



CITES Modernisation Part II
Reverse Listing

CITES Information Document

CITES Modernisation Part II – Reverse Listing

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Background

Currently, CITES uses a ‘direct’ listing model, meaning the default position is unrestricted trade.

The direct listing model was selected when the Convention was drafted based on the assumption that both flora and fauna are plentiful and only a small number of species traded require protection.

This assumption was explicitly tested in 1981, when Australia proposed moving to the ‘reverse’ listing model at CoP3 in New Delhi (CITES Doc. 3.30). Australia’s proposal to study reverse listing was adopted, but the subsequent study determined that with only 700 species listed and around 10,000 species traded, doing so would introduce unnecessary complexity.

Today CITES lists nearly 36,000 species and because of the global decline in populations the number of listed species continues to rise, making enforcement ever more difficult for overstretched customs and law enforcement.

What Is Reverse Listing?

Reverse Listing refers to a model under which the default position for any species is ‘no commercial trade’. Any proposal for commercial trade requires approval for a ‘reverse’ listing on the Appendices. Under the reverse listing model there would again likely be 3 Appendices – Appendix I: for species in which commercial trade is permitted, Appendix II: for species in which trade is permitted with restrictions and Appendix III: for exemptions (e.g. for cases in which the volume of trade does not justify going through the full compliance process required for App. I or II listing).

Reverse listing is commonly used when the Precautionary Principle forms the basis of the regulatory framework. Examples include medicines, medical implants, pesticides and aircraft components.

What Are the Implications of Reverse Listing?

Changing CITES to a reverse listing model requires a change to the Articles of the Convention. It will also require changes to established processes within CITES, although much of the work already done on individual species can be reused under the reverse listing model and many of CITES criteria and processes already include the precautionary principle.

The second major implication is that industry will become a major stakeholder in CITES processes, as the burden of proof that commercial trade is ecologically sustainable shifts to those advocating for trade.

The proposal outlined in Part I (Electronic Permits Implementation Via Cost Recovery) should be considered in conjunction with the recommendations in this Part II, as collecting high-quality, real-time data is critical to managing listings under the reverse listing model.

What are the Advantages of Reverse Listing?

With an ever-increasing number of listed species and the ongoing decline in biodiversity, moving to the reverse listing model is becoming imperative. The 1992 Rio Declaration urged “in order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities” (Principle 15 - the Precautionary Approach). **The reverse listing model directly implements the Precautionary Principle.**

Beyond that, the reverse listing approach has numerous advantages over the current direct listing model used by CITES:

1. Burden and cost of proof upfront on those who benefit from trade – not governments and NGOs as is currently the case.
2. Explicit need to prove ecological sustainability before any approval for trade – listing approval process could be based on Addis Ababa Principles on Sustainable Use, whilst also incorporating demand-side considerations, effects on the illegal trade, effects on enforcement and other criteria already used within CITES.
3. Expands CITES stakeholders to include industry, thereby bringing all stakeholders to the table.
4. Creates a more equitable system as costs related to scientific research, monitoring, identification and validation will be largely borne by industry.
5. Delays in listings due to e.g. lack of data are not detrimental to species as is currently the case.
6. Reduced enforcement costs – exporters and importers are forced to cooperate with customs as burden of proof at point of departure and entry shifts to exporter/importer.
7. Ability to explicitly take into account the impact of the illegal wildlife trade when making listing assessments.

Listing Process

This proposal does not seek to alter the current part-scientific, part-political nature of the CITES listing process. All listing proposals would still be decided by the Conference of the Parties.

Funding

Effective regulation requires the regulator to be funded appropriately. The regulatory overheads should therefore be recovered at cost basis from industry contributions, as is the case in many industries. This could be done through a registration and/or certification fee for exporters and

importers pegged to the volume of trade conducted under CITES (so as not to penalise small producers).

Because there is a higher need for scientific study and data collection from both the legal and illegal wildlife trade under the Reverse Listing model, these additional regulatory and monitoring costs need to be borne by industry.

The additional funding for CITES Committee work, National Scientific Authorities and the central data collection and reporting body (currently UNEP-WCMC) would be on a cost recovery basis. Additional funding would also need to be incorporated in the cost recovery to collect data on the illegal trade.

Transition Period

Because of the complex nature of changing the established CITES listing system to a reverse listing model, a transition period of 3-5 years will be required as species are progressively switched across to the new listing mechanism. This will temporarily increase the need for resources within CITES, which can be covered by the cost recovery mechanism outlined above.

During the transition period changes to current Appendix listings should be suspended as to encourage a speedy transition and to not divert resources from the transition process.

The Need to Change the Articles of the Convention

The switch to the reverse listing model requires changes to the Articles of the Convention. This should not amount to a renegotiation of the Convention. The proposed changes when studying the reverse listing model should be restricted to only those Articles that directly describe the listing mechanism and meaning of the Appendices.

Suggested Scope of the Study

A CITES Working Group should be formed to study the reverse listing model, its advantages and disadvantages compared to the current model, the issues associated with changing the Articles of the Convention and the issues associated with the transition period.

The terms of reference for the CITES Working Group should, for example, be:

1. To study the adequacy, likely effectiveness, advantages and disadvantages of both the current listing model and an alternative 'reverse' listing mechanism, as proposed originally by Australia in 1981, in relation to:
 - a. Achieving timely conservation outcomes for species traded under CITES and the ecosystem(s) they are embedded in.
 - b. Assessing trade impacts and conservation outcomes if reverse listing criteria were to incorporate the Addis Ababa Principles on Sustainable Use, demand side considerations, impacts on the illegal trade and other criteria already used by CITES.

- c. Making enforcement practical from a customs enforcement perspective, assuming continued low priority given to wildlife identification and crime by national customs organisations.
 - d. Shifting the burden of proof and associated costs for inclusion on the Appendices from those opposed to trade to those advocating for and benefitting from trade.
 - e. Taking the existing, expressed consumer demand and potential future demand appropriately into account when proposing new or continued trade in a species.
 - f. Including the cooperation with commercial market participants in the workings of the Convention.
2. To study the likely changes required to the Articles of the Convention and the feasibility of keeping the process of changing the Articles restricted to only those Articles that describe the listing mechanism and the Appendices.
3. To study the implications of moving established CITES processes to the 'reverse' listing mechanism, in relation to:
 - a. The ability to reuse established committees, processes, criteria and standards.
 - b. The time and resource requirements for changing those committees, processes, criteria and standards that would need to be retained and/or modified.
 - c. The impact on National Scientific and Management Authorities.
 - d. The uniform application of new listing criteria to ensure consistency in the application of standards.
 - e. The implications of industry stakeholders playing a much greater role in CITES processes and the Conference of the Parties.
 - f. The implications for existing stakeholders (such as NGOs and universities) resulting from the shift in burden of proof.
 - g. The increased funding needs for CITES during the transition period.
4. To study the ongoing funding needs in excess of current funding levels that would need to be recovered via industry contributions to enable CITES to act as an effective regulator under the reverse listing model.

Contacts

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