

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

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

Plenary meeting

Fifth session: 8 November 2002: 16h10-17h20

Chairman: S. Bitar (Chile)
Chairwoman Committee II: A.-M. Delahunt (Australia)

Secretariat: W. Wijnstekers
J. Armstrong
J. Barzdo
M. Lindeque

UNEP: P. Chabeda

Rapporteurs: H. Gillett
R. Mackenzie

Strategic and administrative matters

13. Establishment of committees

The Chairwoman of Committee II made the following statement on the status of this agenda item:

Following extensive discussion of the permanent committee structure of the Convention, including through the efforts of a working group, Committee II recommends: that the permanent committee structure of the Convention remain unchanged, that is, Standing Committee, Animals Committee, Plants Committee and Nomenclature Committee; that representation on those committees remain unchanged; and that a new process for the consideration of implementation issues be agreed. Committee II is still completing its discussion of those implementation issues.

There were no comments on this report and it was agreed that there would be no change in the structure of permanent committees or in the number of members in each committee. The Secretary-General pointed out that, at the regional meetings to be held on 11 November 2002, Parties should therefore elect representatives to the various permanent committees in accordance with the existing committee structure.

16. Cooperation with other organizations

e) Statements from representatives of other conventions and agreements

The observer from the Convention on Migratory Species (CMS) noted the complementary nature of CITES and the CMS, and pointed out that many species are common to the Appendices of each Convention. This had led to the recent signing of a Memorandum of Understanding between CITES and the CMS. He highlighted four taxonomic groups suitable for close collaboration, and noted

relevant CMS Agreements and activities. He stressed the advantages of close collaboration between CITES and the CMS, looked forward to development of a joint work programme and urged Parties to both Conventions to take account of CMS decisions during CoP12 to ensure consistency.

The representative of the Caribbean Environment Programme, a UNEP regional seas programme, explained the relevance to CITES of the Cartagena Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, and particularly its Protocol on Specially Protected Areas and Wildlife (the SPAW Protocol). He noted that, under the SPAW Protocol, the region has made progress in developing management and recovery programmes for CITES-listed species, such as sea turtles and manatees. He highlighted the importance of cooperation to achieve the common objectives of CITES and the Cartagena Convention, and expressed willingness to collaborate.

The representative of the United Nations Environment Programme (UNEP), speaking on behalf of the Convention on Biological Diversity (CBD), emphasized the importance of cooperation and synergy between all biodiversity-related conventions, as well as cooperation between CITES and other relevant international organizations, such as the World Trade Organization, the Food and Agriculture Organization of the United Nations, the World Customs Organization and the International Tropical Timber Organization. He highlighted paragraph 42 of the Plan of Implementation of the World Summit on Sustainable Development which identified the Convention on Biological Diversity as a key instrument for the conservation and sustainable use of biological diversity and the fair and equitable sharing of benefits arising from use of genetic resources. Strong links between CITES and the CBD were crucial to ensure that comparative advantages and mutual supportiveness were fully realized. He highlighted areas of the CBD work programme of particular relevance to CITES.

Speaking on behalf of the Secretariat of the United Nations Forum on Forests (UNFF), the representative of UNEP outlined relevant aspects of the UNFF Multi-Year Programme of Work. These include: sustainable forest management; maintaining forest cover to meet present and future needs; and economic aspects of forests. He invited the CITES Secretariat to explore opportunities for collaboration with UNFF.

The observer from the Global Tiger Forum (GTF) noted that the GTF addressed all issues related to conservation of tigers, and that a good relationship had been established with CITES. He noted that three of the eight subspecies of tiger are already extinct, and that three of the remaining subspecies were critically endangered. He invited all 14 range States, and non-range States interested in tiger conservation, to join the GTF and support its activities.

The representative of the Lusaka Agreement outlined areas of existing collaboration with CITES, including information exchange, capacity building and law enforcement.

The delegation of the Russian Federation encouraged the CITES Secretariat to initiate cooperation with conventions addressing hazardous chemicals and pesticides which adversely affect endangered species, such as the Rotterdam and Stockholm Conventions. With regard to synergy between CITES and CMS, the delegation of Japan noted that Japan was not a Party to the CMS, and stressed that CITES should ensure that its decisions were based on scientific information.

Referring to the intervention by the representative of the CMS Convention, the delegation of Denmark on behalf of the Member States of the EU suggested that the memorandum of Understanding in question should be used as a basis for the Standing Committee of CITES to consider matters relating to good and productive cooperation between CITES and CMS, also furthering synergies between the two Conventions. Accordingly they proposed that Committee II be given a mandate to consider a draft decision, submitted by Denmark on behalf of the Member States of the EU addressing more detailed elements of the future cooperation between CITES and CMS. The Plenary gave the mandate proposed and the delegation of Denmark offered to submit a draft by

Monday 11 November 2002. The delegation of Denmark on behalf of the Member States of the EU also asked for the following statement to be included in the report of the meeting:

The EU would like to draw the attention of the Parties at this meeting to an issue of practical implementation of CITES and the Convention on Biological Diversity (CBD) with a view to enhancing the potential synergies between these two biodiversity-related multilateral Conventions.

As to the subject matter, several EU Member States have in the past two years regularly received CITES export permits relating to both animals and plants, containing incidental provisions referring to the issue of access to genetic resources, although CITES does not regulate this issue.

The EU is likewise committed to the objectives of the CBD including the fair and equitable sharing of the benefits arising from the utilization of genetic resources.

As a matter of fact, Article 15 of CBD points out that States have sovereign rights over their natural resources and that access, when granted, shall be subject to prior informed consent. The Bonn Guidelines on Access and Benefit-sharing, adopted at the sixth meeting of the Conference of the Parties to the CBD in April 2002 in The Hague, identify practical ways and means for the implementation of Article 15. The EU is supportive of national legislation aimed at implementing Article 15 and the Bonn Guidelines.

CITES export permits aim at ensuring that trade in endangered species takes place in full respect of the conditions laid out in that Convention. Moreover, Article XIV (2) thereof provides that CITES does not affect Parties' domestic measures or international obligations in some related areas.

On this basis, countries which are Parties to both CITES and the CBD could be entitled to deny an export permit under CITES if such a permit was contrary to their legislation on access and benefit-sharing and/or to the objectives of the CBD. Such Parties could also request importers to sign an access and benefit-sharing arrangement before delivering a CITES permit.

Against this background, clauses inserted in CITES export permits which are aimed at excluding an authorization to access the genetic resources covered by the export permit are objectionable and would create a situation of legal uncertainty because any such clause might advance a judicial claim on genetic resources outside the territory in question.

The EU is therefore of the firm view that the policy objective of access and benefit-sharing should be pursued by enforcing national legislation and international obligations before the delivery of the CITES permit, rather than trying to use the latter for other purposes which go beyond the scope of CITES. The EU would therefore welcome a future discussion of the legal consequences of such clauses, preferably on the basis of an analysis of the legal situation.

In order to evaluate the legal consequences of such clauses in the context of CITES external funding should be sought in order to allow a further discussion at the 13th meeting of the Conference of the Parties to CITES.

The Secretary-General announced that the President of Chile would attend a special session of the plenary which would be held on Tuesday 12 November.

In response to a point of order raised by the delegation of Norway, the Chairman indicated that Parties wishing to make further interventions on agenda item 16 e) would be able to do so at the next plenary session.

The meeting was adjourned at 17h20.