

**AMENDMENTS, DONE AT SANTIAGO, IN NOVEMBER 2002, TO  
APPENDICES I AND II OF THE CONVENTION ON INTERNATIONAL  
TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA,  
OF 3 MARCH 1973**

**Documents tabled on 4 March 2003:**

- **National Interest Analysis**
- **Text of the Proposed Treaty Action**

*Annexures for multilateral treaties:*

**Consultations**

**Current status list**

## NATIONAL INTEREST ANALYSIS: CATEGORY B TREATY

### SUMMARY PAGE

#### **Amendments, done at Santiago, in November 2002, to Appendices I And II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, of 3 March 1973**

#### **Date of Tabling of Proposed Treaty Action**

1. 4 March 2003

#### **Nature and Timing of Proposed Treaty Action**

2. The treaty action concerns amendments to Appendices I and II of the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES), none of which was nominated by Australia. The amendments were adopted at the twelfth meeting of the Conference of the Parties to CITES, held in Santiago, Chile from 3 – 15 November 2002.

3. Generally, amendments to Appendices I and II automatically enter into force ninety days after the meeting of the Conference of the Parties at which they were adopted, in accordance with Article XV(1)(c). Parties may, however, enter a reservation in respect to particular amendments in accordance with paragraph 3 of Article XV of CITES.

4. As Australia does not propose to lodge a reservation to the amendments, the amendments would automatically enter into force for Australia on 13 February 2003. There are two exceptions to this date, where the Conference of the Parties voted to delay implementation of the listing of seahorses for 18 months (entry into force on 15 May 2004), and of mahogany for 12 months (entry into force on 15 November 2003).

5. The Commonwealth Minister for the Environment and Heritage the Honourable Dr David Kemp has written to the Chair of the Joint Standing Committee on Treaties (JSCOT) providing details of the amendments, together with advice that, due to the CITES default mechanism that governs entry into force of amendments to CITES Appendices, entry into force for Australia will occur on this occasion without the usual treaty tabling requirements having been met.

#### **Overview and National Interest Summary**

6. The listing of species on Appendices I and II entails regulation of international movement of those species in accordance with Articles II, III, and IV of the Convention. Listing on Appendix I means that international commercial trade in the listed species is generally prohibited, while Appendix II listing means that international trade is permitted but monitored. The amendments are in the national interest, being consistent with Australia's commitment to international cooperation for the protection and conservation of wildlife that may be adversely affected by trade. Although seahorses are in trade in Australia, the listing of seahorses does not impose new obligations on Australian business, as Australian laws regarding these species are already equivalent to CITES obligations. The other amendments do not affect Australia as they concern species that are not in trade in Australia.

## **Reasons for Australia to Take the Proposed Treaty Action**

7. CITES is a multilateral environmental convention that entered into force generally on 1 July 1975 and to which Australia has been a party to since 27 October 1976. It regulates international trade (export, transit and import) in specimens of wild fauna and flora. It arose from recognition that international cooperation is essential to protect and conserve endangered and threatened species of terrestrial and marine animals, and plants from over-exploitation through international trade. CITES provides a mechanism for strict regulation of trade in species threatened with extinction (Appendix I), and for regulating and monitoring trade in other species that may be threatened with extinction unless trade in such species is not regulated (Appendix II). Appendix III lists species which any Party identifies as being subject to regulation within its jurisdiction for conservation purposes, and as needing the cooperation of other Parties in the control of trade (Article II(3)). The proposed Treaty Action does not affect Appendix III. Proposals to list species on Appendices I and II are assessed against scientific criteria prescribed in Resolution Conference 9.24.

8. The treaty action involves the addition of one taxa (or scientific grouping) to Appendix I, the transfer of eleven taxa from Appendix II to Appendix I, the transfer of four taxa from Appendix I to Appendix II, the addition of thirty taxa to Appendix II, and the deletion of two taxa from Appendix II. There are three amendments to the interpretative annotations to the species listed on Appendices I and II of CITES. These amendments are described in detail in the attachment. Appendix III is not affected. The amendments are intended to ensure more effective global action to address the impacts of international trade on the conservation and sustainable use of the species listed.

9. One taxa of chameleon from Madagascar was included in Appendix I. The species is highly endangered and under significant threat from international trade. The high demand for this species in the pet trade warrants a level of protection provided for by an Appendix I listing.

10. The eleven taxa transferred from Appendix II to Appendix I (one species and six sub-species of parrots, a tortoise species, a tree species, a cactus species and an orchid species) are continuing to decline. The Conference of Parties agreed that the proposals to transfer these taxa meet the scientific criteria for Appendix I listing.

11. The four taxa transferred from Appendix I to Appendix II (two plant species, the populations of Vicuna in Argentina, Bolivia and Chile and the Chilean population of a bird species) are considered to have now recovered from past over-exploitation and to be no longer threatened with extinction. Population levels of these taxa, in specified parts of their range, are now considered to be sufficient to be able to support the less strictly regulated level of international trade in accordance with Appendix II listing.

12. The thirty-one taxa that were added to Appendix II (two shark species, all Hippocampus species of seahorses, fourteen freshwater turtle species, one frog species, one genus of chameleon, nine species of plant and two species of butterflies) are known to be traded in significant volumes and meet the criteria for listing species on Appendix II. Regulation and monitoring of trade in these species and/or their parts and products is considered necessary in order to ensure that the conservation status of wild populations of these taxa is not further threatened.

13. The deletion of two taxa from Appendix II (one plant taxa and one lizard taxa) is a consequence of these species no longer being under threat from trade. For the plant taxa, there is now very limited trade in wild specimens and trade that does occur is limited to artificially propagated specimens. The lizard population is also stable and is no longer under threat from trade.

14. Many of the species listed on the Appendices to CITES have interpretative annotations specifying the populations and/or parts or products derived from these taxa which are subject to the trade controls of CITES. The amendments made to annotations (relating to listed orchids, the Black Sea Bottlenose Dolphin and the African elephant) more accurately define those products that are subject to trade controls, and define controls specific to the species.

15. Although Australia does engage in trade of seahorses, the effect on Australia's trade interests will be minimal as existing domestic regulatory measures are already equivalent to CITES obligations.

16. The amendments are consistent with Australia's commitment to the conservation of species threatened with trade, and for these reasons, Australia does not propose to lodge a reservation under paragraph 3 of Article XV for any of the amendments.

## **Obligations**

17. The amendments to Appendices I and II will not add to the existing obligations that Australia already has as a result of becoming a Party to CITES, that is, prohibiting trade in specimens of species included in Appendices I and II except in accordance with the provisions of CITES (Article II(4)). The amendments will, however, bring about a change to the list of species in the Appendices to CITES and to particular obligations that apply to the listed species.

18. CITES provides different degrees of regulation of trade depending on the Appendix listing of the species - trade is defined as export, re-export, import and introduction from the sea.

19. *Appendix I*

- Article II(1) defines Appendix I as including all species threatened with extinction which are or may be affected by trade. Trade in Appendix I specimens, that is any trade in readily recognisable parts or derivations of these species, is therefore subject to particularly strict regulation in order not to further endanger their survival and must only be authorised in exceptional circumstances.

- The export of any specimen of a species included in Appendix I requires an export permit. Article III(2) establishes four conditions that must be met before an export permit will be granted. First, a Scientific Authority of the State of export must advise that the export will not be detrimental to the survival of that species. Secondly, a Management Authority of the State of export must be satisfied that the specimen was not obtained illegally. Thirdly, where the specimen is a living specimen, the Management Authority must be satisfied that it will be appropriately protected during export. Finally, the Management Authority must be satisfied that an import permit has been granted for the specimen.

- Article III(3) establishes three conditions that must be met before the Importing State can grant an import permit. First, a Scientific Authority of the State of import must

advise that the purpose of the import is not detrimental to the survival of the species involved. Secondly, where the specimen is a living specimen, the Scientific Authority must be satisfied that the proposed recipient is suitably equipped to house and care for the specimen. Thirdly, a Management Authority of the State of import must be satisfied that the specimen is not to be used for primarily commercial purposes.

20. *Appendix II*

- Article II(2) defines Appendix II as including all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilisation incompatible with their survival. Appendix II also regulates look-alike species that are controlled because of their similarity in appearance to other listed species.

- The export of any specimen of a species included in Appendix II requires an export permit. Article IV(2) establishes three conditions that must be met before an export permit will be granted. First, a Scientific Authority of the State of export must advise that the export will not be detrimental to the survival of that species. Secondly, a Management Authority of the State of export must be satisfied that the specimen was not obtained illegally. Finally, where the specimen is a living specimen, the Management Authority must be satisfied that it will be appropriately protected during export.

21. Permits are valid for six months (Article VI(2)). Each permit must include the full title of CITES, the name and identifying stamp of the Management Authority granting it, and a control number assigned by that Management Authority.

22. Article VII establishes a number of exemptions related to the issuing of export permits. These include: specimens acquired before the provisions of CITES applied to that specimen, personal and household effects, specimens bred in captivity or artificially propagated, and the non-commercial loan, donation or exchange between scientists or scientific institutions.

23. Article IX requires each Party to establish one or more CITES Management Authorities competent to grant export and import permits on behalf of the Party, and one or more CITES Scientific Authorities. For Australia, the Sustainable Wildlife Industries Section has been established as the Scientific Authority, and the International Wildlife Trade Section established as the Management Authority, both sections within Environment Australia.

## **Implementation**

24. The *Environment Protection Biodiversity Conservation Act 1999* enables Australia to give effect to its obligations arising out of amendments to the Appendices. The List of CITES Species established under Section 303CA of that Act will be amended in accordance with that section to reflect the amendments to CITES Appendices. This section provides that the list must include all species, and only those species, included in the Appendices to CITES, and that the Minister may amend the list to include those species. The instrument amending the list under Section 303CA is published in the Gazette, and is not a disallowable instrument.

## **Costs**

25. The treaty action is not expected to impose any additional costs to Australia in complying with its obligations under CITES, nor will there be any significant effect on

Australia's trade interests. Australia already has effective legislation and administrative arrangements in place to implement the provisions of CITES. The amendments to the Appendices will not require any new domestic agencies or management arrangements to be put in place.

### **Consultation**

26. Details of consultation are documented in the attached annex.

### **Regulation Impact Statement**

27. The Office of Regulation Review, Productivity Commission has been consulted and confirms that a Regulation Impact Statement is not required.

### **Future Treaty Action**

28. CITES works on the assumption that Appendices I and II will be added to and amended as required to address the impacts of international trade on the conservation and sustainable use of the species listed. Moreover, it is also envisaged that listed species may be removed from the Appendices for the same reasons.

29. Appendices I and II form an integral part of CITES and are amended from time to time, in accordance with the provisions of Article XV of CITES, by two thirds majority of the Conference of the Parties or through a postal procedure between meetings. Article XVII of CITES makes provision for the Convention to be amended at an extraordinary meeting of the Conference of the Parties, convened at the written request of at least one-third of the Parties.

30. Any future amendments or additions, of this or any other kind, to the Appendices will constitute a separate treaty action and be subject to the usual domestic treaty making process including the tabling of a National Interest Analysis.

### **Withdrawal or Denunciation**

31. Australia may make a denunciation of CITES in accordance with Article XXIV by written notification to the Depository (Government of Switzerland) at any time. A denunciation would be subject to the usual treaty making process. The denunciation takes effect twelve months after the Depository has received the notification.

### **Contact Details**

International Wildlife Trade  
Wildlife Branch  
Approvals and Wildlife Division  
Environment Australia

This list was prepared by the Wildlife Branch, Environment Australia on the basis of the provisional notification of the twelfth Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (Santiago, November 2002) provided by the Secretariat to that Convention.

**Taxa included in Appendix I**

Scientific Name	Common Name
<i>Brookesia perarmata</i>	Chameleon

**Taxa transferred from Appendix II to Appendix I**

Scientific Name	Common Name
<i>Amazona ochrocephala auropalliata</i>	Yellow naped parrot – sub species
<i>Amazona ochrocephala belizensis</i>	Yellow naped parrot - sub species
<i>Amazona ochrocephala carivaea</i>	Yellow naped parrot- sub species
<i>Amazona ochrocephala oratrix</i>	Yellow naped parrot- sub species
<i>Amazona ochrocephala parvipes</i>	Yellow naped parrot- sub species
<i>Amazona ochrocephala tresmariae</i>	Yellow naped parrot- sub species
<i>Ara couloni</i>	Blue headed Macaw
<i>Pyxis planicauda</i>	Flat-tailed spider tortoise
<i>Araucaria araucana</i>	Monkey puzzle tree
<i>Sclerocactus nyensis</i>	Tonopah fishhook cactus
<i>Aerangis elata/platyphylla</i>	Orchid

**Taxa transferred from Appendix I to Appendix II**

Scientific Name	Common Name
<i>Rhea pennata pennata</i>	Lesser Rhea (population of Chile)
<i>Dudleya traskiae</i>	Santa Barbara Island Dudleya
<i>Aloe thorncroftii</i>	Aloe
<i>Vicugna vicugna</i>	Vicuna (certain populations only)

**Taxa added to Appendix II**

Scientific Name	Common Name
<i>Platysternon megacephalum</i>	Big-headed turtle
<i>Annamemys annamensis</i>	Annam Pond Turtle
<i>Heosemys depressa</i>	Turtle
<i>Heosemys leytensis</i>	Turtle
<i>Heosemys spinosa</i>	Turtle
<i>Hieremys annandalii</i>	Yellow-headed Temple Turtle
<i>Kachuga spp</i>	Indian-roofed Turtle
<i>Leucocephalon yuwonoi</i>	Sulawesi Forest Turtle
<i>Mauremys mutica</i>	Yellow Pond Turtle
<i>Orlitia borneensis</i>	Malayan Giant Turtle

<i>Pyxidea mouhotii</i>	Keeled Box Turtle
<i>Siebenrockiella crassicollis</i>	Black Marsh Turtle
<i>Chitra spp</i>	Turtle
<i>Pelochelys spp</i>	Giant Softshell Turtles
<i>Brookesia spp</i>	Chameleon
<i>Scaphiophryne gottlebei</i>	Gottlebes frog
<i>Rhincodon typus</i>	Whale Shark
<i>Cetorhinus maximus</i>	Basking Shark
<i>Hippocampus spp</i>	Seahorses - to take effect 18 months after the end of the 12 <sup>th</sup> meeting of the CoP
<i>Atrophaneura jophon</i>	Swallowtail Butterfly
<i>Atrophaneura pandiyana</i>	Swallowtail Butterfly
<i>Swietenia macrophylla</i>	Bigleaf Mahogany – to take effect 12 months after the end of the 12 <sup>th</sup> meeting of the CoP
<i>Guaiacum spp</i>	Lignum vitae
<i>Beccariophoenix madagascariensis</i>	Manarano palm
<i>Lemurophoenix halleuxii</i>	Red Lemur Palm
<i>Marojejya darianii</i>	Big Leaf Palm
<i>Ravenea rivularis</i>	Majestic Palm
<i>Ravenea louvelii</i>	Palm
<i>Satranala decussilvae</i>	Forest bismarckia
<i>Voanioala gerardii</i>	Forest Coconut

### Taxa removed from Appendix II

Scientific Name	Common Name
<i>Cnemidophorus hyperythus</i>	Orange-throated Whiptail Lizard
<i>Lewisia maguirei</i>	Maguire's Bitter Root

### Amendments to annotations

Many of the species listed on the Appendices to CITES have interpretative annotations, specifying the populations and/or parts or products derived from these taxa which are subject to the trade controls of the Convention. The following amendments to annotations were adopted:

**African Elephant annotation:** The annotations under which the populations of *Loxodonta africana* (MAMMALIA, PROBOSCIDA, Elephantidae) of Botswana, Namibia and South Africa and Zimbabwe are included in Appendix II is amended as follows:

Botswana: “For the exclusive purpose of allowing: a) Trade in hunting trophies for non-commercial purposes; b) Trade in live animals for in-situ conservation programmes; c) Trade in hides; d) Trade in leather goods for non commercial purposes; e) Trade in registered raw ivory (whole tusks and pieces) subject to the following:

- i. Only registered government-owned stocks, originating in Botswana (excluding seized ivory and ivory of unknown origin);



- ii. Only to trading partners that have been verified by the Secretariat, in consultation with the Standing Committee, to have sufficient national legislation and domestic trade controls to ensure that the imported ivory will not be re-exported and will be managed in accordance with all requirements of Resolution Conf. 10.10 (Rev.)\_ concerning domestic manufacturing and trade;
- iii. Not before May 2004, and in any event not before the Secretariat has verified the prospective importing countries, and MIKE has reported to the Secretariat on the baseline information (e.g. elephant population numbers, incidence of illegal killing);
- iv. A maximum amount of 20,000kg of ivory may be traded, and despatched in a single shipment under strict supervision of the Secretariat;
- v. The proceeds of the trade are used exclusively for elephant conservation and community conservation and development programs within or adjacent to the elephant range;
- vi. Only after the Standing Committee has agreed that the above conditions have been met. On a proposal from the Secretariat, the Standing Committee can decide to cause this trade to partially or completely cease in the event of non-compliance by exporting or importing countries, or in the case of proven detrimental impacts of the trade on other elephant populations. All specimens that are not allowed to be traded under the above provisions shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly.”

Namibia: “For the exclusive purpose of allowing: a) Trade in hunting trophies for non-commercial purposes; b) Trade in live animals for in-situ conservation programmes; Web Notice 15 November 2002 page 6 c) Trade in hides; d) Trade in leather goods for non-commercial purposes; e) Trade in registered raw ivory (whole tusks and pieces) subject to the following:

- i. Only registered government-owned stocks, originating in Namibia (excluding seized ivory and ivory of unknown origin);
- ii. Only to trading partners that have been verified by the Secretariat, in consultation with the Standing Committee, to have sufficient national legislation and domestic trade controls to ensure that the imported ivory will not be re-exported and will be managed in accordance with all requirements of Resolution Conf. 10.10 (Rev.)\_ concerning domestic manufacturing and trade;
- iii. Not before May 2004, and in any event not before the Secretariat has verified the prospective importing countries, and MIKE has reported to the Secretariat on the baseline information (e.g. elephant population numbers, incidence of illegal killing);
- iv. A maximum amount of 10,000kg of ivory may be traded, and despatched in a single shipment under strict supervision of the Secretariat;
- v. The proceeds of the trade are used exclusively for elephant conservation and community conservation and development programs within or adjacent to the elephant range;
- vi. Only after the Standing Committee has agreed that the above conditions have been met. On a proposal from the Secretariat, the Standing Committee can decide to cause this trade to partially or completely cease in the event of non-compliance by exporting or importing countries, or in the case of proven detrimental impacts of the trade on other elephant populations. All specimens that are not allowed to be traded under the above provisions shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly.”

South Africa: “For the exclusive purpose of allowing: a) Trade in hunting trophies for non-commercial purposes; b) Trade in live animals for in-situ conservation programmes; c) Trade in hides; d) Trade in leather goods for non commercial purposes; e) Trade in registered raw ivory (whole tusks and cut pieces of ivory that are both 20 cm or more in length and one kilogramme or more in weight) subject to the following:

- i. Only registered government-owned stocks, originating in South Africa (excluding seized ivory and ivory of unknown origin);
- ii. Only to trading partners that have been verified by the Secretariat, in consultation with the Standing Committee, to have sufficient national legislation and domestic trade controls to ensure that the imported ivory will not be re-exported and will be managed in accordance with all requirements of Resolution Conf. 10.10 (Rev.)\_ concerning domestic manufacturing and trade;
- iii. Not before May 2004, and in any event not before the Secretariat has verified the prospective importing countries, and MIKE has reported to the Secretariat on the baseline information (e.g. elephant population numbers, incidence of illegal killing);
- iv. A maximum amount of 30,000kg of ivory may be traded, and despatched in a single shipment under strict supervision of the Secretariat;
- v. The proceeds of the trade are used exclusively for elephant conservation and community conservation and development programs within or adjacent to the elephant range;
- vi. Only after the Standing Committee has agreed that the above conditions have been met. On a proposal from the Secretariat, the Standing Committee can decide to cause this trade to partially or completely cease in the event of non-compliance by exporting or importing countries, or in the case of proven detrimental impacts of the trade on other elephant populations. All specimens that are not allowed to be traded under the above provisions shall be deemed to be specimens of species included in Appendix I and the trade in them shall be regulated accordingly.

**Black Sea Bottlenose Dolphin annotation:** The CETACEA spp. in Appendix II are annotated to state that a zero export quota has been established for live specimens from the Black Sea population of *Tursiops truncatus* removed from the wild and traded for primarily commercial purposes.

**Cactus annotation:** The annotation indicating which artificially propagated specimens of hybrids and/or cultivars of Cactaceae are not subject to the provisions of the Convention is amended by replacing the reference to artificially propagated specimens of *Gymnocalycium mihanovichii* (cultivars) forms lacking chlorophyll by: “Cactaceae spp. colour mutants lacking chlorophyll, grafted on the following grafting stocks: *Harrisia ‘Jusbertii’*, *Hylocereus trigonus* or *Hylocereus undatus*.”

**Orchid annotation:** The Orchidaceae in Appendix II are annotated as follows: “Artificially propagated specimens of hybrids within the genera *Phalaenopsis*, including their intergeneric hybrids, are not subject to the provisions of the Convention when: a) specimens are traded in shipments consisting of individual containers (i.e. cartons, boxes, or crates) containing 100 or more plants each; b) all plants within a container are of the same hybrid, with no mixing of different hybrids within a container; c) plants within a container can be readily recognized as artificially propagated specimens by exhibiting a high degree of uniformity in size and stage of growth, cleanliness, intact root systems, and

general absence of damage or injury that could be attributable to plants originating in the wild; d) plants do not exhibit characteristics of wild origin, such as damage by insects or other animals, fungi or algae adhering to leaves, or mechanical damage to roots, leaves, or other parts resulting from collection; and e) shipments are accompanied by documentation, such as an invoice, which clearly states the number of plants and which of the six exempt genera are included in the shipment, and is signed by the shipper. Plants not clearly qualifying for the exemption must be accompanied by appropriate CITES documents.”

**Cistanche deserticola (medicinal plant) annotation:** The annotation is deleted specifying that for the purpose of the Convention whole and sliced roots and parts of roots, excluding manufactured parts or derivatives such as powders, pills, extracts, tonics and confectionery of *Cistanche deserticola* (OROBANCHACEAE) are included in Appendix II.

**Nomenclature amendments:** As a consequence of the adoption by the Conference of the Parties of a Resolution on standard nomenclature containing standard references to the names of the species listed in the Appendices, the names of several taxa have been included in the Appendices. These are contained in Annex 3 to document CoP12 Doc. 10.3.