



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for a

COUNCIL DECISION

Proposal for a Council Decision on the Community position to be adopted on certain proposals submitted to the 13th meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Bangkok, Thailand, 2 – 14 October 2004

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. The 13th meeting of the Conference of the Parties to CITES will be held in Bangkok, Thailand, from 2 – 14 October 2004.
2. The text of the Convention was amended in 1983 to allow Regional Economic Integration Organisations such as the EC to become a Party (the so-called Gaborone amendment). However, an insufficient number of Parties have ratified this amendment in order for it to come into effect.
3. In view of the effects of decisions taken by the Conference of the Parties on the implementation of the Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein¹, it is necessary to adopt a Community position on proposals submitted to the Conference.
4. Draft Resolutions and discussion papers on interpretation and implementation of the Convention and proposals to amend the appendices prepared by Member States or by the Commission were discussed by the Committee of Member States constituted under Council Regulation 338/97 at a meeting on 20 April 2004. All proposals and working documents that were approved were subsequently submitted to the CITES Secretariat by the relevant Member State or the Presidency on behalf of all the Member States. Among the proposals submitted were ones concerning amendments to the appendices and a number of resolutions and discussion papers on matters such as compliance and personal effects.
5. On 8 June, the Commission services held an informal meeting with experts from the Member States to discuss the issues to be debated at the Conference of the Parties. On 9 June, the Commission services held a consultation meeting with interested NGOs at which those NGOs were given an opportunity to set out their views on these issues.
6. Some documents for the Conference were not available in sufficient time for the Commission to propose a Community position at the present time. The Commission therefore proposes that the position on these issues be established during the meeting in accordance with Article 2 of the draft Council Decision.
7. The business of the Conference falls into three parts: strategic and administrative matters, interpretation and implementation of the Convention and proposals to amend the appendices. As the Community is not a Party to the Convention the first does not generally impact on Council Regulation 338/97. The second part represents the evolution of the Convention and is of considerable technical importance. However, it is the amendments to the appendices (levels of protection afforded to different species) that will inevitably attract most public attention. Here the most critical issues are: whales and dolphins, elephants, the African lion, fish and shellfish, (including the humphead wrasse and the European date mussel) and timber (especially ramin).

¹ OJ L61 of 03.03.1997, p.1

8. There are two annexes to the proposed Council Decision. Annex I outlines the Community position on the critical issues listed above. Annex II contains proposed Community positions on Conference agenda items for which documents were available by 8 June 2004.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 133 and Article 300, paragraph 2, second indent, thereof,

Having regard to the proposal from the Commission²,

Whereas:

- (1) the Convention on International Trade in Endangered Species of Wild Fauna and Flora is implemented in the Community by Council Regulation (EC) No 338/97 of 9 December 1996³;
- (2) proposals for Resolutions of the Conference of the Parties and amendments to the Appendices of the Convention will, in most cases, affect the Community legislation concerned;
- (3) in such circumstances where Community rules have been established for the attainment of the objectives of the Treaty, the Member States cannot outside the framework of the Community institutions assume obligations which might affect those rules or alter their scope;
- (4) the Community has not yet been able to become a contracting party to the Convention;
- (5) in such circumstances the Community position should be represented by the Member States acting jointly in the Community interest and within the framework of a common position decided by the Council,

² OJ C [...], [...], p. [...]

³ OJ L61 of 03.03.1997, p.1

HAS DECIDED AS FOLLOWS:

Article 1

The position of the Community, to be represented by the Member States, acting jointly in the Community interest, at the 13th meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora, shall be in accordance with the positions contained in the Annexes to this Decision.

Article 2

Where the position referred to in Article 1 is likely to be affected by new scientific or technical information presented before or during the meeting of the Conference of the Parties or where proposals are made in matters not yet the subject of a Community position, a position shall be established on the proposal concerned through on the spot co-ordination before the Conference of the Parties is called to vote on it.

Done at Brussels,

*For the Council
The President*

ANNEX I

To Council Decision of2004 concerning the Community Position to be adopted on key issues to be discussed at the 13th meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Bangkok, Thailand 2 – 14 October 2004

A. GENERAL CONSIDERATIONS

1. The Community's position on proposals for amendment of the appendices should be based on the conservation status of the species concerned. It should take account of the contribution that CITES controls can make towards improvement of the conservation status, while acknowledging the efforts of those countries that have implemented effective conservation measures.
2. The Community should also ensure that the decisions taken at the Conference maximise the efficiency of CITES by minimising unnecessary administrative burdens by achieving practical and workable solutions to implementation problems and by ensuring that Parties' resources are directed towards issues of real conservation concern.
3. The Community should seek to achieve greater synergies with other Multilateral Environmental Agreements concerning Biodiversity, such as the Convention on Biological Diversity. The decisions taken at the Conference should contribute to the achievement of target endorsed by the World Summit on Sustainable Development and the Convention on Biological Diversity of halting global decline in biological diversity by 2010.

B. SPECIFIC ISSUES

1. Concerning commercial whaling, no decision should be taken that undermines the primacy of the International Whaling Commission on this matter. Consequently, there should be no return to commercial whaling until the IWC deems that the appropriate management controls are in place and separate decisions have been taken by the IWC on the resumption of commercial whaling. Concerning the Irrawaddy dolphin, the Community will support proportionate measures to better regulate trade in live specimens.
2. Concerning elephants, the Community is unwilling to agree to resumption in commercial ivory trade until it is satisfied that there are adequate mechanisms in place to ensure that there will be no resulting increase in illegal killing of elephants.
3. Concerning the African lion, the Community is not fully convinced that Appendix I listing of this species is the best means to address the problems concerning its conservation. The Community will work to achieve an outcome on this issue that will have the support of all range States.

4. Concerning the management and conservation of great white shark, humphead wrasse and European date mussel, the Community is favourably disposed towards measures for stricter regulation of international trade
5. Concerning ramin, the Community supports Indonesia's proposal for Appendix II listing of this group of species in order to help combat its illegal logging in range States.

ANNEX II

To Council Decision of2004 on the Community position to be adopted on certain proposals submitted to the 13th Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Bangkok, Thailand, 2 – 14 October 2004

+ indicates a position in favour	- indicates a position against.
Brackets indicate a more tentative position	0 indicates an open position

1. WORKING DOCUMENTS

1.1. STRATEGIC AND ADMINISTRATIVE MATTERS

Item No.		Proponent	Comments	Position
1.1	Use of secret ballots	Secretariat	Note document. Speak against use of secret ballots	0
1.2	Rules of Procedure	Secretariat	Agreed by the Standing Committee	+
10	Strategic vision <i>Recommends revision of the Strategic plan in a Standing Committee Working Group</i>	Secretariat		+
11.1	Review of Scientific Committees <i>Proposal seeks full review of both main Committees</i>	AU	Assessment of Committees' effectiveness is unfair. A less radical review could be suggested in response to the reports of the Committee Chairs.	(-)
11.2	Improving Regional communication and representation <i>Recommends various measures to improve effectiveness</i>	Animals and Plants Committees		(+)
11.3	Standard nomenclature and operation of the Nomenclature Committee <i>Proposal elaborates procedures for this Committee</i>	MX	No objection in principle. Consider in context of Nomenclature Committee report	
12.1.1	Achieving greater synergy in CITES and CBD implementation <i>Outcome of April 2004 workshop</i>	IE(EU), KE	Take CBD proposals together	+
12.1.2	Synergy between CITES and CBD: Sustainable use principles and guidelines <i>Proposal tries to incorporate CBD considerations into non-detriment findings</i>	NA	Take CBD proposals together	(+)
12.2	CITES and IWC <i>Proposal urges IWC to speed its efforts to reach a decision on commercial whaling</i>	JP	The substance of the proposal is not inadmissible but the language is provocative. The Community should defend the present Appendix I whale listings.	0
12.3	Co-operation with FAO <i>Proposal seeks adoption of US-JP MoU text</i>	JP	The Standing Committee is mandated to deal with this. Referral back to the CoP is less likely to result in a timely conclusion of the MoU.	0
12.4	Revision of Res. Conf. 12.4 on co-operation between CITES and CCAMLR regarding toothfish	AU	Most changes are linguistic	(+)
12.5	Statements from representatives of other conventions and agreements		Use this occasion to draw attention to the International Treaty on Plant Genetic Resources for Food and Agriculture, which has recently entered into force.	

1.2 INTERPRETATION AND IMPLEMENTATION OF THE CONVENTION

1.2.1. Review of Resolutions and Decisions

Item No.		Proponent	Comments	Position
16	Review of Resolutions <i>Reviews Resolutions on CoP documents, pre-Convention specimens, Appendix 1 quotas, personal and household effects, captive breeding and annotations</i>	Secretariat	Most amendments are technical. Refer draft personal effects Resolution to working group	(+)

1.2.2. Regular and special reports

Item No.		Proponent	Comments	Position
18	Reporting requirements	Secretariat		+
19.1	Leopard – Amendment to the export quota of Namibia <i>Increase from 100 to 250 sought</i>	NA		+
19.2	Leopard – Amendment to the export quota of South Africa <i>Increase from 75 to 150 is sought</i>	ZA		+
19.3	Black rhino – export quota for Namibia <i>Quota of 5 is sought</i>	NA	Quota should specify “5 adult males”	+
19.4	Black rhino – export quota for South Africa <i>Quota of 10 is sought</i>	ZA		+

1.2.3. General compliance issues

Item No.		Proponent	Comments	Position
24	Revision of Res. Conf. 11.3 on compliance and enforcement <i>Amends Resolution to cover Appendix 1 species and reinstate infraction reports</i>	KE	A separate Resolution on Appendix I species would be more appropriate	(-)
25	Guidelines on compliance	IE(EU)		+

1.2.4. Species trade and conservation issues

Item No.		Proponent	Comments	Position
26	Conservation of and trade in great apes	IE(EU)		+
29.2	Illegal ivory trade and control of markets <i>Proposal seeks a 20-year moratorium on ivory exports</i>	KE	Proposal is contrary to regime agreed at CoP 12. and is factually unsound. However, there are elements that could be supported.	(-)
29.3	Conditions for the export of registered stocks of ivory <i>Proposal seeks to reopen and tighten decisions agreed at SC49</i>	KE	Community should not support re-opening of Standing Committee decisions on this issue. However, there are elements in the proposal that could be supported.	(-)
30	Conservation of and trade in rhinoceroses <i>Recommends deletion of Res. Conf. 9.14 or easing of reporting requirements</i>	Secretariat	Favour consolidation of enforcement resolutions and rationalisation of reporting requirements	(-)
32	Conservation of <i>Saiga tatarica</i>	IE(EU)		+
37.2	Completion of Decision 12.60 – sea cucumbers <i>Proposal seeks a mandate to continue work after CoP 13</i>	EC		+
40	Evaluation of Review of Significant Trade <i>A study to review the effectiveness of the process is proposed</i>	Secretariat	Agreed by Animals and Plants Committees	+

1.2.5. Trade control and marking issues

Item No.		Proponent	Comments	Position
41	Introduction from the sea <i>Proposal seeks to confer responsibility for non-detriment finding on flag State of vessel that takes the specimen</i>	US	Worthy of discussion but possible conflict with Article III(5), Article IV(6) and Article XIV of Convention. Favour referral to Standing Committee after CoP 13	0
42	Commercial trade in Appendix I species <i>Proposal greatly extends definition of "commercial purposes"</i>	IL	Not in conformity with Council Reg. 338/97. Could affect bona fide transactions where money is exchanged to cover costs	-
43	Management of annual export quotas <i>The Standing Committee working group on this issue has not completed its work</i>	Secretariat	Extends mandate of Standing Committee Working Group to CoP 14	
44	Use of ATA Carnets	Secretariat		+
45	Electronic licensing and permit systems	IE(EU)		+
46	Issuance of retrospective permits	IE(EU)		+
47	Revision of Res. Conf. 12.3 with regard to the use of source code "R" <i>Amended definition of source code proposed</i>	US	Favour consideration of this issue under the working group proposed in Doc. 49	0
48	Use of marks and numbers in lieu of bill of lading numbers for timber <i>Proposal suggests marks and numbers as an alternative to bill of lading</i>	US		+
49	Production systems for specimens of CITES-listed species <i>Working group proposed to deal with this issue</i>	US		+
50	Specimens in international trade under exemption <i>Proposal defines "country of origin" for specimens that no longer benefit from exemption</i>	CH		+
51	Review of resolutions on plants and plant trade <i>Attempt to clarify definition of artificial propagation</i>	US	Further technical discussions necessary at CoP	(+)
52	Revision of Res. Conf. 10.13 on timber (definition of mahogany plywood)	US		+
53	Revision of Resolution Conf. 9.10 (rev.) on disposal of illegally traded, confiscated and accumulated specimens <i>Proposal restricts scope for disposal</i>	KE	Conforms to custom and practice in most MS – support in principle	(+)

1.2.6. Exemptions and special trade provisions

Item No.		Proponent	Comments	Position
55.1	Personal and household effects <i>Proposal limits cases where export permits would be required</i>	CN	A working group will be required on this issue	0
55.2	Amendments to Resolution Conf. 12.9 on personal and household effects	IE(EU)	A working group will be required on this issue	(+)
55.3	Amendments to Resolution Conf. 12.9 on personal and household effects <i>Limited exemption proposed for dried seahorses</i>	AU	A working group will be required on this issue. The 10 cm minimum size for seahorses must be considered.	(+)
56.3.2	Relationship between <i>ex situ</i> breeding and <i>in situ</i> conservation of Appendix I species <i>Proposal encourages ex-situ breeders to share economic benefits</i>	MX	Consider in the light of CBD agenda documents. Outcome should be in conformity with CBD decisions on access and benefit sharing. Should be presented as recommendations only.	(-)

1.2.7. Amendment of the appendices

Item No.		Proponent	Comments	Position
57	Revision of Res. Conf. 9.24 on listing criteria	Secretariat	Avail of opportunities to improve current draft but do not block consensus on a final text.	(+)
59.1	Standard nomenclature for birds <i>Proposal suggests new references for certain taxonomic groups</i>	MX	Oppose for procedural reasons. MX could raise this issue in response to Nomenclature Committee report	-
59.2	Conservation of and trade in <i>Chamaeleo excubitor</i> <i>Proposal seeks recognition of this taxon as a separate species</i>	KE	Oppose for procedural reasons. KE could raise this issue in response to Nomenclature Committee report	-
61	Inclusion of species in Appendix III <i>Proposal seeks to regulate use and application of Appendix III listings</i>	CH		+

1.2.8. Other themes and issues

Item No.		Proponent	Comments	Position
62.1	Bushmeat working group <i>Draft Resoulution overlaps with Document 62.2 and 26</i>	Secretariat		(+)
62.2	Bushmeat	IE(EU)		+

2. LISTING PROPOSALS

Prop N°	Taxon/Detail	Proposal	Proponent	Comments	Position
1	Amend annexes to exclude fossils and certain biological samples		IE (EU)	Scope is broader than CH proposal and wording is preferable	+
2	Amend annexes to exclude fossils and certain biological samples		CH*	Proposal does not cover most vaccines	(+)
3	<i>Orcaella brevirostris</i>	II – I	TH	Consider Appendix II with zero quota	0
4	<i>Balaenoptera acutorostrata</i> (3 stocks)	I – II	JP	Proposal is premature in the absence of a decision from IWC on resumption of commercial whaling. In the absence of an adequate verification regime there are compelling enforcement objections	-
5	<i>Lynx rufus</i>	II-0	US	Appendix II listing required for lookalike reasons	-
6	<i>Panthera leo</i>	II-I	KE	Given the types of specimens in international trade, the proposal does not demonstrate that this trade is the main cause of decline.	0
7	<i>Loxodonta africana</i> (NA population) Amend annotation to allow annual export of 2000 kg raw ivory, commercial trade in worked ivory goods and commercial trade in leather/hair goods	II-II	NA	A decision on annual quota is premature but trade in leather goods could be considered.	0
8	<i>Loxodonta africana</i> (ZA population) Amend annotation to allow commercial trade in leather goods	II-II	ZA		(+)
9	<i>Ceratotherium simum simum</i> (SZ population) To facilitate trade in live animals and hunting trophies	I-II	SZ	Subject to establishment of an export quota for hunting trophies	(+)
10	<i>Haliaeetus leucocephalus</i>	I-II	US	Annex A status would remain for compatibility with Birds Directive	+
11	<i>Cacatua sulphurea</i>	II-I	ID	Illegal trade is the major problem and Appendix I listing will not, of itself, address this. However, it could allow better verification of captive bred specimens	0

Prop N°	Taxon/Detail	Proposal	Proponent	Comments	Position
12	<i>Agapornis roseicollis</i>	II-0	NA/US	Subject to lookalike issues concerning juvenile specimens. Population data for some range States is weak.	0
13	<i>Amazona finschi</i>	II-I	MX	Species is not endangered and most trade is already illegal	(-)
14	<i>Passerina ciris</i>	0-II	US	US should consider Appendix III listing	0
15	<i>Pyxis arachnoides</i> .	II-I	MG		+
16	<i>Malayemys</i> spp.	0-II	US	Subject to taxonomic considerations	+
17	<i>Malayemys subtrijuga</i>	0-II	ID	Subject to taxonomic considerations	(+)
18	<i>Notochelys</i> spp.	0-II	US	Subject to taxonomic considerations	+
19	<i>Notochelys platynota</i>	0-II	ID	Subject to taxonomic considerations	(+)
20	<i>Amyda</i> spp.	0-II	US		+
21	<i>Carettochelidae</i> spp.	0-II	US	Subject to taxonomic considerations	+
22	<i>Carettochelys insculpta</i>	0-II	ID	Subject to taxonomic considerations	(+)
23	<i>Chelodina mccordi</i>	0-II	US/ID		+
24	<i>Crocodylus acutus</i> (CU population)	I-II	CU	In favour in principle subject to further clarification by CU and IUCN	(+)
25	<i>Crocodylus niloticus</i> (NA population)	I-II	NA	Subject to views of IUCN	(+)
26	<i>Crocodylus niloticus</i> (ZA population)	II-II	ZM	Subject to views of IUCN	(+)
27	<i>Uroplatus</i> spp.	0-II	MG	Proposal is weak and does not demonstrate that trade is significant	0
28	<i>Langaha</i> spp.	0-II	MG	Proposal is weak and does not demonstrate that trade is significant	0
29	<i>Stephonis (Lycodryas) citrinus</i>	0-II	MG	Proposal is weak and does not demonstrate that trade is significant	0
30	<i>Atheris desaixi</i>	0-II	KE	Proposal is weak and does not demonstrate that trade is significant – species already protected in KE – consider Appendix III	(-)
31	<i>Bitis worthingtoni</i>	0-II	KE	Proposal is weak and does not demonstrate that trade is significant – species already protected in KE - consider Appendix III	(-)
32	<i>Carcharodon carcharias</i>	0-II	AU	Support listing but not zero quota, for which no adequate case has been made	(+)
33	<i>Cheilinus undulatus</i>	0-II	FJ/ IE(EU)/ US		+
34	<i>Ornithoptera</i> spp., <i>Trogonoptera</i> spp. and <i>Troides</i> spp.. Deletion of “sensu d’ Abrera”	II-II	CH*		+
35	<i>Lithophaga lithophaga</i> .	0-II	IT/SI (EU)	Will entail Annex A listing in conformity with Habitats Directive	+
36	<i>Helioporidae</i> spp., <i>Tubiporidae</i> spp., <i>Scleractina</i> spp., <i>milleporidae</i> spp., and <i>Stylsteridae</i> spp. Amended definition of “fossil”	II-II	CH*		+
37	<i>Hoodia</i> spp.	0-II	BW/ NA/ ZA	Support in principle, subject to clarification that annotation does not undermine the making of non-detriment findings	(+)
38	Euphorbiaceae (Appendix II taxa) Exempt artificially propagated specimens of <i>E. lactea</i> under certain conditions	II-0	TH	Subject to enforcement considerations	+
39	Euphorbiaceae (Appendix II taxa) Exempt artificially propagated specimens of <i>E. millii</i> under certain conditions	II-0	TH	Subject to enforcement considerations	+

Prop N ^o	Taxon/Detail	Proposal	Proponent	Comments	Position
40	Orchidaceae spp. Annotation of Orchidaceae in Appendix II to exclude artificially propagated hybrids under certain conditions	II-0	TH	Less restrictive than CH proposal Consider all orchid annotation proposals together. Try to get a solution that has low conservation risks but is simple and workable	(+)
41	Orchidaceae spp. Annotation of Orchidaceae in Appendix II to exclude artificially propagated hybrids under certain conditions	II-0	CH	Consider all orchid annotation proposals together. Try to get a solution that has low conservation risks but is simple and workable	(+)
42	<i>Phalaenopsis</i> spp. Amendment of annotation agreed at CoP 12 to benefit shipments of 20 or more plants	II-0	CH*	Consider all orchid annotation proposals together. Try to get a solution that has low conservation risks but is simple and workable	(+)
43	<i>Cattleya trianaei</i>	I-II	CO		+
44	<i>Vanda coerulea</i>	I-II	TH		+
45	<i>Cistanche deserticola</i> Addition of annotation to cover all parts and derivatives except seeds, flaked seedlings and cut flowers	II-II	CN	Annotation should exempt finished products	(+)
46	<i>Chrysalidocarpus (Dyopsis) decipiens</i>	II-I	MG	Proposal is weak and unsubstantiated. Favour Appendix II listing with an annotation to control seeds	-
47	<i>Taxus wallichiana</i> Amend annotation to include chemical derivatives but not finished pharmaceutical products	II-II	CN/ US	Consider both yew proposals together. Subject to detailed consideration of annotation	(+)
48	<i>Taxus chinensis</i> , <i>T. cuspidate</i> , <i>T. fauna</i> , <i>T sumatrana</i> and all intraspecific taxa	0-II	CN/ US	Consider both yew proposals together. Subject to detailed consideration of annotation	(+)
49	<i>Aquilaria</i> spp. and <i>Gyrinops</i> spp Extend <i>A. malaccensis</i> listing to cover main agarwood producing genera.	0-II	ID	Subject to provision of an appropriate annotation	(+)
50	<i>Gonystylus</i> spp.	III-II	ID		+

*as Depositary Government at the request of the relevant Committee