

2010 Amendments to Appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora

Introduction

- 2.1 The *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES) is a multilateral environmental agreement that regulates international trade in endangered species.¹ Australia has been a party to the Convention since 1976.²
- 2.2 The CITES provides a mechanism for the listing of species identified as being at risk if subject to international trade. The listings are recorded in three appendices to the Convention, according to the degree of that risk:
- Appendix I – the species is endangered, international trade in the species is generally prohibited with movement allowed only for non-commercial purposes, such as for research or conservation breeding;
 - Appendix II – potentially endangered species may be traded subject to a permit system which requires the exporting country to determine that

1 Trade is defined as export, re-export, import and introduction from the sea. *National Interest Analysis* (NIA) [2010] ATNIA 32, 2010 Amendments to Appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, done at Doha on 25 March 2010, [2010] ATNIF 32, para. 17.

2 NIA, para. 6.

trade will not be detrimental to the survival of the species in the wild;
and

- Appendix III – where international co-operation is required to regulate international trade of a species or population nominated by an individual country for regulation within its jurisdiction.³

- 2.3 Amendments to CITES appendices are regularly made in accordance with provisions of Article XV of the Convention and are put forward as nominations for agreement at the CITES triennial Conference of the Parties meetings.⁴
- 2.4 The current amendments propose inclusion, transferral or deletion of species in Appendices I and II, and provide clarification of amendment annotations. The amendments were considered and agreed at the most recent Fifteenth Conference of the Parties meeting, held in March 2010 in Doha, Qatar.⁵
- 2.5 The Department of Sustainability, Environment, Water, Population and Communities advised that Australia had not put forward proposals at the last meeting, and that none of the amendments subject to the Committee's review relate to Australian species. One exception involves a taxonomic clarification of an annotation relating to *Canis Lupus*, the grey wolf, and to the dingo.⁶
- 2.6 The Committee was informed that CITES is an important vehicle for the management and protection of Australian native species internationally. The Department's representative Ms Deb Callister stated:

One of the most important aspects of it is that it allows us to have international cooperation on protecting trade in Australian species, so it means other countries can help us in regulating wildlife trade in Australian species. We have very strict laws here, but having those reciprocal laws in place in other countries means that, for example, if something is illegally exported from Australia

3 Ms Deb Callister, Department of Sustainability, Environment, Water, Population and Communities, *Transcript of Evidence*, Canberra, 21 March 2011, p. 2, and see NIA, para. 3.

4 NIA, para. 25.

5 *The Convention on International Trade in Endangered Species of Wild Fauna and Flora*, The Fifteenth Meeting of the Conference of the Parties, 13–25 March 2010 <<http://www.cites.org/eng/cop/index.shtml>> viewed 7 April 2011.

6 Ms Callister, Department of Sustainability, Environment, Water, Population and Communities, *Transcript of Evidence*, Canberra, 21 March 2011, pp. 2–3.

then those other countries can help us regulate it. So from our perspective it has been a very helpful and successful treaty.⁷

The CITES amendment process

- 2.7 The main objective of CITES is to regulate the commercial trade of wild animals and plants to ensure those species will not be endangered or put at risk. Timely adjustment of the CITES Appendices is therefore critical to the Convention's effective operation.⁸
- 2.8 At the triennial Conference of the Parties meetings, species may be nominated for insertion or deletion, or moved to a different category to reflect a variation in necessary protection status. These proposals are then voted on and agreed by a two thirds majority, with a second consideration possible in a plenary session.⁹
- 2.9 The Amendments to Appendices I and II contained in the treaty action, as agreed at the 15th Conference of the Parties, comprise:
- *Anas oustaleti* (Mariana mallard) to be deleted from Appendix I;
 - *Euphorbia misera* (cliff spurge), *Orothamnus zeyheri* (marsh rose) and *Protea odorata* (Swartland sugarbush) to be deleted from Appendix II;
 - Populations of *Crocodylus moreletti* (Morelet's crocodile, populations of Belize and Mexico only) and *Crocodylus niloticus* (Nile crocodile, populations of Egypt only) to be transferred from Appendix I to Appendix II; and
 - *Neurergus kaiseri* (Kaiser's spotted newt) to be added to Appendix I.¹⁰
 - Proposed and agreed for insertion into Appendix II were:
 - ⇒ *Ctenosaura bakeri*, *Ctenosaura oedirhina*, *Ctenosaura melanosterna*, *Ctenosaura palearis* (spiny-tailed iguanas);
 - ⇒ *Agalychnis spp.* (tree frogs);
 - ⇒ *Dynastes satanas* (rhinoceros beetle);

7 Ms Callister, Department of Sustainability, Environment, Water, Population and Communities, *Transcript of Evidence*, Canberra, 21 March 2011, p. 3.

8 NIA, para. 9.

9 Ms Callister, Department of Sustainability, Environment, Water, Population and Communities, *Transcript of Evidence*, Canberra, 21 March 2011, p. 5.

10 NIA, para. 10.

- ⇒ *Operculicarya hyphaenoides*, *Operculicarya pachypus* (Madagascan shrubs);
 - ⇒ *Zygosicyos pubescens*, *Zygosicyos tripartitus* (Madagascan lump plants);
 - ⇒ *Aniba rosaeodora* (rosewood as logs, sawn wood, veneer sheets, plywood and essential oil, excluding finished products packaged for retail);
 - ⇒ *Adenia olaboensis* (adenia);
 - ⇒ *Cyphostemma elephantopus*, *Cyphostemma montagnacii* (grape trees); and
 - ⇒ *Bulnesia sarmientoi* (Argentine lignum vitae tree as logs, sawn wood, veneer sheets, plywood, powder and extracts).¹¹
- 2.10 Amendments were also proposed to the interpretive annotations of the listings, notably to both Appendices I and II to exclude the domesticated dingo under the clarification of a taxonomic listing for *Canis lupus*, as well as minor technical variations to a number of flora species.¹²
- 2.11 The Committee investigated outcomes for shark and blue fin tuna species for which listings had been proposed but not supported at the last Conference of the Parties meeting.¹³
- 2.12 The Department of Sustainability, Environment, Water, Population and Communities advised that Australia had not supported an Appendix I listing for the blue fin tuna, which would have banned trade, but would have supported a proposal for Appendix II if introduced. The proposals for increased protection for some shark species had been particularly controversial, with one species of shark failing nomination by one vote only.¹⁴
- 2.13 The Committee notes that the species which lost support by single vote, the porbeagle shark, had been re-opened for consideration in plenary session. The Department considered that this species would have had a greater chance of success if proposed jointly by more than one nation, and committed to monitor the situation for this and other shark species over the next 12 months.¹⁵

11 NIA, para. 10.

12 NIA, paras 12 and 13.

13 Ms Callister, Department of Sustainability, Environment, Water, Population and Communities, *Transcript of Evidence*, Canberra, 21 March 2011, p. 3.

14 Ms Callister, Department of Sustainability, Environment, Water, Population and Communities, *Transcript of Evidence*, Canberra, 21 March 2011, pp. 3, 4.

15 Ms Callister, Department of Sustainability, Environment, Water, Population and Communities, *Transcript of Evidence*, Canberra, 21 March 2011, p. 4.

- 2.14 In regard to future nominations for CITES, the Committee was informed that species may be proposed to Government by its expert agencies, by State Governments and by Non-Government Organisations. To gain endorsement at the Conference of the Parties meetings, however, all such proposals must be supported by solid data.¹⁶
- 2.15 General proposals for consideration at the next meeting would likely include marine species and African elephants.¹⁷

Obligations

- 2.16 Australia's substantive obligations under CITES are not affected by the amendments as Australia is not a range state for any species listed.¹⁸ Relevant export and import rules however must be applied.¹⁹
- 2.17 The *National Interest Analysis* notes the following implications arising for Australian importers under Appendix II amendments:
- *Bulnesia sarmientoi* (*lignum vitae*), used for essential oil and timber flooring, will now require a permit for import (there are no Australian importers of this species at present);²⁰
 - *Aniba rosaedora* (rosewood) importers will require a permit to import raw products;²¹ and
 - *Cactaceae* (Cacti) species as well as finished products of *Euphorbia antisiphilitica* will no longer require importers to obtain permits.²²
- 2.18 The Committee further notes that the amendment of annotations to *Canis Lupus*, to exclude *Canis Lupus Dingo* from listings in the Appendices I and II, will not change Australia's export restrictions for dingos, which are classified as an Australian native species.²³
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16 Ms Callister, Department of Sustainability, Environment, Water, Population and Communities, *Transcript of Evidence*, Canberra, 21 March 2011, p. 5.

17 Ms Callister, Department of Sustainability, Environment, Water, Population and Communities, *Transcript of Evidence*, Canberra, 21 March 2011, p. 4.

18 NIA, para. 16.

19 NIA, para. 16.

20 NIA, para. 11.

21 NIA, para. 22.

22 NIA, para. 23.

23 NIA para. 13. *Submission 1.6.*, from the Australian Patriot Movement objected to trade in the dingo as Australia's native dog.

- 2.19 Under CITES Article XV(1)(c), amendments to the appendices automatically enter into force 90 days after the meeting at which they are agreed unless a party lodges a reservation.²⁴
- 2.20 These amendments entered into force for Australia on 23 June 2010,²⁵ and prior to the Committee's review. The Committee was advised of this in writing by the former Environment Minister, the Hon. Peter Garrett AM.
- 2.21 CITES is implemented in Australia via the *Environment Protection and Biodiversity Conservation Act 1999*, which requires the Minister to establish a list of CITES species for the purposes of the Act. This list now contains the most recent amendments.²⁶

Conclusion

- 2.22 The Amendments to Appendix I and II of the CITES are already in force. The Committee received notification of this from the former Environment Minister, and accepts that this course of events is a consequence of the CITES' amendment processes on this occasion.
- 2.23 The Committee recognises the important role played by CITES in providing a flexible framework for trade regulation and the protection of wild fauna and flora, and is satisfied that current amendments pose no adverse implications for Australia. The Committee therefore acknowledges and supports binding treaty action.
- 2.24 In relation to future amendments to the CITES Appendices, the Committee anticipates that the Department of Sustainability, Environment, Water, Population and Communities will continue to assess and, where appropriate, initiate opportunities for joint nomination of Australian marine species at risk at CITES negotiations.
- 2.25 The Committee will monitor Australian proposals at the next Conference of the Parties meeting, and in the subsequent CITES treaty actions under parliamentary review.

24 Article XV (3) provides that reservations may be made in respect to a particular amendment during that 90 day period see NIA, para. 2.

25 NIA, para. 15.

26 NIA, para. 20.