

# Conf. 9.10

(Rev. CoP15)\*

## Disposal of confiscated and accumulated specimens

RECALLING Resolutions Conf. 2.15, Conf. 3.9, paragraph c) ii), Conf. 3.14, Conf. 4.17, Conf. 4.18, Conf. 5.14, paragraph f), and Conf. 7.6, adopted by the Conference of the Parties at its second, third, fourth, fifth and seventh meetings (San José, 1979; New Delhi, 1981; Gaborone, 1983; Buenos Aires, 1985; Lausanne, 1989), relating to illegally traded, confiscated and accumulated specimens, international compliance control and other aspects of enforcement;

RECALLING Resolution Conf. 10.7 (Rev. CoP15), on *Disposal of confiscated live specimens of species included in the Appendices*, adopted by the Conference of the Parties at its 10th meeting (Harare, 1997) and amended at its 15th meeting (Doha, 2010);

RECOGNIZING that Parties have experienced problems with the disposal of specimens of Appendix-I species that have been obtained as a result of confiscation, accidental death or otherwise;

RECALLING that Article III, paragraph 4 (a), and Article IV, paragraph 5 (a), of the Convention, require that, as a pre-condition for the issuance of a re-export certificate, the Management Authority of the State of re-export be "satisfied that the specimen was imported into that State in accordance with the provisions of the present Convention";

WHEREAS Article VIII of the Convention requires Parties to take appropriate measures to enforce the provisions of the Convention and to prohibit trade in specimens in violation thereof, including measures to provide for the confiscation or return to the State of export of illegally traded specimens;

RECOGNIZING that Article VIII, paragraph 4 (b), of the Convention requires Parties to return any confiscated living specimen to the State of export, after consultation with and at the expense of that State, or to place it in a rescue centre or other appropriate place;

NOTING, however, that Article VIII does not preclude the Management Authority allowing the importer to refuse acceptance of a shipment, thus forcing the transporter to carry the shipment back to the (re-)exporter;

CONSIDERING that a Party may also provide for the internal reimbursement of expenses that result from the confiscation of a specimen traded in violation of the Convention;

AWARE that, according to Resolution Conf. 10.7 (Rev. CoP15), the successful recovery of the costs of confiscation and disposal from the guilty party may be a disincentive for illegal trade;

AWARE that some Parties do not allow the sale of confiscated specimens because of the message this transmits to the public;

ALSO AWARE that Parties may decide not to allow the sale of confiscated specimens, in order to exclude illegally traded specimens from entering commercial trade;

### THE CONFERENCE OF THE PARTIES TO THE CONVENTION

RECOMMENDS that:

#### ***Regarding the export or re-export of confiscated specimens***

- a) except in the circumstances specified in paragraphs b) and c) below, Parties not authorize any re-export of specimens for which there is evidence that they were imported in violation of the Convention;
- b) when applying Article III, paragraph 4 (a), and Article IV, paragraph 5 (a), of the Convention to specimens that were imported not in accordance with the provisions of the Convention and that are being re-exported by a Management Authority for purposes of implementing the provisions of Article VIII or of this Resolution, or for investigatory or judicial purposes, the specimens be deemed to have been imported in accordance with the provisions of the Convention;

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\* Amended at the 10th, 13th, 14th and 15th meetings of the Conference of the Parties.

- c) when applying Article IV, paragraphs 2 (b) and 5 (a), of the Convention to specimens of species in Appendix II that have been confiscated as a result of attempts to import or export them illegally and that have subsequently been sold by the Management Authority, having satisfied itself that this would not be detrimental to the survival of the species, the specimens be deemed to have been obtained in accordance with the provisions of the Convention and with the laws of the State for the protection of fauna and flora for the purposes of issuing export permits or re-export certificates; and
- d) permits and certificates granted in accordance with paragraph b) or c) above clearly indicate that the specimens are confiscated specimens;

**Regarding the disposal of confiscated and accumulated dead specimens**

- e) Parties dispose of confiscated and accumulated dead specimens of Appendix-I species, including parts and derivatives, only for *bona fide* scientific, educational, enforcement or identification purposes, and save in storage or destroy specimens whose disposal for these purposes is not practicable;
- f) as a general rule, confiscated dead specimens, including parts and derivatives, of Appendix-II and Appendix-III species be disposed of in the best manner possible to achieve the purposes of the Convention, and steps be taken to ensure that the person responsible for the offence does not receive financial or other gain from the disposal;

**Regarding costs associated with confiscated specimens**

- g) Parties make legislative provision to require the guilty importer or the carrier, or both, to meet the costs of confiscation, custody, storage, destruction or other disposal, including returning specimens to the country of origin or re-export (as appropriate), where the Scientific Authority of the confiscating State deems it in the interest of the specimens to do so, and the country of origin or last re-export so wishes; and
- h) where such legislation does not exist and the country of origin or last re-export wishes a confiscated live specimen to be returned, that country shall seek financial assistance to facilitate the return; and

**Regarding publicity**

- i) Parties publicize information on seizures and confiscations when appropriate as a deterrent to illegal trade, and inform the public about their procedures for dealing with seized and confiscated specimens and about rescue centres; and

CONFIRMS that Parties have the right to allow, or should they choose to do so, not to allow the sale of confiscated dead specimens, including parts and derivatives, of Appendix-II and -III species; and

REPEALS the Resolutions, or parts thereof, listed hereunder:

- a) Resolution Conf. 2.15 (San José, 1979) – *Exchange of Confiscated Appendix I Specimens*;
- b) Resolution Conf. 3.9 (New Delhi, 1981) – *International Compliance Control* – paragraph c) ii);
- c) Resolution Conf. 3.14 (New Delhi, 1981) – *Disposal of Confiscated or Accumulated Specimens of Appendix I Species*;
- d) Resolution Conf. 4.17 (Gaborone, 1983) – *Re-export of Confiscated Specimens*;
- e) Resolution Conf. 4.18 (Gaborone, 1983) – *Disposal and Return of Illegally Traded Appendix II Specimens*;
- f) Resolution Conf. 5.14 (Buenos Aires, 1985) – *Improving the Regulation of Trade in Plants* – paragraph f); and
- g) Resolution Conf. 7.6 (Lausanne, 1989) – *Return of Live Animals of Appendix II or III Species*.