

Amendments proposed in session

**DRAFT RESOLUTION ON
GUIDELINES FOR ASSESSING LISTING PROPOSALS
TO APPENDICES I AND II OF THE CONVENTION**

Recalling that CMS requirements for listing migratory species in Appendix I are set out in paragraphs 1 and 2 of Article III, and requirements for listing migratory species in Appendix II are set out in paragraph 1 of Article IV of the Convention;

Emphasizing that species proposed to be included in either Appendix I or II of the Convention must be migratory species, as defined in Article I, paragraph 1(a);

Noting that in Resolution 5.3 the Conference of the Parties decided to interpret ‘endangered’ in Article 1 paragraph 1(e) of the Convention as meaning “facing a very high risk of extinction in the wild in the near future” and *considering* that this interpretation should be maintained;

Further noting that in Res.2.2, paragraph 1(a) the Conference of the Parties adopted guidelines for the interpretation of the words ‘cyclically’ and ‘predictably’ in the definition of ‘migratory species’ and *considering* that these interpretations should be maintained;

Noting with appreciation the work undertaken by the CMS Scientific Council through Document UNEP/CMS/COP11/Doc.24.2 to develop guidelines to assist the Scientific Council and the Conference of the Parties to assess proposals for listing of species in, and the delisting of species from, the Appendices of the Convention;

Considering that the best scientific evidence available should be used in assessing listing proposals;

Considering the unique features and phenomenon of migratory species and significance of ecological networks in this regards;

Considering further that there should be conservation benefit expected to arise from a listing proposal being adopted;

Recalling that in Res.3.1 the Conference of the Parties agreed that additions to the Appendices of the Convention should be limited to species or lower taxa and that the migratory species covered by higher taxa listings in Appendix II need only be identified when agreements were being prepared;

Further recalling that many species are listed in the Appendices of both the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and CMS and

that for States that are Party to both Conventions it is desirable that the actions of the Conventions are complementary;

Further recalling that relevant international entities with competence for the management of fisheries establish conservation and management measures for many marine species (target or by-catch) managed under their purview, based on the advice of the scientific committees of these bodies; and

Recognizing the value of seeking views from other intergovernmental bodies with respect to proposals for amendments to the Appendices;

*The Conference of the Parties to the
Convention on the Conservation of Migratory Species of Wild Animals*

1. *Decides* to interpret the term “endangered” in Article I, paragraph 1(e), of the Convention, as meaning

“facing a very high risk of extinction in the wild in the near future”;

2. *Decides* that in the interpretation of the term "migratory species" in Article I, paragraph 1 (a) of the Convention:

(i) The word "cyclically" in the phrase "cyclically and predictably" relates to a cycle of any nature, such as astronomical (circadian, annual etc.), life or climatic, and of any frequency;

(ii) The word "predictably" in the phrase "cyclically and predictably" implies that a phenomenon can be anticipated to recur in a given set of circumstances, though not necessarily regularly in time;

3. *Resolves* that, by virtue of the precautionary approach and in case of uncertainty regarding the status of a species, the Parties shall act in the best interest of the conservation of the species concerned and, when considering proposals to amend Appendix I or II, adopt measures that are proportionate to the anticipated risks to the species;

4. *Instructs* the Scientific Council to trial the use of the guidelines as documented in the Annex to this Resolution, as a guide in assessing proposals to list migratory species in Appendices I and II, and report back to COP13 on their effectiveness;

5. *Instructs* the CMS Scientific Council and Secretariat to update Resolution 1.5 by developing a new template and guidelines for the drafting of listing proposals in line with the Annex of this Resolution, for adoption by the 44th or 45th meeting of the Standing Committee in time for its use for proposals to be submitted to the Conference of the Parties at its 12th Meeting;

6. *Requests* the Scientific Council to clarify the meaning of the phrase “significant proportion” in Article I, paragraph 1 (a) of the Convention text, and report back to the COP;

7. *Requests* the Secretariat to consult other relevant intergovernmental bodies, including

relevant international entities with competence for the management of fisheries, having a function in relation to any species subject to a proposal for amendment of the Appendices and to report on the outcome of those consultations to the relevant meeting of the Conference of Parties; and

8. *Decides* that this Resolution replaces Resolutions 2.2 and 5.3 for assessing listing proposals to Appendices I and II of the Convention.

Guidelines for Assessment of Appendix I and II Listing Proposals

1. CMS requirements for listing species or populations to Appendix I are set out in paragraphs 1 and 2 of Article III:

- i. *‘Appendix I shall list migratory species which are endangered.*
- ii. *A migratory species may be listed in Appendix I provided that reliable evidence, including the best scientific evidence available, indicates that the species is endangered.’*

2. CMS requirements for listing migratory species on Appendix II are set out in paragraph 1 of Article IV, and states two scenarios – which can be evaluated through three ‘tests’, the first two of which (tests 1a and 1b) are linked, that need to be considered for a listing proposal to be successful:

‘Appendix II shall list migratory species which have an unfavourable conservation status (Test 1a) and which require international agreements for their conservation and management (Test 1b), as well as those which have a conservation status which would significantly benefit from the international cooperation (Test 2) that could be achieved by an international agreement’.

3. Evidence of the migratory status of a species should be clearly demonstrated in a listing proposal. In particular the ‘cyclically and predictably’ nature of migrations across national boundaries should be demonstrated.

4. The IUCN Red List Categories and Criteria (Version 3.1, second edition) should be used as suggested below in assessing proposals to list migratory species on Appendices I and II:

- a. a taxon assessed as ‘Extinct in the Wild’, ‘Critically Endangered’, or ‘Endangered’ using the IUCN Red List criteria is eligible for consideration for listing in Appendix I, recognising that CMS Appendix I species are broadly defined as ‘endangered’.
- b. a taxon assessed as ‘Vulnerable’ or ‘Near Threatened’ would not normally be considered for listing in Appendix I unless there is substantive information subsequent to the IUCN red list assessment that provides evidence of deteriorating conservation status, and information about the conservation benefits that an Appendix I listing would bring.
- c. a taxon assessed as ‘Extinct in the Wild’, ‘Critically Endangered’, ‘Endangered’, ‘Vulnerable’ or ‘Near Threatened’ using the IUCN Red List criteria will be eligible for consideration for listing in Appendix II; recognising that such taxa meet the definition of ‘unfavourable conservation status’ under the Convention.
- d. a taxon assessed as ‘Data Deficient’ using the IUCN Red list criteria should be evaluated in terms of the merit of any individual Appendix II proposal. Information that may be available since the Data Deficient assessment should be considered on a case by case basis. It would be exceptional for a ‘Data Deficient’ assessed taxon to be considered for listing in Appendix I.

- e. the scale of the red list assessment should match the scale of the listing proposal. Thus for a proposal to include a species in the Appendices, the red list assessment used should be a global assessment. However, if it is proposed to include a population or geographically separate part of a population of any species, then the red list assessment used should be with respect to that population or part of that population.
- f. in making a decision on whether a taxon qualifies for listing in either Appendix I or Appendix II, information which has become available since the last IUCN red-list assessment for a taxon should also be taken into account, using the same principles and percentage changes in populations as the red-listing process.
- g. if an IUCN red-list assessment is not available for a taxon, equivalent information, using the same principles and percentage changes in populations as the red-listing process, should be provided in the listing proposal to enable it to be assessed on an equivalent basis.

5. The benefits and risks to conservation of listing or delisting should be explicitly stated for both Appendix I and Appendix II proposals. Coherence with existing measures in other multilateral fora should be considered.

6. The consideration of whether species ‘*require international agreements for their conservation and management*’ (Test 1b), or ‘*have a conservation status which would significantly benefit from the international cooperation that could be achieved by an international agreement*’ (Test 2) and thus qualify for inclusion in Appendix II should be decided on a case by case basis. Any proposal to include a species in Appendix II should include an assessment of whether:

- i. existing legislation in the Range States is sufficient, or if further protection is needed;
- ii. the majority of the population of the species concerned is migratory or sedentary;
- iii. the factors that have led to an unfavourable conservation status are anthropogenic or natural;
- iv. existing bilateral or multilateral measures/agreements need to be boosted or amended;
- v. all range states already protect the species or have management recovery plans in place; and
- vi. listing in a CMS Appendix would support measures in other multilateral fora and clearly demonstrate all three of the following:
 - a. how the inclusion on Appendix II will benefit the taxon; and
 - b. a Party or Parties’ intention with respect to concluding an international agreement or concerted action; and

- c. a Party or Parties' willingness to adopt the role of Focal Point for the nominated taxon and lead the development of an international agreement or concerted action.

7. With regard to removing a species from the Appendices, the Conference of Parties should follow the processes outlined in Article III and Article XI of the Convention when assessing the status of a migratory species in relation to it being considered for removal from Appendix I and/or II. In those instances where species proposed for delisting are also subject to the provisions of other Conventions and multilateral agreement between States related its conservation or sustainable use of wild animals, the Secretariat should consult those relevant Conventions regarding the suitability of removing the protection provided by the CMS Appendices. Such consultation should aim to ensure that a complete assessment of the consequences of delisting a species from CMS have been considered within the context of the whole management of the species.

8. Proposals for the inclusion of taxa above the species level should not normally be accepted unless all of the species within that taxon meet the requirements of the Convention. Information on each species in the higher taxon should be included in the proposal, and each species should be assessed on its own merits. If a proposal is adopted, the individual species within the higher taxon should be listed in the Appendices of the Convention rather than the higher taxon.