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# COMMISSION OF THE EUROPEAN COMMUNITIES

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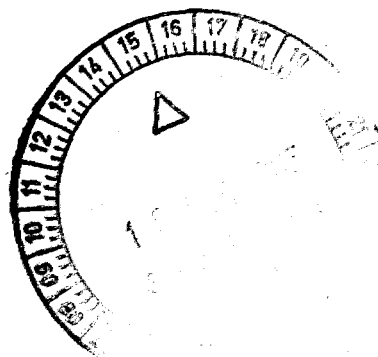
Brussels, 3 December 1985

## COMMUNICATION FROM THE COMMISSION

### TO THE COUNCIL

on

the main results of the 5th meeting of the Conference  
of the Parties to the Convention on International  
Trade in Endangered Species of Wild Fauna and Flora (CITES),  
Buenos Aires, Argentina, 22 April - 3 May 1985.



## 1. Introduction

The 5th meeting of the Conference of the Parties to the Convention on International Trade in Endangered Species of wild fauna and flora was held in Buenos Aires from 2 April to 3 May 1985. It was attended by 66 of the 87 Parties to the Convention and by about 125 non-governmental organizations. It is the task of the Conference to make provisions for the functioning of the Convention Secretariat, to review the progress made towards the restoration and conservation of the species included in the Convention's Appendices, to make recommendations for improving the effectiveness of implementation and to adopt amendments to Appendices I and II.

The 5th Conference considered some 20 resolutions and 100 proposals for amendments to the Appendices. Its decisions on amendments and several of the adopted Resolutions directly affect the implementation of the Convention in the Community and therefore necessitate amendments to Council Regulation (EEC) N° 3626/82 and possibly Commission Regulation (EEC) N° 3418/83.

## 2. Community coordination

Daily Community coordination meetings took place under the active presidency of the Italian delegation which were attended by delegations of Belgium, Denmark, the Federal Republic of Germany,

France, the Netherlands and the United Kingdom. On the basis of the "conclusions concerning the preparation of the meeting of the Conference of the Parties to CITES" entered in the minutes of the 997th meeting of the Council (Agriculture), common positions were established on most of the agenda items of the meeting. Whenever appropriate, such common positions were presented to the Conference on behalf of the Community by the presidency, the Commission, or by the delegation of the Member States having a special interest or specific knowledge on the matter.

However, owing to the fact that a number of differing legal opinions on important issues such as the legal basis for common positions, Community competence for new species and the right of Member States to vote on behalf of depending territories (see documents 5979/85 ENV 75, 6088/85 ENV 77, ENV 85/20, 6314/85 ENV 85 JUR 60, 6313/85 ENV 84 JUR 59 and 6092/85 A19/6) persisted, the Conference witnessed a number of Community incidents. They concerned the discussion of and vote on proposals concerning the ranching of green turtles and the listing of the hooded seal and bullfrogs in the Convention Appendices; issues which were contentious for the Conference as such because of the strong views held by certain parties and the non-governmental organizations in particular. Member States voted differently on the hooded seal and bullfrog proposals and may have voted independently on the green turtle ranching proposals under the cover of secret ballots. During the discussion on a resolution concerning the marking of products from ranching operations, the delegation of the Federal Republic of Germany explained to the Conference that it had to abstain on proposals concerning sea turtle ranching because of the fact that the Community could not agree on a common position, which intervention led the delegation of the United Kingdom to state that it reserved its position in that context for dependent territories.

The Commission is of opinion that, although the divergencies between Member States could finally again be reduced to a minimum, the credibility of the Community may be seriously affected at future occasions unless the position on the above mentioned legal differences of opinion can be clarified. The Commission may therefore find it appropriate to seek this clarification by means of infringement procedures.

The Commission is further of opinion that the need for better scientific coordination and cooperation at an early stage of the preparation of meetings of the Conference of the Parties has been clearly demonstrated. It intends to discuss this matter further in the Committee on the Convention at the next possible occasion.

### **3. Main results of the meeting of the Conference of the Parties**

In spite of the difficulties referred to in the previous paragraph, the Community undoubtedly played an important role in the proceedings of the meeting :

3.1. At the 4th meeting of the Conference of the Parties (Gaborone 1983) it became clear that many producer countries, especially those on the African continent, are unable to effectively protect their wildlife unless their efforts are compensated by economic benefits from those resources. On the other hand the pressure in consumer countries for stricter wildlife protection continues to increase.

The Community co-financed the organization of a seminar for African CITES Parties and a meeting of the Conference's Technical Committee, (Brussels, June 1984) at which the trade in African elephant ivory and the possibilities for a reopening of the market for Nile crocodile skins were discussed in depth.

The Community financed studies of the population status of both species and the United Kingdom finalized a comprehensive resolution on the African elephant ivory trade in which full account was taken of a resolution on the subject by the European Parliament. As a result of these combined actions by the Community, the African CITES Parties involved and the Convention

Secretariat, the 5th meeting of the Conference of the Parties was able to take important decisions on both issues. It adopted the resolution on the African elephant ivory trade which establishes a quota system with sufficient safeguards for the conservation of the elephant populations involved. It decided to downlist populations of the Nile crocodile from Appendix I to Appendix II on the basis of the earlier mentioned population survey and the resulting quotas and adopted a resolution allowing similar action for other species presently listed in Appendix I.

It was further decided to increase the existing export quotas for leopard skins from certain African parties.

The Commission is of opinion that assistance of this kind to developing countries should be continued and extended as the sustainable economic benefit from wildlife resources is indeed the main guarantee for the long term survival of the animal and plant species concerned.

The stricter measures provided for in Council Regulation N° 3626/82 have since their entry into force in January 1984 been heavily criticised, by most African parties in particular. Enabling producer countries to meet the conditions for importation into the Community should form an integral part of such a strict conservation policy. The Conference set up a working group on stricter domestic measures in which the Commission will participate.

- 3.2. The correct implementation of the Convention in the Community, and the role of the freeport of Hamburg in particular, were criticized by the Convention Secretariat but most of these doubts could effectively be removed.

3.3. Another point of criticism was the impossibility for the Community to report on intra-Community trade in CITES specimens. A resolution on the issue was, however, amended in such a way that its recommendation - that members of a regional trade agreement include in their annual reports information on trade with other members of that agreement - was limited to those agreements under which such reporting would not be in direct and irreconcilable conflict with their provisions. The Community stated that reports on intra-Community CITES trade would indeed be in direct conflict with the provisions and the aims of the Treaty because it would suppose systematic controls at the internal borders. It supported the resolution on the understanding that the recommendation would therefore not apply to it.

The Community repeated that it would establish full annual reports on CITES trade with third countries and that these reports would also cover those Member States who are not yet a Party to CITES, i.e. Greece and Ireland.

- 3.4. The Conference adopted a number of resolutions aiming at a better implementation of the Convention and dealing with, among other things, the simplification of procedures for the identification of Appendix II species that are subject to significant international trade but for which the necessary scientific data is insufficient, the harmonization of marking systems for products from ranching operations, the control of readily recognizable parts and derivatives, the definition of "primarily commercial purposes", the time validity of import permits, the listing of species in Appendix III and the definition of the term "pre-convention specimen".
- 3.5. The South-American parties proposed a resolution recommending to all Parties that if within 90 days Bolivia had not demonstrated to the Convention's Standing Committee that it had adopted all



necessary measures to adequately implement the Convention, to reject shipments of CITES specimens of Bolivian origin until it has adopted the necessary implementing measures. The resolution calls on importing countries to cooperate with Bolivia so as to facilitate population studies in that country.

The representative of Bolivia stressed the total lack of data on the population status of his country's wildlife and the administrative difficulties in implementing the Convention and preventing illegal trade. The Community announced that, in view of the situation in Bolivia, it would for the time being not allow imports of specimens of species covered by Article 10.1.(b) of Regulation 3626/82 from that country, but that it was ready to investigate ways of assisting in the collection of scientific data on Bolivian wildlife.

### 3.6. Amendments to the Appendices

#### 3.6.1. Ranching proposals

There were proposals by Suriname, France (La Réunion/Tromelin/Europa) and the United Kingdom (Cayman Turtle Farm) to downlist populations of the green turtle (*Chelonia mydas*) from Appendix I to II under the provisions on ranching (Resolution Conf. 3.15). These proposals were the most controversial of the meeting as a result of the concentrated efforts of an important number of non-governmental organizations which were against the re-opening of markets for turtle products.

Also in the Community opinions differed and in spite of lengthy discussions on the subject in several coordination meetings, a common position in support of the proposals (as proposed by the Commission) could not be achieved. As the species concerned was already

covered by the Convention, the necessity of a common voting position (abstention) was agreed but France and the United Kingdom insisted that they had the right to vote on behalf of their dependent territories.

The proposal from Suriname was, inspite of the fact that it had more or less been approved by the Conference in 1983 and that its marking system had been approved by the Technical Committee in 1984, rejected with 26 votes in favour, 22 against and 15 abstentions. The vote was taken by secret ballot on the request of the delegation of Suriname.

The results of the secret ballot, requested by Monaco, on the French proposal were : 25 votes in favour, 32 against and 7 (Member States?) abstentions.

Zimbabwe requested a secret ballot on the United Kingdom ranching proposal which was rejected with 27 votes in favour, 32 against and 7 abstentions. The United Kingdom's alternative proposal (a resolution which would enable the Cayman Turtle Farm to export its products commercially under Article VII paragraph 4 of the Convention) was also rejected. 26 Parties voted in favour, 32 against and only 4 abstained in a secret ballot requested by Costa Rica. There was one invalid vote; the total number of votes cast was 63 compared to 66 on the previous vote.

In a subsequent coordination meeting only the representatives of Denmark, the Federal Republic of Germany and the Netherlands confirmed that they had abstained.

3.6.2. The proposal for inclusion of the hooded seal in Appendix II

It was impossible to reach a common position on the inclusion of this "new" species in Appendix II. Member States voted differently on it on the basis of their opinion (shared by the Council Legal Service) that they were entitled to do so in the absence of a common position. 19 Parties, including the Federal Republic of Germany and The Netherlands were in favour and 24, including Denmark, voted against.

3.6.3. The proposal from the Federal Republic of Germany for the transfer of the Narwhal from Appendix II to I.

Also on this proposal it was impossible to achieve a common position in favour or against, but it was agreed to abstain. The proposal was rejected with 21 votes in favour, 20 against and 14 abstentions.

3.6.4. The inclusion of two species of bullfrog in Appendix II

Member States held differing opinions on this proposal from the Federal Republic of Germany and decided to vote differently because the proposal concerned a "new species".

The proposal was adopted by the Conference of the Parties with 18 votes in favour (including Belgium, Denmark, the Federal Republic of Germany, the Netherlands and the countries of origin India and Pakistan), 4 against including France and the United Kingdom.

4. Other amendments to the Appendices

Apart from the amendments referred to in points 3.6.1. and 3.6.4., the Conference adopted a series of proposals for amendments to the Appendices, see Annex 1.

The Commission will shortly submit a draft for a Commission Regulation amending the Annexes to Council Regulation 3626/82 to the Committee on the Convention for opinion.

5. Finally the Commission wishes to draw the attention of Member States to the regrettable fact that to date only 2 Member States, that is the Federal Republic of Germany and the Netherlands, have deposited their instrument of ratification of the amendment to Article XXI of the Convention which would allow the Community to accede.

As this amendment has to be ratified by 54 parties, the long delay in ratification by Member States certainly has a direct impact on the attitude of third countries thereby slowing down the whole process. Moreover it affects the credibility of the Community as such and is without any doubt in conflict with Member States' obligations under art. 5 of the Treaty

Therefore the Commission addresses a formal appeal to Member States to take the necessary steps to ensure that the procedures concerned are finalized as soon as, technically, possible.

ANNEX

Amendments to the Appendices to the Convention on International  
Trade in Endangered Species of wild fauna and flora,  
adopted by the Conference of the Parties at its 5th meeting  
held in Buenos Aires, Argentina, from 22 April to 3 May 1985.

Included in Appendix I

Muntiacus crinifrons

Jabiru mycteria

Transferred from Appendix II to I

Pygathrix (Rhinopithecus) spp.

Falco jugger

Falco rusticolus (North American population)

Ara ambigua

Ara macao

Saussurea lappa

Ceratozamia spp.

Included in Appendix II

Vulpes (Fennecus) zerda

Budorcas taxicolor

Gruidae spp.

Hoplocephalus bungaroides

Rheobatrachus spp.

Rana hexadactyla

Rana tigerina

Hippopus hippopus

Hippopus porcellanus

Tridacna crocea

Tridacna maxima

Tridacna squamosa

Brachypelma smithé

Seriatopora spp.

Pocillopora spp.

Stylophora spp.

Acropora spp.

Pavona spp.

Fungia spp.

Halomitra spp.

Polyphyllia spp.

Favia spp.

Platygyra spp.

Merulina spp.

Lobophyllia spp.

Pectinia spp.

Euphyllia spp.

Millepora spp.

Heliopora spp.

Tubipora spp.

Camellia chrysantha

Transferred from Appendix I to II

Felis bengalensis bengalensis (population of China)

Crocodylus niloticus (certain populations with quotas 1985-1987)

Crocodylus porosus (Indonesian population with quotas 1985-1987)

Deleted from Appendix I

Bufo periglenes (included in Appendix II, Costa Rica)

Gymnocarpos przewalskii

Melandrium mongolicus

Silene mongolica

Stellaria pulvinata

Deleted from Appendix II

Anigozanthos spp.

Macropidia fuliginosa

Thermopsis mongolica

Banksia spp.

Conospermum spp.

Dryandra formosa

Dryandra polycephala

Xylomelum spp.

Crowea spp.

Geleznovia verrucosa

Pimelea physodes

Caryopteris mongolica