



Strasbourg, 26 June 1997  
[s:\tpvs97\tpvs16e.97]

**T-PVS (97) 16**  
Orig. Fr.

CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE  
AND NATURAL HABITATS

**Group of experts on Legal Aspects of Introduction  
and Reintroduction of Wildlife Species**

3rd meeting  
Strasbourg, 28-30 May 1997

**REPORT**

Secrétariat Memorandum  
established by the  
Directorate of Environment  
and Local Authorities

The Standing Committee of the Bern Convention is invited to take note of this report.

It is also invited to:

1. examine and, if appropriate, adopt the draft Recommendation on the Introduction of Organisms belonging to Non-native Species into the Environment (see Appendix 4 to this report);
2. examine and, if appropriate, adopt the draft Recommendation on the Reintroduction of Organisms belonging to Wild Species and the Restocking and Reinforcement of Populations of such Organisms in the Environment (see Appendix 5 to this report);
3. examine and, if appropriate, adopt the name and terms of reference of the group of experts, as proposed in paragraph 27 of this report;
4. include in its Programme of Activities for 1998 and, if appropriate, 1999 the two studies proposed in paragraph 24 of this report, and a meeting of scientific experts responsible for defining criteria enabling Contracting Parties to the Bern Convention to compile their national lists of established non-native species, known to be invasive and/or to cause harm to other species, as proposed in paragraph 28 of this report.

## **I. Opening of the meeting**

1. The meeting was opened at 9.30 am on Wednesday 28 May by the Chairman of the group of experts, Mr G. Nechay (Hungary). He welcomed the participants as listed in Appendix 1 to this report.

2. The Secretariat said that the question of introducing and reintroducing species of both flora and fauna was particularly important for the conservation of wildlife and represented a major challenge for the future. Uncontrolled introductions and reintroductions were among the main causes of the disappearance of species and, given that the problem obviously transcended national borders, appropriate measures should be taken on the broadest geographical scale possible. Few international texts dealt with the question in an appropriate manner, and the Bern Convention, Article 11.2 of which specifically referred to the subject, should pay closer attention to it. Other articles of the Bern Convention also dealt directly or indirectly with the question of introducing and reintroducing species. Article 6(e) (internal trade in the animals listed in Appendix II to the convention), Article 7.3(c) (regulation of the transport of wild animals), and Article 9.1.4 (exceptions granted for purposes of repopulation and reintroduction) must be particularly taken into consideration.

The Group of Experts on Legal Aspects of Introduction and Reintroduction of Wildlife Species had been set up by the Standing Committee at its 12th meeting (30 November-4 December 1992), and had already held two meetings, from 17 to 19 May 1993 (see report of the first meeting in document T-PVS (93) 14, dated 23 August 1993) and on 11 and 12 May 1995 (see report of the second meeting in document T-PVS (95) 30, dated 12 May 1995). Reference was also made to the working documents for the meeting, as listed in Appendix 2 to this report.

## **II. Adoption of the agenda**

3. The Group of Experts adopted the agenda, as it appears in Appendix 3 to this report.

## **III. General presentation of States' legislation**

4. The experts present, who represented either Contracting Parties to the Bern Convention (Belgium, France, Germany, Hungary, Italy, Netherlands, Norway, Poland, Portugal and United Kingdom) or observer States at meetings of its Standing Committee (Croatia and Czech Republic), gave details of their legislation on the introduction and reintroduction of non-native species (see Appendix 7 to this report).

5. The Group of Experts noted that the issue was extremely important for the preservation of biodiversity, and that governments were paying ever closer attention to it. In particular, it congratulated the United Kingdom delegate on the document entitled "The Regulation and Control of the Release of Non-native Animals and Plants into the Wild in Great Britain", published in 1997 by the Department of the Environment; that national guide was a particularly useful example which could perhaps serve as a model for other countries.

6. The Group noted that several governments (Belgium, France, Germany, Hungary, Netherlands, Norway and Portugal) were working to amend, adapt or update provisions, or certain aspects of the provisions of their legislation and/or regulations on these matters. The countries concerned were encouraged to continue the work being done so that the whole issue could be seen in better perspective.

7. In addition, the Group noted that reintroduction operations had been conducted in certain countries. It took particular note of the operations carried out in Croatia. Concern was expressed that non-native species were being introduced in various countries and were competing with native species. Particularly important were marine species (exotic fish in the Mediterranean, *Caulerpa taxifolia*), aquatic species (fish in the Danube) and terrestrial species (*Oxyura jamaicensis* in the United Kingdom), which caused significant damage to ecosystems or harm to other species. The Secretariat recalled

Recommendation No. 45 adopted by the Standing Committee of the Bern Convention on 24 March 1995 on controlling the proliferation of *Caulerpa taxifolia* in the Mediterranean. Particular concern was expressed at the introduction of *Oxyura jamaicensis*.

8. It was very difficult to know what should be done with the species introduced. Practical measures had to be found which could solve problems and enable the issue of eradication to be examined in greater detail and technical and political problems to be resolved. Particular emphasis was placed on the problem of species which were kept in closed areas such as ponds but which could escape (for example, the Chinese carp which reproduced in the Danube). The United Kingdom expert stressed the importance of raising public awareness of the problem of introductions and of the message which should be conveyed.

9. The Group noted that in certain cases hunters contributed to the reintroduction of species. The FACE representative cited in particular the cases of reintroduction of the peregrine falcon and the Alpine ibex referred to in the special edition of *Naturopa* devoted to reintroductions of species (No. 82-1996).

#### **IV. Presentation of consultants' reports**

##### **A. Report on "Introductions of non-native organisms into the natural environment" (Council of Europe Publishing, Nature and Environment Series, No. 73)**

10. Mr de Klemm introduced his report on "Introductions of non-native organisms into the natural environment" and explained the situation with regard to current international law on the introduction and reintroduction of species. It could be noted that all the new Conventions on nature protection contained a standard clause on this subject. Two further observations could be made: responsibilities in this area were spread very widely, and the measures adopted varied greatly between different countries. The following distinctions should also be made: problems concerning fauna and flora respectively; the situations which differed from one part of a territory to another; and the case of introductions made deliberately without authorisation and those made negligently. Introductions were at times deliberate, at times accidental ("fugitives" or "stowaways"). Such problems should be remedied and the extent to which repopulation operations could be effectively examined. The Bern Convention should be examined, together with the Lugano European Convention on Civil Liability for Damage resulting from Activities Dangerous to the Environment, from the point of view of damage to nature. It was important to devise international policies applicable to the introduction and reintroduction of non-native species; to date, the most successful countries in that regard had been New Zealand, Australia and Hawaii. The Standing Committee on the Bern Convention should carefully examine those problems.

Mr de Klemm also stressed the ambivalence which existed between human aspirations to promote public freedoms and the laws of nature which required greater regulation if nature were to be preserved. Human activities must therefore be controlled by means of prevention on the one hand, and reparation on the other. A list of problems and corresponding solutions should be drawn up and, if necessary, a state of environmental emergency declared.

11. The Group congratulated Mr de Klemm on his very useful report and decided to take into consideration the comments made in it.

**B. Report on "Introductions of non-native plants into the natural environment" (T-PVS (96) 105)**

12. The Secretariat presented the report on "Introductions of non-native plants into the natural environment".

The author had divided the report into four sections dealing with:

- the concept and categories of "introduced plants";
- the heritage value of introduced plants;
- deliberate introductions, reintroductions and safeguarding genetic biodiversity;
- the invasion of plants introduced into wildlife areas.

In its conclusion the report referred to the resolutions adopted at the First European Conference for the Protection of Wild Flora (Planta Europaea, September 1995), by which the participants:

"- *support the international initiatives of IUCN and the Council of Europe on the scientific and legal problems posed by invasive introduced species;*

- *recommend the relevant authorities in European countries, and also the European Union, to give attention to the need to develop or complete legislation to prevent the introduction of potentially invasive plant species and to control those plants, already recently introduced, which pose a threat to wild flora;*

- *encourage the use of native plant material of known local provenance in habitat creation or restoration; and in particular request the European Commission to consider amending the Common Agricultural Policy, especially its Agri-Environment Regulation, so as to require schemes of habitat creation or restoration funded through the European Union to use native plant material of known local provenance."*

13. The Group of Experts expressed its interest in the issue under consideration and decided to incorporate the author's proposals in its work. Several delegates emphasised that the question was central to several concerns and that it touched on ideological and social issues. Appropriate legislation should therefore be adopted, and steps taken to change attitudes and practices. Planting or sowing operations were necessary, provided they were carried out using local flora and provided an expert scientific appraisal were prepared. For this purpose the non-native plant material, including seeds needed to be controlled.

## V. Consideration of the draft recommendation on the introduction of organisms belonging to non-native species into the environment

14. The Group of Experts considered the above draft recommendation.

15. The Secretariat said that at its 16th meeting (2-6 December 1996), the Standing Committee of the Bern Convention had decided to postpone to its 17th meeting (1-5 December 1997), the adoption of the draft recommendation and had requested Contracting Parties who so wished to forward any observations they might have to the Secretariat by 1 March 1997, so that the Group of Experts could take account of them. The comments and observations contained in documents T-PVS (96) 30 add. 1 and T-PVS (97) 7 had been received, and on that basis a revised version of the recommendation had been prepared (Version 4, document T-PVS (97) 10).

16. The Group of Experts took note of the observations on the draft recommendation made by Contracting Parties, including the European Community, during the 16th meeting of the Standing Committee. It examined the draft recommendation submitted and made various amendments to it. In particular, following a proposal by certain experts including the German representative, it decided to specify that the draft recommendation did not apply to:

- genetically modified organisms;
- the introduction of non-native plants cultivated in managed agricultural or forest areas;
- the introduction of organisms belonging to non-native species for the purposes of biological control, if the introduction had been authorised on the basis of regulations for plant protection and pest control which comprise an assessment of the impact on flora and fauna;
- the introduction of organisms belonging to non-native species kept in confined spaces (for example, botanical gardens, greenhouses, arboreta, zoos, animal-breeding installations or circuses);
- the use of birds of prey in falconry.

Certain experts (Germany and Portugal) wondered whether it would be appropriate to separate the appendix to the recommendation from the recommendation itself. The Group considered, however, that it was preferable to retain the Guidelines as an appendix while including the following prefatory statement: "*Measures which may be considered appropriate for controlling introductions of organisms belonging to non-native species and which are listed for consideration by the Contracting Parties. Contracting Parties are also invited to apply the provisions of existing international agreements and recommendations which address issues covered by these guidelines*". The measures in fact contained specific guidelines which were very useful and preferable to the current vacuum.

17. On a proposal by certain experts (in particular Portugal), the Group decided no longer to refer to the import of organisms belonging to non-native species, but merely to their possession. The delegate of Germany considered that the reference should be retained (Appendix 2.1, Version 4, *in fine*).

18. The Group considered that it was important to emphasise the need:

- to set up, at national level, an authority responsible for dealing with the problems of introducing and reintroducing non-native species;
- to strengthen international co-operation mechanisms;
- to inform the public and make it aware of the harmful consequences to which the introduction of non-native species might give rise, by conveying an appropriate message;
- to draw up a documented national list of non-native species established in the environment, which are known to be invasive and/or cause harm to other species, ecosystems, health or economic activities;
- to encourage governments to control the non-native plant material, including seeds which are sold.

19. The Group also noted that:

- the concept of a "given territory" referred to in the draft recommendation corresponded to an environmental geographical unit and that it was not imperative to define it;
- the concept of a "confined space" did not require special definition;
- the concept of "environment" was preferable to that of "nature" to the extent that it concerned both natural and urbanised areas.

The Group further decided to indicate in the preamble to the recommendation that "species", for the purposes of the recommendation, referred both to species and to lower taxonomic categories, sub-species, varieties and so on. The release of a non-native species into a given territory should, for example, be considered as an introduction.

20. The Group adopted the draft recommendation on the introduction of organisms belonging to non-native species into the environment, as it appears in Appendix 4 to this report.

## **VI. Examination of draft texts and proposals for studies and action as a basis for reflection (document T-PVS (97) 8)**

### **A. Draft recommendation on re-establishing and reinforcing populations of wild species in the natural environment**

21. After examining and making several amendments to the draft recommendation proposed in working paper T-PVS (97) 8, section I, the Group of Experts adopted the draft recommendation as it appears in Appendix 5 to this report.

### **B. Problems concerning the Bern Convention**

22. After examining the proposals concerning the Bern Convention in working paper T-PVS (97) 8, section III, the Group of Experts decided to append them to this report so that they could be considered at a later date (see Appendix 6 to this report).

### **C. Proposals for studies**

23. The Group of Experts reviewed the proposals for studies in working document T-PVS (97) 8,

section IV.

24. It decided to give priority to the following two studies, the scope of which it clarified.

- Methods of eradicating non-native species (Part I  Animals)*

**Terms of reference:** Gather information on the experiences of different countries in eradicating non-native species established in given territories. Propose to Contracting Parties appropriate strategies for eradicating non-native species located on their territories.

- Introduction and re-stocking of populations of non-native species in aquatic ecosystems causing significant damage to the environment*

**Terms of reference:** Review the existing situation in European countries with a view to:

- identifying the species most closely concerned;
- determining the impact of those species on ecosystems;
- identifying the possible or known procedures for limiting such impact;
- formulating recommendations for the Standing Committee of the Bern Convention regarding introductions and re-stocking operations for populations of non-native species, as well as the necessary risk-surveillance procedures.

25. The Group of Experts decided that the following studies could be conducted at a later date:

- accidental introductions of "stowaways";
- the re-stocking of game species;
- introductions for the purposes of biological control;
- methods of eradicating non-native species (Part II  Plants);
- habitats particularly sensitive to introductions and requiring priority protection.

## **VI. Proposals to the Standing Committee**

26. As regards the future activities of the Group of Experts, the participants noted that:

- the question of introductions was one of the most important aspects of the preservation of biological diversity and great attention should therefore be paid to it; the question of reintroductions was equally important but, given the work currently being done by IUCN's Species Survival Commission, attention should be focused for the time being on the question of introductions;
- since Article 11.1.a of the Bern Convention stated that: "*In carrying out the provisions of this Convention, the Contracting Parties undertake a. to co-operate whenever appropriate and in particular where this would enhance the effectiveness of measures taken under other articles of this*



*Convention*," it was important to establish co-operation for the introduction of organisms belonging to non-native species. The exchange of information in that area and monitoring of the work done were essential;

- it was fundamentally important for the group to continue its work, as the momentum now achieved should not be lost;
- contact should be established with the Organisation for the Phyto-taxonomic Investigation of the Mediterranean Area (OPTIMA).

27. The Group therefore asked the Standing Committee that its future work should focus on the question of introductions of non-native species. The Standing Committee should make it clear that the Group of Experts on Introductions and Reintroductions of Non-native Species, henceforth called the "Group of Experts on Introductions of Non-native Species", should be responsible for monitoring the implementation of Article 11.2(b), of the Convention and Recommendation No. ... on the introductions of organisms belonging to non-native species into the environment, as proposed.

The group should, in particular, be instructed:

- to receive documented national lists of non-native species established in the environment, which are known to be invasive and/or to cause harm to other species, ecosystems, health or economic activities, and to make appropriate recommendations for their control;
- to review the implementation of the recommendation and identify other areas to be dealt with as regards the introduction of non-native species;
- to make recommendations, as appropriate, on the implementation of Article 11.2.b, of the Bern Convention.

The delegate of Germany expressed reservations as to the continuation of the Group's work. However, he would not oppose it provided that the majority of participants favoured its continuance.

28. The Group expressed support for the proposal by the delegate of Portugal that the Standing Committee be asked to hold a meeting of scientific experts to define criteria enabling the Contracting Parties to the Bern Convention to draw up their national lists of established non-native species known to be invasive and/or to cause harm to other species, in so far as they constituted anthropic dispersal routes. The meeting in question could be held in Portugal.

## **VII. Other business**

29. As decided by the Standing Committee at its 16th meeting (Strasbourg 2-6 December 1996  document T-PVS (96) 102, item 6.2), the Group of Experts considered the follow-up to the case relating to the introduction of exotic bees *Meliponinae quadrifasciata* into Portugal.

The delegate of Portugal reported that there was no longer a problem since the bees had not acclimatised themselves and had died. Furthermore, Portugal was preparing new legislation on the introduction, possession and keeping in captivity of non-native species which should enable similar situations to be avoided in the future.

### **VIII. Closure of the meeting**

30. After thanking participants, the Chairman declared the meeting closed at 12.30 pm on Friday 30 May 1997.

## **APPENDICES**

1. List of participants
2. List of reference documents
3. Agenda
4. Recommendation on the introduction of organisms belonging to non-native species into the environment
5. Recommendation on reestablishing and reinforcing populations of wild species in the natural environment
6. Problems concerning the Bern Convention to be considered at a later date
7. National reports

**APPENDIX 1****LIST OF PARTICIPANTS****I. CONTRACTING PARTIES / PARTIES CONTRACTANTES****BELGIUM / BELGIQUE**

Mr Kris DECLEER, Scientific Attaché, Institute of Nature Conservation, Kliniekstraat 25, B-1070 BRUSSEL.

Tel : (32) 2 558 18 47. Fax : (32) 2 558 18 05. E-mail : kris.decleer@instnat.be (E)

**FRANCE / FRANCE**

M<sup>me</sup> Fabienne BENEST, Responsable Protection de la flore sauvage, Ministère de l'Environnement, 20, avenue de Ségur, F-75302 PARIS 07 SP

Tel : (33) 1 42 19 19 04. Fax: (33) 1 42 19 19 79. (F)

**GERMANY / ALLEMAGNE**

Mr Gerhard ADAMS, Regierungsdirektor, Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit, Postfach 12 06 29, D-53048 BONN

Tel : (49) 228 305 26 31. Fax : (49) 228 305 26 94 / 26 95 (E)

M<sup>me</sup> Sigrid STRICH, Ministry of Food, Agriculture and Forestry, Postfach 14 02 70, D-53123 BONN

Tel : (49) 228 529 41 30. Fax : (49) 228 529 43 18 (F/E)

**HUNGARY / HONGRIE**

Mr Gabór NECHAY, Senior Counsellor, Authority for Nature Conservation, Ministry of Environment and Regional Policy, K<sub>1</sub>ltö u. 21, H 1121 BUDAPEST XII.

Tel : (36) 1 17 56 458. Fax : (36) 1 17 57 457.

E-mail : gabor.nechay@ktm.x400gw.itb.hu (E)

**ITALY / ITALIE**

Mr Giovanni DELLA SETA, Responsable Ricerca Scientifica e Statistica, Ministero Risorse Agricole, Alimentari, Forestali, Direzone Generale Pesca Acquacoltura, Viale Dell'Arte 16, I-00144 ROMA

Tel : (39) 6 59 08 47 46. Fax : (39) 6 59 08 41 76 (F)

**THE NETHERLANDS / PAYS-BAS**

Mr Jan-Willem SNEEP, Senior Staff-Officer Flora and Fauna Protection, Ministry of Agriculture, Nature Management and Fisheries, Department of Nature Management, P.O. Box 20401, NL-2500 EK THE HAGUE

Tel : (31) 70 379 3255. Fax : (31) 70 335 1485 (E)

**NORWAY / NORVEGE**

M<sup>me</sup> Heidi HANSEN, Senior Executive Officer, Directorate for Nature Management, Tungasletta 2, N-7005 TRONDHEIM.

Tel. : (47) 73 58 05 00. Fax : (47) 73 91 54 33.

E-mail : heidi.hansen@dnpost.md.dep.telemax.no (E)

**POLAND / POLOGNE**

Dr Henryk OKARMA, Associated Professor, Polish Academy of Sciences, Mammals Research Institute, 17-230 BIA\_OWIE\_A

Tel : (48) 835 12 278. Fax : (48) 835 12 289. E-mail : hokarma@bison.zbs.bialowieza.pl (E)

**PORTUGAL / PORTUGAL**

Mr Adolfo MORAIS DE MACEDO, Juriste, Instituto da Conservaçã\_ da Natureza, Gabinete de Apoio Juridico (GAJ), Rua Ferreira Lapa 38 - 5º Dtº, P-1150 LISBOA

Tel: (351) 1 316 05 23. Fax: (351) 1 352 01 78 (F)

**UNITED KINGDOM / ROYAUME-UNI**

Dr William PARISH, Senior Scientific Officer, Chemicals and Biotechnology Division, Department of the Environment, Room B357, Romney House, 43 Marsham Street, GB-LONDON SW1P 3PY

Tel : (44) 171 276 8336. Fax : (44) 171 276 8333 (E)

**II. OBSERVERS / OBSERVATEURS**

**CROATIA / CROATIE**

Mr Eugen DRAGANOVI\_, Biologist, Senior Adviser, Ministry of Culture, Directorate for the Protection of Cultural and Natural Heritage, Ilica 44, 10000 ZAGREB.

Tel : (385) 1 43 20 22. Fax : (385) 1 43 15 15 (E)

**CZECH REPUBLIC / RÉPUBLIQUE TCHÈQUE**

Dr Vladimír HANZAL, Senior Researcher and Head of the Department of Species Management, Agency for Nature Conservation and Landscape Protection of the Czech Republic, Kališnická 4-6, CZ-130 00 PRAHA 3 - \_I\_KOV.

Tel : (42) 2 697 49 28 ; 2 697 29 18. Fax : (42) 2 697 00 12 (E)

**European Topic Centre on Nature Conservation (EEA) / Centre thématique européen pour la conservation de la nature (AEE)**

Mr François BOILLOT, CTE / CN, Museum national d'histoire naturelle, 57, rue Cuvier F-75231 PARIS CEDEX 05

Tel : (33) 1 40 79 38 70. Fax : (33) 1 40 79 38 67. E-mail : ctecinfo@mnhn.fr (F)

**Federation of Field Sports Associations of the European Union / Fédération des Associations de chasseurs de l'Union européenne (FACE)**

M<sup>e</sup> LAGIER, Avocat, 10 rue de Castries, F-69002 LYON

Tel : (33) 4 72 56 98 00. Fax : (33) 4 72 56 98 02 (F)

**The World Conservation Union (IUCN) / L'Union mondiale pour la nature (UICN)**

Mr Cyrille de KLEMM, 21 rue de Dantzig, F-75015 PARIS, France.

Tel : (33) 1 45 32 26 72. Fax : (33) 1 45 33 48 84 (F/E)

**III. APOLOGISED FOR ABSENCE / EXCUSES**

**Denmark / Danemark**

**Liechtenstein / Liechtenstein**

**Slovakia / Slovaquie**

**Switzerland / Suisse**

**European Commission / Commission européenne**

**Organisation for Economic Co-Operation and Development (OECD) / Organisation de coopération et de développement économiques (OCDE)**

**The National Botanic Garden of Wales**

**Economic Commission for Europe of United Nations / Commission économique pour l'Europe des Nations Unies**

**International Council for the Exploration of the Sea (ICES) / Conseil international pour l'exploration de la mer (CIEM)**

**IV. SECRETARIAT / SECRÉTARIAT**

**Council of Europe / Conseil de l'Europe**  
**Directorate of Environment and Local Authorities / Direction de l'Environnement et des Pouvoirs Locaux, F-67075 STRASBOURG CEDEX, France**  
Tel : (33) 3 88 31 20 00 Fax : (33) 3 88 41 27 81 / 82 / 83

Mr Ferdinando ALBANESE, Director of Environment and Local Authorities / Directeur de l'Environnement et des Pouvoirs Locaux

Mr Jean-Pierre RIBAUT, Head of Environment Conservation and Management Division / Chef de la Division de la Protection et de la Gestion de l'Environnement

Mr Eladio FERNÁNDEZ-GALIANO, Environment Conservation and Management Division / Division de la Protection et de la Gestion de l'Environnement  
Tel : (33) 3 88 41 22 59 Fax : (33) 3 88 41 37 51 / 27 84 E-mail : eladio.galiano@delacoe.fr

M<sup>me</sup> Maguelonne DÉJEANT-PONS, Environment Conservation and Management Division / Division de la Protection et de la Gestion de l'Environnement  
Tel : (33) 3 88 41 23 98 Fax : (33) 3 88 41 37 51 / 27 84

**V. INTERPRETORS / INTERPRETES**

M<sup>me</sup> Ingrid CATTON, La Petite Chenaie, Avenue de Marnes, F-92430 MARNES LA COQUETTE (France). Tél: (33) 1 47 01 01 93. Fax: (33) 1 47 01 02 03.

M. William VALK, 2, rue des Jardins, Duntzenheim, F-67270 HOCHFELDEN (France). Tél : (33) 3 88 70 59 02. Fax : (33) 3 88 70 50 98.

## APPENDIX 2

### LIST OF REFERENCE DOCUMENTS

- Draft agenda / projet d'ordre du jour

#### **I. Documents for discussion / Document soumis à la discussion**

- Draft recommendation on the introduction of non-native organisms into the environment (Version 3) / Projet de recommandation relative aux introductions d'organismes non indigènes dans l'environnement (Version 3) (document T-PVS (96) 30)
- Observations by Monaco / Commentaires de Monaco (document T-PVS (96) 30 Addendum 1)
- Observations by Contracting Parties and Observer States / Commentaires des Parties contractantes et des Etats observateurs (document T-PVS (97) 7)
- Draft recommendation on the introduction of non-native organisms into the environment (Version 4) / Projet de recommandation relative aux introductions d'organismes non indigènes dans l'environnement (Version 4) (document T-PVS (97) 10)
- Draft texts and proposals for studies and action as a basis for reflection / Projets de textes et de propositions d'études et d'actions constituant une base de réflexion (document T-PVS (97) 8)

#### **II. Reference documents / Documents de référence**

- National and Community Legislation and Practice applicable to the Introduction and Reintroduction of Wild Species (Replies to the Questionnaire) / Les législations et pratiques nationales et communautaires applicables en matière d'introduction et de réintroduction d'espèces sauvages (Réponses au questionnaire) (document T-PVS (95) 24 rév.)
- Introduction of non-native organisms into the natural environment (Cyrille de Klemm) / Les introductions d'organismes non indigènes dans le milieu naturel (Cyrille de Klemm) (Sauvegarde de la Nature n° 73)
- Introductions of non-native plants into the natural environment (Jacques Lambinon) / Les introductions de plantes non indigènes dans l'environnement naturel (Jacques Lambinon) (document T-PVS (96) 105)
- Reference documents / Documents de référence (document T-PVS (97) 9)
- Bern Convention and Appendices / Convention de Berne et Annexes (document T-PVS (97) 4)
- Selective Bibliography  Reintroduction of Wildlife Species (Naturopa 1996-3) / Bibliographie sélective  Réintroduction d'espèces sauvages (Naturopa 1996-3)
- Naturopa No. 82-1996: "The reintroductions of species" / Naturopa n° 82-1996: «Les réintroductions d'espèces»

### **APPENDIX 3**

#### **AGENDA**

1. Opening of the meeting
2. Adoption of the agenda
3. General presentation of the legislations of the States
4. Presentation of the reports of the experts consultants on:
  - 4.1. "Introduction of non-native organisms into the natural environment" (Cyrille de Klemm, Nature and Environment, 1996, No. 73)
  - 4.2. "Introductions of non-native plants into the natural environment" (Jacques Lambinon, T-PVS (96) 105)
5. Examination of Version 4 (T-PVS (97) 10) of the draft recommendation on the introduction of non-native organisms into the environment (T-PVS (96) 30), and of the comments received (T-PVS (96) 30 add. 1 and T-PVS (97) 7)
6. Examination of draft texts and proposals for studies and action as a basis for reflection (T-PVS (97) 8)
7. Proposals for the Standing Committee
8. Other business



#### APPENDIX 4

Convention on the Conservation of European Wildlife  
and Natural Habitats

##### **Draft Recommendation of the Standing Committee on the Introduction of Organisms Belonging to Non-Native Species into the Environment**

The Standing Committee of the Convention on the Conservation of European Wildlife and Natural Habitats, in accordance with Article 14 of the Convention,

Having regard to the aim of the Convention which is notably to ensure the conservation of wild flora and fauna, by giving particular attention to species, including migratory species, which are threatened with extinction and vulnerable;

Recalling that under Article 11, paragraph 2.b of the Convention, each Contracting Party undertakes to strictly control the introduction of non-native species;

Considering that species native to a given territory means a species that has been observed in the form of a naturally occurring and self-sustaining population in historical times; "species" in the sense of this Recommendation refers both to species and to lower taxonomic categories, subspecies, varieties, etc. (thus, for instance, the release of a different non-native subspecies into a given territory should also be considered as an introduction);

Considering that "introduction" means deliberate or accidental release, into the environment of a given territory, of an organism belonging to a non-native taxa (species or lower taxa that has not been observed as a naturally occurring and self-sustaining population in this territory in historical times);

Considering that this Recommendation does not apply to:

- genetically modified organisms,
- the introduction of non-native plants cultivated in managed agricultural or forest areas,
- the introduction of non-native organisms belonging to non-native species used for the purposes of biological control, if the introduction has been authorised on the basis of regulations for plant protection and pest control, which comprise an assessment of the impacts on flora and fauna,
- the introduction of non-native species maintained into confined space (for example, botanic gardens, greenhouses, arboreta, zoos, animal-breeding establishments or circuses),
- or the use of birds of prey in falconry;

Considering that the introduction of organisms belonging to non-native species may initiate a process (competition with native species, predation, transmission of pathogenic agents or parasites) which can cause serious harm to biological diversity, ecological processes or economic activities;

Being aware of the need to set up a system of risk management aimed at forestalling uncontrolled introductions and at reducing to a minimum the negatives consequences of those it has been impossible to prevent;

Believing that the eradication of an established introduced species is very difficult and costly, and in many cases probably impossible;

Desirous of laying down a minimum number of rules, accepted and applied by everyone, aimed at anticipating and repairing the damage caused by inopportune introductions and which should be based essentially on principles of precaution and prevention, and referring to the "polluter-pays" principle;

Noting that there is a need to establish an international information and consultation mechanism to co-ordinate efforts directed at the prevention or eradication of harmful introductions;

Recognising that it is particularly difficult to mobilise the competent authorities and public, whenever an introduction does not endanger human health or major economic interests, and noting the consequent need for a vigorous policy of information and education concerning the problem and the ecological consequences thereof;

Bearing in mind Recommendation No R (84) 14 of the Committee of Ministers of the Council of Europe to Member states on the introduction of non-native species, adopted on 21 June 1984;

Recalling that under Article 8.h of the Convention on Biological Diversity, each Party undertakes to prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species,

Recommends that Contracting Parties:

1. Prohibit the deliberate introduction within their frontiers or in a part of their territory of organisms belonging to non-native species for the purpose of establishing populations of these species in the wild, except in particular circumstances where they have been granted prior authorisation by a regulatory authority, and only after an impact assessment and consultation with appropriate experts has taken place;
2. Endeavour to prevent the accidental introduction of organisms belonging to non-native species into the environment with the potential to establish populations, where they use anthropogenic routes of dispersal;
3. Draw up a documented national list of non-native species established in the wild, which are known to be invasive and/or cause harm to other species, ecosystems, public health or damage to economic activities;
4. To consider, for the purposes of the application of the application of the Convention, the suggested measures listed in the guidelines set out in the Appendix to the present Recommendation, as appropriate to the specific circumstances in their territory;
5. Communicate to the Secretariat, so that it may in turn inform the other Contracting Parties, any relevant measures adopted or envisaged as well as any information available on the outcome of the measures adopted.

## APPENDIX

### Guidelines

Measures that may be considered as appropriate for controlling introductions of non-native species are listed for consideration by Contracting Parties. Where appropriate, Contracting Parties are invited to take into account the provisions of existing international agreements and recommendations where they already address issues which are listed in these guidelines.

#### 1. Deliberate introductions into the environment

*a.* Establishing, in application of the principles of precaution and prevention, a system for prohibiting deliberate introductions of organisms belonging to non-native species, and not granting exemptions save in exceptional cases. Whatever the circumstances, the prohibition should apply to the deliberate introduction of any organisms belonging to non-native species into the environment. Take particularly into consideration the vulnerability of ecosystems of islands, lakes, enclosed and semi-enclosed seas, or centres of endemism.

*b.* Establishing a system of exemptions, or exceptional authorisations, based on the following provisions:

*i.* the introduction of an organism belonging to a non-native species should only be considered if it benefits man and/or ecosystems;

*ii.* the introduction of an organism belonging to a non-native species should only be considered if no native species is considered suitable for the purpose for which the introduction is being made;

*iii.* no organism belonging to non-native species should be introduced into the environment, except for exceptional reasons and only if the operation has been preceded by a comprehensive and carefully planned impact study, which has reached a favourable conclusion on the proposal.

*c.* Such an impact study should include :

*i.* a taxonomic, ecological and ethological analysis;

*ii.* an analysis of the reproduction, feeding habits, dispersal or migration (if relevant), pathology, predators and competitors of the species to which the organism concerned belongs and of the risks of hybridisation with organisms belonging to native species;

*iii.* an ecological analysis of the proposed host habitat (including, in particular, an assessment of the effects on the surrounding natural or semi-natural habitats of the introduction of any organisms belonging to species, sub-species or varieties of plant to artificial, arable, ley pasture, forest or other monoculture systems);

*iv.* an appropriate assessment of measures to reduce or minimise negative effects;

*v.* an analysis of the risks and dangers and of the means that could be used to eradicate or control the introduced population should unforeseen or harmful consequences of the introduction come to light.

*d.* Defining with precision the statutory quarantine procedures applicable to imported non-native species for each of the main taxonomic groups, and informing the Secretariat of these statutory procedures where they exist.

*e.* Once the introduction has been authorised but before the introduction takes place, carrying out trials in a controlled manner or, where possible, in a confined space.

*f.* Introduction operations should only be carried out by officially recognised establishments and be subject to very strict health and safety requirements.

## **2. Accidental introductions into the environment**

### **2.1. "Fugitives"**

*a.* Defining as "fugitives" organisms belonging to non-native species (or their descendants) that have been imported lawfully and set free, either accidentally or deliberately, but without the deliberate intention to populate.

b. Limiting escapes by a very strict application of rules:

i. preventing escape from establishments containing non-native wild plants (botanic gardens, greenhouses, arboreta and other types of plant culture), or where non-native wild animals are held in captivity (zoos, animal-breeding establishments, fish farms, etc.), by adopting measures to prevent such escape, which may include:

- strict standards of security for boxes, cages, enclosures and for the transportation of species,
- the strict control and containment in a confined space of species considered as a potential serious ecological danger in the event of their escape,

- the requirement that all establishments keeping captive organisms belonging to non-native species should be licensed,

- a register of and an appropriate system to mark animals so that their origin can be identified in the event of their escape,

- strict rules in the event of the establishment closing down to prevent organisms from being deliberately or accidentally freed,

- for the breeders of aquatic species, a location that rules out any communication with open water, bearing in mind the risk of flooding; ideally, such installations should never be located in an area liable to storm damage, even very exceptional climate events (in particular, floods every 100 or even 500 years);

ii. since special attention must be given to aquariums because of the risks involved when they are emptied, imposing standards and procedures on public aquariums and on dealers in species used in aquariums;

iii. since animals, plants or micro-organisms accompanying lawfully introduced organisms constitute another aspect of accidental introductions of organisms, in particular marine organisms, applying strictly the International Council for the Exploration of the Sea (ICES) Code of Practice on the Introductions and Transfers of Marine Organisms  1994, which requires that only species of the first generation be set free, after a period of quarantine, and never species belonging to the stock initially imported; issuing a permit for the transport of captive-bred organisms which should be authorised only if the conditions in question are fulfilled;

iv. recognising that organisms belonging to aquatic species which are meant to remain captive constitute such a potential risk of introduction that all the rules applicable to deliberate introductions should be applied to them with the same strictness; issuing instructions or guidelines to the purchasers of aquatic species;

v. as the use of live bait for fishing is another source of unintentional introductions, ensuring, by means of appropriate regulations covering the trade in and use of such live bait, that only organisms belonging to species present in the waters concerned are in fact used. It is important to safeguard the faunal and floral integrity of each drainage basin and thus not to introduce organisms belonging to species that are naturally absent from it, even if they come from neighbouring drainage basins in the same State;

vi. drawing up special rules to safeguard certain sensitive areas (protected areas, islands, areas recognised as having great biological diversity or containing endemic species) from escaped species, such as prohibiting establishments from keeping captive species in these areas or in their neighbourhood

or subjecting such establishments to even stricter security conditions than elsewhere;

vii. as the setting free of pets belonging to non-native wild species is a development of increasing concern, limiting as appropriate the species that may be offered for sale to ones that could not survive in the environment in the country concerned or, in so far as people travel with their animals, that could not survive anywhere in Europe. Failing or in addition to this, taking as appropriate the following measures: a general prohibition on setting these pets free; an obligation for pet merchants to inform their customers of this prohibition and of the penalties for violation; a recovery system for animals their owners wish to get rid of, which could be financed by a tax on sales; providing an incentive to use this system in the form of a refundable deposit; subjecting as appropriate animal dealers to the same rules as other enterprises keeping captive animals;

viii. taking precautions that organisms belonging to non-native species intended for human consumption do not escape, alive, into the environment;

ix. taking precautions that non-native cultivated forestry species or ornamental plants do not become propagated into the environment;

x. controlling the possession and transport of organisms belonging to non-native species and, provided that reliable criteria are available, prohibiting the possession of organisms belonging to non-native species liable to reproduce in the environment.

## **2.2. "Stowaways"**

a. Defining as "stowaways", organisms belonging to non-native species transported inadvertently from one country to another.

b. Identifying all vectors of introductions and adopting effective preventive measures:

i. increased inspections and the application of veterinary and plant health measures in regard to consignments of animals and plants and products thereof and the packaging used;

ii. taking, as appropriate, preventive measures in respect of aircraft and ships arriving from exotic countries, in view of the fact that they represent another pathway for introductions, paying particular attention to water used as ballast.

## **3. The control of introduced species**

a. Abolishing the legal protection enjoyed by certain species introduced without authorisation and giving them a special legal status so that the necessary control and eradication measures can be taken. In particular, steps should be taken to ensure that introduced species are not automatically protected by law when the latter applies to all the species belonging to a particular taxonomic group, in order to make it legally possible to control them (express reference should be made to "indigenous" species in lists of protected species).

b. Preventing any consolidation of the genetic base and populations of such species into the environment and, if appropriate, facilitating the taking of any active measures of control or eradication required:

i. prohibiting all further releases by publishing a list of animal and plant species already introduced without authorisation which it is forbidden to set free into the environment, and by regulating the possession and transport of such species in order to keep them in a confined area, thus minimising the risk of escape;

- ii. classifying species introduced without authorisation among those for which hunting or destruction is permitted at all times;
  - iii. introducing an obligation to notify the authorities of the presence in the environment of unauthorised non-native species and attempting to eliminate them;
  - iv. granting the authorities the power to declare an ecosafety emergency in order to attempt to eradicate species introduced without authorisation;
  - v. empowering the administrative authorities to take eradication measures in the event of unlawful introduction;
  - vi. adopting plans to control species introduced without authorisation by requiring landowners, local authorities and the central administration to introduce measures laid down in regulations to eradicate or limit the numbers of certain species or to safeguard natural areas, especially protected areas and their surroundings, from the intrusion of unauthorised non-native species.
- c. Preventing a species introduced without authorisation from spreading through the introduction of binding preventive measures: inspections, disinfection, the closing of certain areas to traffic, etc.

#### **4. Offences, penalties and civil liability**

- a.* Punishing illegal introductions, including those resulting from negligence.
- b.* With a view to making illegal introductions easier to prove: making it compulsory to register and mark large captive animals so that their owner can be easily identified; and, for other species establishing a presumption;
- c.* With regard to penalties:
  - i.* establishing criminal penalties for unlawful introductions of organisms belonging to non-native species and, where appropriate, making the authors of these introductions civilly liable (the penalties for unlawful introductions should be as severe as for the most serious offences against legislation on protection of the environment, such as certain types of pollution);
  - ii.* applying administrative sanctions against establishments that keep or breed organisms belonging to non-native species but do not take the necessary precautions to prevent their escape. These could involve the withdrawal of permits and the temporary or even permanent closing of the enterprise, and the confiscation of the organisms.
- d.* With regard to reparation, and with reference to the polluter-pays principle:
  - i.* making the person responsible for the offence bear the cost of eradicating the species introduced without authorisation;
  - ii.* in the event of an escape, making the person responsible liable for the cost of the preparation and execution of a plan for recapture, control or eradication;
  - iii.* instituting a system of reimbursement of the expenses incurred for reparations, as well as the payment of compensation in respect of the damage caused to the environment;
  - iv.* setting up guarantee systems and insurance arrangements or compensation funds financed by professional species breeders or traders.

#### **5. National policies and institutions**

- a.* Framing a national public policy on the introduction of non-native species.
- b.* Designating a specialised department within each competent authority with appropriate resources to prepare measures indicated in the present appendix and supervise their implementation.
- c.* Consulting clearly identified scientific and other clearly identified competent authorities before decisions are taken on the introduction of organisms belonging to non-native species, reintroductions of organisms belonging to wild species, restocking and reinforcement of populations of organisms belonging to wild species in the environment, and possibly eradication.

*d.* Constituting interministerial machinery to co-ordinate the action taken by the various authorities concerned and drawing up a national programme to reduce the risk of accidental introductions, rapidly identify newly introduced organisms belonging to non-native species and control ones that have become established in the wild without damaging the environment.

With regard to aquatic species, for example, a commission composed of the various authorities concerned with continental waters and the oceans could be responsible for preparing a report identifying and assessing methods of reducing the risks associated with the introduction of organisms belonging to non-native species, which would also cover:

- the identification, description and management of the risks entailed by the various possible types of introduction,
- a decision making process for approving programmes to control introduced species,
- research, in particular on past introductions, education and technical assistance.

## **6. Information and co-operation**

*a.* Informing the general public of the ecological, economic and health hazards associated with introductions of organisms belonging to non-native species, and of the criminal and/or civil liability incurred by infringing the statutory provisions in force.

*b.* Co-operating with neighbouring states or ones sharing a common coastline, whether or not they are parties to the Bern Convention, directly or through the intermediary of the Secretariat; consulting them on the measures that might be adopted, notifying them of deliberate introductions and informing them of accidental ones.

*c.* Submitting an annual report to the Standing Committee on the application of this recommendation and in particular on introductions creating or liable to create a risk.



## APPENDIX 5

### Convention on the Conservation of European Wildlife and Natural Habitats

#### **Draft Recommendation of the Standing Committee on the reintroduction of organisms belonging to wild species and on restocking and reinforcing populations of such organisms in the environment**

The Standing Committee of the Convention on the Conservation of European Wildlife and Natural Habitats, acting under Article 14 of the Convention,

Having regard to the purpose of the Convention, which is in particular to ensure the conservation of wild flora and fauna by paying particular attention to endangered and vulnerable species, including migratory species;

Recalling that, under Article 11.2(a) of the Convention, each Contracting Party undertakes to encourage the reintroduction of native species of wild flora and fauna when this would contribute to the conservation of an endangered species, provided that a study is first made in the light of the experiences of other Contracting Parties to establish that such reintroduction would be effective and acceptable;

Wishing to improve the implementation of this provision and to take account of the particular case of population reinforcements;

Specifying that operations to reintroduce organisms belonging to wild species and to restock and reinforce populations of such organisms referred to in this recommendation do not concern species which are not native to a given territory;

Considering that species native to a given territory means a species that has been observed there in the form of a naturally-occurring and self-sustaining population in historical times; "species", for the purposes of this recommendation, refers both to species and to lower taxonomic categories, sub-species, varieties etc (thus, for instance, the release of a non-native sub-species into a given territory should be considered an introduction);

Bearing in mind Recommendation No. R (85) 15 of the Committee of Ministers of the Council of Europe to member States on the reintroduction of wildlife species, adopted on 23 September 1985, the Position Statement on the translocation of living organisms as approved on 4 September 1987 by the Council of the World Conservation Union (IUCN), and the Guidelines on reintroductions approved by the IUCN Council in May 1995;

Bearing in mind the Pan-European Biological and Landscape Diversity Strategy, as approved on 25 October 1995 by the Pan-European Ministerial Conference, "An Environment for Europe", which called in Action Theme 11 on threatened species (paragraph 11.2) for the mobilisation of joint efforts, including zoological and botanic gardens expertise throughout Europe, for *in situ* and *ex situ* conservation and reintroduction/restoration programmes wherever such actions are integrated into species action plans (1995-2000);

Recommends that the Contracting Parties;

1. regulate the procedures and conditions for operations to reintroduce organisms belonging to wild species and to restock and reinforce populations of organisms belonging to wild species in the environment;
2. introduce legislation and regulations to protect species which have been reintroduced and which have been included in operations for restocking and reinforcing populations;
3. consider carefully, for the purposes of implementing the Convention, the suggested measures listed in the Guidelines appended to this Recommendation, in so far as they are appropriate to the specific conditions prevailing in their territory;
4. notify the Secretariat of any relevant measures adopted or envisaged so that it may in turn inform the other Contracting Parties.

## APPENDIX

### Guidelines

Measures which may be considered appropriate for operations to reintroduce organisms belonging to wild species and for operations to restock and reinforce populations of such organisms, for consideration by Contracting Parties. Contracting Parties are also invited to apply the provisions of existing international agreements and recommendations which address issues covered by these guidelines.

#### 1. Reintroductions

*a.* Consider that "reintroduction" means the deliberate or accidental release of an organism belonging to a non-native taxon into the environment of a given territory forming part of the distribution area of a native species to which it belongs (a species or lower taxon which has previously been observed as a naturally occurring and self-sustaining population in historical times, but which has declined or disappeared as a result of human intervention or a natural disaster).

*b.* Regulate the procedures and conditions for reintroduction operations, in particular by providing for:

*i.* the requirement to obtain a permit from the authorities responsible for nature protection for any operation to reintroduce organisms belonging to a wild species into any part of the national territory from which it has disappeared, such permit being granted in accordance with the following procedure:

- a permit should be granted only if the original causes of extinction of the species in question have been eliminated and the habitat requirements of the species are satisfied;
- the organisms reintroduced should belong to a subspecies or type as close as possible to the original stock, and preferably to the subspecies previously occurring in the area;

- the reintroduction envisaged should not cause substantial damage to agriculture or to forestry;
  - the procedure for dealing with applications for permits should include:
    - an assessment of the possible effects of the reintroduction on the environment, on other species and on social and economic interests;
    - consultation of a scientific body designated for this purpose;
    - public hearings, where it is shown that the reintroduction may have a social and economic impact or, at least, consultation of the persons concerned, especially local authorities and landowners;
    - consultation neighbouring states where reintroduced organisms are liable to cross borders;
  - ii. penalties for any reintroduction carried out without a permit or in violation of the permit conditions;
  - iii. recognition of the civil liability of those responsible for unlawful reintroductions for any resulting damage and for the cost of any necessary eradication measures;
  - iv. compensation for damage which might be caused by permitted reintroductions.
- c. Adopt legislation and regulations designed to protect reintroduced species. It should be possible to make exceptions when serious damage is caused by the reintroduced organisms, but the capture or killing of such organisms should be carried out only by the nature protection authorities or under their supervision.

## **2. Restocking and reinforcement of populations**

- a. Consider that an operation to restock or reinforce a population entails releasing a plant or animal species into an area where it is already present, whether this refers to boosting the numbers of an endangered species (as part of a recovery project, for example) or releasing members of game or fish species with a view to reconstituting a sufficiently abundant population or reinforcing it so that hunters or anglers may practise their sports.
- b. Subject operations to restock and reinforce populations of endangered animal and plant species from an authorised enclosure (since special provisions prohibit or restrict their possession, transport or sale) to the same rules as are applicable to reintroduction operations.
- c. Require a permit to be obtained for any release of indigenous game animals or fish and for all breeding establishments for such animals or fish, in accordance with the following criteria:
- i. permits should be granted only for the release of animals of the same subspecies as the population which is to be restocked or reinforced;
  - ii. permits should be granted only for the release of animals which are not carriers of pathogenic agents;
  - iii. a permit should be required for any importation of game animals with a view to their release.

## **3. Offences, penalties and civil liability**

The reintroduction of organisms belonging to wild species and the unlawful restocking and reinforcement of populations of wild species should be punished.

#### **4. National policies and institutions**

- a.* Frame a national public policy on the reintroduction, restocking and reinforcement of wild species.
- b.* Designate a specialised department in each competent authority with the necessary resources to prepare the measures referred to in this appendix and to supervise their implementation.

#### **5. Information and co-operation**

- a.* Provide the Secretariat with information on the reintroduction of organisms belonging to wild species and the restocking and reinforcement of populations of such organisms envisaged or already carried out, so that it may, if appropriate, inform other Contracting Parties.
- b.* Monitor closely operations to restock and reinforce populations of game and fish, so as to be able to determine:
  - the species concerned and the scale of operations;
  - the origin of the man-bred animals used;
  - the effects of restocking on the populations concerned and in particular on their population dynamics;
  - the precautions taken to avoid the transmission of diseases;
  - the possible effects of restocking on other species and the whole of the ecosystems concerned;
  - the views of interested parties (hunters, anglers and others) on the effects and success of restocking operations.

## APPENDIX 6

### Problems concerning the Bern Convention to be considered at a later date

#### (Extracts of the report on "Introductions of non-native organisms into the natural environment")

#### □ **Problem of the status of the introduced species listed in the Annexes to the Convention**

The Bern Convention does not contain any specific provision stipulating that the species listed in the Annexes must be native to the Contracting Party. It is therefore perfectly acceptable to include introduced exotic species in the Annexes and thus protect them. This is in fact just what has happened whenever a higher-level taxon of a given species (genus, family, order or class) has been included in one of the Annexes and the taxon in question comprises the species. This applies, for example, to birds, reptiles and amphibians because Annex III to the Convention provides overall protection for all species belonging to these classes, unless they are already included in Annex II.

It is true that Article 9 of the Bern Convention and Article 9 of the Habitats Directive allow exceptions to be made to the protection measures "for the protection of flora and fauna", which means that specific measures can be taken to control exotic species threatening native species. However, under the terms of the said Articles, such exceptions are only lawful if "there is no other satisfactory solution", and above all, if "the exception will not be detrimental to the survival of the population concerned". Consequently, any attempt to eradicate a non-native species would be unlawful if the said species is protected by the Convention or the Directive.

Where the Bern Convention is concerned, we might add the following annotation, *mutatis mutandis*, to all taxa liable to give rise to a problem vis-à-vis introduced species, and at all events for the birds, reptiles and amphibians listed in Annex III. Whenever a problem relating to introduced species is liable to arise, we might add the following explanation each time a higher-level taxon of a species is mentioned in a list of protected species:

"All species which are, have been, or will be present in the wild within the national territory, apart from those which have been intentionally or accidentally introduced to the said territory as a result of human action after (...), and those which have been introduced in the same conditions to the territory of another country and which are currently present within the national territory".

(This text provides automatic protection for re-established species, for species newly described in the future, for species whose presence within the national territory is newly discovered, and accidental species. It excludes introduced species, including those which have been introduced into a different State and then have naturally extended their new area of distribution to the country concerned. Dates will probably have to be mentioned in order to avoid excluding certain species which were introduced a long time ago and might justifiably be considered as belonging to the native flora and fauna).

□ **Problem of civil liability for damage to the environment**

Principle 13 of the Rio Declaration asks States to develop national law regarding liability and compensation for the victims of environmental damage and to co-operate in developing further international law in this field.

In Europe, the conclusion of the Convention on Civil Liability for Damage resulting from Activities Dangerous to the Environment may be considered as a direct result of this principle. The Convention, signed in Lugano on 21 June 1993 under the aegis of the Council of Europe, deals with liability on the part of public or private persons in cases of damage caused by activities which are considered intrinsically dangerous. Such activities include the production, culturing, handling, storage, use, destruction, disposal, release or any other operation concerning genetically modified organisms or micro-organisms which pose a significant risk for man, the environment or property. The environment is defined as comprising flora and fauna. The Convention, however, only applies to activities conducted on a professional basis. It does not apply to carriage. It lays down regulations on objective liability for damage caused to individuals, property and the environment by dangerous activities. The operator conducting such activities is therefore liable for any damage they cause, even where there is no negligence on his/her part and he/she can prove that he/she has taken all possible precautions to prevent accident. There are a number of exceptions, eg in the event of hostilities or a natural phenomenon of an exceptional, inevitable and irresistible character. Compensation for environmental damage is restricted to the cost of any measures of reinstatement which have been or will be actually implemented, the costs of protection measures and any loss or damage caused by such measures.

Environmental protection associations are empowered to request the prohibition of a dangerous activity which is unlawful and poses a grave threat of damage to the environment, and to secure orders to the operator to take measures to prevent damage or measures of reinstatement.

The authors of the Convention did not, however, include damage caused by introduced species other than GMOs and micro-organisms.

□ **Problem of international co-operation and State liability**

Species introduced to the territory of a State can easily spread to neighbouring States or whole regions. This is why we need mechanisms for inter-State co-operation, notification and consultation to co-ordinate prevention and control measures and to establish the bases of a compensation system for damage caused to the environment of other States by the introduction of exotic species. Despite the absence of a universally applicable text aimed specifically at co-operation in the field of introductions, the latter are indubitably covered by a number of recent instruments. This applies, for example, to Article 5 on international co-operation of the Convention on Biological Diversity, Articles 197 to 201 of the Convention on the Law of the Sea, which provide for mandatory notification for States liable to be affected in cases of imminent risk of damage or actual damage, as well as some of the principles of the Rio Declaration, notably Principle 19 on the notification of potentially affected States on activities which may have a significant adverse transboundary effect.

On the European front, the Committee of Ministers of the Council of Europe has issued two recommendations on introductions and reintroductions. The first (R (84) 14) recommends that the Council member States inform governments of neighbouring countries concerned of introduction schemes or accidental introductions and submit such schemes for an opinion to the Steering Committee for the Conservation and Management of the Environment and Natural Habitats. The second (R (85) 15) recommends that States inform the said Committee and if necessary the governments of neighbouring countries of reintroduction schemes and, if possible, co-ordinate reintroductions among the countries concerned.

Damage which might be caused to the environment of other States by an introduced species

spreading across the border incurs the liability of the State to whose territory it was originally introduced. This emerges clearly from Article 3 of the Convention on Biological Diversity, which stipulates that "States have, in accordance with the Charter of the United Nations and the principles of international law, ... the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction". This text embodies Principle 21 of the 1972 Stockholm Declaration, thus transforming a "soft law" provision into a binding obligation. Recognition of international liability for damage caused to the environment in other States also entails recognition of the right of the victim of the damage to request compensation. This is a matter which must be settled on the basis of the rules of private international law. The Lugano Convention on Civil Liability for Damage resulting from Activities Dangerous to the Environment addresses the issue where genetically modified organisms and micro-organisms are concerned.

**APPENDIX 7**

**NATIONAL REPORTS**

1. Belgium
2. Hungary
3. United Kingdom



**1. Belgium □ Flemish legislative background information**

A new Decree on Nature Conservation in Flanders was to be approved on 29 May 1997 by the Flemish Government (approval of Parliament is expected in the nereby future). This decree will be the new legal framework of all nature conservation actions in Flanders and forms an update of the old National Law on Nature Conservation of 12 July 1973. Some passages of the new Decree are relevant with respect to the problem of introduction of (non-)native species. A Copy of these passages and an English translation are enclosed.



#### **4. Hungary**

The related parts in the draft-law on Fishing and Angling have been drafted as follows:

*"44 paragraph 4.b: Introduction/settling in of any specimen of a fish species originating/coming from abroad or that of a descendant/offspring of that specimen shall be authorised by the Minister (of Agriculture) with the consent of the Minister responsible for Nature Conservation."*

This draft-law is under debate at the Parliament at the time being, certainly it will be passed this year.

The old legislation is still operative in the Plant Protection. The executive rules are in force, that I summarised when answering the questionnaire in 1995 (see T-PVS (95) 24, pp. 64-68, related pages mainly 65-66).

However, the codification of new legislation on Plant Protection is just starting. Surely, the new ruling will also be in accordance with the Nature Conservation Act, which is the most important for the introduction on non-native organisms.