



Convention on the Conservation of Migratory Species of Wild Animals

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INTERPRETATION OF CERTAIN TERMS USED IN THE CONVENTION

Background

1. At its 13th meeting (Bonn, March 1995), the Standing Committee noted the report of the Scientific Council's fifth meeting (June 1994), and learned from the Chairman of the Council that it would review the definition of the term "endangered" at its sixth meeting. The previous Council meeting had concluded that, in the meantime, the old definition¹ – based on the former IUCN criteria – should continue to be used, as set out in the text of the Convention and amplified in Resolution 2.2 (Geneva, 1988)..
2. At its sixth meeting (Bonn, November 1995), the Scientific Council formed a drafting group and a consensus was reached on a definition of "endangered" which would achieve maximum compatibility with the IUCN "Categories of Threat", whilst still keeping within the definition given in Article I, paragraph 1 (e) of the Convention text, and preserving the independence of the Conference of the Parties in establishing Appendix I in accordance with the specific needs of CMS. The Council further investigated, at the request of the Secretariat, the term "taking", the definition² of which appeared to require some clarification
3. The 14th meeting of the Standing Committee (Bonn, 1996) concluded that the Council's recommendation regarding the term "endangered" and its opinion on the term "taking" should be submitted, as they stood, to the fifth meeting of the Conference of the Parties for its consideration.
4. The findings of the Scientific Council as regards the term "endangered" were as follows:

"As regards interpretation of the term "endangered" in Article I, paragraph 1(e), of the Convention, the term broadly equates with the category "endangered" as defined in the threatened species categorization of the International Union for Conservation of Nature and Natural Resources (IUCN Red List of Threatened Animals, 1988; IUCN Red List Categories, 1994): "facing a very high risk of extinction in the wild in the near future".

¹ Article I, paragraph 1 (e) of the Convention text

² Article I, paragraph 1 (i) of the Convention text

In assessing endangered status for purposes of listing in Appendix I, the Conference of the Parties may be guided by the criteria set forth by the 40th Meeting of the IUCN Council (November, 1994) or by an independent assessment by the Scientific Council based on the best available data.”

5. The Council formulated an opinion on the interpretation of the term “taking”, as originally defined in Article I, paragraph 1 (i), of the Convention. The Council considered that this term clearly refers also to *incidental* taking, and that any discrepancy between the provisions of the Convention and “unpreventable” accidental catches could be avoided by resorting to the possible exceptions to the prohibition of taking given under Article III, paragraph 5 (d). The Council therefore gave its opinion as follows:

“Parties can make an exception to the prohibition of taking of animals of species listed in Appendix I, as required under Article III of the Convention, if “... extraordinary circumstances so require; provided that such exceptions are precise as to content and limited in space and time”.

It is the view of the Scientific Council that extraordinary circumstances may include cases of *accidental* taking when all means to reduce *incidental* taking have been demonstrably employed.”

The Council added the following clarification: “incidental take” has an element of predictability about it, whereas “accidental take” is due to some random and unforeseeable circumstance or set of circumstances.

Action for the Conference of the Parties

6. The Conference of the Parties is invited to consider for adoption draft Resolution 5.3, prepared by the Secretariat on the basis of the findings of the Council, and setting out the proposed interpretations of the terms “endangered” and “taking”.