under the review process regarding the proposals for amendment of Appendices, Japan found no objection on this proposal (12.26) so far.

Status of *Mauremys mutica* in Japan:

Biological parameters Distribution: Two subspecies of the Yellow Pond Turtle, *Mauremys mutica* exist in Japan and they are found in the Kinki area (Kyoto, Shiga and Osaka Prefecture) and southwestern Archipelago (Akuseki Island located in Tokara Islands, Okinawa Island, Aka Island, Zamami Island and Sesoko Island located in the Okinawa Islands, Miyako Island, Yonaguni Island, Ishigaki Island and

Iriomote Island located in the Yaeyama Islands). It is estimated that the original distribution of endemic subspecies *Mauremys mutica kami* was limited in the Yaeyama Islands (Ishigaki Island, Iriomote Island and Yonaguni Island), and that other populations in the southwestern Archipelago (Tokara Islands, Okinawa Islands and Miyako Island) were introduced intentionally or accidentally. In the Kinki area, *Mauremys mutica mutica* is found and it is considered to be as an alien population from foreign countries. Population trends: The endemic population of *Mauremys mutica kami* in the Yaeyama Islands (Ishigaki Island, Iriomote Island and Yonaguni Island) is declining, while some populations of *Mauremys mutica kami* in the southwestern Archipelago and *M.m.mutica* in Kinki area are expanding their distribution areas. Threats: Loss, fragmentation and deterioration of habitats, Taking of individuals for pet trade.

Utilization and trade National and international trade: Individuals of *Mauremys mutica kami* collected mainly in the Ishigaki Island and Yonaguni Island of the Yaeyama Islands are shipped to urban areas in the main island of Japan as pet. Also, it is estimated that a small number of these individuals are exported. Captive breeding for commercial purposes: In Japan, captive breeding of this species has been conducted on a small scale for the purpose of pet trade.

Conservation and management National legal status: The population in the city of Kyoto, Kinki area has been designated as a natural monument under the municipal ordinance of the city of Kyoto, and taking of individuals is prohibited. Other populations are not protected under legal regulations in Japan. Conservation of habitats: A part of the area of the Iriomote Island in the Yaeyama Islands has been designated as the Iriomote National Park since 1972, and development activities including construction of structures, mining, quarrying and felling of trees are restricted."

Switzerland: "We foresee implementation problems, because, in particular for juveniles, the species identification (i.e. differentiation between the different species of the genus) might be very difficult if not impossible." (See also comments under Proposal 20).

#### Recommendation by the Secretariat

The Secretariat recommends that this proposal be adopted.

#### **Proposal 27**

***Orlitia borneensis* – Inclusion in Appendix II in accordance with Article II, paragraph 2(a), of the Convention and Annex 2 a, section B.i), of Resolution Conf. 9.24**  
**(China, Germany on behalf of the Member States of the European Community)**

#### Provisional assessment by the Secretariat

This proposal was discussed at the Kunming workshop on freshwater turtles convened by the Secretariat pursuant to Decision 11.150. Little quantitative information is available on the status of this species, but its declining availability in trade suggests that it has been severely impacted in several localities through harvesting for international trade and domestic consumption. The species qualifies for inclusion in Appendix II under Article II, paragraph 2(a) of the Convention, and meets criteria A and B.i) of Annex 2a of Resolution Conf. 9.24. The comments in the last paragraph of the assessment of Proposal 20 also apply to this species.

#### Comments from Parties

Switzerland: (see comments under Proposal 20)

#### Recommendation by the Secretariat

The Secretariat recommends that this proposal be adopted.

#### **Proposal 28**

***Pyxidea mouhotii* – Inclusion in Appendix II in accordance with Article II, paragraph 2 (a), of the Convention and Annex 2 a, sections A and B.i), of Resolution Conf. 9.24  
(China, United States of America)**

#### Provisional assessment by the Secretariat

This proposal originates from the Kunming workshop on freshwater turtles convened by the Secretariat pursuant to Decision 11.150, and concerns one of the species identified at this workshop for inclusion in Appendix II. While very little quantitative information seems to be available on the status of this species, the general impression is that the species is under extensive pressure of harvesting for international trade and domestic consumption, and has severely declined in some localities. It is also subject to extensive illegal trade. The species qualifies for inclusion in Appendix II under Article II, paragraph 2(a) of the Convention, and meets criteria A and B.i) of Annex 2a of Resolution Conf. 9.24. The comments in the last paragraph of the assessment of Proposal 20 also apply to this species.

#### Comments from Parties

Switzerland: (see comments under Proposal 20)

#### Recommendation by the Secretariat

All available information suggests that this proposal should be accepted.

#### **Proposal 29**

***Siebenrockiella crassicollis* – Inclusion in Appendix II in accordance with Article II, paragraph 2(a), of the Convention and Annex 2a, sections A and B.i), of Resolution Conf. 9.24  
(China, United States of America)**

#### Provisional assessment by the Secretariat

This proposal originates from the Kunming workshop on freshwater turtles convened by the Secretariat pursuant to Decision 11.150, and concerns one of the species identified at this workshop for inclusion in Appendix II. The species appears to be in trade in significant volumes or in demand for trade (as food items or as live specimens), with extensive evidence of illegal trade. The species qualifies for inclusion in Appendix II under Article II, paragraph 2(a) of the Convention, and meets criteria A and B.i) of Annex 2 a of Resolution Conf. 9.24. The comments in the last paragraph of the assessment of Proposal 20 also apply to this species.

#### Comments from Parties

Switzerland: (see comments under Proposal 20)

#### Recommendation by the Secretariat

The Secretariat recommends that this proposal be adopted.

#### **Proposal 30 (Withdrawn)**

#### **Proposal 31**

***Chitra* spp. – Inclusion in Appendix II in accordance with Article II, paragraph 2(a), of the Convention and Annex 2a, sections A and B.i), of Resolution Conf. 9.24  
(China, United States of America)**

#### Provisional assessment by the Secretariat

This proposal originates from the Kunming workshop on freshwater turtles convened by the Secretariat pursuant to Decision 11.150, and concerns one of the taxa identified at this workshop for inclusion in Appendix II. While very little quantitative information is available on the status of the species of this small genus, it is clear that some populations of all species have been severely impacted by unregulated harvesting and trade. The species of this genus qualify for inclusion in Appendix II under Article II, paragraph 2(a), of the Convention, and meets criteria A and B.i) of Annex 2 a of Resolution Conf. 9.24. The comments in the last paragraph of the assessment of Proposal 20 also apply to this genus<sup>1</sup>.

#### Comments from Parties

Switzerland: (see comments under Proposal 20)

#### Recommendation by the Secretariat

The Secretariat recommends that this proposal be adopted.

#### **Proposal 32**

##### ***Pelochelys* spp. – Inclusion in Appendix II**

- a) *P. cantorii*: in accordance with Article II, paragraph 2(a), of the Convention, and Annex 2 a, sections A and B. i), of Resolution Conf. 9.24; and
- b) *P. bibroni*: in accordance with Article II, paragraph 2(b), of the Convention, and Annex 2 b, section A, of Resolution Conf. 9.24

(China, United States of America)

#### Provisional assessment by the Secretariat

This proposal also originates from the Kunming workshop on freshwater turtles convened by the Secretariat pursuant to Decision 11.150, and concerns one of the taxa identified at this workshop to be priorities for inclusion in Appendix II. Little quantitative information is available on the status of *P. cantorii*, but it is clearly under extensive pressure of harvesting for international trade and domestic consumption, and has severely declined in some localities. This species clearly qualifies for inclusion in Appendix II under Article II, paragraph 2(a) of the Convention, and meets criteria A and B.i) of Annex 2 a of Resolution Conf. 9.24.

The inclusion of *P. bibroni* as a look-alike species under Article II, paragraph 2(b) is less clear. Although even less information is available on this species, the proposal states that, in both range States, the species is strongly affected by hunting for trade. It would therefore seem to qualify for inclusion in Appendix II in accordance with Article II, paragraph 2(a) of the Convention. The comments in the last paragraph of the assessment of Proposal 20 also apply to this genus.

#### Comments from Parties

Switzerland: (see comments under Proposal 20)

#### Recommendation by the Secretariat

The Secretariat recommends that this proposal be adopted.

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<sup>1</sup> Reference is made in the supporting statement to the possibility of establishing a zero quota for wild specimens of one of the species. The Secretariat believes that such a quota may not be necessary if Article IV is properly implemented, and should, if considered desirable, be established as a voluntary national restriction rather than a quota established by the Conference of the Parties, which can only be amended through a two-thirds majority decision of the Conference of the Parties.

### Proposal 33

***Hoplodactylus* spp. and *Naultinus* spp. – Inclusion in Appendix II in accordance with Article II, paragraphs 2 (a) and 2 (b), of the Convention (New Zealand)**

#### Provisional assessment by the Secretariat

The proposal does not provide specific information on the conservation status or population trend of the species of either genus, and therefore evidence is lacking that international trade has a significant impact on these genera. The rationale for this proposal is based on the concern that the apparently expanding market demand for specimens of these genera outside New Zealand includes illegal wild-collected specimens of these genera in addition to captive-bred specimens from outside New Zealand. The proposal states that the need for a non-detriment finding, once the two genera are included in Appendix II, will mitigate trade in illegally obtained specimens. The aim of the proposal is therefore to use the provisions pertaining to trade in specimens of Appendix-II listed species to complement the domestic measures of New Zealand to prevent trade in illegally harvested specimens. It should be noted that New Zealand already prohibits all harvesting, keeping, captive breeding, domestic trade and export of all species of the two genera.

Criterion A of Annex 2 a of Resolution Conf. 9.24, one of the criteria for the inclusion of species in Appendix II, is that a species will in the near future qualify for inclusion in Appendix I unless trade in it is subject to strict regulation through inclusion in Appendix II. However, the information provided does not suggest a declining conservation status as the result of trade. Regarding criterion B of Annex 2 a of Resolution Conf. 9.24, it is also not possible to determine that the harvesting of specimens from the wild has or may have a detrimental impact on the species, because the information provided does not show a declining conservation status as the result of harvesting for international trade and any harvesting that occurs is already illegal because of protection under the national legislation of New Zealand.

An Appendix-III listing would be appropriate to address New Zealand's principal concern to prevent further illegal exports of geckos in the two genera specified in the proposal, while there is no intention to authorize any exports. Such a listing would oblige all Parties to require an export permit, certificate of origin or re-export certificate before import occurs. The Secretariat recommends that the proponent consider this alternative approach.

#### Comments from Parties

Switzerland: "One of the purposes of Appendix II is to control trade, i.e. to collect reliable trade data in order to better regulate trade. Since New Zealand prohibits harvesting, keeping, captive breeding, domestic trade and export of the two genera, we ask ourselves why – when there is absolutely no intention to trade these species – there is a proposal to list them on Appendix II? Additionally, if some illegal trade is occurring despite the rigorous protection measures and legislation in effect, we doubt that any listing might bring this to a change. We in general are doubtful of proposals that obviously intend to make use of the international community through CITES in order to allow or complement domestic measures. We therefore strongly support the position of the Secretariat that, should the taxa be listed at all, an Appendix-III listing would be appropriate."

#### Recommendation by the Secretariat

Notwithstanding the small population sizes and recorded declines in some species, the conservation benefits of the proposed inclusion of these two genera in Appendix II remain unclear. The Secretariat recommends that including the genera in Appendix III be considered as a possible alternative.

#### **Proposal 34**

##### ***Cnemidophorus hyperythrus* – Deletion from Appendix II (United States of America)**

#### Provisional assessment by the Secretariat

The deletion of this species from Appendix II is proposed because of the relatively low level of international trade in a species described as abundant, well protected in the wild and not threatened by trade. The species clearly does not meet the criteria for inclusion in Appendix II (see Annex 2 a of Resolution Conf. 9.24). Adequate measures are in place to prevent that the species, if deleted from Appendix II, would qualify for inclusion in the Appendices in the near future (see Annex 4, section B.4, of the same Resolution for the precautionary measure that applies to a deletion from Appendix II).

#### Comments from Parties

None

#### Recommendation by the Secretariat

The Secretariat recommends that this proposal be adopted.

#### **Proposal 35**

##### ***Rhincodon typus* – Inclusion in Appendix II (India, the Philippines)**

#### Provisional assessment by the Secretariat

A proposal to include *Rhincodon typus* in Appendix II was first presented by the United States of America at CoP11, but was rejected. The present proposal provides important additional information on national fisheries and conservation measures, and on national and international trade. It mentions that downward population trends have occurred in some sites, although the causes of decline are not known. Current fishing effort for this species is unclear. Several range States have adopted a zero catch limit for this species or provide other forms of protection. Most catches are known from coastal waters and conservation measures within national waters are warranted. However, it is not entirely clear from the proposal to what degree international trade threatens this species. As for the proposal submitted at the previous meeting of the Conference of the Parties, the Secretariat is concerned about the complications that acceptance of this proposal would have for the control of trade. The proposal specifies that fresh meat and whole fins from adults are identifiable, but does not indicate whether other parts and derivatives, such as liver oil and cartilage, could be distinguished from that of other shark species.

FAO launched a voluntary International Plan of Action-Sharks (IPOA-Sharks) in 1999, within the framework of its Code of Conduct for Responsible Fisheries. Regrettably the implementation of the IPOA-Sharks at the national level has been inadequate. The Secretariat considers that range States should, as a matter of priority, prepare national plans for the conservation and management of this species under the IPOA-Sharks and consider adopting national conservation measures as may be required, as the proponents have done. Other measures to improve participation in the IPOA-Sharks should also be considered (see document CoP12 Doc. 41.1).

The Secretariat considers that this species may qualify for inclusion in Appendix II under Annex 2 a, of Resolution Conf. 9.24. However the control of trade in several types of specimens of this species will pose considerable enforcement problems. It remains to be seen whether the products of this species can be readily recognized, especially processed or partially processed products, or products from juveniles or subadults. If the proposal were adopted, it would therefore be important for the proponents to commit to provide identification materials to differentiate parts and derivatives, other than fins or fresh meat, that may enter international trade.

## Comments from Parties

Japan: "Japan believes that stock management for sharks, like other marine fish species, should remain under the competence of FAO, as well as regional fisheries management organizations having jurisdiction in each convention area of the oceans. It is by FAO, not by CITES, that FAO International Plan of Action should be promoted and improved. Therefore, CITES's actions should be limited to requesting FAO to improve implementation and, monitoring of implementation by the Animals Committee. It is misleading to place particular shark species in the CITES Appendices without adequate biological information showing that the species is faced with the risk of extinction.

International trade in sharks does not have a serious impact on the resources. Where necessary, harvesting countries should strengthen resource management measures in accordance with the "International Plan of Action for the Conservation and Management of Sharks" adopted at the 23rd session of the FAO Committee on Fisheries last 2001. For this reason, Japan does not think there is any need for CITES to implement trade control measures before the current state of implementation of the plan of action and improved management measures are assessed. Therefore it is inappropriate to introduce trade measure before the effectiveness of the management measures are assessed and the proposing nations should provide their current situation of the implementation of the plan of action.

[Concerning Proposal 35]: Only limited information such as catch in certain areas and descriptive explanations have been presented. No persuasive evidence has been presented regarding the possible impact of international trade on the state of populations of this species which is the most important element in considering listing. For this reason, we believe that this proposal is not appropriate. Furthermore, this proposal has a problem in terms of procedure because no prior consultation regarding this proposal was made with Japan, which is also a range State. Japan has never been consulted in advance of this proposal despite the fact that Japan is one of range States of this species. There seems to be some inadequacies in preparing the proposal, as is pointed out by the Secretariat. Furthermore, the proposal presents only limited information such as catch records in some restricted areas, and gives no persuasive evidence on the impact that international trade causes on the whole population of this species, which is the most important element in considering Appendix listing. From these reasons, Japan considers that this proposal does not meet the requirements for Appendix listing."

Switzerland: "As with other marine species we foresee problems with Article IV, paragraph 6 ('introduction from the sea'), whenever the specimens originate from international (and not national) waters in particular in regard to the non-detriment finding. This problem is even increased when one is dealing not with a stationary but a migrating species. Furthermore, as the Secretariat also points out, the control of trade in several types of specimens of this species will pose considerable, if not insurmountable enforcement problems. We wonder therefore if the proposals could not be combined with the existing annotation # 3 (in Appendix III) thus subjecting only whole animals, fins and parts of fins to the provisions of the Convention."

## Recommendation by the Secretariat

There does not seem to be sufficient information available to conclude that the species is in decline as the result of harvesting for trade, except in a few localities. However, the species does seem to meet the criteria for inclusion in Appendix II. Earlier concerns over the implementation of the proposed listing concerning some parts and derivatives may not be serious if, as noted in the IUCN/TRAFFIC analysis of this proposal, the value of specimens stems from the fact that they are marketed as specimens of whale shark. The limitation of CITES controls to only certain specimens proposed by Switzerland is not possible for animal species listed in Appendix II. It is not clear how any Party would be able to make a non-detriment finding because of the paucity of information on this species, its highly migratory nature, and the lack of specific management programmes for this species on the high seas or in national waters. These issues need to be addressed but the Secretariat recommends the adoption of the proposal.

## **Proposal 36**

### ***Cetorhinus maximus* – Inclusion in Appendix II**



**(United Kingdom of Great Britain and Northern Ireland on behalf of the Member States of the European Community)**

Provisional assessment by the Secretariat

A proposal to include *Cetorhinus maximus* in Appendix II was first presented by the proponent at CoP11, but was rejected. The proponent listed this species in Appendix III in September 2000, annotated to apply to whole animals, fins and parts of fins only. Two of the main fishing nations for this species, Norway and Japan, entered reservations on this listing. A CITES Identification Manual sheet to assist in the identification of basking shark fins in trade was distributed to the Parties in 2001.

On the basis of what is again a complete and detailed proposal, the Secretariat considers this species to qualify for inclusion in Appendix II under Annex 2 a, of Resolution Conf. 9.24. Furthermore, the Secretariat does not consider a listing in Appendix III to be appropriate for a species that also occurs in waters beyond the jurisdiction of any State, and therefore supports the proposal. However, while the proposal notes that meat, cartilage and oil rarely enter international trade, the control of trade in these specimens could pose considerable enforcement difficulties. It is unclear whether the products of this species can be readily recognized, especially processed or partially processed products, or products from juveniles or subadults. If the proposal were adopted, it would be important to provide identification materials to differentiate parts and derivatives other than fins that may enter international trade.

Comments from Parties

Japan: "Japan opposes Proposal 36. The data on catch volume are limited to those from waters off the European Union (EU). The proponent country itself admits that there is no solid assessment on the state of the population of this species both globally and regionally. Therefore, there is very little scientific rationale to list this species. Currently, sightings of this species are not rare. No sufficient information is available to determine that the presence of international trade alone constitutes the major motive for harvesting of this species. Only one country is targeting this species in fisheries. There is little or no need to regulate the market distribution of unintended incidental catch by other countries. From the reasons given above, Japan considers this proposal is not appropriate.

Furthermore, it is Japan's understanding that the International Council for the Exploration of the Sea (ICES) (whose documents are also cited in the proposal) is an international organization having scientific information on this species in the North Atlantic. We consider that the views of ICES should be sought on whether or not this species is truly facing the risk of extinction. We also believe this proposal has some problems in terms of procedure because Japan, a range State, has not been consulted in advance about the proposal.

Although the Secretariat seems to strongly support this proposal, the proposal should be reviewed through full discussion of the following points:

- Catch data of the species are limited to those from the EU waters, but when considering it globally, there is inadequate scientific evidence to list this species.
- Losses of fisheries targeting this species on a global scale have resulted from economic factors such as declining demand for liver oil – the main product from this species.
- Sighting of this species is not scarce even today.
- Catch quota has been introduced for this species in EU waters, the only area where fishing activities targeting this species take place today, and additional measures could be taken if the EU authorities determine that the stock is declining.

- Insufficient information is available to determine that the presence of international trade is the principal motive of the catch of this species.
- Only one country targets this species, and there is little need to control incidental catches by other countries.

For these reasons, Japan considers that this proposal does not meet the listing criteria." (See also comments under Proposal 35).

Switzerland: (see comments under Proposal 35)

United Kingdom: "The UK acknowledges the comments in respect of the UK's Appendix III listing for the basking shark and welcomes the Secretariat's support for the Appendix II listing. The UK also notes the comments on possible enforcement difficulties in relation to parts and derivatives, and the need, therefore, to provide identification materials. I should point out that in support of the CoP11 basking shark proposal the UK funded research to develop a protocol by DNA analysis for the identification of products in trade containing basking shark derivatives. The successful research indicated that even highly processed products containing basking shark derivatives (including shark-fin soup and cartilage capsules) can be identified. Using this method it would, therefore, be possible to overcome concerns about identification and enforcement. A copy of the report which was submitted in support of the UK's CoP11 proposal is attached. [The report was provided to the Secretariat but is not attached to the present document.]

I understand that there is ongoing research work on shark identification markers and that it is now possible to identify a significant number of different species using DNA analysis. Some of this work is being undertaken by Shelley Clarke at the Imperial College, London looking at the trade through Hong Kong. Mahmood Shivji at the Oceanographic Center & Guy Harvey Research Institute, Nova Southeastern University, Florida is also conducting work on using DNA markers to identify shark parts including dried fins."

#### Recommendation by the Secretariat

Adequate information has been presented to demonstrate that the species meets the criteria for inclusion in Appendix II, such as evidence of declines in response to targeted fisheries. While recommending that the proposal be adopted, the Secretariat remains concerned about the ability of Parties to make non-detriment findings for this species as well as the regulation of trade in some parts and derivatives.

#### **Proposal 37**

##### ***Hippocampus* spp. – Inclusion in Appendix II**

- Hippocampus comes*, *H. spinosissimus*, *H. barbouri*, *H. reidi*, *H. erectus* and *H. ingens* in accordance with Article II, paragraph 2 (a), of the Convention and Annex 2 a, section B.i), of Resolution Conf. 9.24; and**
- the other 26 described species in accordance with Article II, paragraph 2(b), of the Convention, and Annex 2 b, section A, of Resolution Conf. 9.24**

**(United States of America)**

#### Provisional assessment by the Secretariat

A draft of the proposal was discussed at a workshop on seahorses and other members of the family Syngnathidae organized by the Secretariat in Cebu, Philippines, May 2002, pursuant to Decision 11.153. Reference is made in the proposal to the drafting of accompanying recommendations, including delayed implementation of the listing if the proposal is adopted, but the detail of these recommendations were not available at the time of drafting this provisional assessment.

Although little or no quantitative information is available on the status of species of this genus in all but a few sites, it is evident that some species are subject to intensive fisheries and trade, which have caused

local and probably regional declines. As proposed, six species qualify for inclusion in Appendix II under Annex 2 a, section B.i), of Resolution Conf. 9.24, with the remaining species qualifying for look-alike reasons (Annex 2 b, section A). It is not known, however, how much of the international trade in seahorses is accounted for by these six species. It should be noted from the proposal that a decline in the availability and quality of habitat may be an equally serious threat in several countries, mostly in the Asian region, and that this problem needs to be addressed through other mechanisms than CITES.

There are challenges with the implementation of the proposed listing. Several countries have some form of control over seahorse fisheries, but targeted measures to ensure sustainable management of such fisheries seem to be lacking in the great majority of cases. It is not clear that all exporting countries would be able to implement Article IV for this genus, i.e. making determinations that exports are non-detrimental to populations of *Hippocampus* species, unless the monitoring of harvested populations, the regulation of seahorse fisheries and the enforcement of control systems are conducted on a much larger scale than at present.

It is similarly not clear how Article IV will be applied effectively in situations where specimens for export are principally derived as bycatch from other fisheries. In some regions, the bulk of seahorses in trade originate as bycatch, primarily from shrimp trawling. An inability to determine that bycatch from shrimp fisheries is non-detrimental to seahorse populations may result in the prohibition of export of seahorses, but not necessarily in fewer seahorses being killed or harvested. It is noteworthy that the leading exporting country of seahorses prohibits the catch of this genus, and that one of the top-five exporting countries prohibits both catch and export of seahorses. Trade from these two countries is almost certainly derived from illegally landed and exported bycatch. Although a major implementation problem has been avoided by including the entire genus in the proposal, problems exist with the nomenclature and the identification of species within this genus. While live or recently collected specimens may be relatively easy to identify, Parties may have difficulties in assigning species names on export permits or re-export certificates to processed or partially processed specimens. On the positive side, an excellent identification guide is available, trade from countries tends to be dominated by a few species, live animals are always marketed under their scientific name, and persons involved in targeted fisheries and importers usually know the species in trade. It is highly unlikely, however, that identification to species level can be achieved for medicines or other products containing seahorse derivatives.

The Secretariat is of the opinion that all species of the genus meet the criteria for listing in Appendix II, but remains concerned about the implementation problems outlined above.

#### Comments from Parties

Japan: "With due respect for the efforts of the Workshop on Seahorses held in May this year, data concerning the state of the population are still scarce. This proposal purports to list the whole genus in the Appendix on the basis of data only from a limited area and information based on interview surveys from some people concerned. For these reasons, this proposal is not appropriate. It is estimated that at least 20 million sea horses are harvested per year. It is hard to believe from biological point of view that a genus that can support that level of harvesting is on the brink of extinction. As this genus is harvested in coastal areas of many countries in the tropical and sub-tropical and temperate zone, FAO, should, as a matter of priority, undertake to collect basic data and determine the state of the population on a global level. Furthermore, this proposal has a problem from a procedural point of view in that Japan, a range State, has not been consulted in advance about this proposal."

Switzerland: "In the Appendices there exist already several untargeted, unspecific 'cluster-listings' of higher taxa. Switzerland traditionally has certain concerns with listings and proposals of this kind. Also the present proposal shows that in fact six species might be considered as threatened and in need of an Appendix-II listing in order to control trade, while another 24 – not particularly threatened – species should be listed as 'look-alikes'. This – in our opinion - does bring with it additional implication and enforcement problems and does by no means make things easier; not only because instead of having to deal with only six species, we have to deal with 30, but also and in particular for the following reasons: according to Resolution

Conf. 10.2 (Rev.), the scientific name of the species (!) to which the specimens belong should be included in CITES permits and certificates. At the time of export and import then, the controlling agent should examine whether the accompanying documents correspond with the shipment. This means that he/she will have to control down to the species level, in order to make sure that the specimens in the shipment (species, quantity) do indeed correspond with the indications on the permits. Only such a control down to the species level will allow for an effective and wise data collection and statistics and makes sense when we intend to evaluate trade volumes and trends etc. for certain species, i.e. control and regulate trade. What is of interest to CITES are the six threatened species, but these controls will – should the proposal be accepted – involve not only the six threatened species but will have to be extended to the 24 other non-threatened species. And, how should a control and regulation of trade of different species be possible when the identification of certain species may even be difficult for specialists, when the specimens are traded in containers containing thousands, when the specimens are often in a dried or even processed state? In addition, as the Secretariat has also pointed out, the problems of unregulated seahorse fisheries and the untargeted harvest of seahorses as bycatch remain."

#### Recommendation by the Secretariat

Although the genus seems to meet the criteria for inclusion in Appendix II, the Secretariat remains concerned about the implementation of such a listing, for the reasons mentioned in the provisional assessment, and also as illustrated by Switzerland. As mentioned in the provisional assessment, the Animals Committee, subsequent to the workshop held in Cebu earlier in 2002, formulated a range of recommendations aimed at the implementation of the proposed listing (see document CoP12 Doc. 43). Although not formally included in this proposal, the implications of these recommendations need to be considered in this context. It seems as if a considerable effort will be required from the Parties, the Animals Committee and the Secretariat to facilitate the implementation of this listing. The purpose of the proposed delay in the implementation of the listing, if the proposal is amended accordingly, is to provide time for some preparations considered to be necessary by the Animals Committee. Other recommended actions will require financial assistance and considerable action at national level. The Secretariat recommends that the proposal be accepted only if the Conference of the Parties considers that these commitments can be undertaken.

#### **Proposal 38**

***Cheilinus undulatus* – Inclusion in Appendix II in accordance with Annex 2 a, section B, of Resolution Conf. 9.24**  
**(United States of America)**

#### Provisional assessment by the Secretariat

This proposal is for the inclusion in Appendix II of a readily identifiable species that is threatened by over-fishing at all age and size classes and which is traded internationally as live specimens. Listing this species in Appendix II would strengthen efforts to regulate and manage fisheries at national level and reduce illegal, unregulated or unreported (IUU) fishing. The form in which specimens are traded and the unmistakable characteristic shape in all age and size classes will facilitate inspection and enforcement efforts. The Secretariat is of the opinion that the proposal for inclusion in Appendix II meets all of the criteria of Annex 2 a of Resolution Conf. 9.24.

#### Comments from Parties

Japan: "Japan opposes this proposal since there are no data concerning the global state of this species. The proposal is inappropriate as it intends to list the species based on data only from some limited area. With respect to the hump-headed wrasse distributed in the area off Yaeyama in Japan, it is our understanding that the stock is not threatened judging from its catch volumes. Therefore, actions should be limited to continuation of monitoring. No need can be found to list the species in the Appendix at this time."

Switzerland: "Are specimens of *Cheilinus undulatus* always traded as whole fish or also as meat? And if so, how can meat be identified?"

### Recommendation by the Secretariat

In response to the question from Switzerland, the Secretariat was informed that the principal form of international trade in this species is in live specimens. The Secretariat recommends that the proposal be adopted.

#### **Proposal 39**

***Dissostichus eleginoides* and *D. mawsonii* – Inclusion of *D. eleginoides* in Appendix II, in accordance with Article II, paragraph 2(a), of the Convention; inclusion of *D. mawsonii* in Appendix II, in accordance with Article II, paragraph 2(b), of the Convention; with the following annotation:**

**The conservation, management or other relevant measures or resolutions adopted for *Dissostichus* spp. by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), relating to *Dissostichus* spp. harvested from within the CCAMLR Convention Area, shall apply for the purposes of regulating trade in *Dissostichus* spp. under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) including for the purposes of Article IV of CITES. States party to CITES conducting trade in *Dissostichus* spp. harvested and traded in compliance with the conservation, management and other relevant measures or resolutions adopted by CCAMLR, including the Catch Documentation Scheme for *Dissostichus* spp., shall be regarded as having fulfilled their obligations under CITES as regards trade in *Dissostichus* spp. Trade in *Dissostichus* spp. harvested outside the CCAMLR Convention Area shall be subject to the relevant provisions of CITES and shall be regulated accordingly.**

**(Australia)**

### Provisional assessment by the Secretariat

This proposal includes an annotation requiring that the measures or resolutions adopted by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) for *Dissostichus* spp. harvested from within the CCAMLR Convention Area shall apply for the purpose of regulating trade under CITES. Parties conducting trade in *Dissostichus* spp. harvested and traded in compliance with CCAMLR, including the Catch Documentation Scheme (CDS), would be regarded as having fulfilled their obligations under CITES as regards trade in *Dissostichus* spp. Trade in specimens harvested outside the CCAMLR Convention Area would be subject to the relevant provisions of CITES.

Catches of *Dissostichus* spp. are currently regulated under the Convention on the Conservation of Antarctic Marine Living Resources and by its Commission (CCAMLR), as 96 per cent of fishing grounds are within the area covered by CCAMLR or in the exclusive economic zones (EEZs) of CCAMLR member States. The CDS established by CCAMLR is applicable to both member and non-member States. This scheme requires certification of the origin of catches, and compliance with CCAMLR requirements for catches taken within CCAMLR areas. The main threat to *Dissostichus* spp. is illegal, unregulated or unreported (IUU) fishing that is believed to occur within the CCAMLR area, and the CDS is designed to exclude from international trade catches obtained through IUU fishing. Virtually all catches of *Dissostichus* spp. enter international trade.

The Secretariat is of the opinion that the proposal for inclusion of *Dissostichus* spp. in Appendix II meets the criteria of Annex 2 a (*D. eleginoides*) and Annex 2 b (*D. mawsonii*) of Resolution Conf. 9.24.

The Secretariat points out, however, that the provisions of Article XIV, paragraphs 4 and 5, of the Convention apply only to agreements that predate the Convention, and are therefore not applicable to CCAMLR. All trade in *Dissostichus* species, if they are included in Appendix II, should therefore be in compliance with Article IV of CITES. The adoption of the draft resolution annexed to document CoP12 Doc. 44 would provide the basis for such compliance for certificates for introduction from the sea, but under Article IV, paragraph 2, permits would still be required for all specimens exported.

In addition, Parties could designate CCAMLR as a Management or Scientific Authority for these species as provided under Article IX of the Convention, or consider it as an international scientific authority as referred to in Article IV, paragraph 7. This would also make it possible for specimens taken in accordance with the

provisions of CCAMLR to be introduced from the sea with certificates covering the total number of specimens to be introduced over one year.

#### Comments from Parties

Argentina: "On the basis of the advice provided by the competent technical bodies consulted about this proposal, Argentina considers that this species represents an important economic resource and is of the opinion that measures promoting the regulation of the trade in authorized catches would be beneficial, as they would limit the trade in specimens from illegal fishery. However, bearing in mind that no criteria have been set yet within CITES to deal with aquatic resources exploited commercially and that this issue is being addressed jointly by other international bodies of FAO, internal consultations are still ongoing to reach a consensual position for Argentina."

Australia: "Australia agrees with the provisional assessment that "the proposal for inclusion of *Dissostichus* spp. in Appendix II meets the criteria of Annex 2 a (*D. eleginoides*) and Annex 2 b (*D. mawsonii*) of Resolution Conf. 9.24". Australia is however less persuaded by the Secretariat's provisional assessment that the proposed annotation is inconsistent with Article XIV, paragraphs 4 and 5. It is the view of Australia that the proposal is consistent with Article XIV and that the application of the relevant rules of international law supports this view. Notwithstanding Australia's view, Australia would welcome the opportunity to explore further this issue prior to CoP12 with the aim of agreeing a satisfactory resolution for all."

Chile: "The provisional assessment by the Secretariat of this proposal states that these species meet the criteria listed in Annex 2 a and 2 b of Resolution Conf. 9.24. However, in view of the scientific information available, Chile is of the opinion that the Patagonian toothfish does not meet either of the criteria established in Annex 2 a, for the following reasons.

*[With reference to paragraph A of Annex 2a, and paragraph A of Annex 1, the]* Patagonian toothfish does not meet this criterion as it is clear that its population is not small. Annex 5 of this Resolution states that "for some species in trade where data exist to make an estimate, a figure of less than 5,000 individuals has been found to be an appropriate guideline (not a threshold) of what constitutes a small wild population". In the case of the Patagonian toothfish it can reliably be said that the wild population amounts to several million specimens. Given the fact that the population is not small, it is not necessary to analyse every characteristic that the population could otherwise show.

*[With reference to paragraph A of Annex 2a, and paragraph B of Annex 1, the]* species does not meet this criterion since the wild population of Patagonian toothfish has a wide area of distribution all around the pole and is also present along the South American coast up to the south of Peru on the Pacific side, and along a large part of the Argentine coast on the Atlantic side. This large area of distribution does not make it necessary to analyse every characteristic listed in paragraphs i) to iv) above.

*[With reference to paragraph A of Annex 2a, and paragraph C of Annex 1, the]* species does not meet this criterion. There is no information to support the claim of a decrease in the area or quality of the environment, on the contrary new areas of distribution have been discovered in the last few years such as the territorial waters in the south of Peru. *[With reference to criterion C. ii) of Annex 1, the]* species does not meet this criterion. Annex 5 states that "a decline is a reduction in the number of individuals, or a decrease of the area of distribution, the causes of which are either not known or not adequately controlled". It also states that "a decline that is the result of a harvesting programme that reduces the population to a planned level, not detrimental to the survival of the species, is not covered by the term 'decline'." Fisheries could be assimilated to a harvesting programme, which necessarily leads to a decrease in the population, but this activity is planned or regulated so as not to jeopardize the economic activity (the fisheries), let alone the survival of the species it is based upon.

*[With reference to Annex 2a, paragraph B, the]* species does not meet this criterion since the catch quotas that are established for each fishing season are set to ensure a sustainable exploitation of this resource and

the illegal, unregulated and unreported catches have decreased considerably in the last few years, following the conservation measures of the CCAMLR. Furthermore, if one considers that a fishery will go into crisis well before the species becomes endangered, one can state that it is unlikely for this species to become endangered or threatened."

Japan: "Japan is opposed to this proposal for the following reasons: (1) This fish species is not threatened with extinction. According to the text of the proposal (Item 2.3.3), only one area (Marion and Prince Edward Islands) out of six operation areas shows a value below the threshold level. This means that regional decline is observed in one area where there is no concentrated harvesting. Therefore, it is not possible to determine on this basis that toothfish is threatened with extinction; and (2) This species should be managed not by CITES but by CCAMLR, a regional fisheries management organization. The text of the proposal (Item 2.7) stresses the risk posed by Illegal, Unregulated and Unreported (IUU) fishing. But CCAMLR, for which the proposing country is the depository State, should continue to address the issue of the IUU fishing. It is inconsistent with the objective of CITES to bring the issue into CITES on the pretext of taking measures against IUU fishing."

Switzerland: "As already mentioned in regard to proposals 35 and 36 we foresee problems with Article IV paragraph 6 CITES ("introduction from the sea"), whenever the specimens originate from international (and not national) waters in particular with regard to the non-detriment finding and the effective control of trade, in particular also because the product of the threatened species (meat) is almost indistinguishable from the product of the unthreatened species; in other words the product of the threatened species cannot be identified quickly and simply. In view of this and the additional fact that the biggest problem is obviously IUU-fishing we therefore will be interested to hear how an Appendix-II listing can improve the situation. In this respect we again refer to the Secretariat's comments – although in relation to another proposal – that it is doubtful that the problem of trade in illegally caught specimens could be resolved with listing the particular species in the Appendices only."

#### Recommendation by the Secretariat

CCAMLR has provided a correction to the provisional assessment of this proposal, namely that CCAMLR's Conservation Measure 170/XX is not confined to the CCAMLR Convention Area (see Annex 3, which also contains further explanatory documents on the relevant conservation measure and the Catch Documentation Scheme).

The Secretariat confirms that paragraphs 4 and 5 of Article XIV apply only to international instruments in force before CITES, and thus not to the Convention on the Conservation of Antarctic Marine Living Resources.

The Secretariat considers that the provisions of the two Conventions can be complementary, and that further consideration should be given to maximizing the conservation impacts of both Conventions. From the information available, the Secretariat agrees that the implementation of the Catch Documentation Scheme (CDS) (Conservation Measure 170/XX of the Convention on the Conservation of Antarctic Marine Living Resources) would meet the obligations concerning introduction from the sea in Article IV, paragraph 6, of CITES for the two toothfish species, if a) CCAMLR is designated as an international scientific authority for these species; and b) port authorities designated under the Convention on the Conservation of Antarctic Marine Living Resources to validate *Dissostichus* Catch Documents are also designated as Management Authorities for the purpose of granting certificates of introduction from the sea for these species. Under these conditions, *Dissostichus* Catch Documents of CCAMLR can be considered as equivalent to CITES certificates of introduction from the sea.

The *Dissostichus* Catch Documents of CCAMLR also make provision for exports and re-exports, and can, in principle, be used in place of CITES export permits and re-export certificates, based on a non-detriment finding made by CCAMLR as international scientific authority for this species. This would require such documents to meet the administrative and other requirements applicable to CITES export permits. It seems possible, however, that some countries may be using *Dissostichus* Catch Documents for specimens taken

outside the CCAMLR Convention Area that are not subject to catch restrictions or the vessel monitoring system established by CCAMLR. If some *Dissostichus* Catch Documents can therefore be validated for amounts not subject to the conservation measures of CCAMLR, such documents can not be considered equivalent to CITES export permits. In such instances, the issuance of an export permit will still be required. The issuance of export permits can be accomplished by a verification by a Management Authority that a particular *Dissostichus* Catch Document refers to specimens introduced from the sea in accordance with the conservation measures of CCAMLR. If CCAMLR is able to restrict the use of its catch documents to specimens taken in accordance with its conservation measures, including catch limits, this problem will be solved.

If the Conference of Parties concurs with the above conclusions, the proponent should consider an amendment to the proposed annotation that could make reference to CCAMLR being responsible for the development and implementation of scientific and management measures for the conservation and rational use of toothfish within its Convention Area; and that non-detriment findings for international trade in specimens of toothfish caught within the CCAMLR Convention Area in waters that are not under the jurisdiction of a State are made on the basis of CCAMLR's conservation measures. It will furthermore be important to ensure that the draft resolution in document CoP12 Doc. 44 is amended along the same lines. The Conference of the Parties may also wish to consider delaying the implementation of this proposal if it proves that additional time is needed to resolve the various technical implementation issues that may have to be addressed.

#### **Proposal 40**

***Atrophaneura jophon* and *A. pandiyana* – Inclusion of *Atrophaneura jophon* in Appendix II in accordance with Article II, paragraph 2(a), of the Convention and Annex 2 a, section A, of Resolution Conf. 9.24; and inclusion of *Atrophaneura pandiyana* in Appendix II in accordance with Article II, paragraph 2(b), of the Convention and Annex 2 b, section A, of Resolution Conf. 9.24**  
(Germany on behalf of the Member States of the European Community)

#### Provisional assessment by the Secretariat

The scenario described in this proposal is that illegal collection of a species endemic to Sri Lanka (i.e. *Atrophaneura jophon*) is occurring and that such specimens can be traded in other countries without any control. It is postulated that this species will probably meet the criteria for inclusion in Appendix I unless trade in it is subject to strict regulation (i.e. by including it in Appendix II). Very little and somewhat contradictory information is provided about the status of *A. jophon* and trade in specimens of this species. While the species is undoubtedly rare, as can be expected from the extensive habitat loss that has occurred owing to deforestation, there appears to be no quantitative information on the size of the population or trend. Sri Lanka furthermore does not authorize the collection of this species for trade at all. The only information provided about the level of international trade in this species is that a total of 38 specimens, which may include the same specimens counted more than once, have been seen in Germany at insect trade fairs. Information from other sources referred to in the proposal does not give the impression that international trade is a significant factor for this species. It therefore seems highly unlikely that the current level of trade will lead to the species qualifying for inclusion in Appendix I unless it is subject to strict regulation. The species therefore does not qualify for inclusion in Appendix II under Annex 2 a, section A, of Resolution Conf. 9.24.

A listing in Appendix II does not seem appropriate in any event, since the sole range State prohibits all trade. Sri Lanka supports the inclusion of the species in the Appendices, and it therefore appears much more appropriate to list this species in Appendix III. Such a listing would mean that Sri Lanka would be seeking the cooperation of all Parties not to accept imports of a species that it does not allow to enter trade.

Almost nothing is mentioned in the proposal about the other species proposed for inclusion in Appendix II for look-alike reasons, *A. pandiyana*, except that it closely resembles *A. jophon*, occurs in India and is more abundant than *A. jophon*. No information is provided about the level of trade in this species. The rationale for proposing to include *A. pandiyana* in Appendix II would not apply if *A. jophon* were not included.



### Comments from Parties

Germany: Germany has informed the Secretariat that Sri Lanka supports this proposal.

Switzerland: "We fully share the view of the Secretariat as outlined in Notification to the Parties No. 2002/043."

### Recommendation by the Secretariat

The Secretariat recommends that the proposal be rejected and that an Appendix-III listing be considered for *A. jophon* by Sri Lanka.

### **Proposal 41**

***Papilio aristophontes*, *P. nireus* and *P. sosia* – Inclusion of *Papilio aristophontes* in Appendix II in accordance with Article II, paragraph 2(a), of the Convention and Annex 2 a, section A, of Resolution Conf. 9.24; and inclusion of *P. nireus* and *P. sosia* in Appendix II in accordance with Article II, paragraph 2(b), of the Convention and Annex 2 b, section A, of Resolution Conf. 9.24**

**(Germany on behalf of the member States of the European Community)**

### Provisional assessment by the Secretariat

This proposal in many respects resembles Proposal 40, except that the Comoros, as the only range State of *Papilio aristophontes*, does not prohibit the collection and export of this species. No information is provided about population size or trend, except that it is relatively common within its restricted range of occurrence (with much of its original habitat lost through deforestation). Very little is known about the level of trade in this species, and the proposal refers to fewer than 50 specimens offered for trade or traded, and mentions that these numbers may represent or partially represent the same specimens. Information from other sources referred to in the proposal does not indicate that international trade has an impact on the conservation of this species. On the basis of the very limited information provided, it seems highly unlikely that the current level of trade will lead to the species qualifying for inclusion in Appendix I unless the trade is strictly regulated. The species therefore does not qualify for inclusion in Appendix II.

It would be more appropriate to include this species in Appendix III, if the Comoros had national legislation to protect this species (see the recommended prerequisites for an Appendix-III listing in Resolution Conf. 9.25). It will in any event be important to be informed by the Comoros whether it would be able to implement any Appendix listing for this species in the absence of specific legislation to protect it from collection or trade, or for that matter, to protect its habitat.

The proposal provides virtually no information on *P. nireus* and *P. sosia*, other than that these two species are distributed in eastern and southern Africa. The rationale for proposing to include these two species in Appendix II would not apply if *P. aristophontes* were not included.

### Comments from Parties

Germany: Germany has informed the Secretariat that the Comoros seems to be opposed to this proposal, because the species is completely protected from all forms of use.

Switzerland: (see comments under Proposal 40)

### Recommendation by the Secretariat

It has become apparent that *P. aristophontes* is, on the basis of a recent decree, protected from harvesting and trade in the Comoros. As stated in the IUCN-TRAFFIC review of this proposal, this species is similar in appearance to several other species in adult and pupae forms. Considerable enforcement problems may accordingly result from the listing if the proposal is adopted. The Secretariat recommends that the

alternative approach of including the species in Appendix III be considered, which will afford the sole range State the cooperation of all Parties not to accept imports of a species that it does not allow to enter trade.

#### **Proposal 42**

***Araucaria araucana* – Inclusion of *Araucaria araucana* in Appendix I, replacing *Araucaria araucana*\* \* + 219 (populations of Argentina and Chile), and deletion of *Araucaria araucana*\* -114 #1 in Appendix II (Argentina)**

#### Provisional assessment by the Secretariat

This proposal relates to a proposal submitted by the proponent at CoP11 intending to avoid a split-listing that would potentially compromise measures to regulate trade in specimens illegally obtained from the most threatened populations of the species. The proposal presented at CoP11 did not propose the transfer of specimens from introduced populations to Appendix I. It was not realized until later that there were such populations not covered by the text of the amendment. A proposal by Argentina to include all populations in Appendix I was circulated by postal procedure in accordance with the relevant provision of Article XV (cf. Notification to the Parties No. 2001/080 of 19 December 2001). The proposal was subject to a vote by postal procedures but failed to achieve a quorum. Consequently it is now submitted at CoP12, in accordance with paragraph 2(i) of Article XV of the Convention.

The Secretariat reiterates its view that the proposal lacks supportive evidence that populations of *Araucaria araucana* outside of Argentina (if any such populations are recognized, as proposed in document CoP12 Doc. 59) and currently included in Appendix II meet the criteria for inclusion in Appendix I. However, if it can be demonstrated that trade in specimens from the populations introduced to countries outside their normal range would compromise the regulation of trade in specimens of the range State populations which are already included in Appendix I, the proposal should be supported, but the Secretariat is not aware at this time of evidence to support such an argument. The Parties may, however, wish to adopt the current proposal as a technical correction of the proposal adopted at CoP11 which had a narrower scope than was apparent at the time.

#### Comments from Parties

Argentina: "After extended consultations with the local authorities and experts in the Philippines regarding the objection made by this Party during the postal vote, Argentina has ascertained that there is no population of *Araucaria araucana* in the Philippines. The only populations that occur in the Philippines are those of *Araucaria bidwillii* and of *Araucaria heterophylla*, which are cultivated for ornamental purposes."

#### Recommendation by the Secretariat

In accordance with its provisional assessment, the Secretariat recommends that the Parties consider adopting the current proposal as a technical correction of the proposal adopted at CoP11 which had a narrower scope than was apparent at the time. The broader problem of introduced and contained populations in the context of amending the Appendices is discussed in document CoP12 Doc. 59.

#### Proposal 43

All taxa listed in Appendix II – Amendment of the text of the annotation ° 608 that refers to artificially propagated specimens of *Gymnocalycium mihanovichii* (cultivars) forms lacking chlorophyll, to read as follows:

Cactaceae spp. colour mutants lacking chlorophyll, grafted on the following grafting stocks: *Harrisia "Jusbertii"*, *Hylocereus trigonus* or *Hylocereus undatus*.  
(Switzerland)

#### Provisional assessment by the Secretariat

Annotation ° 608 *inter alia* exempts from the Convention, artificially propagated specimens of certain cactus hybrids and cultivars, including cultivars of *Gymnocalycium mihanovichii* which lack chlorophyll and are grafted on a cultivar of any *Harrisia* species or two *Hylocereus* species. The proposal intends to expand the exemption to colour mutant forms of other cactus species which lacking chlorophyll and are grafted on the stocks specified in the annotation. It therefore aims to exclude from the Appendices easily identifiable, commonly traded, artificially propagated specimens, the trade in which has no impact on species in the wild. A number of new colour mutants have been developed, similar to the ones currently exempted. The Secretariat is not aware of noteworthy implementation problems concerning the current annotation and it supports this proposal.

#### Comments from Parties

None

#### Recommendation by the Secretariat

As stated in the provision assessment, the Secretariat is not aware of noteworthy implementation problems concerning the current annotation and does not expect that the proposed amendment would alter this situation. It therefore recommends the adoption of this proposal.

#### Proposal 44

*Opuntioideae* spp. – Deletion from Appendix II  
(Switzerland)

#### Provisional assessment by the Secretariat

A draft of this proposal was circulated to the Parties with Notification to the Parties No. 2002/009, of 6 March 2002, to ensure the widest possible consultation. Regrettably, Switzerland has received only four responses, three from range States and one from a non-range State. These comments have been incorporated in the supporting statement. This well-documented proposal was also discussed in a meeting of the Plants Committee where it was opposed by Chile and Mexico.

The proposal clearly indicates that trade in live wild-collected *Opuntia* specimens is virtually non-existent. The removal from the Appendices of this group of easily recognizable cacti would therefore not pose a threat to their conservation status in the wild.

#### Comments from Parties

Switzerland: "Of the over 30 range States, unfortunately only three have participated in the consultation process (Chile, Mexico, United States of America). While they are not in favour of this proposal, their statements in our opinion do not provide sufficient evidence for the need for, or benefit from, an Appendix-II listing. National conservation efforts are largely non-existent. Also no additional data are presented to substantiate possible conservation concerns linked with presumed detrimental impact of international trade. We are still of the opinion therefore that the present effort to monitor international trade is not justified. We

have taken note with satisfaction that the Secretariat shares this opinion, since there is practically no international trade in this taxon."

United States of America: "The Secretariat's assessment of this proposal from Switzerland incorrectly states that this proposal was opposed solely by Chile and Mexico at the 12th meeting of the Plants Committee (PC12). The United States also opposed this proposal, and we provided comments verbally at PC12 and in written form to Switzerland. With our comments we provided data to show that the United States has had recent, multiple incidences of illegal trade in these species, and we also have recent cases of receiving applications to export significant quantities of wild-collected specimens for export, for which the permits were denied because we were unable to find that the export would not be detrimental to the survival of the species. We also noted that some species are endangered in the wild, which indicates that they could potentially qualify for Appendix I. We believe that the ongoing illegal trade, potential high-volume of detrimental trade that may occur as a result of delisting (as evidenced by attempts to export these species from the United States), and the need to protect rare species in the family warrant retaining these species in Appendix II."

#### Recommendation by the Secretariat

In the light of the comments received from the United States of America as well further information provided on the conservation status and identification problems associated with this subfamily of cacti, the Secretariat now concurs that the opuntoid cacti should be retained in Appendix II.

#### **Proposal 45**

***Pereskioideae* spp., *Pereskopsis* spp. and *Quiabentia* spp. – Deletion from Appendix II (Switzerland)**

#### Provisional assessment by the Secretariat

A draft of this proposal was circulated to the Parties with Notification to the Parties No. 2002/009, of 6 March 2002, to ensure the widest possible consultation. Regrettably, Switzerland received only four responses, three from range States and one from a non-range State. These comments have been incorporated in the supporting statement. This well-documented proposal was also discussed in a meeting of the Plants Committee where it was opposed by Chile and Mexico.

The proposal indicates that trade in live wild-collected leaf-bearing cacti is virtually non-existent. The removal from the Appendices of this group of easily recognizable cacti would therefore not pose a threat to their conservation status in the wild.

#### Comments from Parties

Switzerland: "We have taken note that the Secretariat confirms in its statement that leaf-bearing cacti are largely absent from international trade and consequently do not qualify for an Appendix-II listing. Again, of about 30 range States, only three have participated in the consultation process (Chile, Mexico, United States of America). Mexico is in favour of the proposal, under the condition that other range States also agree. While the other two range States are not in favour, their statements however do not provide evidence for the need for, or benefit from, an Appendix-II listing."

#### Recommendation by the Secretariat

The IUCN-TRAFFIC review of this proposal noted that some genera may resemble Appendix-II listed species of the subfamily *Opuntioideae* under certain conditions, but the risk of enforcement problems seems to be low in view of the overall levels of trade in the two subfamilies, especially in specimens of wild origin. The Secretariat therefore recommends that this proposal be adopted.

#### Proposal 46

#### ***Sclerocactus nyensis* – Transfer from Appendix II to Appendix I (United States of America)**

##### Provisional assessment by the Secretariat

The proposal is based on concerns about the increasing number of offers of seeds of this species on the Internet, which implies increased illegal collection of what is a completely protected species. The seeds of this species are exempt from the provisions of CITES. The proposal provides no information on the population size or trend of the species, which is known from only two localities. Because of the lack of information provided, it is not possible to determine whether the species would qualify for inclusion in Appendix I.

It is not stated whether the seeds in trade are known to have been collected from the wild or were produced through artificial propagation, but it is mentioned that the species is commercially available through artificial propagation. The species is endemic to the United States of America, which has not permitted any exports of wild specimens since 1994. The fact that there is no evidence of illegal trade in live plants may demonstrate that the Appendix-II listing of this subspecies is effective. It would therefore be useful to know whether illegal collection of and trade in seeds has occurred and whether such collection has had a detrimental impact on the status of this species. To address these concerns, an alternative approach would be to maintain the species in Appendix II, but to exclude seeds of *Sclerocactus nyensis* from annotation #4 a), thereby achieving the goal of improving controls over international trade in seeds of this species.

##### Comments from Parties

Switzerland: "This proposal addresses mainly trade in potentially wild-collected seeds. From evidence such as sales offers it seems highly probable that there actually is international trade. The proposal is rather poor with regard to biological information. Population size and trends are unknown. This does not facilitate a sound evaluation according to the criteria. Furthermore it is questionable whether trade in seeds of the genus *Sclerocactus* can be controlled at species level because of unresolved difficulties with identification. The proposal provides no clue how to address this. It is therefore not obvious how CITES could be helpful, although there seems to be a conservation problem linked with international trade. It would probably be more effective to closely inspect traders in the country of origin and to make sure, that specimens in their possession (seeds and possibly mother-plants) have been legally acquired."

United States of America: "These species [also referring to Proposal 47] are extremely rare, and each is known from a limited number of localities. Regardless of the precise size of the populations at those localities, which admittedly is not known, a classification of 'rare' suggests that they are not abundant, and they are vulnerable due to an extremely limited distribution. In fact, *S. nyensis* has been identified as critically imperiled by the State of Nevada, in which it occurs, and is at great risk of extirpation due to its extreme rarity. Both taxa clearly meet the biological criteria for Appendix I, as stated in Annex 1 of Resolution Conf. 9.24, specifically criteria A. ii) and B. i). Furthermore, there is clearly a potential trade threat to this species based on the demand; most species in the genus have already been adversely affected by illegal collection. Cactus hobbyists have shown an increasing interest in obtaining plants and have collected (and continue to collect) plants and seeds from the field. Seeds of these species have become increasingly available on the Internet, and although *S. nyensis* is commercially available, the genus *Sclerocactus* is one of the most difficult to propagate. Because these are slow-growing plants from small populations, the removal of specimens from the wild has a significant effect on the long-term survival of this cactus. We disagree with the Secretariat's suggestion to allow the species to remain in Appendix II, but to remove the annotation exempting seeds. This suggestion is essentially to treat the species as if it were in Appendix I, but allow it to remain in Appendix II. We believe trade in these species should receive the level of control and scrutiny provided for Appendix-I species, to ensure that illegal wild specimens are not entering trade."

#### Recommendation by the Secretariat

It is not clear that the species meets the criteria for inclusion in Appendix I, because although rare, it is completely protected and does not appear to be in decline. Although some international trade is probable, the degree of threat that international trade presents remains unclear. From the comments by the proponent, it appears that there may be a concern that plants and seeds are illegally collected from the wild, but it is not clear how the current proposal would eliminate such a threat any more than the current listing, especially if the annotation exempting seed is removed as the Secretariat has suggested. If the proponent believes that the regulation of trade needs to extend to seeds to protect this species adequately, the Secretariat recommends that the proposal be amended to exclude seeds of *Sclerocactus nyensis* from annotation #4 a).

#### **Proposal 47**

***Sclerocactus spinosior* ssp. *blainei* – Transfer from Appendix II to Appendix I  
(United States of America)**

#### Provisional assessment by the Secretariat

The proposal is based on concerns similar to those that prompted Proposal 46, namely that the increasing number of offers of seeds of this species on the Internet implies increased illegal collection of what is a completely protected subspecies. The seeds of this species are exempt from the provisions of CITES. The proposal provides no information on the population size or trend of this subspecies (other than an anecdotal account that specimens are rare and difficult to find), or any impact of illegal collection for trade. It is therefore not possible to determine whether the subspecies would qualify for inclusion in Appendix I.

It is not stated whether the seeds in trade are known to have been collected from the wild or were produced through artificial propagation, but it is mentioned that the subspecies is commercially available through artificial propagation. The subspecies is endemic to the United States of America, which has not permitted any exports of wild specimens since 1994. The fact that there is no evidence of illegal trade in live plants may demonstrate that the Appendix-II listing of this subspecies is effective. It would therefore be useful to know whether illegal collection of and trade in seed has occurred and whether such collection has had a detrimental impact on the status of this subspecies. As in proposal 46, the proponent may consider to maintain the species in Appendix II, but to exclude seeds of *Sclerocactus spinosior* ssp. *blainei* from annotation #4 a) to improve controls over international trade in seeds of this species.

#### Comments from Parties

Switzerland: "A split-listing within a species is proposed. Subspecies *blainei* is only provisionally accepted in the CITES Cactaceae Checklist, because morphological differences are minor and not fully conclusive. The difficult issue of identification is unfortunately not convincingly addressed in this proposal. Identification problems are in this case not concentrating on seeds, as in the previous proposal, but clearly extend to juvenile, subadult and even young mature plants. *Sclerocactus spinosior sensu lato* (incl. ssp. *blainei*) is, for morphological similarity, classified merely as a subspecies of *Sclerocactus pubispinus* by some authors. Young plants in particular can readily be confused. *Sclerocactus pubispinus* is listed in Appendix I. The situation hence is quite complex and additional enforcement problems have to be expected should this proposal be adopted. The issue should maybe be forwarded to the Plants Committee for closer analysis. As for the previous proposal, domestic measures such as inspections of traders should be considered in the first place."

United States of America: (see comments under Proposal 46)

#### Recommendation by the Secretariat

This subspecies seems to be even less likely to meet the biological criteria for inclusion in Appendix I than *Sclerocactus nyensis* (see Proposal 46), as also noted in the IUCN-TRAFFIC review of this proposal. It

furthermore seems that the taxonomic status of this subspecies is unclear and that identification problems may extend beyond seeds to plants as well. The advantages of the proposed transfer are therefore not clear. The Secretariat recommends that the proposal be amended to remove the annotation exempting seed as an alternative approach.

#### **Proposal 48**

##### ***Dudleya traskiae* – Transfer from Appendix I to Appendix II (United States of America)**

#### Provisional assessment by the Secretariat

A proposal to transfer this species from Appendix I to Appendix II was submitted at CoP11 by Switzerland as Depositary Government, on behalf of the Plants Committee, as part of its review of the Appendices. The proposal was withdrawn because the United States of America had requested more time to study the status of this species. Because of its small population size this species could qualify for inclusion in Appendix I under criterion A of Annex 1 of Resolution Conf. 9.24. From the supporting statement, however, it is clear that international trade is not a threat to the survival of the species. Its transfer to Appendix II is therefore appropriate.

#### Comments from Parties

Switzerland: "It is clearly demonstrated that rareness alone is not a conclusive criterion for an Appendix-I listing. The proposal also shows the high effectiveness of national conservation measures such as population monitoring, habitat conservation and legal protection."

#### Recommendation by the Secretariat

The Secretariat recommends that the proposal be adopted.

#### **Proposal 49**

##### ***Aloe thornicroftii* – Transfer from Appendix I to Appendix II in accordance with Annex 4, section B, paragraph 2. a), of Resolution Conf. 9.24 (South Africa)**

#### Provisional assessment by the Secretariat

This species has been included in Appendix I since 1975. Because most of its subpopulations are very small, this species could qualify for inclusion in Appendix I under criterion A. ii) of Annex 1 of Resolution Conf. 9.24. However, from the information provided in the supporting statement it is clear that international trade is not a threat to this species, which means that the trade criterion does not apply. Its transfer to Appendix II is therefore appropriate.

#### Comments from Parties

Switzerland: "The proponent can be congratulated for its sound work. If more range States would present facts and figures of such a high quality, this would considerably facilitate not only the evaluation of proposals according to the CITES criteria, but also the important task of the review of the Appendices. It remains to hope that habitats can be conserved and negative impacts – such as the influence of alien invasive species – be eliminated."

#### Recommendation by the Secretariat

The Secretariat recommends that the proposal be adopted.

#### **Proposal 50**

***Swietenia macrophylla* – Inclusion in Appendix II of the neotropical populations, including logs, sawn wood, veneer sheets and plywood, in accordance with Article II, paragraph 2(a), of the Convention and Annex 2 a, of Resolution Conf. 9.24  
(Guatemala, Nicaragua)**

Provisional assessment by the Secretariat

Although *S. macrophylla* is not currently threatened with extinction, the species is in great demand in the international timber trade. In some parts of its range, populations are seriously threatened and their genetic variability has been seriously depleted. Illegal international trade remains a serious concern in many of the range States, as confirmed by the Mahogany Working Group (see document CoP12 Doc. 47). Illegal trade is seriously undermining the domestic management initiatives that aim to ensure that trade is sustainable. The Mahogany Working Group recognized that some range States have difficulties (in varying degrees) with implementing the Appendix-III listing.

It is not clear whether the proponents have consulted all range States. The proposal has not been submitted to the Plants Committee, although this Committee supported earlier proposals to include this species in Appendix II.

Exports of *S. macrophylla* appear to be declining from many range States (see table 5 of the proposal). This can be explained by the attempts of range States to reduce trade to sustainable levels, but several range States are processing the timber into products that are not covered by CITES because of the annotation to the Appendix-III listing of the species. Aware that a non-detriment finding is currently not required for the export of specimens of *S. macrophylla*, the Mahogany Working Group believes that population studies are needed to ensure sustainable utilization of the resource. An Appendix-II listing would strengthen the role of range States in ensuring that trade in this species is sustainable, because of the requirement that exports of an Appendix-II listed species should not be detrimental to the survival of the species in the wild.

Comments from Parties

Switzerland: "It is rather surprising that this proposal is submitted by a single range State, taking into account that a Mahogany Working Group has been established and considering the fact that the proponent has not listed *Swietenia macrophylla* on Appendix III, in contrast to other range States."

Recommendation by the Secretariat

It should be noted that there are two proponent States, Guatemala having been added following a clarification regarding its proposal. Comments on this proposal were also received from the International Tropical Timber Organization (ITTO) (see Annex 3). The Secretariat recommends that the proposal be adopted.

**Proposal 51**

**Annotation of Orchidaceae in Appendix II as follows: Artificially propagated specimens of hybrids within the genera *Cattleya*, *Cymbidium*, *Dendrobium* (*phalaenopsis* and *nobile* types only), *Oncidium*, *Phalaenopsis* and *Vanda*, including their intergeneric hybrids, are not subject to the provisions of the Convention when:**

- a) specimens are traded in shipments consisting of individual containers (i.e. cartons, boxes, or crates) containing 100 or more plants each;
- b) all plants within a container are of the same hybrid, with no mixing of different hybrids within a container;
- c) plants within a container can be readily recognized as artificially propagated specimens by exhibiting a high degree of uniformity in size and stage of growth, cleanliness, intact root systems, and general absence of damage or injury that could be attributable to plants originating in the wild;
- d) plants do not exhibit characteristics of wild origin, such as damage by insects or other animals, fungi or algae adhering to leaves, or mechanical damage to roots, leaves, or other parts resulting from collection; and



- e) shipments are accompanied by documentation, such as an invoice, which clearly states the number of plants and which of the six exempt genera are included in the shipment, and is signed by the shipper. Plants not clearly qualifying for the exemption must be accompanied by appropriate CITES documents.  
(United States of America)

#### Provisional assessment by the Secretariat

This proposal has been extensively discussed by the Plants Committee and evolved from its review of the listing of the Orchidaceae species in the Appendices. However, the draft discussed and supported by the Plants Committee at its 12th meeting did not include the conditions specified in paragraphs a) to e) in the proposal. While understanding and supporting the purpose of the proposal, the Secretariat believes that the proposed annotation is unenforceable. If the proposal is adopted, the Secretariat and the Plants Committee should be tasked to determine whether the annotation causes significant implementation problems in order to advise on the need for further amendments.

#### Comments from Parties

Switzerland: "International orchid trade has developed towards artificial mass production. The proposed adaptation of regulations is a most welcome step to facilitate administrative procedures. While the proposal explains how confusion with wild-collected orchids can be prevented it however gives no clues how – within artificially-propagated orchids – the hybrids that are proposed for exemption can be told apart from non-exempted hybrids or from botanical species that look similar to the exempted hybrids and still require CITES documents. This might lead to enforcement problems. We recognize that a minimum number of 100 specimens per hybrid and shipment allows inspection of uniformity of individuals and is likely to allow exclusion of wild-collected plants. Nevertheless Switzerland would have liked also to exempt shipments with smaller numbers, under the condition that they are flowering and labelled. This would have allowed identification as well. After consultation with the proponent and with the Secretariat, this idea however has for the time being been abandoned, because it would probably expand the scope of the proposal, but we intend to come back to it at a later date."

United States of America: "We acknowledge that this proposal from the United States includes an annotation not discussed by the Plants Committee at PC12, but the United States, assisted by the American Orchid Society, was asked to try to submit the proposal discussed by the Plants Committee in draft form. We would be interested in knowing specifics related to the Secretariat's concerns that the annotation may not be enforceable, since this was developed in consultation with the orchid industry in the United States as well as with our CITES plant enforcement agency, the U.S. Department of Agriculture, Animal and Plant Health Inspection Service. We regret that we were unable to seek additional input from other Parties due to the short time remaining between the conclusion of PC12 and the date for submission of proposals. The United States will be open to any suggestions to improve the proposal, including the proposed annotation, that would increase the effectiveness of the proposal, and any specific suggestions from the Secretariat for our consideration in advance of CoP12 would be appreciated."

#### Recommendation by the Secretariat

The Secretariat remains concerned that specimens of species or other hybrids can not be easily distinguished from those specimens included in the annotation, as also comprehensively explained in the IUCN-TRAFFIC review of this proposal. An additional requirement that all specimens should be labelled or flowering may reduce this problem but would not be suitable for the larger part of the trade in juvenile and non-flowering specimens. The implementation of the proposed annotated amendment would seem to require a similar degree of effort to inspect shipments upon import than is currently required from Management Authorities granting export permits or certificates of artificial propagation. Management Authorities in the country of origin seem to be better placed to exercise this form of control than Customs services. A possible alternative solution to this problem may be found in the proposed amendment to Resolution Conf. 10.2 (Rev.) explained in document CoP12 Doc. 51, which *inter alia* recommends the issuance of partially completed permits and certificates to a limited number of persons or bodies for high volume trade

that involves a relatively limited range of specimens, a limited number of species, and occurs regularly between a limited number of institutions. A similar approach would enable Parties to streamline the issuance of permits and certificates for exports in a situation of very limited risk to the conservation of any wild population, and provides a strong incentive for beneficiaries to comply with the system. The Secretariat recommends that the proposal be rejected in its present form.

#### **Proposal 52**

##### ***Cistanche deserticola* – Deletion of the annotation to *Cistanche deserticola* in Appendix II (China)**

#### Provisional assessment by the Secretariat

This proposal aims to correct the annotation applicable to the listing of this species in Appendix II. With Notification to the Parties No. 2001/67 of 1 October 2001, the Secretariat informed the Parties that the current annotation, which states that only roots and parts recognizable as roots are subject to the provisions of the Convention, was factually incorrect. This species is a parasite and does not have roots, and only the inflorescences and their stems, or parts thereof are in trade. China indicated that it would submit a proposal at CoP12 to correct this error.

China has not proposed to replace the incorrect annotation with an alternative provision, which means that all parts and derivatives of this species would become subject to the provisions of the Convention if the proposal were adopted. Severe implementation problems may occur unless those parts and derivatives that are normally considered to be recognizable in practice are excluded from this listing. The Secretariat therefore recommends that an alternative annotation be adopted to exempt seeds (and to be consistent with other annotations of this nature, also pollen and spores) as well as finished pharmaceutical products.

#### Comments from Parties

Switzerland: "The current annotation is morphologically not correct and should be amended. It surprises us however, that the deletion of the whole annotation is proposed now. It would be preferable, if only the first part of the annotation that deals with morphology would be deleted and the second part of the annotation that refers to derivatives would remain in place. The proposal should be amended accordingly."

#### Recommendation by the Secretariat

The Secretariat has been informed by China that it can not agree to the suggestion to exempt any part or derivative through an annotation. It remains questionable, however, whether Parties would be able to enforce this amendment, especially if a significant proportion of the parts and derivatives are traded in forms that are not easily identifiable. However, the declining conservation status of this species warrants stricter regulation and the Secretariat therefore recommends that the proposal to delete the current annotation be adopted.

#### **Proposal 53**

##### ***Lewisia maguirei* – Deletion from Appendix II (United States of America)**

#### Provisional assessment by the Secretariat

The proposal to delete this species from Appendix II was submitted for consideration at CoP11 by Switzerland as Depositary Government, on behalf of the Plants Committee, as part of the Committee's review of the Appendices. This proposal was withdrawn because the United States of America requested more time to study the status of this species. The supporting statement makes it clear that international trade is not a threat to the status of this species, and its deletion from Appendix II is therefore justified.

#### Comments from Parties

None

#### Recommendation by the Secretariat

The Secretariat recommends that the proposal be adopted.

#### **Proposal 54**

***Guaiaacum* spp. – Inclusion in Appendix II in accordance with Article II, paragraph 2(b), of the Convention, annotated as follows:**

**Designates all parts and derivatives, including wood, bark and extract.**

**(Germany on behalf of the Member States of the European Union)**

#### Provisional assessment by the Secretariat

This proposal is partially based on the work of the Plants Committee on *Guaiaacum* spp. pursuant to Decision 11.114 (see also document PC12 Doc. 10.3). It is clear that the parts and derivatives that are mainly traded, i.e. wood and latex, cannot be identified to the species level in this genus. It has also become apparent that one or more of the other non-listed species in this genus are also in trade, and that it is possible that the listed species are traded under the name of the unlisted species. The proposal therefore complies with the provisions of Annex 2 b of Resolution Conf. 9.24. The Plants Committee has expressed support for this proposal. Concerns exist over the sustainability of trade in the entire genus, and cautious export quotas should be established by all range States intending to authorize exports.

The proposal calls for a specific annotation to state that all parts and derivatives are subject to the provisions of the Convention. This annotation, as proposed, is redundant, because an annotation is only required if some parts and derivatives are to be excluded from the provisions of the Convention. The current listings of *G. officinale* and *G. sanctum* in Appendix II include an annotation indicating that all parts and derivatives are included, except: a) seeds, spores and pollen (including pollinia); b) seedling or tissue cultures obtained in vitro, in solid or liquid media, transported in sterile containers; and c) cut flowers of artificially propagated plants. It is not clear from the proposal that it is necessary to eliminate this annotation and the Secretariat recommends that this annotation be used for the entire genus.

#### Comments from Parties

Switzerland: "A listing of the genus *Guaiaacum* is only useful and fully effective if shipments are declared at species level (and not at genus level) on export permits, as also recommended in Resolution Conf. 10.2 (Rev.). Otherwise accumulation of valid data for a sound monitoring of international trade would fail (see also our remarks in relation to Proposal 37). But, are the specimens in trade identifiable to the species level? As stated by the Secretariat, the proposed annotation should be deleted, as it is redundant but it might be also amended to exclude from CITES provisions the derivatives that are difficult or impossible to identify."

#### Recommendation by the Secretariat

The Secretariat recommends that the proposal be adopted, provided that the proposed annotation is amended to indicate that all parts and derivatives are included, except: a) seeds, spores and pollen (including pollinia); b) seedling or tissue cultures obtained in vitro, in solid or liquid media, transported in sterile containers; and c) cut flowers of artificially propagated plants.

Comments from International organizations

Regarding marine species

1. In accordance with Article XV, paragraph 2 (b), of the Convention, the Secretariat as well as the Food and Agriculture Organization (FAO) communicated copies of amendment proposals that relate to marine species to the following intergovernmental bodies having a function in relation to these species: Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic Area (ACCOBAMS), Asia-Pacific Fisheries Commission (APFIC), Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), Commission for the Conservation of the Southern Blue Fin Tuna (CCSBT), Conservation of Migratory Species of Wild Animals (CMS), Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention), Fisheries Commission for the Eastern Central Atlantic (CECAF), International Whaling Commission (IWC), Regional Fisheries Committee for the Gulf of Guinea (COREP), South Pacific Permanent Commission (CPPS), Joint Technical Commission for the Argentine/Uruguay Maritime Front (CTMFM), South Pacific Forum Fisheries Agency (FFA), Inter-American Tropical Tuna Commission (IATTC), International Baltic Sea Fishery Commission (IBSFC), International Commission for the Conservation of Atlantic Tuna (ICCAT), International Council for the Exploration of the Sea (ICES), Indian Ocean Tuna Commission (IOTC), International Pacific Halibut Commission (IPHC), Western and Central Pacific Fisheries Convention (MHL), Northwest Atlantic Fisheries Organization (NAFO), North Atlantic Marine Mammal Commission (NAMMCO), North Atlantic Salmon Conservation Organization (NASCO), North-East Atlantic Fisheries Commission (NEAFC), North Pacific Anadromous Fish Commission (NPFAC), Latin American Organization for the Development of Fisheries (OLDEPESCA), North Pacific Marine Science Organization (PICES), Pacific Salmon Commission (PSC), South East Atlantic Fishery Organization (SEAFO), Secretariat of the Pacific Community (SPC), Sub-Regional Commission on Fisheries (SRFC), Western Central Atlantic Fishery Commission (WECAFC) and Western Indian Ocean Tuna Organization (WIOTO).
2. Responses were received from ACCOBAMS, CCAMLR, the Council of Europe (on behalf of the Standing Committee of the Convention on the Conservation of European Wildlife and Natural Habitats), FAO, IATTC, NAMMCO, NEAFC, and copies are attached to this Annex in the form in which they were submitted.

Regarding timber species

3. In accordance with the provisions of Resolution Conf. 10.13, paragraph b), regarding international organizations, the Secretariat sought the views of International Tropical Timber Organization (ITTO), FAO and The World Conservation Union (IUCN) regarding the amendment proposal for a timber species.
4. A response was received from ITTO, and a copy is attached to this Annex.

Accord sur la Conservation des Cétacés de  
la Mer Noire, de la Méditerranée et de la  
zone Atlantique adjacente



Agreement on the Conservation of Cetaceans  
of the Black Sea, Mediterranean Sea and  
contiguous Atlantic Area

**ACCOBAMS**

**Monaco, 9 August 2002**

Mr. Willem WIJNSTEKERS  
Secretary General  
Convention on International Trade in Endangered  
Species of Wild Fauna and Flora (CITES)  
International Environment House  
Chemin des Anémones  
CH-1219 CHATELAINE, Geneva  
SWITZERLAND

**Our Ref:** MCVK/ 2002 – 384  
**Your letter dated 28 June 2002**

**Proposal 3, transfer from Appendix II to Appendix I of *Tursiops truncatus ponticus*,  
submitted by Georgia.**

Dear Mr Wijnsteker,

I refer to your letter on 28 June 2002 concerning the Proposal from Georgia to upgrade Black Sea *Tursiops truncatus* from Appendix II to Appendix I in the next COP.

A scientific document on the Conservation status of this species in the Black Sea was presented to the MOP1 of ACCOBAMS (28 February-02 March 2002, in Monaco) to support a Resolution aiming the reinforcement of the conservation of this species in the Black Sea. One of the tools to achieve this goal was the up listing of this population in CITES Appendix. The Resolution 1.12 was adopted by all the Contracting Parties and supported by two other observer Countries of the Black Sea.

In order to complement the data required by the CITES Parties, ACCOBAMS organized a campaign of sampling and analysis for a genetical characterization of the population. The results demonstrated that the *Tursiops truncatus* from Black Sea is a differentiated population than the Mediterranean one.

The scientific documents, aimed also to bring data to the CITES Animal Committee as decided in CITES COP1, and the Resolution were fully used in the Georgian proposal.

Secrétariat Permanent - 16, boulevard de Suisse  
MC 98000 MONACO  
Tél : (377) 93 15 80 10 / 20 78 Fax : (377) 93 15 42 08  
e-mail : [mevanklaveren@accobams.mc](mailto:mevanklaveren@accobams.mc) - <http://www.accobams.mc>

I would like also to recall that ACCOBAMS gives total protection to this species and prohibit catching and possessing animals from the region. International trade is not included in the Agreement relying for this item on CITES. The pressure is high and the ACCOBAMS Secretariat had to advice Countries that wished to prohibit importation of *Tursiops truncatus* for dolphinarium or others kind of exhibition.

We have also to keep in mind that CITES decisions, not only rule international trade, but also influence national conservation regulations.

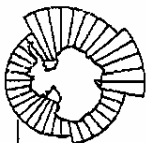
Yours sincerely,



*Le Secrétaire Exécutif,*  
Marie-Christine VAN KLAVEREN

Enclosure : 2

Secrétariat Permanent - 16, boulevard de Suisse  
MC 98000 MONACO  
Tél : (377) 93 15 80 10 / 20 78 Fax : (377) 93 15 42 08  
e-mail : [mcvanklaveren@accobams.mc](mailto:mcvanklaveren@accobams.mc) - <http://www.accobams.mc>



**CCAMLR**

PO BOX 213 NORTH HOBART, TASMANIA, 7002 AUSTRALIA  
137 HARRINGTON STREET, HOBART, TASMANIA, 7000 AUSTRALIA  
Website: [www.ccamlr.org](http://www.ccamlr.org)

Ph: (61) 5 6231 0366  
Fax: (61) 3 6234 9965  
E-mail: [ccamlr@ccamlr.org](mailto:ccamlr@ccamlr.org)

Our Ref: 8.29

10 August 2002

Dr W. Wijnstekers  
Secretary-General  
Fisheries Department  
CITES  
Geneva, Switzerland  
Fax: + 4122-9178055

Dear Dr Wijnstekers,

**CITES COP-12 Proposal 39 – Inclusion in Appendix II of *Dissostichus eleginoides*  
and *Dissostichus mawsoni***

I thank you for your circular of letter of 10 July 2002 in connection with the above and your request for scientific information from CCAMLR in respect of CITES Proposal 39.

I am rather unclear as to what precise information you would expect from the CCAMLR Secretariat in response to your request for such. CCAMLR has a very comprehensive website ([www.ccamlr.org](http://www.ccamlr.org)) where all the Commission's fisheries statistics for the two species can be found. There are also the Commission's reports which clearly document decision and actions taken by CCAMLR in respect of managing the fishery in the Convention Area as well as the CCAMLR Toothfish Catch Documentation Scheme.

In respect of commenting on Proposal 39, I would stress that CCAMLR has not yet had an opportunity to discuss it and therefore the Secretariat has no clear guidelines or authority to respond to CITES on the Australian proposal for an Appendix II listing of *D. eleginoides* and *D. mawsoni*. I anticipate that clarity on the issue will only be forthcoming after the Twenty First Meeting of CCAMLR concludes its business on 1 November 2002.

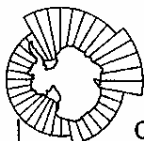
Finally, at this stage I would believe that it is inappropriate for the CCAMLR Secretariat to comment on a CITES proposal made by one of its Members in the absence of clear guidance from the CAMLR Commission and advice from its Scientific Committee.

I am sure that you understand the difficult position in which the CCAMLR Secretariat finds itself and would ask for your good understanding. I will keep you informed of any future developments.

With best personal wishes,

Yours sincerely,

Denzil Miller (Dr)  
Executive Secretary



**CCAMLR**

PO BOX 213 NORTH HOBART, TASMANIA. 7002 AUSTRALIA  
137 HARRINGTON STREET, HOBART, TASMANIA. 7000 AUSTRALIA  
Website: [www.ccamlr.org](http://www.ccamlr.org)

Ph: (61) 3 6231 0366  
Fax: (61) 3 6234 9965  
E-mail: [ccamlr@ccamlr.org](mailto:ccamlr@ccamlr.org)

Our Ref.: 8.29

4 September 2002

Dr W. Wijnstekers  
Secretary-General  
Fisheries Department  
CITES  
Geneva  
Switzerland

Fax No. 41 22 9178055

Dear Dr Wijnstekers,

**CITES COP-12 Proposal 39 –  
Inclusion in Appendix II of *Dissostichus eleginoides* and *D. mawsoni***

I have just visited your website and viewed the CITES Secretariat's evaluation of the above proposal.

As I indicated in my letter of 10 August 2002, CCAMLR has not yet had an opportunity to discuss the matter. Nevertheless, I sincerely believe that it is my duty as CCAMLR Executive Secretary to draw the CITES Secretariat's attention to an implied factual error in your evaluation of Proposal 39.

The CCAMLR conservation measure (Conservation Measure 170/XX) aimed at monitoring the trade and origin of *Dissostichus* spp. harvested in the CCAMLR Convention Area **is not confined to that Area**. Consequently, both CCAMLR Parties and Non-Parties who participate in the CCAMLR Catch Documentation Scheme for *Dissostichus* spp. (CDS) agree to bind themselves to the provisions of the Scheme under the above measure. A key requirement in this regard, is that any CCAMLR Party or Non-Party participating in the CDS may require additional verification of catch documents by Flag States in respect of catches taken on the high seas **outside** the Convention Area. Therefore to put the record straight, I am attaching a copy of the relevant CCAMLR conservation measure. Along with its attached explanatory memorandum, for your information and would ask that all CITES Parties be made aware of its contents.

With best personal wishes,

Yours sincerely,

Dr Denzil G.M. Miller  
Executive Secretary

Attch. CCAMLR Conservation Measure 170/XX and Explanatory Memorandum



**CONSERVATION MEASURE 170/XX**  
**Catch Documentation Scheme for *Dissostichus* spp.**

The Commission,

Concerned that illegal, unregulated and unreported (IUU) fishing for *Dissostichus* spp. in the Convention Area threatens serious depletion of populations of *Dissostichus* spp.,

Aware that IUU fishing involves significant by-catch of some Antarctic species, including endangered albatross,

Noting that IUU fishing is inconsistent with the objective of the Convention and undermines the effectiveness of CCAMLR conservation measures,

Underlining the responsibilities of Flag States to ensure that their vessels conduct their fishing activities in a responsible manner,

Mindful of the rights and obligations of Port States to promote the effectiveness of regional fishery conservation measures,

Aware that IUU fishing reflects the high value of, and resulting expansion in markets for and international trade in, *Dissostichus* spp.,

Recalling that Contracting Parties have agreed to introduce classification codes for *Dissostichus* spp. at a national level,

Recognising that the implementation of a Catch Documentation Scheme for *Dissostichus* spp. will provide the Commission with essential information necessary to provide the precautionary management objectives of the Convention,

Committed to take steps, consistent with international law, to identify the origins of *Dissostichus* spp. entering the markets of Contracting Parties and to determine whether *Dissostichus* spp. harvested in the Convention Area that is imported into their territories was caught in a manner consistent with CCAMLR conservation measures,

Wishing to reinforce the conservation measures already adopted by the Commission with respect to *Dissostichus* spp.,

Inviting non-Contracting Parties whose vessels fish for *Dissostichus* spp. to participate in the Catch Documentation Scheme for *Dissostichus* spp.,

hereby adopts the following conservation measure in accordance with Article IX of the Convention:

1. Each Contracting Party shall take steps to identify the origin of *Dissostichus* spp. imported into or exported from its territories and to determine whether *Dissostichus* spp. harvested in the Convention Area that is imported into or exported from its territories was caught in a manner consistent with CCAMLR conservation measures.
2. Each Contracting Party shall require that each master or authorised representative of its flag vessels authorised to engage in harvesting of *Dissostichus eleginoides* and/or *Dissostichus mawsoni* complete a *Dissostichus* catch document for the catch landed or transhipped on each occasion that it lands or tranships *Dissostichus* spp.
3. Each Contracting Party shall require that each landing of *Dissostichus* spp. at its ports and each

transshipment of *Dissostichus* spp. to its vessels be accompanied by a completed *Dissostichus* catch document.

4. Each Contracting Party shall, in accordance with their laws and regulations, require that their flag vessels which intend to harvest *Dissostichus* spp., including on the high seas outside the Convention Area, are provided with specific authorisation to do so. Each Contracting Party shall provide *Dissostichus* catch document forms to each of its flag vessels authorised to harvest *Dissostichus* spp. and only to those vessels.
5. A non-Contracting Party seeking to cooperate with CCAMLR by participating in this scheme may issue *Dissostichus* catch document forms, in accordance with the procedures specified in paragraphs 6 and 7, to any of its flag vessels that intend to harvest *Dissostichus* spp.
6. The *Dissostichus* catch document shall include the following information:
  - (i) the name, address, telephone and fax numbers of the issuing authority;
  - (ii) the name, home port, national registry number, and call sign of the vessel and, if issued, its IMO/Lloyd's registration number;
  - (iii) the reference number of the licence or permit, whichever is applicable, that is issued to the vessel;
  - (iv) the weight of each *Dissostichus* species landed or transhipped by product type, and
    - (a) by CCAMLR statistical subarea or division if caught in the Convention Area; and/or
    - (b) by FAO statistical area, subarea or division if caught outside the Convention Area;
  - (v) the dates within which the catch was taken;
  - (vi) the date and the port at which the catch was landed or the date and the vessel, its flag and national registry number, to which the catch was transhipped; and
  - (vii) the name, address, telephone and fax numbers of the recipient(s) of the catch and the amount of each species and product type received.
7. Procedures for completing *Dissostichus* catch documents in respect of vessels are set forth in paragraphs A1 to A10 of Annex 170/A to this measure. The standard catch document is attached to the annex.
8. Each Contracting Party shall require that each shipment of *Dissostichus* spp. imported into or exported from its territory be accompanied by the export-validated *Dissostichus* catch document(s) and, where appropriate, validated re-export document(s) that account for all the *Dissostichus* spp. contained in the shipment.
9. An export-validated *Dissostichus* catch document issued in respect of a vessel is one that:
  - (i) includes all relevant information and signatures provided in accordance with paragraphs A1 to A11 of Annex 170/A to this measure; and
  - (ii) includes a signed and stamped certification by a responsible official of the exporting State of the accuracy of the information contained in the document.
10. Each Contracting Party shall ensure that its customs authorities or other appropriate officials request and examine the documentation of each shipment of *Dissostichus* spp. imported into or exported from its

territory to verify that it includes the export-validated *Dissostichus* catch document(s) and, where appropriate, validated re-export document(s) that account for all the *Dissostichus* spp. contained in the shipment. These officials may also examine the content of any shipment to verify the information contained in the catch document or documents.

11. If, as a result of an examination referred to in paragraph 10 above, a question arises regarding the information contained in a *Dissostichus* catch document or a re-export document the exporting State whose national authority validated the document(s) and, as appropriate, the Flag State whose vessel completed the document are called on to cooperate with the importing State with a view to resolving such question.
12. Each Contracting Party shall promptly provide by the most rapid electronic means copies to the CCAMLR Secretariat of all export-validated *Dissostichus* catch documents and, where relevant, validated re-export documents that it issued from and received into its territory and shall report annually to the Secretariat data, drawn from such documents, on the origin and amount of *Dissostichus* spp. exported from and imported into its territory.
13. Each Contracting Party, and any non-Contracting Party that issues *Dissostichus* catch documents in respect of its flag vessels in accordance with paragraph 5, shall inform the CCAMLR Secretariat of the national authority or authorities (including names, addresses, phone and fax numbers and email addresses) responsible for issuing and validating *Dissostichus* catch documents.
14. Notwithstanding the above, any Contracting Party, or any non-Contracting Party participating in the Catch Documentation Scheme, may require additional verification of catch documents by Flag States by using, *inter alia*, VMS, in respect of catches<sup>1</sup> taken on the high seas outside the Convention Area, when landed at, imported into or exported from its territory.
15. If a Contracting Party participating in the CDS has cause to sell or dispose of seized or confiscated *Dissostichus* spp., it may issue a Specially Validated *Dissostichus* Catch Document (SVDCD) specifying the reasons for that validation. The SVDCD shall include a statement describing the circumstances under which confiscated fish are moving in trade. To the extent practicable, Parties shall ensure that no financial benefit arising from the sale of seized or confiscated catch accrue to the perpetrators of IUU fishing. If a Contracting Party issues a SVDCD, it shall immediately report all such validations to the Secretariat for conveying to all Parties and, as appropriate, recording in trade statistics.
16. A Contracting Party may transfer all or part of the proceeds from the sale of seized or confiscated *Dissostichus* spp. into the CDS Fund created by the Commission or into a national fund which promotes achievement of the objectives of the Convention. A Contracting Party may, consistent with its domestic legislation, decline to provide a market for toothfish offered for sale with a SVDCD by another State. Provisions concerning the uses of the CDS Fund are found in Annex B.

<sup>1</sup> Excluding by-catches of *Dissostichus* spp. by trawlers fishing on the high seas outside the Convention Area. A by-catch shall be defined as no more than 5% of total catch of all species and no more than 50 tonnes for an entire fishing trip by a vessel.

A1. Each Flag State shall ensure that each *Dissostichus* catch document form that it issues includes a specific identification number consisting of:

- (i) a four-digit number, consisting of the two-digit International Standards Organization (ISO) country code plus the last two digits of the year for which the form is issued; and
- (ii) a three-digit sequence number (beginning with 001) to denote the order in which catch document forms are issued.

It shall also enter on each *Dissostichus* catch document form the number as appropriate of the licence or permit issued to the vessel.

A2. The master of a vessel which has been issued a *Dissostichus* catch document form or forms shall adhere to the following procedures prior to each landing or transshipment of *Dissostichus* spp.:

- (i) the master shall ensure that the information specified in paragraph 6 of this conservation measure is accurately recorded on the *Dissostichus* catch document form;
- (ii) if a landing or transshipment includes catch of both *Dissostichus* spp., the master shall record on the *Dissostichus* catch document form the total amount of the catch landed or transhipped by weight of each species;
- (iii) if a landing or transshipment includes catch of *Dissostichus* spp. taken from different statistical subareas and/or divisions, the master shall record on the *Dissostichus* catch document form the amount of the catch by weight of each species taken from each statistical subarea and/or division; and
- (iv) the master shall convey to the Flag State of the vessel by the most rapid electronic means available, the *Dissostichus* catch document number, the dates within which the catch was taken, the species, processing type or types, the estimated weight to be landed and the area or areas of the catch, the date of landing or transshipment and the port and country of landing or vessel of transshipment and shall request from the Flag State, a Flag State confirmation number.

A3. If, for catches<sup>1</sup> taken in the Convention Area or on the high seas outside the Convention Area, the Flag State verifies, by the use of a VMS (as described in paragraphs 5 and 6 of Conservation Measure 148/XX), the area fished and that the catch to be landed or transhipped as reported by its vessel is accurately recorded and taken in a manner consistent with its authorisation to fish, it shall convey a unique Flag State confirmation number to the vessel's master by the most rapid electronic means available.

A4. The master shall enter the Flag State confirmation number on the *Dissostichus* catch document form.

A5. The master of a vessel that has been issued a *Dissostichus* catch document form or forms shall adhere to the following procedures immediately after each landing or transshipment of *Dissostichus* spp.:

- (i) in the case of a transshipment, the master shall confirm the transshipment by obtaining the signature on the *Dissostichus* catch document of the master of the vessel to which the catch is transferred;
- (ii) in the case of a landing, the master or authorised representative shall confirm the landing by obtaining a signed and stamped certification on the *Dissostichus* catch document by a responsible official at the port of landing or free trade zone;

- (iii) in the case of a landing, the master or authorised representative shall also obtain the signature on the *Dissostichus* catch document of the individual that receives the catch at the port of landing or free trade zone; and
  - (iv) in the event that the catch is divided upon landing, the master or authorised representative shall present a copy of the *Dissostichus* catch document to each individual that receives a part of the catch at the port of landing or free trade zone, record on that copy of the catch document the amount and origin of the catch received by that individual and obtain the signature of that individual.
- A6. In respect of each landing or transshipment, the master or authorised representative shall immediately sign and convey by the most rapid electronic means available a copy, or, if the catch landed was divided, copies, of the signed *Dissostichus* catch document to the Flag State of the vessel and shall provide a copy of the relevant document to each recipient of the catch.
- A7. The Flag State of the vessel shall immediately convey by the most rapid electronic means available a copy or, if the catch was divided, copies, of the signed *Dissostichus* catch document to the CCAMLR Secretariat to be made available by the next working day to all Contracting Parties.
- A8. The master or authorised representative shall retain the original copies of the signed *Dissostichus* catch document(s) and return them to the Flag State no later than one month after the end of the fishing season.
- A9. The master of a vessel to which catch has been transhipped (receiving vessel) shall adhere to the following procedures immediately after landing of such catch in order to complete each *Dissostichus* catch document received from transhipping vessels:
- (i) the master of the receiving vessel shall confirm the landing by obtaining a signed and stamped certification on the *Dissostichus* catch document by a responsible official at the port of landing or free trade zone;
  - (ii) the master of the receiving vessel shall also obtain the signature on the *Dissostichus* catch document of the individual that receives the catch at the port of landing or free trade zone; and
  - (iii) in the event that the catch is divided upon landing, the master of the receiving vessel shall present a copy of the *Dissostichus* catch document to each individual that receives a part of the catch at the port of landing or free trade zone, record on that copy of the catch document the amount and origin of the catch received by that individual and obtain the signature of that individual.
- A10. In respect of each landing of transhipped catch, the master or authorised representative of the receiving vessel shall immediately sign and convey by the most rapid electronic means available a copy of all the *Dissostichus* catch documents, or if the catch was divided, copies, of all the *Dissostichus* catch documents, to the Flag State(s) that issued the *Dissostichus* catch document, and shall provide a copy of the relevant document to each recipient of the catch. The Flag State of the receiving vessel shall immediately convey by the most rapid electronic means available a copy of the document to the CCAMLR Secretariat to be made available by the next working day to all Contracting Parties.
- A11. For each shipment of *Dissostichus* spp. to be exported from the country of landing, the exporter shall adhere to the following procedures to obtain the necessary export validation of the *Dissostichus* catch document(s) that account for all the *Dissostichus* spp. contained in the shipment:
- (i) the exporter shall enter on each *Dissostichus* catch document the amount of each *Dissostichus* spp. reported on the document that is contained in the shipment;

- (ii) the exporter shall enter on each *Dissostichus* catch document the name and address of the importer of the shipment and the point of import;
- (iii) the exporter shall enter on each *Dissostichus* catch document the exporter's name and address, and shall sign the document; and
- (iv) the exporter shall obtain a signed and stamped validation of the *Dissostichus* catch document by a responsible official of the exporting State.

A12. In the case of re-export, the re-exporter shall adhere to the following procedures to obtain the necessary re-export validation of the *Dissostichus* catch document(s) that account for all the *Dissostichus* spp. contained in the shipment:

- (i) the re-exporter shall supply details of the net weight of product of all species to be re-exported, together with the *Dissostichus* catch document number to which each species and product relates;
- (ii) the re-exporter shall supply the name and address of the importer of the shipment, the point of import and the name and address of the exporter;
- (iii) the re-exporter shall obtain a signed and stamped validation of the above details by the responsible official of the exporting State on the accuracy of information contained in the document(s); and
- (iv) the responsible official of the exporting state shall immediately transmit by the most rapid electronic means a copy of the re-export document to the Secretariat to be made available next working day to all Contracting Parties.

The standard form for re-export is attached to this annex.

<sup>1</sup> Excluding by-catches of *Dissostichus* spp. by trawlers fishing on the high seas outside the Convention Area. A by-catch shall be defined as no more than 5% of total catch of all species and no more than 50 tonnes for an entire fishing trip by a vessel.

DISSOSTICHUS CATCH DOCUMENT							V 1.3
Document Number					Flag State Confirmation Number		
<b>PRODUCTION SECTION</b>							
1. Issuing Authority of Document Name		Address			Tel: Fax:		
2. Fishing Vessel Name		Home Port & Registration Number		Call Sign		IMO/Lloyd's Number (if issued)	
3. Licence Number (if issued)				Fishing dates for catch under this document			
				4. From:		5. To:	
6. Description of Fish (Landed/Transhipped)					7. Description of Fish Sold		
Species	Type	Estimated Weight to be Landed (kg)	Area Caught	Verified Weight Landed (kg)	Net Weight Sold (kg)	Recipient name, address, telephone, fax and signature. Recipient Name:	
						Signature:	
						Address:	
						Tel:	
						Fax:	
Species: TOP <i>Dissostichus eleginoides</i> , TOA <i>Dissostichus mawsoni</i> Type: WHO Whole; HAG Headed and gutted; HAT Headed and tailed; FLT Fillet; HGT Headed, gutted, tailed; OTH Other (specify)							
8. Landing/Transhipment Information: I certify that the above information is complete, true and correct to the best of my knowledge. If any <i>Dissostichus</i> spp. was taken in the Convention Area, I certify that it was caught in a manner:							
<input type="checkbox"/> * consistent with CCAMLR conservation measures				<input type="checkbox"/> * not consistent with CCAMLR conservation measures			
Master of Fishing Vessel or Authorised Representative (print in block letters)		Signature and Date		Landing/Transhipment Port and Country/Area		Date of Landing/Transhipment	
9. Certificate of Transhipments: I certify that the above information is complete, true and correct to the best of my knowledge.							
Master of Receiving Vessel		Signature		Vessel Name		Call Sign IMO/Lloyds Number (if issued)	
Transhipment within a Port Area: countersignature by Port Authority if appropriate.							
Name		Authority		Signature		Seal (Stamp)	
10. Certificate of Landing: I certify that the above information is complete, true and correct to the best of my knowledge.							
Name		Authority		Signature		Address Tel. Port of Landing Date of Landing Seal (Stamp)	
<b>11. EXPORT SECTION</b>				<b>12. Exporter Declaration:</b> I certify that the above information is complete, true and correct to the best of my knowledge.			
Description of Fish							
Species	Product Type	Net Weight	Name		Address		Signature Export Licence (if issued)
			13. Export Government Authority Validation: I certify that the above information is complete, true and correct to the best of my knowledge.				
			Name/Title		Signature		Date Seal (Stamp)
			Country of export				Export reference number
<b>14. IMPORT SECTION</b>							
Name of Importer		Address					
Point of Unlading:		City		State/Province		Country	

\* Tick if applicable

DISSOSTICHUS RE-EXPORT DOCUMENT			V1.1
RE-EXPORT SECTION		Re-exporting Country:	
1. Description of Fish			
Species	Type of Product	Net Weight Exported (kg)	Dissostichus Catch Document Number Attached
Species: <b>TOP</b> <i>Dissostichus eleginoides</i> , <b>TOA</b> <i>Dissostichus mawsoni</i> Type: <b>WHO</b> Whole; <b>HAG</b> Headed and gutted; <b>HAT</b> Headed and tailed; <b>FLT</b> Fillet; <b>HGT</b> Headed, gutted, tailed; <b>OTH</b> Other (specify)			
2. Re-Exporter Certification: I certify that the above information is complete, true and correct to the best of my knowledge and that the above product comes from product certified by the attached <i>Dissostichus</i> Catch Document(s).			
Name	Address	Signature	Date
Export Licence (if issued)			
3. Re-Export Government Authority Validation: I certify that the above information is complete, true, and correct to the best of my knowledge.			
Name/Title	Signature	Date	Seal (Stamp)
4. IMPORT SECTION			
Name of Importer		Address	
Point of Unlading:	City	State/Province	Country



### THE USE OF THE CDS FUND

- B1. The purpose of the CDS Fund ('the Fund') is to enhance the capacity of the Commission in improving the effectiveness of the CDS and by this, and other means, to prevent, deter and eliminate IUU fishing in the Convention Area.
- B2. The Fund will be operated according to the following provisions:
- (i) The Fund shall be used for special projects, or special needs of the Secretariat if the Commission so decides, aimed at assisting the development and improving the effectiveness of the CDS. The Fund may also be used for special projects and other activities contributing to the prevention, deterrence and elimination of IUU fishing in the Convention Area, and for other such purposes as the Commission may decide.
  - (ii) The Fund shall be used primarily for projects conducted by the Secretariat, although the participation of Members in these projects is not precluded. While individual Member projects may be considered, this shall not replace the normal responsibilities of Members of the Commission. The Fund shall not be used for routine Secretariat activities.
  - (iii) Proposals for special projects may be made by Members, by the Commission or the Scientific Committee and their subsidiary bodies, or by the Secretariat. Proposals shall be made to the Commission in writing and be accompanied by an explanation of the proposal and an itemised statement of estimated expenditure.
  - (iv) The Commission will, at each annual meeting, designate six Members to serve on a Review Panel to review proposals made intersessionally and to make recommendations to the Commission on whether to fund special projects or special needs. The Review Panel will operate by email intersessionally and meet during the first week of the Commission's annual meeting.
  - (v) The Commission shall review all proposals and decide on appropriate projects and funding as a standing agenda item at its annual meeting.
  - (vi) The Fund may be used to assist Acceding States and non-Contracting Parties that wish to cooperate with CCAMLR and participate in the CDS, so long as this use is consistent with provisions (i) and (ii) above. Acceding States and non-Contracting Parties may submit proposals if the proposals are sponsored by, or in cooperation with, a Member.
  - (vii) The Financial Regulations of the Commission shall apply to the Fund, except in so far as these provisions provide or the Commission decides otherwise.
  - (viii) The Secretariat shall report to the annual meeting of the Commission on the activities of the Fund, including its income and expenditure. Annexed to the report shall be reports on the progress of each project being funded by the Fund, including details of the expenditure on each project. The report will be circulated to Members in advance of the annual meeting.
  - (ix) Where an individual Member project is being funded according to provision (ii), that Member shall provide an annual report on the progress of the project, including details of the expenditure on the project. The report shall be submitted to the Secretariat in sufficient time to be circulated to Members in advance of the annual meeting. When the project is completed, that Member shall provide a final statement of account certified by an auditor acceptable to the Commission.

- (x) The Commission shall review all ongoing projects at its annual meeting as a standing agenda item and reserves the right, after notice, to cancel a project at any time should it decide that it is necessary. Such a decision shall be exceptional, and shall take into account progress made to date and likely progress in the future, and shall in any case be preceded by an invitation from the Commission to the project coordinator to present a case for continuation of funding.
- (xi) The Commission may modify these provisions at any time.

**EXPLANATORY MEMORANDUM ON THE INTRODUCTION  
CATCH DOCUMENTATION SCHEME (CDS)  
FOR TOOTHFISH (*DISSOSTICHUS* SPP.)**

**1. BACKGROUND**

The scale of illegal, unregulated and unreported (IUU) fishing for toothfish (*Dissostichus* spp.) in the Southern Oceans is the most significant problem faced by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR).

During 1996–1999 the amounts of toothfish taken by IUU fishing have been of the order of 90 000 tonnes, more than twice the level of catches taken in CCAMLR regulated fisheries. This rate of extraction is unsustainable and has led to a significant depletion of toothfish stocks in some areas. In addition, the mortality of seabirds, principally albatross and petrel species, taken as a by-catch of the longline fisheries is also unsustainable and has resulted in declines in the populations of these species.

To address this problem a number of conservation measures have been introduced by CCAMLR over recent years relating to the toothfish fisheries in order to combat the problem of IUU fishing on the toothfish stocks. These measures in particular include:

- Flag State licensing requirement for all vessels in the fisheries;
- conservation measures fixing fishing levels for all toothfish fisheries in the Convention's waters;
- mandatory vessel monitoring systems (VMS);
- port inspections of landings and transshipments; and
- marking of vessels and fishing gear.

In addition there has been an intensification of control in the Convention Area. Consequently, the number of inspections followed by sanctions has also increased, reaching a peak in 1998.

**2. TERMINOLOGY**

For the purposes of consistent implementation of CDS and completion of its associated forms the following descriptions are provided (notwithstanding normal trade terminology):

**Recipient:** The person(s) who assumes(s) responsibility for the catch in its harvested or processed form upon landing or transshipment, i.e. vessel owner; buyer(s); master of the vessel to which the catch is transhipped.

**Landing:** The initial transfer of catch in its harvested or processed form from a vessel to dockside or to another vessel in a port, where the catch has been recorded by the port state or flag state as landed.

**Transshipment:** Transferring catch in its harvested or processed form from one vessel to another vessel either at sea or in port without the catch having been recorded by the port state or flag state as landed.

**Export:** The movement in trade of a catch in its harvested or processed form from the original country, free trade zone, or regional economic integration organisation of landing.

**Import:** The movement in trade of a catch in its harvested or processed form other than as a landing into a country, free trade zone or regional economic integration organisation.

### 3. CATCH DOCUMENTATION SCHEME

As a further means to address this problem which threatens the conservation of the toothfish stocks, the CCAMLR Commission adopted at its Eighteenth Meeting a conservation measure (170/XVIII) on the introduction of a Catch Documentation Scheme for *Dissostichus* spp.

The purpose for the introduction of this Scheme is:

- (i) to monitor the international trade in toothfish;
- (ii) to identify the origins of toothfish imported into or exported from the territories of Contracting Parties;
- (iii) to determine whether toothfish imported into or exported from the territories of Contracting Parties, if caught in the Convention Area, was caught in a manner consistent with CCAMLR conservation measures; and
- (iv) to gather catch data for the scientific evaluation of the stocks.

To meet this purpose, all landings, transshipments and importations of toothfish into the territories of Contracting Parties will require to be accompanied by a completed catch document. This will specify a range of information relating to the volume and location of catch, and the name and Flag State of the vessel.

This Catch Documentation Scheme became operative on 7 May 2000 and will be open to all Flag States irrespective of whether they are Members of CCAMLR or not. The Scheme applies to all catches of *Dissostichus* spp. regardless of whether they were taken as by-catch or as a result of targeted fishing.

Non-Contracting Parties to CCAMLR are invited to participate in the Catch Documentation Scheme for *Dissostichus* spp. To do so they will need to ensure that their vessels are provided with the standard *Dissostichus* catch documents for presentation to Contracting Party authorities as required.

### 4. LANDING AND TRANSHIPMENT PROCEDURES

#### 4.1 Area

Toothfish are caught both inside and outside the CCAMLR Convention Area (see map attached). Each Contracting Party shall require that each shipment of *Dissostichus* spp. imported into its territory be accompanied by the export-validated *Dissostichus* catch document(s) and, where appropriate, validated re-export documents that account for all the *Dissostichus* spp. contained in the shipment.

#### 4.2 Procedures

The document required will have the form of the attached catch document. Each Flag State shall provide the standard *Dissostichus* catch document forms to each of its flag vessels authorised to harvest *Dissostichus* spp. and only to those vessels.

On receipt of a request from a fishing vessel the Flag State will determine whether the catches that are intended for landing or transshipping are consistent with its authorisation to fish and if so will issue the vessel with a unique Flag State confirmation number.

The document will need to be countersigned by a Port State official when the catch is landed. This signature will confirm that the catches landed agree with the details on the document. The person who receives the catch must also countersign the document and state on the document the amount of the landed catch that has been received. In the case that the catch is divided on landing, copies of the catch document must be supplied by the

master and completed by each receiver of a part of the landing.

In the case of transshipment, the master of a receiving vessel will sign the catch document presented by the fishing vessel master. When catches are landed from a vessel that has received a transshipment of toothfish the quantity of the toothfish to be landed must be confirmed by the countersignature of a Port State official on each catch document that was received from fishing vessels by the master of the receiving vessel. In all other respects the landing is treated similarly to a landing direct to port.

Originals of all copies of the document must then be returned to the Flag State of the fishing vessel that caught the fish, which will forward a copy to the CCAMLR Secretariat. The copies of the document that were provided to each receiver must remain with the catch throughout all subsequent transactions, including export and import.

Please note that for catches taken in CCAMLR waters, the Commission is seeking to determine whether catches have been taken in a manner consistent with CCAMLR conservation measures including those in Attachment A. Full details of the CCAMLR conservation measures currently in force can be obtained from the CCAMLR Secretariat.

## 5. EXPORT AND IMPORT PROCEDURES

In the event that a part of the catch is exported from the country of landing, the exporter must complete the export and intended import details on the *Dissostichus* catch documents that account for all toothfish contained in the shipment. The exporter must also obtain validation of the catch documents by the relevant official of the exporting state. If a shipment is re-exported, similar validation must be obtained from a relevant official of the exporting states and copies of the original catch documents attached.

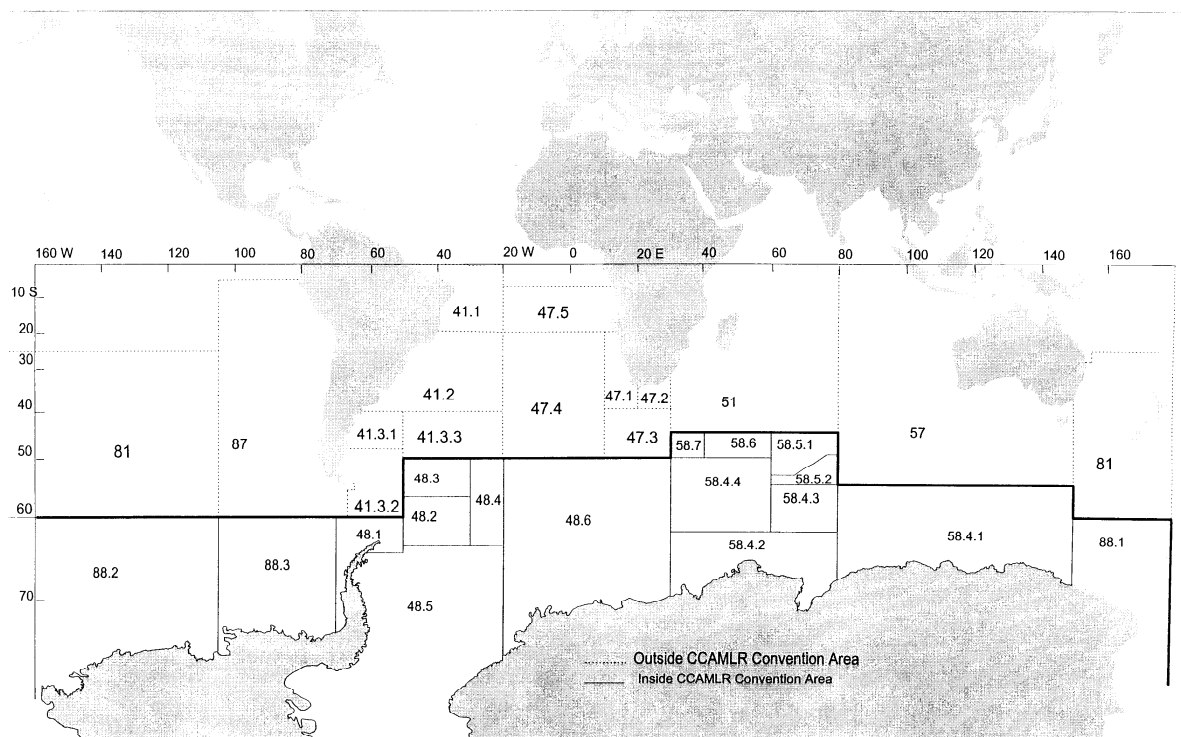
On importation, the relevant authorities may, if appropriate, contact the Flag State of the vessel to verify the authenticity of the content of the Catch Document. In the event that Contracting Parties importation authorities receive a shipment of toothfish that is NOT accompanied by a valid catch document, the shipment will be detained. In the event that checks carried out by the importation authorities with the Flag State fail to verify the legitimacy of a catch document, importation of the shipment will not be authorised.

## 6. INFORMATION

Should Flag States or fishing companies require further information or clarification on the operation of the Catch Documentation Scheme, they may contact the CCAMLR Secretariat at:

CCAMLR  
PO Box 213  
North Hobart 7002  
Tasmania Australia

Telephone: 61 3 6231 0366  
Facsimile: 61 3 6234 9965  
Email: [ccamlr@ccamlr.org](mailto:ccamlr@ccamlr.org)



## CONSERVATION MEASURES AND OTHER REGULATIONS, RELEVANT TO TOOTHFISH FISHERIES IN THE CONVENTION AREA

### *Licensing (Conservation Measure 119/XVII, Resolution 13/XIX)*

The specific provisions of Conservation Measure 119/XVII and Article IV(c) of the System of Inspection must be complied with. Vessels must be licensed by their Flag States to fish in CCAMLR waters, and details of the licence (name of vessel, time period(s) of fishing, area(s) of fishing, species targeted and gear used) must be sent to the CCAMLR Secretariat within seven (7) days of the issue of the licence. Resolution 13/XIX urges all Contracting Parties, consistent with their domestic legislation, to avoid flagging a non-Contracting Party vessel or licensing such a vessel to fish in waters under their fisheries jurisdiction, if that particular vessel has a history of engagement in IUU fishing in the Convention Area.

### *Compliance with conservation measures*

The provisions of all relevant conservation measures in relation to catch limits, fishing seasons, areas, and restriction of effort to named Parties must be complied with.

### *Data reporting*

All toothfish fisheries require in-season catch reporting for the purposes of monitoring catch, as well as reporting of all catch, effort and biological data to CCAMLR (Conservation Measures **51/XIX**, **121/XIX** and **122/XIX**), which must be complied with.

### *Scientific observation and inspection procedures*

The relevant provisions of the CCAMLR Scheme of International Scientific Observation and the System of Inspection must be adhered to. In particular all vessels engaged in toothfish fisheries must carry a international scientific observer designated in accordance with the Scheme of Observation. Vessels fishing in the Convention's waters will be subject to inspection by inspectors designated under the System of Inspection.

### *Vessel monitoring and marking (Conservation Measures 148/XVII, ~~and~~ 146/XVII and Resolution 16/XIX)*

All vessels and fishing gear must be marked according to internationally accepted standards and vessels should have on board an operational VMS reporting to the Flag State. In accordance with Resolution 16/XIX it was agreed that, on a voluntary basis, subject to their laws and regulations, Flag States participating in the Catch Documentation Scheme for *Dissostichus* spp. should ensure that their flag vessels authorised to fish for or tranship *Dissostichus* spp. on the high seas maintain an operational VMS, as defined in Conservation Measure 148/XVII, throughout the whole of the calendar year.

### *Mitigating measures*

Measures for the mitigation of incidental mortality of birds in longline fisheries must be complied with (Conservation Measures 29/XIX). These include the deployment of bird-scaring devices, appropriate line-weighting regimes, prohibition on the use of plastic packaging bands on board vessels and the use of frozen bait, the requirement for night-time setting of lines, and the prohibition on the discharge of offal during hauling. General by-catch provisions associated with toothfish fisheries must be complied with.

### *Use of ports not implementing the Catch Documentation Scheme for Dissostichus spp. (Resolution 15/XIX)*

In accordance with Resolution 15/XIX it was agreed that Contracting Parties be urged:

1. Where they are unable to provide an authorised Flag State official(s) to monitor a landing for the purposes of validating *Dissostichus* Catch Documents, to discourage their flag vessels authorised to fish for *Dissostichus* spp. from using ports of Acceding States and non-Contracting Parties which are not

implementing the Catch Document Scheme for *Dissostichus* spp.

2. To attach to the authorisation to fish a list of all Acceding States and non-Contracting Parties that are implementing the Catch Documentation Scheme.

*Other measures*

Any proposed development of new fishing areas must conform to the conservation measures dealing with new and exploratory fisheries. These include the requirement for research and data collection during the exploratory phase of a fishery (Conservation Measures 31/X and 65/XII). Vessels will be subject to inspection by Port States on landing or transshipping catches (Conservation Measures 118/XVII and 147/XIX).

The above is only a synopsis of the relevant measures. Those intending to be engaged in the Catch Documentation Scheme are advised to consult the actual texts of the measures to ensure compliance with their provisions.

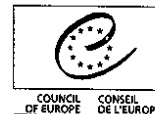




COUNCIL OF EUROPE

SECRETARIAT GENERAL

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE AND NATURAL HABITATS



DG-IV  
EFG/vdc

Strasbourg, 11 July 2002

**Subject:** Listing of the subspecies *Tursiops truncatus ponticus* on the Appendices of CITES

**Ref.:** Your letter dated 28 June 2002

Dear Mr Wijnstekers,

Thank you for your letter of 28 June 2002 concerning the proposal from Georgia to transfer the subspecies *Tursiops truncatus ponticus* from Appendix II to Appendix I of CITES.

I am pleased to inform you that the Standing Committee to the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention) discussed such proposal at its last meeting and unanimously decided to adopt the enclosed recommendation which may be interpreted as a support of the Georgian proposal.

I am pleased to recall that the Bern Convention gives full protection to *Tursiops truncatus ponticus* and prohibits all forms of deliberate capture and keeping and deliberate killing. Article 6 of the Convention also prohibits the possession and internal trade of specimens of this subspecies, alive or dead and any readily recognisable part thereof.

Yours sincerely,

Eladio FERNÁNDEZ-GALIANO  
Head of Natural Heritage Division

Mr Willem WIJNSTEKERS  
Secretary General  
Convention on International Trade in Endangered  
Species of Wild Fauna and Flora (CITES)  
International Environment House  
Chemin des Anémones  
CH-1219 CHATELAIN, Geneva / Switzerland

Cc: T-PVS Bureau  
Georgian T-PVS delegate

Postal address:  
COUNCIL OF EUROPE  
F-67075 Strasbourg Cedex  
FRANCE

Telephone :  
+33 (0)3 88 41 20 00  
Eladio.fernandez-galiano@coe.int; gianluca.silvestrini@coe.int; françoise.bauer@coe.int; helene.bouguessa@coe.int  
gill.steimer@coe.int; veronique.decoussac@coe.int; elisabeth.egas@coe.int

Fax :  
+33 (0)3 88 41 37 51

E-mail :  
gianluca.silvestrini@coe.fr  
Internet Site :  
<http://www.coe.fr>

Convention on the Conservation  
of European Wildlife and Natural Habitats



Standing Committee

**Recommendation No. 86 (2001) adopted on 30 November 2001 on the conservation of the Black Sea bottle-nosed dolphin *Tursiops truncatus ponticus***

The Standing Committee of the Convention on the Conservation of European Wildlife and Natural Habitats, acting under the terms of Article 14 of the Convention,

Having regard to the aims of the Convention to conserve wild fauna and its natural habitats;

Recalling that Article 1, paragraph 2 of the Convention requires Parties to give particular emphasis to the conservation of endangered and vulnerable species;

Noting that the bottle-nosed dolphin *Tursiops truncatus* is listed in Appendix II of the Convention and that the Black Sea subspecies *Tursiops truncatus ponticus* is critically endangered;

Recalling that Article 6 of the Convention prohibits the possession and internal trade of species listed in its Appendix II, while the Convention on International Trade of Endangered Species (CITES) regulates international trade of species listed in their annexes;

Desirous to avoid a further loss of biological diversity in the continent;

Aware of the obligations under the Agreements concluded in the framework of the Convention on the Conservation of Migratory Species of Wild Animals (Bonn), of the CMS Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Areas (ACCOBAMS) and the Convention on the Protection of the Black Sea against Pollution (Bucharest);

Recalling Resolution (77) 7 of the Committee of Ministers of the Council of Europe on the protection of threatened mammals in Europe;

Recalling its own Recommendation No. 43 (1995) on the conservation of threatened mammals in Europe, in which Contracting Parties and other states are invited to consider recovery plans for *Tursiops truncatus* and other species;

Conscious that the trade of *Tursiops truncatus ponticus* is an important threat factor for this subspecies,

Recommends that Contracting Parties to the Convention or invites other states, as appropriate, to:

1. Strictly enforce the prohibition of capture and keeping of *Tursiops truncatus ponticus* and avoid as far as possible the use of exceptions in Article 9 of the Convention on this subspecies, unless for conservation reasons;
2. Support efforts of other states to provide an improved protection of this subspecies from international trade in the framework of the Convention on International Trade of Endangered Species and other relevant treaties and agreements;
3. Support regional coordination of efforts on the conservation of this subspecies.



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ORGANISATION  
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ET L'AGRICULTURE

ORGANIZACION  
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UNIDAS PARA  
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Y LA ALIMENTACION

منظمة  
الغذية  
والزراعة  
للأمم  
المتحدة

Viale delle Terme di Caracalla,  
00100 Rome, Italy

Cables:  
FOODAGRI ROME

Telex: 623852 FAO I  
610181 FAO I

Facsimile: +39 0657053152

Telephone: +39 0657051

Our Ref.: IL 2/895

Your Ref.:

20 AUG 2002

Dear Mr Wijnstekers,

Thank you for your letter, addressed to Mr Kevern Cochrane, concerning the proposals to amend CITES Appendices I and II relating to marine species.

As you will know, there has been considerable discussion within FAO over the last few years on the role of CITES in relation to commercially-exploited aquatic species. This led to, amongst other deliberations, substantive proposals to CITES for consideration at COP-12 concerning the current criteria and process for revising CITES Appendices I and II. FAO Members are awaiting with considerable interest the outcome of decisions made at COP-12 on the listing criteria and process.

The discussions and investigations being held by FAO are planned to continue, and it is likely that in the near future we will be evaluating the administrative, social and economic implications for member countries of listing commercially-exploited aquatic species. In addition, as you will know, several Members are interested in exploring possible relationships between our two organisations. However, at this stage no decisions have been made by our Members as to what role, if any, FAO should play in relation to CITES and, in particular, in relation to evaluating proposals for listing such species.

Further, I refer to the fax sent to you on 1 November 2001 and the recommendations from the Second Technical Consultation on the Suitability of the CITES Criteria for Listing Commercially-exploited Aquatic Species (Windhoek, Namibia, October 2001) attached to that fax. Those documents refer to the view of FAO that any proposals dealing with commercially-exploited aquatic species should undergo rigorous scientific evaluation to allow for resolution of any conflicting views and to ensure the provision of objective, transparent and balanced information on the status of each population. Without access to the results of such a rigorous evaluation of the proposals, we are not able to provide authoritative comment on them, and the FAO Secretariat does not have the mandate or access to the necessary financial resources to undertake such an evaluation.

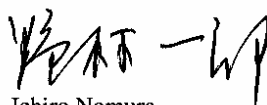
In the absence of a decision from our Members on FAO's role and without the information from a rigorous evaluation as recommended by our Members, it will not be possible for us to respond to your request for comment on the proposals in Accordance with Article XV, paragraph 2 (b) of CITES.

Mr Willem Wijnstekers  
Secretary-General  
Convention on International Trade in Endangered Species  
of Wild Fauna and Flora (CITES)  
International Environment House  
Chemin des Anémones  
CH-1219 Châtelaine  
Geneva  
Switzerland

I can inform you, however, that I have drawn the attention of all the Regional Fisheries Organisations registered with FAO to these proposals and referred them to the details of the proposals as provided on your website. In that letter, I encouraged the Organisations to study those proposals relevant to their mandates and to respond directly to CITES as appropriate.

I have also taken note of the concerns expressed within CITES about the status of some shark species and the relevance of the FAO International Plan of Action for the Conservation and Management of Sharks. In relation to this, I sent a Circular Letter on the implementation of the four FAO IPOAs to the Permanent Representatives of FAO Members in May. In that letter, I drew attention to the concerns being expressed about the conservation status of some sharks and urged all Members to ensure effective implementation of the IPOA on sharks. They are scheduled to report back on their progress in implementation of the IPOAs, including that on sharks, at the 25<sup>th</sup> Session of the FAO Committee on Fisheries in February 2003.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ichiro Nomura' in a stylized, cursive script.

Ichiro Nomura  
Assistant Director-General  
Fisheries Department

# COMISION INTERAMERICANA DEL ATUN TROPICAL INTER-AMERICAN TROPICAL TUNA COMMISSION

8804 La Jolla Shores Drive, La Jolla CA 92037-1508, USA – [www.iattc.org](http://www.iattc.org)  
Tel: (858) 546-7100 – Fax: (858) 546-7133 – Director: Robin Allen

30 August 2002  
Ref.: 0529-700

Willem W. Wijnstekers  
Secretary General  
CITES  
International Environment House  
11-13, Chemin des Anémones  
CH-1219 Châtelaine, Geneva  
Switzerland

Fax: (41-22) 797 34 17

Dear Sir:

Thank you for the invitation to attend the COP-12 to be held during 3-15 November 2002 in Santiago, Chile. Unfortunately, because of other commitments, this organization will not be able to be represented.

However, I see there are several fisheries related items on the agenda for the meeting, in particular the proposals to amend Appendix II to include the following species:

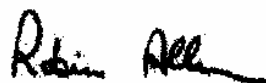
- proposal 35, inclusion of *Rhincodon typus* (whale shark);
- proposal 36, inclusion of *Cetorhinus maximus* (basking shark);
- proposal 38, inclusion of *Cheilinus undulatus* (Napoleon wrasse);
- proposal 39, inclusion of *Dissostichus eleginoides* (Patagonian toothfish) and *D. mawsonii* (Antarctic toothfish).

As the regional fisheries organization responsible for tuna fisheries and fish taken by tuna-fishing vessels in the eastern Pacific Ocean, this Commission is particularly interested in proposals 35 and 36, since they concern species that are occasionally involved in those fisheries.

We have no records of catches of basking sharks in the tuna fisheries of the eastern Pacific. Whale sharks are found in association with schools of tuna, but are not taken for commercial purposes.

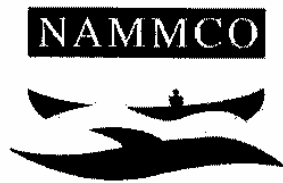
The IATTC has no estimates of the population status of either species in the eastern Pacific.

Yours sincerely,



Robin Allen  
Director

Cc: Mr. I. Nomura, Assistant Director General Fisheries FAO



CITES COP 12, Santiago, Chile 3-15 November 2002

**Proposals for Amendment of Appendices I and II**

**COMMENTS and INFORMATION FROM NAMMCO on PROPOSAL 12.4, TRANSFER from APPENDIX I TO APPENDIX II of the NORTHERN HEMISPHERE STOCKS OF MINKE WHALE (*Balaenoptera acutorostrata*), SUBMITTED BY JAPAN TO CITES COP12**

**Comments concerning the Northeast Atlantic and North Atlantic Central stocks of minke whales.**

Given the detailed scientific knowledge of the minke whale stocks in the Northeast Atlantic and Central Atlantic including abundance estimates from 1989 and 1995, and preliminary results from 2001, there is no scientifically based reason to maintain these stocks in Appendix I under CITES. NAMMCO therefore supports the proposal from Japan to transfer these stocks from Appendix I to Appendix II. With respect to the other stocks in the Japanese proposal, NAMMCO has no comments because these stocks are outside of the NAMMCO region.

**Information on the Northeast Atlantic and North Atlantic Central stocks of minke whales.**

**Item 2.3      Population status – Northeast Atlantic and North Atlantic Central stocks of minke whales**

With reference to this item it can be noted that the NAMMCO Scientific Committee in 2001 co-ordinated the NASS-2001 (North Atlantic Sighting Survey), which covered much of the Central and Northeast Atlantic. The Faroe Islands, Iceland and Norway participated in the survey. The target species were minke whales and fin whales, but all species encountered were recorded. The surveys are based on a high intensity of coverage to arrive at the best possible abundance estimates for the area surveyed. The Faroese and Norwegian research vessels were denied access to the waters around the United Kingdom. The denial of access to a portion of the area planned to be covered has compromised the survey results (though the results for the remainder of the region will remain valid) (*NAMMCO Annual Report 2001*, In Press: 20). The Scientific Committee Working Group on Abundance Estimates is presently calculating the abundance estimates for both areas for the target and other species, and the results will be forthcoming in 2003.

At its Ninth meeting the Scientific Committee reconsidered the data from NASS-1995, and noted that while the results from the Icelandic aerial survey of part of the Central Atlantic stock require reconsideration, the results of updated analyses of the Icelandic shipboard survey are very similar to those previously reported (*NAMMCO Annual Report 2001*, In Press: 19-20). It is important to note that certain technical questions that have been raised about previous aerial survey analyses would not lead

to any alteration in the conclusions of the Scientific Committee that removals and catches of 292 minke whales per year from the Central Atlantic stock are sustainable. This conclusion is based on conservative assumptions of both stock structure and abundance estimates of the Central North Atlantic Stock. The NAMMCO Council duly noted the conservative nature of this advice in 1998 (*NAMMCO Annual Report 1998, 1999: 22*).

#### **Item 2.6      Role of the species in its ecosystem**

With reference to this item NAMMCO published in 2000 the second volume in its Scientific Publication Series: *Minke Whales, Harp and Hooded Seals: Major Predators in the North Atlantic Ecosystem*, edited by G. A. Víkingsson and F.O. Kapel. The collection of papers published in this volume is based on the findings of a NAMMCO Scientific Committee Working Group studying the role of minke whales, harp and hooded seals in the ecosystem. The Working Group's findings included the conclusion that minke whales, harp seals and hooded seals might have substantial direct and/or indirect effects on commercially important fish stocks. To better understand the possible effects of this consumption, the NAMMCO Scientific Committee recommended that knowledge be improved in a number of areas, such as variations in abundance, distribution, diet, energy requirements and prey abundance of these marine mammals, the way in which marine mammals select their prey, and the extent of consumption of fish species by other predators in the system (*NAMMCO Annual Report 1997, 1998: 91-92*). The Working Group on Economic Aspects of Marine-Mammal Fisheries Interactions met in 2000 to consider these issues. One of the conclusions of this first Working Group was that significant uncertainties remain in the calculation of consumption by marine mammals, and this uncertainty was the most important factor hindering the developments of models linking consumption with fishery economics (*NAMMCO Annual Report 2000, 2001: 15-16*). Considering this conclusion, the Scientific Committee convened a Workshop: Marine Mammals: From Feeding Behaviour or Stomach Contents to Annual Consumption – What are the Main Uncertainties?, to further investigate the methodological and analytical problems in estimating consumption by marine mammals.

In considering the report from this Workshop, the NAMMCO Scientific Committee concluded that analyses of stomach, intestinal contents or faeces scaled to satisfy the estimated energy expenditure of the animals was the best approach for determining consumption by marine mammals under most conditions. Other methods of determining diet, such as the remote monitoring of marine mammals in combination of fishery data, fatty acid and stable isotope analysis, and direct observation, may be useful supplements under some circumstances. A main conclusion was that for all relevant species of marine mammals in the North Atlantic the uncertainties in energy expenditure are small compared to the uncertainties in the estimates of abundance and compared to the to the uncertainties and lack of knowledge of the diet composition (*NAMMCO Annual Report 2001, In Press: 15-16*). To follow up on the conclusions made by the Scientific Committee a Workshop will be held in September 2002 on ecosystem models aiming for a better understanding of the ecological role of minke whales, and harp and hooded seals in the North Atlantic (*NAMMCO Annual Report 2001, In Press: 15-16*).

#### **Item 5      Information on Similar Species – Hunting**

Under this item it should be noted that NAMMCO in 1998 implemented an International Observation Scheme, under the Joint NAMMCO Control Scheme for the

Hunting of Marine Mammals. Among others, the yearly observation activities involve land-based and on-board observations of whaling and sealing in Norway and Greenland, and of pilot whaling in the Faroe Islands. International observers appointed by NAMMCO carry out the observations. The Joint Control Scheme includes common elements for national observation schemes for coastal whaling, as well as an international observation scheme for the hunting of all marine mammals. The Council adopted the Observation Scheme in 1996, and the Provisions for the Joint NAMMCO Control Scheme are published in the *NAMMCO Annual Report 1996, 1997*: 69-75, or the document is available from the NAMMCO Secretariat upon request.

## References

North Atlantic Marine Mammal Commission,  
In Press, *NAMMCO Annual Report 2001*, Tromsø, Norway  
2001, *NAMMCO Annual Report 2000*, Tromsø, Norway  
1999, *NAMMCO Annual Report 1998*, Tromsø, Norway  
1998, *NAMMCO Annual Report 1997*, Tromsø, Norway  
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G. A. Víkingsson and F.O. Kapel (ed.),  
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NAMMCO Secretariat, 22 August 2002  
Polar Environmental Centre  
N-9296 Tromsø, Norway  
E-mail: [nammco-Secretariat@nammco.no](mailto:nammco-Secretariat@nammco.no)  
Web site: [www.nammco.no](http://www.nammco.no)





## NORTH-EAST ATLANTIC FISHERIES COMMISSION

22 Berners Street London W1T 3DY UK

Tel: +44 (0)20 7631 0016

Fax: +44 (0)20 7636 9225

Email: [info@neafo.org](mailto:info@neafo.org) Website: [www.neafo.org](http://www.neafo.org)

12 July 2002

Mr Willem Wijnstekers  
Secretary-General  
CITES  
International Environment House  
Chemin des Anémones  
CH 1219 Chatelaine  
Geneva  
Switzerland

Dear Mr Wijnstekers

Thank you for sending the proposal to CITES for listing two species of sharks and one fish species for comments.

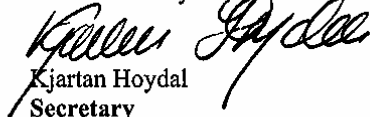
Your letter has been forwarded to our Contracting Parties - Denmark in respect of the Faroe Islands and Greenland, the EU, Iceland, Norway, Poland and the Russian Federation. It will be discussed at our 21<sup>st</sup> Annual Meeting between 11-15 November 2002.

I am afraid that we will not be in a position to send you scientific data at short notice. As far as we know, only the basking shark occurs in the NEAFC Convention Area, and we are not aware of any fishery, now or earlier, in the NEAFC Regulatory Area, or the international waters of the NEAFC Convention Area, for which NEAFC is the competent management authority. (More information on NEAFC can be found on our website [www.neafo.org](http://www.neafo.org)).

NEAFC has not yet considered asking for scientific advice regarding the basking shark, *Cetorhinus maximus*, and is therefore not in the position to make any conclusions on the status of the species. NEAFC expects that decisions by CITES are based on strictly scientific assessments in line with the assessments that are the basis of NEAFC's management measures.

I will let you know the results of the discussion at our Annual Meeting

Yours sincerely

  
Kjartan Hoydal  
Secretary



**International Tropical Timber Organization (ITTO)**  
INTERNATIONAL ORGANIZATIONS CENTER - 5F, PACIFICO-YOKOHAMA  
1-1-1, MINATO-MIRAI, NISHI-KU, YOKOHAMA 220-0012, JAPAN

## F A C S I M I L E

Page 1 of 1 page

Fax: (81-45) 223-1111

Tel.: (81-45) 223-1110

E-mail: itto@itto.or.jp

<b>Date:</b> 17 September 2002	<b>Ref. No.</b> F.02-1084	<b>From:</b>
<b>To:</b> CITES Secretariat International Environment House Chemin des Anémones CH-1219 Châtelaine, Geneva SWITZERLAND		<b>Manoel Sobral Filho</b> Executive Director ITTO - Yokohama, Japan
<b>Fax:</b> (41-22) 797.34.17		

Dear Sirs,

### Proposals to Amend Appendices I and II

Thank you for copying us a Notification to the Parties (No. 2002/043 of 9 August 2002) containing provisional assessments of lists of proposals to amend CITES Appendices I and II to be considered at the 12<sup>th</sup> Meeting of the Conference of the Parties.

Concerning the proposal to include *Swietenia macrophylla* in Appendix II, the ITTO Secretariat shares the CITES Secretariat view that the species is not currently threatened with extinction. The ITTO Secretariat is also of the opinion that *S. macrophylla* population studies are needed to allow proper assessment of the impacts of species utilization and trade, as recommended by the CITES Mahogany Working Group. Recognizing this need, the International Tropical Timber Council approved in November 2000 a project to make an inventory of mahogany stocks in a major range state (Brazil). Unfortunately, the project entitled "Forest Inventory for the Conservation and Sustainable Management of Mahogany- *Swietenia macrophylla* King - in the Brazilian Amazon Region" has not been implemented due to lack of funding.

Yours sincerely,

  
Manoel Sobral Filho  
Executive Director



Report of the Panel of Experts on the African Elephant

This Annex will be available at CoP12.