

# Conf. 16.8 Frequent cross-border non-commercial movements of musical instruments (Rev. CoP17)\*

RECALLING that Article VII, paragraph 2, of the Convention provides that the provisions of Articles III, IV and V shall not apply to specimens that were acquired before the provisions of the Convention applied to those specimens, where the Management Authority issues a certificate to that effect;

RECALLING that Article VII, paragraph 3, of the Convention provides that, other than in certain circumstances, the provisions of Articles III, IV and V shall not apply to specimens that are personal or household effects;

RECOGNIZING that, because the Convention does not define the term 'personal or household effects' in Article VII, paragraph 3, the Parties adopted Resolution Conf. 13.7 (Rev. CoP17) on *Control of trade in personal and household effects* to define the term at the 13th meeting of the Conference of the Parties (Bangkok, 2004) and revised it at the 14th, 16th and 17th meetings (The Hague, 2007; Bangkok, 2013; Johannesburg, 2016);

NOTING that, under Resolution Conf. 13.7 (Rev. CoP17), Parties agreed to not require export permits or re-export certificates for personal or household effects that are dead specimens, parts or derivatives of Appendix-II species except under certain circumstances;

RECOGNIZING, however, that many Parties do not fully implement the personal and household effects exemptions in Article VII, paragraph 3, and Resolution Conf. 13.7 (Rev. CoP17), owing to stricter domestic measures or other provisions, resulting in administrative burdens for individuals who frequently move musical instruments manufactured from species listed in the Appendices to the Convention across international borders when they might otherwise be exempt from documentation requirements under the Convention;

RECOGNIZING that, under section VII of Resolution Conf. 12.3 (Rev. CoP18) on *Permits and certificates*, adopted at the 12th meeting of the Conference of the Parties (Santiago, 2002) and revised at the 13th, 14th, 15th, 16th, 17th and 18th meetings (Bangkok, 2004; The Hague, 2007; Doha, 2010; Bangkok, 2013; Johannesburg, 2016; Geneva, 2019), the Parties agreed that frequent cross-border movement of specimens used for exhibition purposes could be issued a travelling-exhibition certificate;

AWARE that musical instruments manufactured from species listed in the Appendices to the Convention may be frequently moved across international borders for a variety of legitimate non-commercial purposes, including but not limited to personal use, performance, display or competition;

NOTING that museums, orchestras or other such exhibitions moving musical instruments across international borders could be issued a travelling-exhibition certificate under Resolution Conf. 12.3 (Rev. CoP18) to facilitate such movement;

NOTING that the repeated granting of permits and certificates under Articles IV, V or VII of the Convention for musical instruments that are frequently moved across international borders for non-commercial purposes poses problems of a technical and administrative nature, but that such movement needs to be monitored closely to prevent illegal activities;

DESIRING that exemptions provided by the Convention not be used to avoid the necessary measures for the control of international trade in specimens crafted from species listed in the Appendices;

RECOGNIZING that Article XIV, paragraph 1 (a), of the Convention states that the provisions of the Convention shall in no way affect the right of Parties to adopt stricter domestic measures regarding the conditions of trade, taking, possession or transport of specimens of species included in Appendices I, II or III, or the complete prohibition thereof;

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\* Amended at the 17th meeting of the Conference of the Parties.

RECOGNIZING that old musical instruments containing specimens of CITES-listed species often are national cultural treasures due to their age, artistic quality and economic value;

RECOGNIZING that musical instruments are often owned by institutions or museums and loaned out to individual professional musicians playing with orchestras, music ensembles and groups taking part in overseas tours for the purpose of live concerts and other performances;

RECALLING Resolution Conf. 13.7 (Rev. CoP17) on *Control of trade in personal and household effects*; and

RECOGNIZING that when an individual travels with a legally acquired musical instrument that has been properly loaned by an institution, person or museum for purposes of performance or competition, the instrument may qualify for a personal effects exemption, consistent with Resolution Conf. 13.7 (Rev. CoP17). Further note that this exemption only applies when the musical instrument is carried or included in personal baggage of the individual for both export and re-export to the State where the instrument is normally held, and will not be sold or offered for sale while outside the State where the instrument is normally held;

#### THE CONFERENCE OF THE PARTIES TO THE CONVENTION

1. RECOMMENDS that for non-commercial cross-border movement of musical instruments derived from CITES species, other than Appendix-I specimens acquired after the species was included in the Appendices:
  - a) Parties issue a musical instrument certificate for a pre-Convention Appendix-I, -II or -III musical instrument or for a musical instrument containing specimens of Appendix-II or -III species acquired after the effective listing date, to facilitate the frequent non-commercial cross-border movement of musical instruments for purposes including, but not limited to, personal use, paid or unpaid performance, display or competition;
  - b) a competent CITES authority only issue a musical instrument certificate when it is satisfied that the CITES specimens used in the manufacture of the musical instrument have not been acquired in contravention of the provisions of the Convention;
  - c) the competent CITES authority require the applicant for a musical instrument certificate to provide their name and address and pertinent data regarding the musical instrument, including the species used to manufacture the instrument, and a means of identification, such as the manufacturer's name or serial number or other means of identification;
  - d) the certificate issued in accordance with subparagraph 1 a) above include in box 5, or in another box if the standard form referred to in Resolution Conf. 12.3 (Rev. CoP18) is not used, the following language: "The specimen covered by this certificate, which permits multiple cross-border movements, is for non-commercial use and may not be sold, traded or otherwise disposed of outside the certificate holder's State of usual residence";
  - e) when a musical instrument that is the subject of a musical instrument certificate issued pursuant to this Resolution is no longer in the possession of the individual to whom the certificate was issued (e.g. owing to sale, theft or destruction), the original musical instrument certificate be immediately returned to the issuing competent CITES authority;
  - f) a musical instrument certificate issued for a musical instrument be valid for a maximum period of three years to allow multiple imports, exports and re-exports of the instrument;
  - g) the Parties concerned treat each musical instrument certificate as a type of passport that allows the non-commercial movement of the identified musical instrument across their borders upon presentation of the original musical instrument certificate to the appropriate border control officer who:
    - i) inspects the original and validates it with an ink stamp, signature and date to show the history of movement from State to State; and
    - ii) does not collect the original at the border, but allows it to remain with the specimen;

- h) the Parties concerned require that the musical instrument be appropriately identified and that the identification mark or a detailed description of the instrument be included on the musical instrument certificate so that the authorities of the State into which the musical instrument enters can verify that the certificate corresponds to the musical instrument in question;
  - i) when, during a stay in another State, a musical instrument certificate for a musical instrument is lost, stolen or accidentally destroyed, only the Management Authority that issued the document may issue a duplicate. This duplicate will bear the same number, if possible, and the same date of validity as the original document, but will bear a new date of issuance and include the following statement: "This certificate is a true copy of the original";
  - j) in accordance with subparagraphs 1 a) and d) above, the musical instrument not be sold or otherwise transferred while outside of the State where the instrument is normally held;
  - k) musical instruments for which musical instrument certificates have been issued be returned to the State where the instrument is normally held before the expiration of the certificate, and that Parties not replace or re-issue musical instrument certificates that expire while the musical instrument is outside the State where the instrument is normally held; and
  - l) Parties maintain records of the number of musical instrument certificates issued under this Resolution and, if possible, include the certificate numbers and the scientific names of the species concerned in their annual reports;
2. RECOMMENDS Parties not to require a CITES export permit or re-export certificate for a musical instrument containing specimens of CITES-listed species where consistent with Resolution Conf. 13.7 (Rev. CoP17) on *Control of trade in personal and household effects*;
  3. ENCOURAGES all Parties to implement the procedures in this Resolution and to ensure that their customs officials are aware of them; and
  4. ENCOURAGES Parties that have introduced stricter domestic measures for CITES listed species to consider measures to streamline processes for issuance of CITES documents for musical instruments containing specimens of those species.