

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA

Fiftieth meeting of the Standing Committee
Geneva (Switzerland), 15-19 March 2004

Interpretation and implementation of the Convention

MOVEMENTS OF SAMPLE COLLECTIONS COVERED BY ATA OR TIR CARNETS

1. This document has been prepared by the working group established by the Standing Committee at its 49th meeting (Geneva, April 2003).

Background

2. Resolution Conf. 10.5 on Shipments covered by ATA and TIR carnets recommends in particular that all Parties ensure that their Management Authority issues appropriate documents for shipments travelling on ATA and TIR carnets. The ATA carnet is an international Customs document, valid for 12 months, that allows the temporary introduction of goods destined for fairs, shows, exhibitions and other events, foreseen in the Annexes of the Convention on Temporary Admission of Goods, adopted in Brussels on 6 December 1961 and in use in 57 countries.
3. Currently, any movement of sample collections across international borders requires the issuance of a re-export certificate from each of the countries visited. As several countries may be visited in a short period of time, and as the issuance of CITES documents is often cumbersome and may take a significant time, it is most unlikely that the required CITES paperwork can be obtained in time. In such circumstances and in order to avoid that each country proceeds in a different way, it appeared essential and urgent to establish a simplified common practice. Document CoP12 Doc. 52.2 proposed such a practice.
4. At its 12th meeting (Santiago, 2002), the Conference of the Parties considered the subject and adopted Decision 12.77, which states that:

The Standing Committee shall, in consultation with other relevant conventions and organizations, namely the World Customs Organization, ATA and TIR, examine the procedures and conditions for a CITES certificate becoming an annex to an ATA or TIR carnet, on the basis of document CoP12 Doc. 52.2 presented at the 12th meeting of the Conference of the Parties.

5. With respect to the carnet ATA, the administrative Committee for the Istanbul Convention agreed at its 5th meeting held in Brussels from 17 to 8 March 2003 to add the following text to the commentary to Article 19:

Documentation (permits or certificates) required under international conventions (such as the Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1973) should always accompany the goods concerned. In such cases a cross-reference to this documentation on the carnet could facilitate Customs clearance.

6. At its 49th meeting, the Standing Committee noted an oral report by the Secretariat relating to its discussions with the World Customs Organization and the World Chambers Federation, which had resulted in a lack of support for the proposal in document CoP12 Doc. 52.2 regarding the solution that a CITES document becomes an integral part of the ATA or TIR carnets. The Committee however agreed that this subject required to be resolved and that an informal working group, Consisting of Italy (chairman), Germany, Switzerland, the United States of America and the Secretariat, would prepare recommendations for consideration at the Committee's 50th meeting. The working group was directed to take account of the model travelling-exhibition certificate in Annex 3 of Resolution Conf. 12.3 (Permits and certificates) and examine whether sample collections could be regarded as being in transit for the purpose of facilitating their frequent cross-border movements.

Conclusions

7. The working group communicated electronically and was able to reach the following conclusions and recommendations.
8. As the procedure suggested at CoP12 was not acceptable, the working group decided to recommend a procedure that, whilst maintaining close links with ATA carnets, did not require the agreement of, or place any responsibility upon, the authorities in charge of ATA carnets. In addition, the working group decided not to take TIR carnets into account. The TIR carnet is an international Customs document allowing for the import and re-export of goods in transit and for the transport of goods under customs supervision from their last border crossing point to their final destination. It does not allow for the temporary introduction of goods destined for fairs, shows, exhibitions and other events. The TIR carnet may be used for the simple transit of sample collections through several countries but not for their temporary import with the purpose of displaying them.
9. Whether sample collections for dead specimens, parts and derivatives thereof could be regarded as being in transit for the purpose of facilitating their frequent cross-border movements appeared to be of prime importance. The following was considered;
 - a) Article VII, paragraph 1, of the Convention states that "the provisions of Articles III, IV and V shall not apply to the transit or transshipment of specimens through or in the territory of a Party while the specimens remain in Customs control". In other words, no CITES documents are required for such specimens.
 - b) However, recognizing that the exemption provided for specimens in transit has been or may be used to cover illegal activities, the Conference of the Parties adopted a definition of this term in Resolution Conf. 9.7 and recommended some restrictions on the application of the exemption. Thus, in addition to remaining in Customs control, the specimens are considered in transit only when they are in the process of shipment to a named consignee and any interruption in the movement arises only from the arrangements necessitated by this form of traffic. Furthermore, the Conference of the Parties recommends to the Parties to inspect specimens in transit to verify the presence of valid export documentation as required under the Convention or to obtain satisfactory proof of its existence.
 - c) The working group considered that there was no reason to believe that movements of sample collections returning to the country from where the movement started were an actual or potential cause of illegal activities that may be detrimental to the survival of the species concerned. It did not believe that these movements could provide a cover for illegal activities. Therefore, any requirement that would impede such movement

could be considered as contrary to Article VIII, paragraph 3, about specimens passing through formalities with a minimum of delay.

- d) To ensure that sample collections remain in Customs control, it was felt sufficient that they be actually covered by an ATA carnet.
10. The working group decided to propose an amendment to Resolution Conf. 9.7 that would enable such cross-border movements to be regarded as a form of 'in transit' trade.
11. As ATA carnets must be stamped and signed at each border crossing by the Customs authorities, the working group agreed that there was no need to require that the CITES document also be stamped and signed. As agreed in Resolution Conf. 9.7, assurance that a CITES document is present or existing is sufficient.
12. In such circumstances, the working group concluded that there was no need to establish a new CITES document. In its view, a standard CITES form (Annex 2 of Resolution Conf. 12.3) was the proper document to be used, subject to some specific conditions. It could be specified either as 'export permit', 're-export certificate' or 'other'. In the last of these cases, the indication 'for sample collections' should be included in the box for 'special conditions'. In any case, the specimens in the sample collections would have to be covered by ATA carnets.
13. The working group agreed finally that this procedure should be applicable to dead specimens, parts and derivatives thereof of Appendix-II and -III specimens, and of Appendix-I species bred in captivity or artificially propagated, which are treated as Appendix-II specimens.

Recommendations

14. The working group recommends, for movements of sample collections covered by ATA carnets, that Resolution Conf 9.7 be amended as indicated in Annex 1 to this document and that Resolution Conf. 12.3 be amended as indicated in Annex 2. It recommends also that Resolution Conf. 10.5 be repealed, as it will become defunct if the proposed changes are adopted by the Conference of the Parties.
15. The working group suggests that the Standing Committee accept the recommendations in paragraph 12 and that the Committee should instruct the CITES Secretariat to prepare on its behalf the necessary document for consideration at CoP13.

Proposed amendments to Resolution Conf. 9.7 (Transit and transshipment)

Note: Suggested deletions are marked with a line through the text (strikethrough)
Suggested additions are highlighted in bold italics

RECALLING Resolutions Conf. 4.10, Conf. 7.4 and Conf. 9.5⁴, adopted at the fourth, seventh and ninth meetings of the Conference of the Parties (Gaborone, 1983; Lausanne, 1989; Fort Lauderdale, 1994);

RECOGNIZING that Article VII, paragraph 1, of the Convention allows the transit or transshipment of specimens through or in the territory of a Party without the need for regulation by the Party;

RECOGNIZING also that there is potential for the abuse of this provision by the keeping of specimens in the territory of a Party while seeking a buyer in another country;

RECOGNIZING the need for Parties to take measures to fight illegal trade;

RECOGNIZING also, however, the need for Parties to facilitate the frequent cross-border movement of sample collections covered by ATA carnets;

NOTING that control of transit shipments for valid export documentation is an important way to discover illegal trade in CITES specimens;

AWARE that shipments not covered by the exemptions specified in Article VII of the Convention and travelling on an ATA carnet still require appropriate CITES documentation;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

RECOMMENDS that:

- a) ***except in the case of sample collections referred to in paragraph b) below***, for the purpose of Article VII, paragraph 1, of the Convention, the phrase 'transit or transshipment of specimens' be interpreted to refer only to specimens that remain in Customs control and are in the process of shipment to a named consignee when any interruption in the movement arises only from the arrangements necessitated by this form of traffic;
- b) ***the phrase 'transit or transshipment' be additionally interpreted to refer to cross-border movements of sample collections of specimens that comply with the provisions of section XV of Resolution Conf. 12.3 (Rev. CoP13 and are accompanied by an ATA carnet.***
- ~~b)c)~~ the Parties inspect, to the extent possible under their national legislation, specimens in transit or being transhipped, to verify the presence of valid ~~export~~ documentation as required under the Convention or to obtain satisfactory proof of its existence;
- ~~e)d)~~ such valid ~~export~~ documentation clearly show the ultimate destination of the shipment, ***which, in the case of sample collection, must be the country of issuance;***

⁴ ~~Corrected by the Secretariat: formerly referred to Resolution Conf. 8.8.~~

- ~~e)~~ any change of ultimate destination be investigated by the country of transit or transshipment to verify that the transaction complies with the purposes of the Convention;
- ~~f)~~ Parties adopt legislation allowing them to seize and confiscate specimens in transit or being transhipped without valid ~~export~~ documentation or proof of the existence thereof;
- ~~g)~~ when an illegal shipment in transit is discovered by a Party that can not seize it, the Party provide to the country of final destination and to the Secretariat all relevant information on the shipment as soon as possible and, if applicable, to other countries through which the shipment will pass in transit;
- ~~h)~~ the above recommendations be applied also to specimens in transit or being transhipped that are destined for or coming from States not party to the Convention, including specimens in transit between such States; and
- ~~i)~~ Parties note that the Convention does not make special provision for airport lounges (including duty-free shops), free ports or non-Customs zones, because each Party is deemed to have sovereignty over the whole of its territory, and to apply the Convention accordingly; ~~and~~

URGES all Parties to communicate with their Customs and other CITES enforcement officials to ensure that all CITES shipments travelling on ATA or TIR carnets comply with the applicable provisions of CITES; and

REPEALS the Resolutions listed hereunder:

- a) Resolution Conf. 4.10 (Gaborone, 1983) – Definition of ‘In Transit’;
- b) Resolution Conf. 7.4 (Lausanne, 1989) – Control of Transit; **and**
- c) ***Resolution Conf. 10.5 (Harare, 1997) – Shipments covered by ATA and TIR carnets.***

Proposed additions to Resolution Conf. 12.3 (Permits and certificates)

Add a new section, as follows:

XV. Regarding documents for sample collections covered by ATA carnets

RECOMMENDS that:

- a) *for the purpose of the procedure described below, the term 'sample collection' refers to collections of legally acquired dead specimens, parts and derivatives of species included in Appendix II or III and of Appendix-I species bred in captivity or artificially propagated, which are treated as Appendix-II specimens, that are not entitled to be sold or otherwise transferred, and which will cross borders for presentation purposes before returning to the country from which such movement was first authorized;*
- b) *such sample collections be considered as 'in transit' and entitled to the special provisions stipulated in Article VII, paragraph 1, as explained in Resolution Conf. 9.7 (Rev. CoP13), on the following conditions:*
 - i) *sample collections shall be covered by ATA carnets and be accompanied by a standard CITES permit, on which it shall be indicated that the document is a permit or certificate either for 'export' or 're-export', as appropriate, and/or 'other' and, in addition, it shall be clearly specified that the document is issued for a 'sample collection';*
 - ii) *it shall be specified in block 5, or an equivalent place, that "This document covers a sample collection and is invalid unless accompanied by a valid ATA carnet. The specimen(s) covered by this certificate may not be sold or otherwise transferred whilst outside of the territory of the State that issued this document." The number of the accompanying ATA carnet should be recorded and, if necessary, this may be entered by the Customs office responsible for the first endorsement of the carnet;*
 - iii) *the name and address (including the country) of the importer and the exporter or re-exporter shall be identical, and in block 5, or an equivalent place, the names of the countries to be visited shall be mentioned;*
 - iv) *the date of expiration of such a document shall not be later than that of the ATA carnet accompanying it and the period of validity shall not be more than six months from the date on which it was granted;*
 - v) *at each border crossing, Parties shall verify the presence of the CITES document but allow it to remain with the collection, and ensure that the ATA carnet is properly endorsed with an authorized stamp and signature by a Customs official; and*
 - vi) *Parties shall check the CITES document and sample collection closely at the time of first export or re-export and on its return, to ensure that the collection was not subject to any change; and*

AGREES that:

- a) such a document shall not be transferable and when, during a stay in a State, it is lost, stolen or accidentally destroyed, only the Management Authority that issued it may issue a duplicate. This duplicate will bear the same number, if possible, and the same date of validity as the original document, and contain the following statement: "This document is a true copy of the original";***
- b) if specimens in the collection are stolen, destroyed or lost, the issuing Management Authority of the document shall be immediately informed as well as the Management Authority of the country in which that occurred; and***
- c) the normal CITES procedures for export, re-export and import of sample collections shall be followed by those Parties that do not recognize or allow the use of ATA carnets.***