CHAPTER – IV

CITES : NEGOTIATIONS AT THE
CONFERENCE OF PARTIES

The ninth meeting of the Conference of the Parties to CITES was convened at Fort Lauderdale in Florida, USA, from the 7th through the 18th of November 1994. The meeting drew a record number of Parties and observers, with 119 Parties (96%) several non-Party government and 221 non-governmental observers attending.

Mollie M. Beattie, Director of the US Fish and Wildlife Service, opened the meeting. She said CITES must continue to build up on its successes. She made special reference to the importance of efforts to conserve tigers and rhinos and the need to improve enforcement of the Convention. She said that while the international ivory trade ban must continue, the USA recognized that African countries had been forced to give up a valuable source of revenue and therefore needed additional financial assistance for anti-poaching efforts such as eco-tourism and sport hunting.

Further remarks by Elizabeth Dowdeswell, Executive Director of the United Nations Environment Programme (UNEP) focussed on share of local communities in the management of natural resources. She said that if the point were weakened or missed at the meeting, it could lead to a loss of support for

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1 Proceedings of the Conference of the Parties at Fort Lauderdale, 1995.
2 Proceedings of the Conference published by the CITES Secretariat
CITES from citizens in developing countries. She noted that the CITES Secretariat remained under-funded and that it was having to consider cuts in several projects as result³.

In addition to the official opening of the meeting, Bruce Babbitt, US Secretary of the Interior, spoke at a special session of the Plenary on the fourth day. He, too, spoke of the need to retain the ban on international trade in ivory products and focused on enforcement, an area in which he believed the Convention had not been successful. He noted that the black markets continued to flourish making a mockery of much publicised governmental enforcement efforts. In particular, he regretted the continuing decline of tigers and black rhinos because of illegal trade and use of tiger bone and rhino horn in traditional oriental medicines⁴.

At this conference, the Parties adopted a new procedure for voting by secret ballot as part of the new Rules of Procedure. The proposal put forward by the United Kingdom, provided that the voting can be secret only if a Party requests it; if the presiding officer does not veto the request, and at least 10 other Parties must second it. Prior to this any representative could propose a secret ballot, which if seconded, would be voted upon and accepted by simple majority. After the new secret ballot rule won approval, the delegations of Australia, the USA and Zimbabwe stated that their votes would always be made public. The new procedure would be used later in the meeting in relation to a timber proposal⁵.

³ Ibid.
⁴ Ibid.
⁵ Ibid. Doc.
The Standing Committee presented a report on major issues that it had addressed since the eighth meeting of the Conference of the Parties. These included revision of the criteria for listing species in the Appendices, consolidation of existing resolutions, and the illegal trade in rhino horn and tiger parts.

Malawi presented a resolution to better balance regional representation on the Standing Committees. The final successful resolution, drafted by a working group at the meeting, provides that membership of the Committee will now include a maximum of three representatives for a region, depending on the number of Parties within a region. Previously each region was allowed only one member regardless of the number of Parties. Africa was represented by Senegal, Namibia and Sudan; Asia by Japan and Thailand; European Union by the UK and the Russian Federation; North America by Mexico; Oceanic by Papua New Guinea; and South and Central America and the Caribbean by Argentina and Trinidad and Tobago. Japan was elected the new chair.

The Chairman of the Animals Committee presented a summary report of the Committee's work since the 1992 CITES meeting. The Committee had met five times and much activity focused on assisting in the development of new criteria for amending the Appendices. The report drew particular attention to the continuing review of significantly traded Appendix II species; the ten-year Review of Species Listed in the Appendices; tiger and rhino conservation; a universal tagging system for crocodilian skins; commercial captive breeding; guidelines for

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6 Ibid. Doc. 9.5
7 Ibid. Resolution Conf. 9.1
8 Ibid. Doc. 9.13
ranching marine turtles; review of the implementation of Appendix II; disposal of confiscated specimens; and improving the effectiveness of Scientific Authorities. The Chairman cautioned that if the Parties continue to allocate so many tasks to the Committee, it would need significantly more funding.

The Parties adopted a resolution to increase regional representation on the Committee from the regions of African, Asia, South and Central America and the Caribbean. Each region was be allowed to add one more representative.

The Chairman of the Plant Committee outlined its work of the past two years. This included contributing to the development of new criteria for the Appendices; a draft resolution on nursery registration; the ten-year review project; trade in medicinal plants; tropical timber listings; and the relationship between CITES and the International Tropical Timber Organization (ITTO). The Chairman said the despite attempts to establish closer relating with ITTO, it appeared that the organization was not truly committed to close collaboration with CITES. He said ITTO recently expressed the belief that CITES was exceeding its purview by evaluating trade in major commercial timber species. Nonetheless, he recommended constructive collaboration with the organisation. Afterwards, the delegations of Japan and Malaysia commented that the Chairman's observations inaccurately reflected ITTO's effect to consider the work of CITES.

Proposed increases to the CITES budget for 1996-97 were largely denied. Funds for staffing were the hardest hit, with reductions of CHF250 000 for 1996

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9  Ibid. Resolution Conf. 9.1
10  Ibid. Doc. 9.14
and CHF325,000 for 1997. The Secretariat was forced to cut back nomenclature and significant trade studies, and its work on identification manuals, among other activities. CHF30,000 was sliced from the allocation for enforcement seminars in both 1996 and 1997. A budget line of CHF30,000 was added for the African Elephant Panel of Experts. Despite cuts to the prospered budget, the average yearly increase for the biennium 1996-97 rose 14.5% over the triennium 1993-95\textsuperscript{11}.

The Secretary General pointed out that not withstanding the expressed wish at the meeting to increase funding support for enforcement had been seriously cut. He also stressed the importance of Parties' annual contributions. In November, a considerable number of Parties had yet to pay their contribution for 1993 and only 34% had paid for 1994.

The Parties gave approval for an independent study on how to improve the effectiveness of the Convention based on a proposal submitted by Canada as the representative of North America on the Standing Committee\textsuperscript{12}.

The action followed long debate in which the delegation of New Zealand expressed concern about a review being conducted by a profit making consultancy and proposed that the Parties review the implementation of the Convention and identify urgent priorities themselves. This view was supported by the delegations of Costa Rica, France, Senegal, the UK and the USA. Canada, Norway and Zimbabwe supported the idea of hiring an independent consultant with the first two

\textsuperscript{11} Summarised from the details of the budget proposal in the proceedings of the Conference of the Parties published by the CITES Secretariat.

\textsuperscript{12} Proceedings of the Conference published by the CITES Secretariat - Doc. 9.18
countries offering financial support. The independent review won approval after a working group considered the issue\textsuperscript{13}.

The Standing Committee was authorised to choose the consultant and two members of the review team. During the first phase they were to examine the Convention's objectives; the roles of those involved in its implementation; the extent to which the status of selected species had been affected since their listing in the Appendices and how much CITES contributed; and the relationship of CITES to other conservation instruments. The findings and recommendations were to be presented at the tenth meeting of the Conference of the Parties\textsuperscript{14}.

The Secretariat introduced a comprehensive review of alleged infractions and other problems of enforcement of the Convention\textsuperscript{15}. In the written statement accompanying the review, the Secretariat stated that the control of trade in CITES-listed species was improving but continued to be inadequate. It noted that governments often either failed to realize or chose to ignore the potential long-term economic and intrinsic value of their wildlife or that of other countries. The review addressed infractions relating to the regulation of trade in CITES-listed species; re-export of specimens of illegal origin but legally imported; issuance and acceptance of incomplete, and therefore invalid, permits and certificates; exemptions incorrectly granted for specimens in transit, and specimens claimed to be pre-Convention, artificially propagated or captive-bred; poor national legislation; failure to submit annual reports; and other implementation problems.

\textsuperscript{13} Ibid.
\textsuperscript{14} Ibid.
\textsuperscript{15} Ibid. Doc. 9.22
The Secretariat started the discussion by congratulating Indonesia on its improved implementation of the Convention and stated that no further action was required for it to satisfy past recommendations by the Standing Committee on the issue of implementation. In addition, the delegation of India announced that it had briefly discussed the matter of illegal fur trade in Kathmandu with the Nepal delegation, as directed to by the Standing Committee. The delegation said that the two had agreed to discuss formally a possible high level meeting on this issue.

The infractions report elicited comments from Parties about problems that had regarding others refusing to issue import permits for hunting trophies with export permits, commercial airlines refusing to transport live bird shipments, provisions applying to falconers and their birds, and other trade matters.

The Parties agreed to the Secretariat's recommendations for new provisions relating to transit controls and Scientific Authorities and a resolution on Confiscation of Specimens Exported or Re-exported in Violation of the Convention. The Parties agreed that importing Parties should seize illegally exported or re-exported specimens rather than refuse their importation.

The Resolution recommends that Parties notify the Management Authority of the originating country about the specimens and any enforcement action; in cases where specimens cannot be seized by an importing country, the country from which the shipment was consigned must take measures to ensure that the specimens are not re-entered into illegal trade, including the monitoring of their return to the country and providing for their confiscation.

\[16\] Ibid. Resolution Conf. 9.9
The Secretariat introduced a report on CITES implementation in the European Union, stating that a more detailed report would be forthcoming after review by European Union Member States\(^{17}\). The report was prepared using information from the Secretariat and a report by TRAFFIC on this issue. The Secretariat stressed that the current document was produced with European Union assistance and was meant to help the European Union develop effective wildlife legislation rather than to be construed as an expose of problems. It said that future studies would focus on other regions of the world.

The report noted that national legislation to implement CITES and the nature and severity of penalties for violations differed among European Union Member States. However, the report stressed that the main problem was that the European Union implements the Convention as if it were a single State, yet its Management Authorities were virtually independent, and procedures and the degree of implementation varied among the States.

On behalf of the European Union, the delegation of Germany complained that the report contained many factual errors and the European Union was being singled out in a discriminatory manner. The Secretariat, which had been directed

\(^{17}\) Ibid. Doc. 9.23. The second extraordinary meeting of the Conference of the Parties, held, in Gaborone immediately following the conclusion of the Gaborone Conference, agreed to amend Article XXI of CITES in order to allow “regional economic integration organisations - constituted by sovereign States - that have competence in respect of the negotiation, conclusion and implementation of international agreements in matters transferred to them by their Member States and covered by this Convention” to accede to the Convention.\(^{17}\) The amendment was adopted at the instigation of the European Union Economic Community which was anxious to become a Party to CITES. In their instruments of accession, regional economic integration organisations must declare “the extent of their competence with respect to the matters governed by the Convention” and inform the Depositary government of any subsequent modifications “shall exercise their right to vote with a number of votes equal to the number of their Member States which are Parties to the Convention. Such organisations shall not exercise their right to vote if their Member States exercise theirs, and vice versa.”
by the Parties at the eighth meeting of the Conference of the Parties to review CITES implementation in the European Union, countered that there were problem unique to the European Union related to the open borders between States and invited the delegation to discuss the report further outside the meeting.\textsuperscript{18}

The delegations of Argentina and Trinidad and Tobago suggested that a resolution should be developed based on the Secretariat's report, a view strenuously objected to by Germany, on behalf of European Union Member States. No action was taken as a result. In a later development however, the delegation of Germany proposed an amendment to resolution on CITES implementation in the European Union.\textsuperscript{19} The delegation stated it believed that parts of the original text discriminated against the European Union, a comment that drew support from the delegations of Brazil, Cyprus, Switzerland, the USA and Zimbabwe. The amendment was then adopted deleting the resolution's recommendation the parties accepting a re-export document for live animals or reptile skins issued by an European Union Member State needed to check its validity with the Management Authorities of the declared country of origin or the Secretariat.

The Secretariat introduced a report on national laws for implementation of CITES.\textsuperscript{20} The report outlined the results of an analysis by TRAFFIC and the IUCN Environmental Law Centre for the national legislation of 81 Parties with high levels of trade in CITES specimens. The analysis, commissioned by the

\textsuperscript{18} Summarised from the proceedings of the Conference of the Parties published by the CITES Secretariat
\textsuperscript{19} Ibid. Conf. 8.2
\textsuperscript{20} Ibid. Doc. 9.24
Secretariat, found that only 15 of those Parties had national legislation that generally met all of the requirements of the Convention and 27 Parties and a territory of another Party had national legislation that generally did not meet any of the requirements. The Parties adopted a decision recommending that Parties with inadequate legislation take steps to address the problems identified prior to the next meeting and report progress to the Secretariat. For certain Parties whose national legislation was believed generally not to meet the requirements for implementation of CITES failure to take positive steps before the next meeting could result in the adoption by the Parties of measures such as restrictions on trade in listed species. All affected Parties were given the opportunity to correct any inaccuracies in the legislative review.

The Parties adopted a resolution on enforcement urging the additional financial support be found for the Enforcement Project of the Secretariat. These funds would go towards the appointment of additional enforcement officers, assistance with development and implementation of regional law enforcement agreements. The resolution - modified from separate, draft resolutions by the United Kingdom and Ghana (Docs. 9.25 and 9.25.1 respectively) - urged the Parties to offer enforcement officers on deputation to the Secretariat and directs the Secretariat to seek closer ties with intergovernmental bodies, such as the World Customs Organization and Interpol. It further recommended that Management Authorities co-ordinate with governmental agencies through the establishment of national inter-agencies through the establishment of national inter-agency
committees. It also recommended that Parties promote incentives to secure the support and co-operation of local and rural communities in managing natural resources and thereby combating illegal trade, and that Parties consider forming specialized wildfire enforcement units at national level.

Once again, the Parties rejected establishment of Law Enforcement Units at the national level and rejected establishment of a Law Enforcement Working Group because of their professed concern about confidentiality and sovereignty, among other things.

The Parties amended Resolution\(^\text{23}\) on export quotas for Leopard hunting trophies and skins based on document\(^\text{24}\) prepared by the Secretariat. The final text adopted recommended that each country with such an export quota submit to the Secretariat, by 31 March each year, a special report detailing the number of trophies and skins so exported during the previous quota year; and, that optional information include details on permit numbers, identification numbers of the tags attached to skins, the countries of destination and the numbers of import permits.

The Secretariat, the parties felt, must continue to provide a report on this issue at each regular meeting of the Parties, and call upon Parties to suspend imports of leopard hunting trophies and skins from a country that has been granted an annual export quota but has failed to submit such an annual report. Previously, countries granted export quotas for this Appendix I species were recommended to report the number of leopard hunting trophies and skins exported, but many did not

\(^{23}\) Ibid. Conf. 8.10
\(^{24}\) Ibid. Doc. 9.26
and there was no mechanism to address this failure. Till that date, 11 African countries held annual export quotas for leopard skins. In addition, the Parties agreed to increase Botswana's annual quota for leopard skins from 100 to 130.

The Secretariat and the IUCN\SSC Rhino Specialist Group introduced reports on the status of rhinoceroses worldwide and efforts to stop illegal trade\textsuperscript{25}. The world population of rhinos had been reduced by more than 90% since 1970, to fewer than 12,000. The specialist groups said current problems hindering success in rhino conservation included inadequate funding, lack of performance assessment for existing initiatives, and failure to consider all viable options. The Parties adopted an extensive resolution noted prepared by the specialist group that recognizes the need for urgent and new approaches to stop the continuing decline in rhino numbers\textsuperscript{26}. It urged Parties to implement adequate legislation to reduce illegal trade in rhino products and to work with traditional medicine communities to eliminate consumption. The Resolution directed the Standing Committee to evaluate the effectiveness of actions to reduce illegal trade and to develop standardized indicators of success to measure any change in the level of illegal hunting and the status of rhino populations. It also urged the Parties with rhino horn stocks to identify, mark, register and secure these stocks - overturning the recommendation made in 1987 for these stocks to be destroyed\textsuperscript{27}. The current Resolution notes that Parties view destruction as being no longer appropriate. This new view was based on findings that the destruction of horn stocks can actually

\textsuperscript{25} Ibid. doc 9.26 and doc.9.35
\textsuperscript{26} Ibid. Resolution Conf.9.14.
\textsuperscript{27} Ibid. Resolution Conf. 6.10, which was repealed.
cause prices to escalate as the perceived supply diminishes, and could lead to new poaching for rhino horn to replace the destroyed stock. This resolution urged donors to help range states financially to implement rhino recovery plans and directs the Secretariat to recovery plans and directs the Secretariat to report on the Resolution's implementation and progress at the next CITES meeting.

It was during this conference that the main producing and consuming countries of tiger bone and tiger bone medicines came together in an unprecedented coalition with a resolution on the conservation of and trade in tiger. They successfully urged the parties to strengthen or adopt national legislation to control the illegal killing of tigers and prohibit the sale of products claiming to contain tiger-derived substances. The Resolution proposed by the 10 countries - China, India, Indonesia, Japan, Malaysia, Nepal, Republic of Korea, Singapore, Thailand and Vietnam - called for governments to consolidate their tiger bone stocks, participate in the Global Tiger Forum, develop regional networks to help control illegal trade in tiger bone and derivatives and establish co-operative agreements for management and protection of shared tiger populations and habitats. The Resolution further urged all government to work with traditional Chinese medicine communities to develop strategies for eliminating the use of tiger parts and derivatives and to conduct public-awareness campaigns to promote the use of alternatives.

As part of the discussion related to tigers, the Standing Committee introduced a report updating the Parties on actions taken on tiger conservation

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28 Summarised from the Proceedings from the Conference of the Parties.
since the last Conference. It noted that despite its inclusion in Appendix I, the tiger continued on a perilous decline as a result of poaching and smuggling to supply illegal markets, mainly for traditional oriental medicine which uses tiger bone primarily to treat rheumatism. It warned that tigers worldwide may number 4600 or fewer.

The delegation of the Republic of Korea reported that it had prohibited all sales of tiger bone from November 1994 and a ban on the sale of tiger bone from November 1994 and a ban on the sale of tiger bone derivative was to follow in March 1995. The delegation of China reported that it, too soon planned to ban domestic trade in products derived from tigers and rhino horn.

This conference also discussed the guidelines on the registration of nurseries exporting artificially propagated specimens of Appendix I species were also adopted in a resolution. The Resolution was aimed at nurseries that produce large quantities of plants and are exported mainly to other nurseries or plant sellers and nurseries that produce for the retail market. However, the new guidelines may also apply to small traders. The guidelines, prepared by the Secretariat under guidance of the Plants Committee and submitted as Doc. 9.30, were meant to facilitate trade in artificially propagated Appendix I plants by simplifying procedures for issuing export permits, including re-issuance of export permits by Management Authorities for pre-defined species. Unregistered nurseries must continue exporting under the standard procedures. The Secretariat stated that

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29 Proceedings from the Conference of the Parties : Doc. 9.29
30 Proceedings from the Conference of the Parties.
31 Ibid Resolution Conf. 9.19
making it easier for permits to be granted to reliable nurseries was the only way to prevent the nurseries from giving up artificial propagation altogether or to stop them from exporting Appendix I plants under false names. Further, it hoped that the new system of nursery registration would help to equalize the competition between nurseries in range States and those in importing countries.

A resolution on a universal tagging system for the identification of crocodilian skins was adopted by the Parties. The resolution\textsuperscript{32}, prepared by the Animals Committee and modified by a working group at the meeting, recommended that countries of origin use such a system, with general application of non-reusable tags to identify all raw, tanned and finished crocodilian skins entering international trade. As a minimum, the tags should have the ISO code for the country of origin, a unique serial identification number and a species code, and other characteristics including heat resistance and a self-locking mechanism\textsuperscript{33}.

The Parties also addressed the issue of the transport of live animals, transferring the responsibility for this to the animals Committee at the request of the Working Group on Transport of Live Specimens\textsuperscript{34}. In introducing a report on the Working Group's work and its recommendations for addressing this issue in the future\textsuperscript{35}, the chairman of the Working Group held the view that the transfer of responsibility to a permanent committee would improve the focus on this issue and provide greater opportunity for regional input. The group also recommended

\textsuperscript{32} Resolution Conf. 9.22
\textsuperscript{33} This action by the Parties repealed Resolution Conf. 8.14, which had also made provisions for a universal tagging system but had since been found to be impracticable.
\textsuperscript{34} Ibid Resolution Conf. 9.23
\textsuperscript{35} Ibid. Doc. 9.39
continued training on the transport of live animals. In the Resolution on this issue, the Parties directed the Secretariat to explore with the Customs Co-operation Council ways to improve cross-border controls of CITES animals in travelling exhibitions and to work with the Animals Committee to prepare a resolution to resolve problems regarding exemptions under Article VII for specimens bred in captivity. The Parties adopted a resolution with six Annexes setting out new criteria for the amendment of Appendices I and II.

Draft new criteria prepared as part of an extensive development process under the direction of the Standing Committee, with technical assistance from the CITES Plants and Animals Committees and IUCN - The World Conservation Union were considered, with an alternate draft by the USA, by a working group, which included Parties and non-governmental organizations from each region, as well as an ACNE representative. The new criteria established a provision to allow a species to be included in Appendix I if it "is or may be affected by trade" and meets at least one of three new biological criteria related to the population size, distribution and rate of decline. A fourth criteria was added that the status of the species is such that if it were not included in Appendix I, it would likely satisfy one of the other three criteria within five years. The new criteria required that a species be included in Appendix II if it is "known, inferred or projected" that to not include it would result in the species soon meeting the new biological criteria for listing in Appendix I; or if the harvesting of the species in the wild for international

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36 Ibid. Resolution Conf. 9.24. In doing so, they repealed the Berne Criteria, which had been adopted at the first meeting of the Conference of the Parties in 1976. The action also caused other resolutions related to the listing of species in the Appendices to be revoked.

37 Ibid. Doc. 9.41 and 9.41.1
trade has or may have a detrimental impact by either exceeding, over an extended period, the level that can be continued in perpetuity, or reducing it to a population level at which its survival would be threatened by other influences. The criteria further set restrictions on including a species in more than one Appendix and state that species of which all specimens in trade have been bred in captivity or artificially propagated should not be included if there is no probability of trade in specimens from the wild. Removal of species from the Appendices and transfer from one Appendix to other are governed by strict precautionary measures, including that no Appendix I species be moved from the Appendix II for the purposes of monitoring. In addition, even if a species does not meet the biological criteria, it should be retained in Appendix I if certain conditions to ensure adequate management are not met. In some cases, these conditions would include an export quota or ranching scheme. The Resolution recommends that the new criteria and accompanying Annexes be reviewed before the twelfth meeting of the Conference of the Parties with regard to their scientific validity and applicability to different groups of organisms\(^{38}\).

The Parties adopted a resolution on guidelines for evaluating marine turtle ranching proposals recommending that Parties seeking to trade internationally in products of ranched marine turtles satisfy all standing requirements for trade in and ranching of Appendix I species and the new guidelines. Prior to the decision, the delegation of the UDS voiced concern about reopening international trade in marine turtles and suggested that Parties formulated regional management plans.

\(^{38}\) Ibid Resolution Conf. 9.20
rather than just national ones as proposed in the draft resolution. The final guidelines recommend effective implementation of a national management plan and adequate local and national enforcement. They also recommend that information be provided on the ranching operation, the biology, management and geographic extent of the population that will be affected, a description of benefits to the population, development of co-operative regional management, and measures for monitoring and reporting. Parties must include up-to-date information about subjects in their annual reports\textsuperscript{39}.

In regard to hunting trophies of Appendix I species, the Parties agreed to create a standard that the Scientific Authority of the importing country should accept the findings of its counterpart in the exporting country that the export is not detrimental to the survival of the species, unless scientific or management data indicate otherwise. The approval amended Resolution Conf. 2.11.

Also related to Appendix I species, the delegation of Namibia introduced a document on the interpretation and application of quotas (Doc. 9.51) and proposed some changes to prior text on this issue, a move supported by the delegation of Tanzania. Discussion notice of quotas prior to the meeting, as well as insufficient time to question proposed quotas or for consultation between importing and exporting countries. A working group was then formed and returned with a new draft of the resolution that was approved by the Parties\textsuperscript{40}. It provides that a Party desiring a quota for an appendix I species must submit a proposal with supporting

\textsuperscript{39} Summarised from the Proceedings of the Conference of the Parties.

\textsuperscript{40} Ibid. Resolution Conf. 9.21
information to the Secretariat at least 150 days before a CITES meeting. It further states that when the Parties approve an export quota for an Appendix I species, the required non-detrimental finding by a Scientific Authority has been met and that the purposes of the importation will not be detrimental to the survival of the species, provided that the quota is not exceeded and no new information indicates that the quota is unsustainable.

The Parties agreed to direct the Standing Committee to establish a temporary working group to address technical and practical problems associated with implementing the listing of timber species in the Appendices. The group, which was to be headed by the Plants Committee Chairman and to report back at the tenth meeting of the Conference of the Parties addressed issues relating to the temperate, boreal and tropical forest products. The proposal from the UK and Northern Ireland to establish the working group noted that while tree species had been listed in the Appendices since the very beginning, the Parties first addressed the issue of significantly traded timber species at the 1992 meeting of the Conference of the Parties, when commercial species, such as Afrormosia Pericopsis elata, were listed in the appendices41.

It was alleged that these listings revealed problems in monitoring and enforcing restrictions on timber trade. For example, importers and importing countries may be different to those named on export permits because timber may be sold at sea or divided into multiple lots on arrival in a Customs-free zone. The delegation of Malaysia strongly opposed the proposal, stating that instead the

41 Ibid. Doc. 9.52
Plants committee should establish links with the International Tropical Timber Organization (ITTO), the United Nations Commission for Sustainable Development, and the Food and Agriculture Organization of the United Nations (FAO) to seek a more comprehensive approach to studying timber trade. Malaysia also proposed that the Plants Committee consult with range state experts on an *ad hoc* basis. Brazil stated that the Committee on Trade and Environment of the World Trade Organization should be among those collaborating with the Plants Committee. As a result, the delegations of Australia and Zimbabwe introduced an amended proposal. It included that the Chairman of the Working Group should, in consultation with the Standing Committee, define the Working Group's relationship with international organizations already addressing the problem of sustainable use of timber resources. Further, it directs the Chairman to ensure that experts from range states are involved in the working group and that expertise is the key issue which deciding upon who else should participate. The amended proposal was accepted 74 in favour, 10 against\(^\text{42}\).

The Parties adopted a resolution on disposal of confiscated live animals with separate guidelines on which factors should be taken into consideration by Parties when deciding on what action to take with a confiscated animal, and how to develop a national Action Plan on this issue\(^\text{43}\).

The decision came after a working group, with the Netherlands acting as chair, considered a draft resolution and guidelines prepared by the CITES Animals

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\(^{42}\) Summarised from the Proceedings of the Conference of the Parties.

\(^{43}\) Ibid. Resolution Conf. 9.11
Committee as well as the various intricacies of the issue. Its approval resulted in the repeal of three previous Resolutions concerning the disposal of confiscated live specimens. In notes accompanying the original draft resolution, the Secretariat stated that setting criteria for return of confiscated live animals to the wild was outside the Convention's purview. It noted that guidelines on this issue be limited to conditions for return of these animals to the country of export or origin, and disposal in the country where the animals are confiscated. The final resolution recommends that Management Authorities consult with their Scientific Authorities and if possible, other exports and the Scientific Authorities and, if possible, other experts and the Scientific Authority of the exporting country before deciding on the final disposition of confiscated animals. The decision should aim to maximize the conservation value of the animals without endangering wild or captive populations or that of other species; discourage further illegal trade; and provide a humane solution - whether this be captivity, return to the wild, or any other means.

The guidelines, based on those in preparation by the ACNE/SSC Reintroduction’s Specialist Group include ‘decision tree’ analysis to assist decisions on how best to handle confiscated live animals. Some aspects of the guidelines extend beyond the scope of CITES but it was hoped that these will be useful for the conservation of wild species and are likely to improve the animals' welfare if implemented.

The action on this issue was of particular importance because the lack of specific guidelines had resulted in confiscated animals being disposed of in a
variety of ways inconsistent with conservation objectives. The Plants Committee with conservation objectives. The Plants Committee is expected to present a resolution and guidelines on disposal of confiscated plants at the tenth meeting of the Conference of the Parties.

The US delegation introduced a document on illegal trade in whale meat outlining actions taken by CITES and the International Whaling Commission (IWC) on this issue. It detailed how government have seized more than 1000 tones of illegal or suspect whale meat since 1980. It cited an incident that occurred in May 1994 at the time discussions on this issue were taking place at the IWC's annual meeting. In this case, Japanese Customs agents detained a Korean freighter trying to smuggle 11 tones of whale meat out of the country.

The resolution adopted called for Parties to co-operate to prevent illegal trade in whale meat and to report any development regarding this to the Secretariat, which would share the information with the IWC.

Shark conservation was discussed for the first time in the Convention's history. A discussion paper from the USA (Doc. 9.58) stating that the trade in shark fisheries expanding and new ones forming to meet demand - especially in the Asian food markets promoted this development. The trade and status of sharks is largely undocumented and unknown. The discussion paper included a draft resolution calling for analysis of these factors. The delegation of Japan objected to any initiative on species not included in the appendices, preferring the issue to be

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45 Ibid. Doc. 9. 57
46 Ibid Resolution Conf. 9.12

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left to international fisheries agreements. It suggested that the FAO be requested to
analyse data and collect further information. This view was supported by the
delегations of Indonesia, the Republic of Korea, Malaysia, Singapore and
Zimbabwe, but the delegations of Australia, Cuba, Ecuador, Germany, Jordan,
Netherlands, New Zealand and the UK supported the resolution. The issue was
then addressed by a working group. The resolution that finally won approval
(Resolution Coif. 9.17) urged Parties to provide information to the Secretariat on
the trade and biological status of sharks. (The Animals Committee reviewed this
and other information received, to present a discussion paper to the tenth meeting
of the Conference of the Parties).

Among the other proposals of special interest to India was the discussion
regarding the African Elephant. The South African delegation presented a proposal
to transfer the country's African Elephant population from Appendix I to Appendix
II with an annotation that would only allow trade in elephant products other than
ivory. The spokesman stressed that South Africa understood the sensitivity of the
issues involved, but requested understanding from African colleagues about the
well-being and sound management of elephants in South Africa. He said the
majority of elephant hides and meat would come from an already existing elephant
management programme and the revenue earned would be reinvested in
conservation. He affirmed that if the proposal was accepted, South Africa would
withdraw its reservation on the 1989 Appendix I listing that allows the country to
legally trade in elephant products, including ivory, with non-CITES parties and
others with the same reservation.\textsuperscript{47}

A Panel of Experts established specifically for review of such proposals, found that the proposal met the criteria as adopted by the Parties for downlisting of elephant populations. The Panel's report concluded that the South African elephant population was sustainably managed and that the country had demonstrated its ability to effectively monitor the population; current anti-poaching measures were effective; and that allowing a limited trade in elephant hide and meat would not provide new opportunities for illegal trade in ivory. In addition, the panel's report noted that the South African population had been one of those that did not meet the criteria for inclusion in Appendix I at the time all African Elephant populations were transferred in 1989. The spokesman said that if South Africa's proposal were rejected, Parties could consider repealing the Resolution (Resolution Conf. 7.9) that established the procedures for down-listing elephants.

The USA spokesperson said it recognized that South Africa's proposal met the criteria needed for approval, that the USA believed that South Africa would not trade in ivory, and that its trade in non-ivory products would not stimulate increased poaching. The spokesperson said that the delegation therefore could not vote against the proposal, but went on to note that because of a lack of unity on the proposal among the African elephant range states, her delegation would have to abstain from voting.\textsuperscript{48}

\textsuperscript{47} Ibid.
\textsuperscript{48} Ibid
The delegation of Germany said that European Union Member States would also abstain because of dissension from other countries in Africa. Australia, Canada and Japan voiced support for the proposal with the Canadian delegation stating that acceptance of the proposal would allow the effects of such a transfer to Appendix II to be tested. 49

India, Kenya, Togo and Zambia objected to the proposal, expressing fear that approving it would lead to increased poaching by sending a signal to poachers that ivory would soon be allowed in trade again. Togo's representative expressed the wish that all African Elephant populations remain in appendix I until the fifteenth meeting of the conference of the Parties. Kenya's delegation stated that it could not support the proposal because of the lack of consensus among range states. Further, it said that oversimplification of the debate surrounding this proposal, stressing that it did so in a spirit of co-operation and understanding. Kenya followed with a proposal for intra-African dialogue to review elephant related issues raised at the meeting. The USA and UNEP pledged financial and logistical support to enable these African countries to meet, and hoped that a consensus on the way forward could be found by the next meeting of the conference of the Parties. 50

In a related move, the delegation of Sudan withdrew its separate proposal to transfer Sudan's population of the African Elephant to Appendix II. The country had hoped to win approval to sell its stockpile of ivory previously registered under

49 Ibid
50 Ibid
the CITES Ivory Export Quota System in 1988. The Panel of Experts had found that the proposal did not meet the criteria for approval, a fact that the Sudan delegation said it foresaw. The delegation's statement stressed that it had simply wanted the issue to ivory stockpiles addressed and this had been achieved. The delegations of Burundi, Rwanda and Switzerland endorsed the suggestion to review the question of stockpiles. The US delegation then proposed that the review take place within the intra-African meetings proposed by Kenya, which subsequently proposed that the African range states draw up their own work agenda. The Secretariat suggested that these upcoming discussions in Africa include a review of Resolution Conf. 7.9 since it no longer seemed to meet the Parties' needs.

Southern White Rhinoceros (Ceratotherium simum simum) was also debated. South Africa won approval to transfer its population of Southern White Rhinoceros to Appendix II for sale of live animals to appropriate and acceptable destinations and as hunting trophies only. While the status of this species in other countries is dire, South Africa is home to the largest and most stable population in Africa. Some Parties, such as Germany and Zaire, said they would support the transfer if South Africa agreed that it would be reviewed. The South African delegation agreed to this condition and further allayed some concerns by stating that, by "appropriate and acceptable destinations", it meant that South Africa would revise its list of trading partners if it discovered an importing country using rhino exports from South Africa against the spirit of the proposal.\footnote{Summarised from the Proceedings of the Conference of Parties}
Hippopotamus (*Hippopotamus amphibious*) also received some attention. The delegations of Belgium, Berlin and France successfully proposed an Appendix II listing for the Hippopotamus, utilized throughout much of its range and traded internationally as a source of skins and ivory from its teeth. The proponents noted that the species was declining throughout its range and may disappear from some western African countries in the near future. The delegations of Burkina Faso, Cameroon, Ethiopia, Ghana, Mali, Nigeria, Senegal, Togo, Tanzania, Zaire and Zambia voiced support for the proposal. While the proposal noted that populations of the species in Botswana were in decline, the Botswana delegation said it was not threatened there and asked for the country’s population to be exempted from the listing. The delegations of Namibia and Zimbabwe asked for their populations to be exempted as well, but the drafters of the original proposal were unwilling to exempt any of the southern African populating, which were the most numerous on the continent. The proposal was adopted.52

The delegation of Norway presented a proposal to transfer the northeastern and central North Atlantic stocks of Minke Whale from Appendix I to Appendix II stating that it believed neither of the stocks nor the species in general met the criteria for inclusion in Appendix I. The delegation of Japan said it believed the proposal was based on good scientific principles and that the existing International Whaling Commission (IWC) moratorium on whaling would prevent the resumption of international trade. The Canadian delegation stated that the IWC and CITES were fundamentally different and even the most pessimistic population

52 Ibid.
estimates would not support the Appendix I listing. The delegations of Botswana, Poland, Tanzania, Venezuela and Zimbabwe also supported the proposal. However, seven other delegations voiced opposition, pointing out that the IWC expected to deliberate on the population issue in May 1995 and any change in the Appendices should await IWC's decision. Norway then amended its proposal so that the transfer would be approved pending scientific confirmation within the IWC framework indicating abundance of these populations. 53

The delegation of Germany, speaking on behalf of the European Union, stated that the amended proposal could still not be supported because that Minke Whale stocks should be strictly protected by the IWC and CITES should follow that organization's lead. The delegations of Australia, Chile, India, Israel, Mexico, New Zealand and the USA also voiced opposition. The proposal was rejected, 48 against, 16 in favour.

Timber and Trees

The parties rejected a recommendation by the Netherlands calling for range states of *Ramin Gonystylus bancanus* to co-operate with each other and consuming countries to develop measures to ensure the sustainability of trade in this species. Ramin occurs in Brunei Darussalam, Indonesia and Malaysia and sporadically in Myanmar and the Philippines. The Netherlands' recommendation (Doc.9.53) invited the range and consumer countries to develop jointly a proposal for listing the species in the Appendices at the next CITES meeting. The Netherlands had

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53 Ibid
withdrawn just such a listing proposal at the eighth meeting of the Conference of the parties when it became clear that the range states would not support it.

The Malaysian delegation recalled a 1992 proposal and said that its resurrection amounted to harassment. The delegation questioned the accuracy of data in the proposal and stressed the importance of the sovereign rights of range states. It also offered to meet with the delegation of the Netherlands for more discussion. More than a dozen parties also voiced concerns about accepting the Netherlands proposal. The Chairman called for a vote on the acceptability of the document. None was cast in favour. A later attempt by the Netherlands to reopen the debate also failed.\(^5^4\)

Germany withdrew proposals to list *African Mahogany, Khaya spp.* and *Entandrophargma spp.* after Cameroon stated that the concerns of range states must be taken into consideration and that would prefer co-operation on management in the taxa rather than a CITES listing.

Earlier, the Minister of Forests and Fisheries of Congo had pointed out that certain proposals did not have the support of range states and that no decision to list a timber species should be made without prior approval of ITTO. Germany also withdrew a proposal to list *Mun Ebony (Diospyars mun)*, because of insufficient trade information, and a joint proposal with Kenya to list *African Blackwood (Dalbergia melanoxylon)*. The latter was withdrawn because range states met prior to the proposal's introduction and agreed to investigate trade in the species and

\(^{5^4}\) Ibid
consider bringing a proposal for listing the species in the Appendices to the next meeting.

A proposal by the Netherlands to include Big-leafed Mahogany (*Swietenia macrophylla*) in Appendix II narrowly lost in a secret ballot proposed by Venezuela by only six votes short of the two-thirds needed for adoption.

Foreseeing a split between range states, the Netherlands had offered to amend its proposal to exempt the populations in Bolivia, Brazil and Peru. Nonetheless, a working group on the amendment failed to reach a consensus. With Central America, Colombia and Venezuela supporting and Bolivia and Brazil still opposed. Brazil is the world's largest exporter of Big-leafed Mahogany, which is used throughout its range and exported for the manufacturing of furniture, joinery and carving. In opposing the proposal, the Brazil delegation said the species was not threatened and that exports were strictly controlled and decreasing, a view countered by the statements of other parties. In 1992, Brazil had supported a proposal to include *S. Macrophylla* in Appendix II, but other range states had successfully opposed it. Faced with no opposition, proposals to include *African Stinkwood (Prunus african)* and *Himalayan Yew (Taxus wallichiana)* in Appendix II were approved.

In a surprise move after its narrow defeat earlier in the meeting, the parties unanimously approved a proposal by India to include *Red Sanders (Pterocarpus santalinus)* in Appendix II. The listing was annotated to include only logs, wood chips and broken unprocessed materials so it exempts finished musical instruments.

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Ibid.
and derivatives. Another proposal by India to list Agarwood (*Aquilaria malaccensis*) in Appendix II also won approval, despite opposition from other range states. The tree is threatened by indiscriminate felling for extraction of fungal-infected wood that it used in incense, perfume and traditional medicines.\(^{56}\)

The standing committee also agreed that the tenth meeting of the Conference of the Parties CITES would be held from 9-20 June 1997 in Victoria Falls, Zimbabwe.

\(^{56}\) Ibid