

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



Nineteenth meeting of the Conference of the Parties
Panama City (Panama), 14 – 25 November 2022

A SUMMARY OF CANADA'S CONTRIBUTION
TO THE STANDING COMMITTEE INTERSESSIONAL WORKING GROUP
ON CAPTIVE BRED AND RANCHED SPECIMENS

1. This document has been submitted by Canada^{*} in relation to CoP19 Doc. 53 *Review of CITES provisions related to trade in specimens of animals and plants not of wild source*. Canada would like to express its deep appreciation to the members of the Standing Committee working group and its Chair for guiding us through robust discussions. We note the comments of the Secretariat to CoP19 Doc.53 indicating that the problems the proposed amendments are intended to solve are unclear. As such, Canada provides this information document to share our views and understanding of the issues (problems), discussions and conclusions of the working group that resulted in the amendments currently being proposed for Resolution Conf. 10.16 (Rev.).
2. During the intersessional discussion between CoP18 and CoP19, Canada provided extensive comments related to Decision 18.173 as well as a proposal for a re-examination of Articles VII.4 and VII.5 regarding specimens of animal species that are bred in captivity for consideration by the working group established by the Standing Committee in relations to Decision 18.173. In May 2020, Canada identified policy assumptions, inconsistencies and ambiguities found in the resolutions related to animal specimens that are bred in captivity that we considered have led to uneven implementation of the Convention. Canada also provided detailed responses to the two documents referred to in CoP19 Doc. 53, paragraph 4 relating to Decision 18.173 task a) and task b) in April and May 2021 respectively. Canada would be happy to share these detailed views with interested Parties.
3. The implementation of Articles VII.4 and VII.5 was first set out over forty years ago in Resolution Conf. 2.12 (see Annex 1). Although this resolution was repealed in 1997 with the adoption of Resolution Conf. 10.16, many of the original concepts remain within the current pertinent resolutions.¹ However, subtle amendments and interpretation of these resolutions, as well as the application of Article XIV (Stricter domestic measures) by Parties, have over time resulted in multiple interpretations on how to implement Articles VII.4 and VII.5 and have evolved from what was originally intended in Resolution Conf. 2.12. We

^{*} *The geographical designations employed in this document do not imply the expression of any opinion whatsoever on the part of the CITES Secretariat (or the United Nations Environment Programme) concerning the legal status of any country, territory, or area, or concerning the delimitation of its frontiers or boundaries. The responsibility for the contents of the document rests exclusively with its author.*

¹ *Resolution Conf. 10.16 (Rev.), definition of bred in captivity; Resolution Conf. 12.3, source code definitions, simplified measures, permits and re-export certificates, acceptance and clearance of documents; Resolution Conf. 5.10 (Rev. CoP15), definition of "primarily commercial purposes"; and Resolution Conf. 12.10 (Rev. CoP15), registration of operations that breed Appendix I animal species in captivity for commercial purposes.*

discussed some of these in our interventions. It is Canada's view that significant time and resources are being allocated both during CITES intersessional work and in trade between Parties to address specific (and varied) interpretations of these resolutions and that these resources would be better allocated to address the conservation needs of animal species in the wild. In order to solve this very complex set of issues, in our view, these resolutions need to be analyzed within the context of current trade in specimens of animal species that have been bred in captivity to clarify how this trade should be conducted to best protect the wild species.

4. CoP19 Doc. 53, paragraph 5 notes "there were important contributions to the analysis of CITES policy assumptions during [the working group's] discussions" but provide no further elaboration on what these discussions included. In the spirit of transparency, Canada provides a summary of our interventions to the working group on the topic of policy assumptions in Annex 2.
5. In our third intervention to the working group, Canada also provided a summary of ambiguities and inconsistencies with Resolutions related to animal specimens that have been bred in captivity that we have identified. We additionally included suggestions on how these issues could be resolved in CITES Resolutions for consideration by the working group. See Annex 3 for this summary and the suggested amendments to Resolution Conf. 10.16 (Table 1), Resolution Conf. 12.3 (Table 2), Resolution Conf. 5.10 (Table 3) and Resolution Conf. 12.10 (Table 4) made by Canada. These suggested amendments fall into two categories; those related to the definition of bred in captivity and its implementation via source codes and those related to the implementation of Articles VII.4 and VII.5. It was our intent to provide these suggestions as a start point to stimulate discussion towards a revised set of Resolutions that would be consistent and unambiguous, and therefore facilitate trade in captive bred specimens while providing the protection needed for the wild species.
6. During the working group work, Canada suggested that the amendments to the resolutions proposed by Canada (see Annex 3) involving the definition of bred in captivity and related source code definitions provide the starting point for the working group discussions at a virtual meeting held in November 2021. Discussions related to interpretation of Articles VII.4 and VII.5 would be postponed to after CoP19. The paragraphs in Resolution Conf. 10.16 (Rev.) and Resolution Conf. 12.3 (Rev. CoP18) that were discussed by the working group are shaded in Annex 3, Tables 1 and 2 and a brief summary of the working group discussion is provided in *italics*. We were pleased that the working group agreed with this approach and that a robust discussion resulted. The working group discussed topics such as the use of Source code F for the offspring of gravid wild animals born in a controlled environment (See "[A Guide to the application of CITES source codes](#)" page 6); breeding stock of non-wild origin; the use of source code C under the export provisions of Articles III and IV; and alignment of source codes D, C and A for plants and animals. The results of this discussion were proposed as amendments to Resolution Conf. 10.16 and Resolution Conf. 12.3 in SC74 Doc. 56 and to Resolution Conf. 10.16 proposed in CoP19 Doc. 53.
7. Canada supports the continuation of the Standing Committee discussions as proposed in the draft decisions recommended by the Standing Committee in CoP19 Doc. 53. Current trade in specimens that are bred in captivity is much higher in volume and very different than the trade that existed in 1979, when Resolution Conf. 2.12 was adopted. The intention of Canada's interventions to the Standing Committee working group during the previous intersessional period was to facilitate discussions on CITES interpretation and implementation of Articles VII.4 and VII.5 to determine the best way to address the current trade in animals and plants not of wild source. We submit this information document to provide our views and approach to this complex issue and look forward to engaging with other Parties and in the future work of the Standing Committee. We invite interested Parties and observers to reach out to Canada at cites-science@ec.gc.ca for any additional clarification or dialogue.

RESOLUTION CONF. 2.12 SPECIMENS BRED IN CAPTIVITY OR ARTIFICIALLY PROPAGATED

(Reproduced here for ease of reference)

CONSIDERING that the Convention provides for special treatment of wildlife that are bred in captivity and plant specimens that are artificially propagated;

RECOGNIZING the need for the Parties to agree on a standard interpretation of those provisions;

RECOGNIZING also the need to apply these provisions in a way that will not be detrimental to the survival of wild populations;

RECALLING that in the case of wildlife these provisions were intended to apply only to captive populations sustained without augmentation from the wild;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

RECOMMENDS

- a) that the provisions of Article VII, paragraph 4, of the Convention be applied separately from those of Article VII, paragraph 5. Specimens of animal species in Appendix I bred in captivity for commercial purposes or plant species in Appendix I artificially propagated for commercial purposes shall be treated as if they were in Appendix II, and shall not be exempted from the provisions of Article IV by the granting of certificates to the effect that they were bred in captivity or artificially propagated;
- b) that the term "bred in captivity" be interpreted to refer only to offspring, including eggs, born or otherwise produced in a controlled environment, either of parents that mated or otherwise transferred gametes in a controlled environment, if reproduction is sexual, or of parents that were in a controlled environment when development of the offspring began, if reproduction is asexual. The parental breeding stock must be to the satisfaction of the competent government authorities of the relevant country;
 - i) established in a manner not detrimental to the survival of the species in the wild;
 - ii) maintained without augmentation from the wild, except for the occasional addition of animals, eggs or gametes from wild populations to prevent deleterious inbreeding, with the magnitude of such addition determined by the need for new genetic material and not by other factors, and
 - iii) managed in a manner designed to maintain the breeding stock indefinitely.

A controlled environment for animals is an environment that is intensively manipulated by man for the purpose of producing the species in question, and that has boundaries designed to prevent animals, eggs or gametes of the selected species from entering or leaving the controlled environment. General characteristics of a controlled environment may include but are not limited to artificial housing, waste removal, health care, protection from predators,

and artificially supplied food. A parental breeding stock shall be considered to be "managed in a manner designed to maintain the breeding stock indefinitely" only if it is managed in a manner which has been demonstrated to be capable of reliably producing second-generation offspring in a controlled environment;

- c) that the term "artificially propagated" be interpreted to refer only to plants grown by man from seeds, cuttings, callus tissue, spores or other propagules under controlled conditions. The artificially propagated stock must be:
 - i) established and maintained in a manner not detrimental to the survival of the species in the wild, and
 - ii) managed in a manner designed to maintain the artificially propagated stock indefinitely.

Controlled conditions for plants is under an environment that is intensively manipulated by man for the purpose of producing selected species. General characteristics of controlled conditions may include but are not limited to tillage, fertilization, weed control, irrigation, or nursery operations such as potting, bedding, or protection from weather; and

- d) that the competent government authorities of countries exporting live animals, parts and derivatives of specimens bred in captivity of species listed in Appendix I endeavour, where possible, to ensure that these be made identifiable by means other than documentation

POLICY ASSUMPTIONS IN THE RESOLUTIONS IMPLEMENTING TRADE IN NON-WILD PLANTS AND ANIMALS

In order to implement the Convention, certain assumptions about trade of captive bred animals (and artificially propagated plants) have been made. Implementation of the Convention through Resolutions is based on these assumptions. As captive breeding has evolved since the Convention was first adopted, it would be important for CITES to consider if the original assumptions still apply and if they are practical, or do they need to be re-evaluated within the present day context of the production and trade of captive bred specimens.

Assumption 1: “In the case of wildlife these provisions [referring to Articles VII.4 and VII.5] were intended to apply only to captive populations sustained without augmentation from the wild.”

This is the assumption underlying CITES implementation of captive bred trade - that in the case of wildlife the Article VII.4 and VII.5 provisions were intended to apply only to captive populations sustained without augmentation from the wild. This assumption was originally contained in the preamble to Resolution Conf. 2.12 and was not carried over to Resolution Conf. 10.16 when Resolution Conf. 2.12 was repealed. Note that this assumption did not apply to plants that were artificially propagated.

Current captive bred trade is very different then it was when Resolution Conf. 2.12 was first adopted. In the 1960s-1970s, the volume of trade in captive bred specimens was low, making up only a small percentage of overall trade in wild species. At the time, this assumption was fairly accurate and reflected the type of commercial breeding that was under CITES controls i.e. furbearer species and large reptiles. There were three main types of captive breeding at that time: in zoos, for conservation purposes, and by commercial breeding operations to produce furs, skins and meat for commercial trade. Only low volume of captive breeding (hobby or commercial) existed in the pet trade for CITES listed species.

However, this assumption failed to take into account that special provisions for captive bred animals would provide incentives to develop new captive populations in response to the restrictions on trade in wild populations of species listed in the CITES appendices. Canada believes that this assumption does not reflect the reality of current trade in specimens that are bred in captivity where many of the captive populations are in the process of being established and augmentation of breeding stock from the wild may still be necessary. Although this original policy assumption has been repealed, it was incorporated in the definition of bred in captivity, first defined in Resolution Conf. 2.12 and currently found in Resolution Conf. 10.16 and therefore still influences CITES trade in specimens that are bred in captivity.

Assumption 2: Special provisions were written into the Convention for specimens that were bred in captivity or artificially propagated because at that time volume of trade in these specimens and risk of detriment to the species in the wild was much lower than for specimens of wild origin.

The primary issue with this assumption today is that although risk of this trade to specimens in the wild is low when specimens are genuinely bred in captivity, how do we know that these are not wild specimens being passed as specimens of non-wild origin?

Trade in captive bred specimens is no longer low volume and with increasing volume comes increasing risk to specimens of wild origin. When CITES came into force, it required that Parties implement both stricter trade regulations in specimens of wild origin, and exempt trade in specimens that were bred-in-captivity or artificially propagated. At the time, trade in captive bred specimens was approximately 6% of all trade in animals. This created incentives for traders to transition from trade in wild specimens to trade in captive breeding specimens.

Currently, according to the Secretariat's review (AC31 Doc. 19.3/ PC25 Doc. 21 Annex 1.), over 95% of live CITES commercial trade of mammal species are bred in captivity. Some of the increase in volume can also be attributed to the listing of many species found in the pet trade.

Non-wild specimens produced in a controlled environment may be modified over time by breeding for specific traits so that they can be distinguished from specimens that have been removed from the wild. For example, by the time that the Convention was written, farmed chinchilla no longer resembled the wild species. Other examples include various reptiles that have been bred for specific morphs, or hybrids of species to develop desired traits such as hybrid cats or falcons.

However, the majority of non-wild specimens in trade are "look-alike specimens." Although the Convention does not mention "look-alike specimens", this concept is embedded in Article II paragraph 2(b)² as species which must be subject to regulation in order to control trade in require CITES controls to survive in the wild. Similarly, look-alike specimens might qualify under the Convention for the Article VII.4 and VII.5 exemptions, but which might require regulation under the provisions of Articles III, IV or V (as a stricter domestic measure) to allow for stricter control of trade in wild specimens (notably to prevent laundry of wild specimens as specimens that are bred in captivity).

Therefore Parties should be implementing trade in non-wild specimens under the provisions of Articles III, IV or V unless they are satisfied that the specimen is not wild and a process is in place to limit/eliminate opportunities for the substitution of specimens of wild origin.

Assumption 3: All Parties have the capacity to control domestic production and trade of captive bred specimens of CITES listed independently of CITES trade provisions.

Parties must comply with CITES provisions for international trade of CITES-listed species. However, CITES applies to international trade and not to domestic trade or controls. Parties may have limited capacity to regulate the use and trade of wildlife domestically and will focus their resources where there is the most conservation benefit i.e. wild indigenous species. Regulation of specimens that are bred in captivity, particularly those that are non-indigenous to the country may not exist unless they are an invasive or injurious species.

While CITES requires that Parties implement regulations for the international trade of CITES listed species under national law, the scope of CITES does not include domestic control of wildlife i.e. there is no requirement for implementing CITES controls domestically until said species enter international trade chains.

As a result, levels of controls for captive breeding facilities domestically may vary by country and may not even be necessary for some species. This may make it difficult for a Party to comply with the prescriptive controls and legality requirements (by the current CITES Resolutions) if these captive bred species were to enter international trade as retrospective control of past generations of breeding stock, for example, is very difficult to implement.

Assumption 4: All Parties implement the Article VII special provisions for non-wild specimens.

This is implied given that source codes A, C and D as currently defined in Resolution Conf. 12.3 are to be used for exportation under the provisions of Article VII.5 (source codes C and A) or Article VII.4 (source code D). However, in order to control non-wild specimens as look-alike specimens to protect the wild species,

² (b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control.

Parties may implement stricter measures as allowed for under Article XIV Paragraph 1.³ For example, Parties can export under the provisions of Articles III, IV or V as they would for wild specimens, or they can apply the intent of Articles VII.4 or VII.5 with the stricter controls they have put in place for wild specimens. There is currently no source code for use in this situation.

Assumption 5: When the Article VII.4 and VII.5 exemption is implemented Non-detriment and legality findings are not made as they are only required when a permit is issued under Articles III, IV or V.

The requirement to establish legality and non-detriment for the acquisition of parent stock is incorporated into the CITES definitions of bred in captivity (Resolution Conf. 10.16) and artificially propagated (Resolution Conf. 11.11). However, there is confusion on whether non-detriment and legality findings are needed before a certificate is issued and how they should be made as there is no specific requirement in the Convention. There is also confusion on whether trade in specimens that have been bred in captivity or artificially propagated are included in recommendations to suspend trade under Resolution Conf. 12.8 (Rev. CoP18) Review of significant trade in specimens of Appendix II species. SC59 (2010), decided that when there is a recommendation to suspend trade under the Review of Significant trade process, that “any recommendations that it made to suspend trade under the Review of Significant Trade applied only to trade covered by Article IV of the Convention, and not to trade covered by Article VII,” This provides an opportunity for wild specimens to be passed as non-wild specimens.

Canada suggests that Parties should always make NDFs and legality findings at the point of export for non-wild specimens unless that are already satisfied via some type of pre-approval process that the specimens are bred in captivity or artificially propagated and that recommendations to suspend trade should apply to specimens of all origins to control for look-alike concerns.

Assumption 6: Specimens from Appendix I species that are bred in captivity and that are produced for commercial purposes are traded as Appendix II specimens.

This is the policy assumption determined by CoP2 to best implement Article VII.4 for specimens that have been bred for commercial purposes.

Article VII.4, as originally written, was intended to exempt specimens that have been bred in captivity from the import prohibition in Article III, so that commercial breeding operations existing at the time could continue once CITES came into force (i.e., Chinchillas). It made sense then that such specimens be treated as Appendix II specimens. Note that captive bred Chinchillas have since been excluded from CITES controls as being domesticated.

However, most specimens of Appendix I species that are bred in captivity now do not meet the level of separation from the wild species, as was the case for the chinchilla. Therefore, there may be need for stricter controls than those provided by Article IV to allow Parties to verify that the specimens are bred in captivity and the import will be for purposes that are not detrimental to the survival of the species involved i.e. there is no reason why the provisions under Article III could not be applied.

CITES registration was supposed to provide these stricter controls. However, once an operation is registered, trade of these specimens is still under the provisions of Article IV and there is no further role for the country of

³ *The provisions of the present Convention shall in no way affect the right of Parties to adopt:*

(a) stricter domestic measures regarding the conditions for trade, taking, possession or transport of specimens of species included in Appendices I, II and III, or the complete prohibition thereof; or

(b) domestic measures restricting or prohibiting trade, taking, possession or transport of species not included in Appendix I, II or III.

import. Canada considers it appropriate as a stricter domestic measure to require an import permit – and we are not the only Party to do this.

This working group should consider how to uniformly address the issue of import controls for both registered and non-registered Appendix I specimens that have been bred in captivity. Canada suggests that this issue could be solved by reinterpreting Article VII.4 to mean an exemption from Appendix I prohibition for import for primarily commercial purposes (Article III Paragraph 3c) and from the requirement that an import permit be issued before the export permit is issued (Article III Paragraph 2d). Import for primarily commercial purposes would be allowed when it is verified that the specimen is bred in captivity and the import is for “purposes which are not detrimental to the survival of the species involved” (Article III, Paragraph 3a). CITES registration could be considered a pre-determination that a specimen is bred in captivity and that the import is for non-detrimental purposes, but an import permit could be still required.

An alternative approach could be to implement Article VII.4 in a tiered approach, continuing to trade specimens from CITES registered operations under the provisions of Article IV and allow a more controlled trade under the provisions of Article III for non-registered specimens

Assumption 7: Provisions of Article VII.4 and VII.5 are applied separately for Appendix I species.

This is the policy assumption determined by CoP2 to best implement the Article VII.4 exemption with the separation of implementation based on the purpose of breeding.

Resolution Conf. 2.10. (now repealed), established that Article VII.4 was to apply to export by operations that bred Appendix I species for commercial purposes and by inference, VII.5 was to apply to export by operations that bred Appendix I species for non-commercial purposes. However, the intention of breeding often cannot be clearly separated. Based on the current context and to facilitate interpretation, Canada suggests that rather than focusing on the purpose of breeding to separate implementation of Article VII.4 and VII.5, Article VII.5 could be applied to the export of Appendix I specimens and VII.4 could be applied to the import of Appendix I specimens.

In the application of Article VII.5 on the export of CITES listed specimens, the key is the interpretation of the condition “The MA is satisfied.” There is no guidance on what this means in practice. Canada suggests that similar processes for assessment of this condition before permit/certificate issuance can be applied to specimens of Appendix I and Appendix II species, but the rigor of the process should depend on the conservation status of the species concerned and/or the Appendix the species is listed in. This assessment of “The MA is satisfied” should also be proportional to the conservation status of the species or population of species concerned. It may be useful to review the respective resolutions for NDFs and LAFs to ensure that guidance for making NDFs/LAFs for captive bred and artificially propagated specimens is available and reflects the conservation status of the species involved.

Summary of ambiguities and inconsistencies, and Canada's proposal pertaining to CITES Resolutions for consideration by the working group

As part of Canada's analysis of CITES resolutions pertaining to specimens that have been bred in captivity, our aim was to explore practical solutions, from the perspective of a Party that has to implement CITES, to help advance the mandate of the working group. This includes analysis of different ways Parties could implement Articles VII.4 and VII.5 to resolve the ambiguities and inconsistencies that have been identified by this working group and to ensure CITES processes are updated to continue to ensure international wildlife trade is not detrimental to species in the wild. To this end, Section 4 (below) includes four tables with proposed amendments to the pertinent CITES resolutions for discussion by the working group. Canada considers that while a new resolution could be an option, the most practical solution would be to amend the existing resolutions.

This annex is divided into 4 sections:

1. Review of key elements of the guidance contained in the resolutions that Parties use or have used for the implementation of Article VII, paragraphs 4 and 5 and underlying assumptions. Note that these are discussed in more detail in [Canada's submission from April 2021](#).
2. Discussion on [ambiguities and inconsistencies](#) affecting implementation of CITES controls for trade in specimens of captive-bred Appendix I species resulting from the original underlying assumptions.
3. Recommendations pertaining to the [application of Article VII, paragraphs 4 and 5](#) to address the current implementation challenges in the application of the Convention to non-wild specimens.
4. Suggested amendments to Resolutions for consideration by this working group and for further discussion.

1. Review of key elements of the guidance contained in the resolutions that Parties use or have used for the implementation of Article VII, paragraphs 4 and 5 and underlying assumptions

Decision 18.173 directs the Standing Committee to *consider the underlying policy assumptions that may have contributed to the uneven application of Article VII, paragraphs 4 and 5*. In Canada's review of the Resolutions, we note that the original interpretations adopted at CoP2 in Resolution Conf. 2.12, still form the basis for how Article VII paragraphs 4 and 5 are currently interpreted and implemented. Subsequent CoPs only adopted stricter, more prescriptive interpretations of the original Resolution Conf. 2.12 interpretation. Canada was not able to find in the CITES meeting summary records any discussions where the Parties examined the original interpretation to ensure that they effectively implement the Convention. Because of this, Canada recommends that the working group should examine the origins of the current resolutions regarding specimens that are bred in captivity.

While Resolution Conf. 2.12 was repealed at CoP10 and replaced with Resolution Conf. 10.16, this was the original CITES resolution developed by the Parties to establish controls to facilitate international trade of CITES listed species that were bred in captivity. As such, it established the original interpretation for both the implementation Articles VII.4 and VII.5 and the definition of "bred in captivity." Over time, the Conference of the Parties has adopted new resolutions, which were based partly on the initial interpretations included in

Resolution Conf. 2.12. We include seven key items that were first laid out in Resolution Conf. 2.12 here as they provide the necessary context for understanding the origin of some of the inconsistencies and ambiguities that exist now:

a) Implementation of Article VII.4

Use **Article VII.4** to allow commercial export in Appendix I specimens by **deeming them to be Appendix II** specimens i.e., permitting for any trade is done under the regular provisions of Article IV. An NDF and LAF are required and an export permit is issued.

b) Implementation of Article VII.5

Use **Article VII.5** to allow specimens to be **exported with a certificate in lieu of a permit** when the MA of the country of export is satisfied that that specimen was bred in captivity.

c) Separation of Article VII.4 and VII.5 for Appendix I specimens

Because there is a potential that both Article VII.4 and VII.5 could be applied to the export of the same specimen, **Article VII.4** applies to specimens of Appendix I species that were bred in captivity for **commercial purposes** and **Article VII.5** applies specimens of Appendix I species that were bred in captivity for **non-commercial purposes**. Note that Article VII.5 does not restrict the use of a permit by purpose of breeding.

d) Conditions for specimens to be considered to be “bred in captivity”

“The term “**bred in captivity**” “refers only to offspring, including eggs, born or otherwise produced in a controlled environment, either of parents that mated or otherwise transferred gametes in a controlled environment, if reproduction is sexual, or of parents that were in a controlled environment when development of the offspring began, if reproduction is asexual”.

e) Qualifications for breeding stock that produce specimens that are considered to be “bred in captivity”

The **breeding stock** must, to the satisfaction of the competent government authorities of the relevant country, be:

- established in a manner that is not detrimental to the survival of the species in the wild
- maintained without augmentation from the wild, except for the occasional addition of animals, eggs or gametes from wild populations to prevent deleterious inbreeding, with the magnitude of such addition determined by the need for new genetic material and not by other factors, and
- managed in a manner designed to maintain the breeding stock indefinitely

f) Definition of “managed in a manner designed to maintain the breeding stock indefinitely”

A **parental breeding stock** shall be considered to be “managed in a manner designed to maintain the breeding stock indefinitely” **only if** it is managed in a manner which has been demonstrated to be capable of reliably producing **second-generation offspring** (F2) in a controlled environment. Noting that the prescriptive condition of producing F2 was only added when Resolution Conf. 10.16. was adopted.

g) Specimens that meet the definition of “bred in captivity” are to be traded only under the provisions of Articles VII.4 or VII.5

Although not clearly stated in Resolution Conf. 2.12, the overarching assumption implied in that resolution was that **all specimens of species that are bred in captivity should be traded only**

under the provisions of Articles VII.4 and 5. However, this contradicts Article XIV paragraph 1 of the Convention which states that *“The provisions of the present Convention shall in no way affect the right of Parties to adopt: (a) stricter domestic measures regarding the conditions for trade, taking, possession or transport of specimens of species included in Appendices I, II and III, or the complete prohibition thereof;.”* Canada considers that the above-mentioned assumption is problematic because Parties cannot be forced to implement an exemption. In addition, these exemptions are challenging for new Parties, which have not fully implemented legislation and controls to regulate trade in wild specimens. This implied assumption was carried over and confirmed in the Resolution Conf. 12.3, where the definition of source codes C and D established that these source codes should be applied **only** to specimens being exported under the provisions of Articles VII.5 and VII.4, respectively.

2. Ambiguities and inconsistencies affecting trade in specimens of captive-bred Appendix I species resulting from the original underlying assumptions

When reviewing the summary records from previous CITES CoPs, Canada found that there has been little discussion of Article VII.5 and trade in specimens of Appendix II or III species until recently. There has been, however, multiple discussions focused on specimens of Appendix I species that were bred in captivity, in particular on issues regarding implementation of Article VII.4. Canada notes that over time, the implementation of resolutions pertaining to specimens from species that are bred in captivity, particularly regarding Article VII.4, has become increasingly prescriptive. As an example, Resolution Conf. 12.3 paragraph 26 b) *“URGES the Parties to check with the Secretariat: ... b) before they accept imports of live specimens of Appendix-I species declared as bred in captivity or artificially propagated.”* The reason for this instruction is not evident and adds an additional administrative burden to Parties. Further discussion of these issues can be found in [Canada's submission from April 2021](#).

A brief history of resolutions concerning the regulation of trade in non-wild specimens is provided by the Secretariat in the Annex to its report, available as Annex 1 of [AC31 Doc. 19.3/PC25 Doc. 21](#). Please refer to that Annex for more details on the following discussion.

During discussions regarding implementation of Article VII.4, which allows the export of Appendix I specimens for primarily commercial purposes by treating them as if they are Appendix II specimens, the initial concern was that importing Parties had no way to verify if Appendix I specimens being imported into their country without an import permit were actually “bred in captivity.” This resulted in the development of a Registry at CoP4 as adopted in Resolution Conf. 4.15 (repealed at CoP8 and replaced by Resolution Conf. 8.15) to be maintained by the Secretariat. Parties were to inform the Secretariat of breeding operations that they exempt under Article VII.4 and importing Parties were to restrict import under Article VII.4 to specimens produced by operations included in the register. This is still included in Resolution Conf. 12.10 as paragraph 8 a).

However, between CoP4 and CoP12, this became more restrictive. In Resolution Conf. 7.10 (repealed at CoP8 and replaced by Resolution Conf. 8.15), the registration process was formalized, and required a proposal to the CoP the first time that an Appendix I species was to be registered. Further guidelines were adopted in Resolution Conf. 8.5 (repealed at CoP12 and replaced by Resolution Conf. 12.10). At this point it appears that Article VII.4 was being treated as a down-listing of a species to be “deemed” as Appendix II. At CoP11, Resolution Conf. 11.14 (repealed at CoP12 and replaced by Resolution Conf. 12.10), which became the precursor for the current registration process, provided more details on the registration process. The process was to be followed for species that were included in Annex 3 to the resolution. These were species considered *“critically endangered in the wild and/or known to be difficult to breed in captivity.”* Resolution Conf. 11.14 also repealed Resolution Conf. 8.15 *“when the list in Annex 3 has been approved by the Standing Committee and distributed by the Secretariat.”* However, this never occurred. As a result, there were two active processes for the registration of Appendix I species between CoP11 and CoP12. At CoP 12, the current Resolution Conf. 12.10, adopted the text of Resolution Conf. 11.14 without Annex 3. This meant that all

applications for registration, regardless whether the species had been previously registered or not would be subject to the CITES registration process rather than the originally intended subset of species.

Resolution Conf. 12.10 also defined “bred in captivity for commercial purposes” and agreed that the exemption of Article VII.4 be implemented through registration. This condition was also linked to the definition of source code D later at CoP15. This is confirmed in the Secretariat’s [“Guide to the application of CITES source codes”](#) published on the CITES website which states that export should not proceed for Source code C specimens that were bred for commercial purposes. This is stricter than the Article III requirements for wild specimens of Appendix I specimens, which can be imported for non-commercial purposes under the guidance of the annex to Resolution Conf. 5.10. Furthermore, there is no scientific reason to support this stricter directive as beneficial to promoting conservation of the species in question.

At CoP10, Parties adopted Resolution Conf. 10.16 and repealed Resolution Conf. 2.12. This new resolution provided the necessary guidance for determining when a specimen qualifies as being “bred in captivity.” Although the interpretation that Article VII.5 could only apply to Appendix I specimens that were bred in captivity for non-commercial purposes was removed from the operative text in Resolution Conf. 10.16, it remained in the definition of source code C under Resolution Conf. 12.3. With the removal of this condition from Resolution Conf. 12.3 at CoP15, all restrictions on the purpose of breeding for the application of Article VII.5 for Appendix I species were repealed. This means that there are now two systems in the Resolutions to export Appendix I specimens that have been bred in captivity for commercial purpose. A Party can:

- a) Export Appendix I specimens from CITES registered operations in accordance with Resolution Conf. 12.10 as source code D; or*
- b) Export Appendix I specimens that are in accordance with Resolution Conf. 10.16 as source code C.*

This resulted in an increase in the export of Source code C Appendix I specimens from species that were bred in captivity for commercial purposes, which was recognized in the Secretariat’s report (last published in the annex to AC31 Doc. 19.3/PC25 Doc. 21 page 13) as an inconsistency.

3. Recommendations pertaining to the application of Article VII, paragraphs 4 and 5 to address the current implementation challenges in the application of the Convention to non-wild specimens

It would be important for this working group to recommend solutions to correct the existing inconsistencies and ambiguities that it identifies, including ensuring that the interpretation provided in the resolutions is consistent, less prescriptive, and therefore easier for parties to implement.

Canada proposes that the working group considers new ways to reflect the current needs to support international wildlife trade so that CITES can effectively be implemented to ensure international trade does not affect the survival of the species of the wild. This could be achieved by updating the pertinent CITES Resolutions.

Canada’s recommendation (see comments in [Canada’s submission from April 2021](#)), is that the application of the Article VII exemptions should be optional rather than mandatory, and instead of using Articles VII.4 and V.II.5 to distinguish export of specimens bred in captivity based on the purpose of the breeding (i.e., commercial or non-commercial), these articles be used to separately control imports of Appendix I specimens from species bred in captivity (Article VII.4) and exports of Appendix I, II and III specimens (Article VII.5) of species bred in captivity, as follows:

a) The application of the provisions of Article VII.4 and VII.5 are optional:

Implementation of the provisions of Article VII paragraphs 4 and 5 be considered optional in order to respect the right of Parties to make their own decision on whether or not to implement stricter domestic measures, as prescribed under Article XIV on either export or import. The regular provisions of Articles III, IV or V would remain the basis for permitting export or import of specimens of species listed in Appendix I, II or III that are bred in captivity. Applying the regular provisions (as outlined in Articles III, IV and V) for permit issuance of species listed in the CITES Appendices that are bred in captivity would provide Parties the necessary assurance that the trade is not detrimental to the species in the wild, and will facilitate trade that has no negative impacts to the conservation of the species in the wild.

b) Article VII.4 exemption allows for primarily commercial import of specimens that are bred in captivity under Article III:

The exemption under Article VII.4 be used as a special provision for the **import** of specimens of species listed in Appendix I that are bred in captivity. Article VII.4 would be implemented as an **import exemption** from the **Article III, paragraph 3c) and 5c) commercial import prohibition**, and **from the requirement that an import permit be issued before the export permit is issued** (Article III Paragraph 2d). All other provisions of Article III, paragraph 3 and 5 would still apply (e.g., LAF and NDF) Import for primarily commercial purposes would be allowed when it is verified that the specimen is bred in captivity and the import is for “purposes which are not detrimental to the survival of the species involved” (Article III, Paragraph 3a).

As noted in Annex 2 to this document, under assumption 6, this could result in CITES registration could be considered a pre-determination that a specimen is bred in captivity and that the import is for non-detrimental purposes, but an import permit could be still required. An alternative approach would be to implement Article VII.4 in a tiered approach, continuing to trade specimens from CITES registered operations under the provisions of Article IV and allow a more controlled trade under the provisions of Article III for non-registered specimens.

c) Article VII.5 exemption allows specimens that are listed in any Appendix and “bred in captivity” to be exported under simplified measures:

The exemption under Article VII.5 should be considered as an optional provision for the **export** of specimens of species listed in Appendix I, II or III that are bred in captivity when the Management Authority of the state of export has pre-approved that the breeding facility is in accordance with the CITES definition of “bred in captivity” and is eligible for a more simplified export process such as a certificate or other simplified measure. Simplified measures in accordance with Articles VII.5 and VII.4 are discussed in Resolution Conf. 12.3 (Rev. CoP18) in Section XIII Paragraph 22. a) iii).

d) The original interpretation from Resolution Conf. 2.10 (see above under section 1.d) be restored so that it includes the condition that the parents must mate in a controlled environment to allow use of source code F:

Note that Resolution Conf. 2.10 stated: “The term “**bred in captivity**” “refers only to offspring, including eggs, born or otherwise produced in a controlled environment, either of parents that mated or otherwise transferred gametes in a controlled environment, if reproduction is sexual, or of parents that were in a controlled environment when development of the offspring began, if reproduction is asexual.” This interpretation was modified in Resolution Conf. 10.16, to remove the condition that the parents must mate in a controlled environment, allowing the offspring born from females taken from the wild when gravid to be traded as source code F (even though they should be traded as source W). See “[A Guide to the application of CITES source codes](#)” page 6 for current guidance on use of Source Code F.

e) *The breeding operation (and not the breeding stock) be considered for the determination of “bred in captivity”:*

The original interpretation ([see 1. f., above](#)) that a **parental breeding stock** shall be considered to be “managed in a manner designed to maintain the breeding stock indefinitely” focuses on the generation of the offspring produced by the breeding stock of the operation. Canada proposes that the focus of the assessment that a specimen is “bred in captivity” be shifted to the breeding operation and the capacity for the operation to meet the conditions of Resolution Conf. 10.16.

f) *CITES registration of breeding operations that breed specimens of Appendix I species be optional*

Currently, the implementation of the registration process outlined in Resolution Conf. 12.10 is mandatory. However, as discussed in [Section 2](#), in addition to allowing source code D (for CITES registered operations), the current resolutions also allow for export of specimens from an Appendix I species that is bred in captivity and that meets the criteria under Resolution Conf. 10.16, to export those specimens using source code C. The interpretation for Article VII paragraph 4 proposed by Canada would allow any specimen of an Appendix I species that is bred in captivity in accordance with Resolution Conf. 10.16 to be imported whether or not it originates from a CITES registered operation. This represents a compromise that would allow trade of all Appendix I specimens that are bred in captivity under Article III, while still providing an option to register breeding operations.

4. Suggested amendments to Resolutions for consideration by this working group and further discussion

The following tables include amendments to Resolution Conf. 10.16 (Table 1), Resolution Conf. 12.3 (Table 2), Resolution Conf. 5.10 (Table 3) and Resolution Conf. 12.10 (Table 4), which would allow implementation of the elements recommended in [Section 3 above](#). Other issues identified in [Canada’s submission from April 2021](#) are also addressed.

Table 1. Suggested changes to Resolution Conf. 10.16 pertaining to the application of Article VII, paragraphs 4 and 5 to address the current implementation challenges in the application of the Convention to non-wild specimens discussed in [Section 3](#) above, as well as other issues identified in Canada’s intervention from April 2021.

The shaded areas refer to the suggested amendments discussed during the virtual meetings of the Standing Committee working group and formed the starting point for the amendments to Resolution Conf. 10.16 proposed in CoP19 Doc. 53 Annex 1. Comments in *italics* represent Canada’s understanding of the working group discussion and outcomes.

| Resolution Conf. 10.16 (Rev): Specimens of animal species bred in captivity | Comments |
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| RECALLING Resolution Conf. 2.12 (Rev.), adopted by the Conference of the Parties at its second meeting (San José, 1979) and amended at its ninth meeting (Fort Lauderdale, 1994); | |

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| <p>CONSIDERING that the Convention provides, in Article VII, paragraphs 4 and 5, for special treatment of animal specimens that are bred in captivity;</p> | |
| <p>NOTING that, in accordance with Article VII, paragraph 4, specimens of Appendix I species bred in captivity for commercial purposes shall be deemed to be specimens of species included in Appendix II and that therefore they shall be traded in accordance with the provisions of Article IV;</p> | <p>Would no longer be required given recommendations under Section 3 b) above</p> |
| <p>NOTING that, in accordance with Article VII, paragraph 5, the import of specimens of Appendix I species bred in captivity not for commercial purposes that are covered by a certificate of captive breeding does not require the issuance of an import permit and may therefore be authorized whether or not the purpose is commercial;</p> | <p>Would no longer be required given recommendations under Section 3 c) above</p> |
| <p>RECOGNIZING the need for the Parties to agree on a standard interpretation of the provisions of Article VII, paragraphs 4 and 5;</p> | |
| <p>CONCERNED CONSIDERING however that, in spite of the adoption of several Resolutions at various meetings of the Conference of the Parties, much trade in specimens declared as bred in captivity <u>now represents the majority of trade in live animals specimens and concerns remains that this trade contrary to the Convention and to Resolutions of the Conference of the Parties, and may be detrimental to the survival of wild populations of the species concerned;</u></p> | <p>Propose changes to recognize the increased volume of trade is specimens that are bred in captivity and that there are concerns that this trade may impact specimens in the wild</p> <p><i>After considerable discussion, a version of this was agreed to by the working group. See CoP19 Doc. 53 Annex 1.</i></p> |

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| THE CONFERENCE OF THE PARTIES TO THE CONVENTION | |
| <p><u>Regarding a standard interpretation of the provisions of Article VIII, paragraphs 4 and 5</u></p> <p>1. <u>DECIDES</u> that:</p> | <p>New section to describe the new interpretation of trade in specimens that are bred in captivity proposed by Canada. This links directly with the preambular paragraph</p> |
| <p><u>a) The regular provisions of Articles III, IV or V remains the basis for permitting export of specimens of species listed in Appendix I, II or III that are bred in captivity</u></p> | <p>New interpretation recommended under Section 3 a) above recognizes that Parties have the option to implement Articles VII.4 and VII.5</p> |
| <p><u>b). Article VII paragraph 4 shall be interpreted as an exemption from Article III paragraph 3c) or paragraph 5c). When a Management Authority of the State of import is satisfied that a specimen of an animal species included in Appendix I is bred in captivity or is a part of such an animal or was derived therefrom, Articles III, paragraphs 3 (c) and 5 (c) of the Convention do not apply and the specimen may be imported for primarily commercial purposes. All other regular provisions of Article III paragraph 3 and 5 still apply.</u></p> | <p>New interpretation recommended under Section 3 b) above</p> |
| <p><u>c) Article VII.5 be interpreted as a special provision for the export of specimens of species listed in Appendix I, II or III that are bred in captivity. When the Management Authority of the state of export is satisfied that management measures are in place so that the regular provisions of Articles III, IV or V are not required to determine that export is not detrimental to the survival of the species, simplified procedures may be implemented to facilitate and expedite trade.</u></p> | <p>New interpretation recommended under Section 3 c) above. There is a need to provide guidance on how Parties can implement Article VII.5. For example, Canada implements simplified measures as set out in Resolution Conf. 12.3, but Parties may have other strategies.</p> |
| <p><u>Regarding terminology</u></p> <p>4. <u>ADOPTS</u> the following definitions of terms used in this Resolution:</p> | |
| <p>a) “first-generation offspring (F1)” are specimens produced in a controlled environment from parents at least one of which was conceived in or taken from the wild;</p> | <p><i>These paragraphs were discussed by the working group for amendment to eliminate the use of source code F for the offspring of wild take of gravid animals</i></p> |
| <p>b) “offspring of second generation (F2) or subsequent generation (F3, F4, etc.)” are specimens produced in a</p> | |

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| <p>controlled environment from parents that were also produced in a controlled environment;</p> | <p>and is proposed in CoP19 Doc. 53 Annex 1</p> |
| <p>c) the “breeding stock” of an operation means the ensemble of the animals in the operation that are used for reproduction; and</p> | |
| <p>d) “a controlled environment” is an environment that is manipulated for the purpose of producing animals of a particular species, that has boundaries designed to prevent animals, eggs or gametes of the species from entering or leaving the controlled environment, and the general characteristics of which may include but are not limited to: artificial housing; waste removal; health care; protection from predators; and artificially supplied food;</p> | |
| <p>Regarding the term ‘bred in captivity’</p> <p>2. <u>3.</u> DECIDES that:</p> | |
| <p>a) the definition provided below shall apply to the specimens bred in captivity of species included in Appendix I, II or III, whether or not they were bred for commercial purposes; and</p> | |
| <p>b) the term ‘bred-in captivity’ shall be interpreted to refer only to specimens, as defined in Article I, paragraph (b), of the Convention, born or otherwise produced in a controlled environment, and shall apply only if:</p> <p>i) —the parents mated or gametes were otherwise transferred in a controlled environment, if reproduction is sexual, or the parents were in a controlled environment when development of the offspring began, if reproduction is asexual; and</p> | <p>Implements new interpretation recommended under Section 3 d) above. This is the amendment proposed in Canada’s April intervention to eliminate the use of source code F for the offspring of wild take of gravid animals. See “A Guide to the application of CITES source codes” page 6 for current guidance on use of Source Code F. This is important as it defines the point of transition between specimens that are source code W and specimens that are source code F. Any specimen that does not meet this condition is considered of wild origin and any specimen that meets this condition is considered “not wild”.</p> |

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| | <p>The working group did not agree with Canada's perspective and proposed amendments to the definitions of F1 and F2 generation offspring as an alternative. These are included in CoP19 Doc. 53 Annex 1.</p> |
| <p>ii) the breeding stock <u>from any source (D, C, F, R, I, O or W)</u>, to the satisfaction of the competent government authorities of the exporting country:</p> | <p>To clarify that there are many options beside the use of wild breeding stock.</p> <p>In CoP19 Doc. 53 Annex 1, the working group agreed, but also clarified that the breeding stock were "specimens" and that the competent authorities should be referred to as Management and Scientific Authorities.</p> |
| <p>A. was established <u>acquired</u> in accordance with the provisions of CITES and relevant national laws and in a manner not detrimental to the survival of the species in the wild;</p> | <p>As it is difficult to define the point at which a breeding operation transitions from "established" to "maintained", Canada proposes to make it clear in i) A. that breeding stock may be acquired from any source and in i) B. establish separate criteria for when wild stock can be introduced into a breeding operation at any time</p> <p>The working group partially agreed with Canada's proposal. See CoP19 Doc. 53 Annex 1.</p> |
| <p>B. is maintained without the introduction of <u>includes</u> specimens from the wild, except <u>only</u> for the occasional addition of animals, eggs or gametes, in accordance with the provisions of CITES and relevant national laws and in a manner not detrimental to the survival of the species in the wild as advised by the Scientific Authority:</p> | |
| <p>1. to prevent or alleviate deleterious inbreeding, with the magnitude of such addition determined by the need for new genetic material; or</p> | <p>These conditions represent the criteria for when wild stock may be introduced</p> |

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| <p>2. to dispose of confiscated animals in accordance with Resolution Conf. 10.7 (Rev. CoP15) ; or</p> | <p>In order to facilitate the availability of breeding stock from any source for operations that breed Appendix I species, Resolution Conf. 5.10 Annex e) will also be revised</p> <p><i>This is reflected in CoP19 Doc. 53 Annex 1.</i></p> |
| <p>3. exceptionally, for use as breeding stock <u>when appropriate specimens for other sources are not available</u>; and</p> | |
| <p><u>ii) the breeding operation, to the satisfaction of the competent government authorities of the exporting country:</u></p> | <p>New interpretation recommended under Section 3 e) above</p> <p><i>The working group agreed with clarification as to type of competent authorities as reflected in CoP19 Doc. 53 Annex 1.</i></p> |
| <p><u>A.1 C. 1.</u>—has produced offspring of second generation (F2) or subsequent generation (F3, F4, etc.) in a controlled environment; or</p> | |
| <p><u>A.2 C. 2.</u> is managed in a manner that has been demonstrated to be capable of reliably producing second-generation offspring in a controlled environment <u>as outlined in the annexes to this resolution; and</u></p> | <p>Canada prefers this requirement as it is much more robust than A.1 and applies the CITES registration evaluation process to operations breed species from any Appendix.</p> <p><i>The working group discussed A.2, particularly Annex 1 in detail but it was determined that further discussion was needed.</i></p> |
| <p><i>Regarding the trade in specimens of Appendix I species bred in captivity</i></p> | |
| <p><u>A.3 RECOMMENDS that the trade in a specimen bred in captivity be permitted only if it is offspring produced by the operation are marked in accordance with the provisions on marking in the Resolutions adopted by the Conference of the</u></p> | <p>This section could be also be kept as originally presented, but</p> |

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| <p>Parties and—if the type and number of the mark are indicated on the document authorizing the trade; and</p> | <p>should refer to specimens included in Appendix I, II or III.</p> <p>This should be a requirement, not a recommendation. We note however, that there are species that are difficult to mark and this must be taken into account in their identification system.</p> <p><i>The working group discussed this section in detail and decided to reject this as the Resolutions only refer to marking of Appendix I specimens.</i></p> |
| <p>Annex 1: The conditions that a breeding operation must meet to be able to demonstrate that it is managed in such way that it can demonstrate it is capable of reliably producing second-generation offspring</p> | |
| <ol style="list-style-type: none"> 1. The breeder has provided documentation to demonstrate that all breeding stock have been acquired legally and without detriment to the species in the wild. 2. When the current breeding stock was produced by the breeder, the breeder must demonstrate that the original foundation stock in its direct lineage was acquired legally and without detriment to the species in the wild. 3. If the breeder is considering the introduction of wild specimens as breeding stock, they must justify why wild specimens are necessary 4. The breeder maintains records of breeding stock and progeny and reports regularly to CITES Authorities 5. The breeder maintains the genetic health of stock with limited introduction of specimens from the wild when alternatives are available. 6. The breeder is suitably equipped to house and care for the species that they breed | <p>This is the list of conditions currently used by Canada based on Resolution Conf. 10.16 and Resolution Conf. 12.10</p> <p><i>The working group discussed A.2, particularly Annex 1 in detail but it was determined that further discussion was needed.</i></p> |

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| <p>7. The breeder can establish that their operation has the capacity to produce the volume offspring that they report</p> <p>8. The breeder implements an identification system that can appropriately identify the specimen of the species in trade</p> | |
| <p>Annex 2: Move Resolution 12.10, Annex 1 as the information that must be provided by the operation</p> | <p>Uses the information collection process adopted for CITES registration of Appendix I species to all appendices</p> |
| <p>Annex 3: Move Resolution 12.10 Annex 3 (application suggested to collect the information identified in Annex 2.</p> | |

Table 2. Suggested changes to Resolution Conf. 12.3 pertaining to the application of Article VII, paragraphs 4 and 5 to address the current implementation challenges in the application of the Convention to non-wild specimens discussed in [Section 3](#) above, as well as other issues identified in Canada’s intervention from April 2021.

The shaded areas refer to the suggested amendments discussed during the virtual meetings of the Standing Committee working group and formed the starting point for the amendments to Resolution Conf. 12.3 (Rev. CoP18) proposed in SC74 Doc. 56. Comments in *italics* represent Canada’s understanding of the working group discussion and outcomes.

| Resolution Conf. 12.3 Permits and Certifications | Comments |
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| j) the following codes be used to indicate the source of the specimens: | |
| W Specimens <u>conceived in or taken from the wild</u> ; | <p>Amended to align with the Resolution Conf. 10.16 definition of F1 - <i>“first-generation offspring (F1) are specimens produced in a controlled environment from parents at least one of which was <u>conceived in or taken from the wild</u>.”</i></p> <p><i>The working group rejected the above approach in favour of amending the definitions of F1 and F2 in Resolution Conf. 10.16 (Rev.) See. CoP19 Doc. 53 Annex 1.</i></p> |
| R Ranched specimens: specimens of animals reared in a controlled environment, taken as eggs or juveniles from the wild, where they would otherwise have had a very low probability of surviving to adulthood; | This was amended at CoP15 after considerable discussion and no further amendments are proposed |
| D Appendix-I animals bred in captivity <u>in accordance with Resolution Conf. 10.16 (Rev.) that are produced by for commercial purposes in operations included in the Secretariat's Register, in accordance with Resolution Conf. 12.10 (Rev. CoP15), and Appendix-I plants artificially propagated in accordance with Resolution 11.11</u> | Canada proposes that source code D for plants and animals be harmonized to refer to CITES registered |

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| <p>(Rev.CoP18) that are produced by operations included in the Secretariat's Register in accordance with Resolution Conf. 9.19 (Rev. CoP18) for commercial purposes, as well as parts and derivatives thereof, exported under the provisions of Article VII, paragraph 4, of the Convention</p> | <p>specimens to implement new interpretation Section 3 f).</p> <p>Note that in Resolution Conf. 12.10 Canada is proposing amendments that would make CITES registration optional.</p> <p><i>The working group provided amendments to the definition for fauna in SC74 Doc. 56 paragraph 9, but decided that the plant definition required the involvement of the Plants Committee.</i></p> |
| <p>A Plants that are artificially propagated in accordance with Resolution Conf. 11.11 (Rev. CoP18), as well as parts and derivatives thereof, exported under the provisions of Article VII, paragraph 5 (specimens of species included in Appendix I that have been propagated artificially for non-commercial purposes and specimens of species included in Appendices II and III);</p> | <p>Amended to align with source code C. Note that source code A would now be used for artificially propagated Appendix I plants that are produced by commercial nurseries that are not CITES registered and exported as source code D.</p> <p><i>The working group decided that this discussion required the involvement of the Plants Committee.</i></p> |
| <p>C Animals bred in captivity in accordance with Resolution Conf. 10.16 (Rev.), as well as parts and derivatives thereof, exported under the provisions of Article VII, paragraph 5;</p> | <p>Amended to remove the condition that source code C can only be used when export is under the provisions of Article VII.5 as there is currently no source code for animals that are in accordance with Resolution Conf. 10.16 (Rev.) that are not</p> |

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| | <p>exported under the provisions of Article VII.5.</p> <p><i>The working group discussed this in length, presenting three alternative versions in SC74 Doc. 56 paragraph 9 for discussion.</i></p> |
| <p>F Animals born in captivity (F1 or subsequent generations) that do not fulfil the definition of ‘bred in captivity’ in Resolution Conf. 10.16 (Rev.), as well as parts and derivatives thereof;</p> | <p>As “born in captivity” also implies that the offspring of animals taken from the wild when gravid, and Canada has proposed a correction for this loophole in Resolution Conf. 10.16, should “born in captivity” be changed to something else to avoid confusion?</p> |
| <p>Other sections of Resolution Conf. 12.3 that may need to be amended:</p> | |
| <p>Paragraph 5.</p> <p>k) Parties verify the origin of Appendix I specimens to avoid issuing export permits when the use is for primarily commercial purposes and the specimens did not originate in a CITES registered breeding operation; and</p> | <p>Would need to be deleted to implement new interpretation recommended by Canada Section 3 f).</p> |
| <p>22. RECOMMENDS that:</p> <p>a) Parties use simplified procedures to issue permits and certificates to facilitate and expedite trade that will have a negligible impact, or none, on the conservation of the species concerned, e.g.:</p> | |
| <p>iii) for the issuance of certificates of captive breeding or artificial propagation in accordance with Article VII, paragraph 5, or for the issuance of export permits or re-export certificates in accordance with Article IV for specimens referred to in Article VII, paragraph 4; and</p> | <p>There is no one size fits all for implementation of Article VII.5. Note that this is how Canada implements Article VII.5. There are probably other</p> |

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| | <p>tools that Parties use to implement Article VII.5. It would be useful for Parties to share experiences.</p> |
| <p>26. URGES the Parties to check with the Secretariat:</p> <p>a) when they have serious doubts about the validity of permits accompanying suspect shipments; and</p> <p>b) before they accept imports of live specimens of Appendix I species declared as bred in captivity or artificially propagated; and</p> | <p>Is 26 b) necessary?</p> <p>This suggests that all import of Appendix I specimens are still considered suspect regardless of the current resolutions. It is also not clear why we are checking with the Secretariat and how they can assist, so suggest deletion</p> |

Table 3. Suggested changes to Resolution Conf. 5.10 pertaining to the application of Article VII, paragraphs 4 and 5 to address the current implementation challenges in the application of the Convention to non-wild specimens discussed in [Section 3](#) above, as well as other issues identified in Canada’s intervention from April 2021.

| Resolution Conf. 5.10: Definition of “primarily commercial purposes” | Comments |
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| OBSERVING that, under Article III, paragraphs 3 (c) and 5 (c), of the Convention, a permit for the import or a certificate for the introduction from the sea of specimens of Appendix-I species may be issued only if certain conditions are met, including that the Management Authority of the State of import (or introduction from the sea) is satisfied that the specimens are not to be used for primarily commercial purposes; | |
| RECOGNIZING that, because the Convention does not define the terms ‘primarily commercial purposes’, ‘commercial purposes’ in paragraph 4 of Article VII, or ‘non-commercial’ in paragraph 6 of Article VII, the term ‘primarily commercial purposes’ (as well as the other terms mentioned above) may be interpreted by the Parties in different ways; | Resolution recognizes that, ‘commercial purposes’ in paragraph 4 of Article VII is not defined. |
| ACKNOWLEDGING that the Parties’ differing legislation and legal traditions will make it difficult to reach agreement on a simple ‘objective’ interpretation of the term and that the facts concerning each import will determine whether a proposed use would be for primarily commercial purposes; | |
| RECOGNIZING that lack of specific definitions for terms involving ‘commercial’ and the importance of the facts concerning each proposed transaction create a need for consensus by the Parties regarding general principles and examples to guide the Parties in assessing the commerciality of the intended use of those specimens of Appendix-I species to be imported; | |
| AWARE that agreement on interpreting the term ‘primarily commercial purposes’ is important because of the fundamental principle in Article II, paragraph 1, of the Convention that trade in specimens of Appendix-I species must be subject to particularly strict regulation and only authorized in exceptional circumstances; | |
| THE CONFERENCE OF THE PARTIES TO THE CONVENTION | |
| 1. RECOMMENDS that for the purposes of Article III, paragraphs 3 (c) and 5 (c), of the Convention, the following | |

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| <p>general principles and the examples in the Annex attached to the present Resolution be used by the Parties in assessing whether the import of a specimen of an Appendix-I species would result in its use for primarily commercial purposes:</p> | |
| <p>General principles</p> | |
| <p>a) Trade in Appendix-I species must be subject to particularly strict regulation and authorized only in exceptional circumstances.</p> | |
| <p>b) An activity can generally be described as ‘commercial’ if its purpose is to obtain economic benefit (whether in cash or otherwise), and is directed toward resale, exchange, provision of a service or any other form of economic use or benefit.</p> | |
| <p>c) The term ‘commercial purposes’ should be defined by the country of import as broadly as possible so that any transaction which is not wholly ‘non-commercial’ will be regarded as ‘commercial’. In transposing this principle to the term ‘primarily commercial purposes’, it is agreed that all uses whose non-commercial aspects do not clearly predominate shall be considered to be primarily commercial in nature, with the result that the import of specimens of Appendix-I species should not be permitted. The burden of proof for showing that the intended use of specimens of Appendix-I species is clearly non-commercial shall rest with the person or entity seeking to import such specimens.</p> | |
| <p>d) Article III, paragraphs 3 (c) and 5 (c), of the Convention concern the intended use of the specimen of an Appendix-I species in the country of import, not the nature of the transaction between the owner of the specimen in the country of export and the recipient in the country of import. It can be assumed that a commercial transaction underlies many of the transfers of specimens of Appendix-I species from the country of export to the country of import. This does not automatically mean, however, that the specimen is to be used for primarily commercial purposes.</p> | |
| <p>e) <u>In Article VII paragraph 4, “commercial purposes” refers to Articles III, paragraphs 3 (c) and 5 (c), of the Convention. When a Management Authority of the State of import is satisfied that any specimen of an animal species included in Appendix I bred in captivity for commercial purposes, or of a plant species included in Appendix I artificially propagated for commercial purposes, or is a part of such an animal or plant or was derived therefrom, Articles III, paragraphs 3 (c) and 5 (c) of the Convention do not apply and the specimen may be</u></p> | <p>Changed to reflect new interpretation recommended under Section 3. b) above. The new paragraph e) defines Article VII.4 to be an exemption from Articles III, paragraphs 3 c) and 5 c)</p> |

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| <p><u>imported for primarily commercial purposes. All other regular provisions of Article III paragraph 3 and 5 still apply.</u></p> | |
| <p>Annex: Examples</p> | |
| <p>The following examples recognize categories of transactions in which the non-commercial aspects may or may not be predominant, depending upon the facts of each situation. The discussions that follow each example provide further guidance in, and criteria for, assessing the actual degree of commerciality on a case-by-case basis. The list is not intended to be exhaustive of situations where an import of specimens of Appendix-I species could be found to be not for primarily commercial purposes:</p> | |
| <p>e) <u>Captive-breeding programmes Operations that breed specimens of Appendix I species for any purpose:</u></p> <p>Imports of specimens of Appendix-I species for as captive-breeding stock purposes are a special case. Any import of such specimens for captive-breeding purposes by operations that breed specimens of Appendix I species for any purpose that are for in accordance with Resolution Conf. 10.16 (Rev.) should be facilitated when the State of import has issued an import permit. Priority should be given to specimens that are bred in captivity in accordance with Resolution Conf. 10.16 (source code C or D), captive bred (source code F), ranched (source code R) or pre-Convention (source code O). Import of breeding stock from the wild (source code W) should be in accordance with the conditions set out in Resolution Conf. 10.16. —and must be aimed as a priority at the long-term protection of the affected species, as required in Resolution Conf. 10.16 (Rev.). Some captive-breeding operations sell surplus specimens to underwrite the cost of the captive-breeding programme. Imports under these circumstances could be allowed if any profit made would not inure to the personal economic benefit of a private individual or shareholder. Rather, any profit gained would be used to support the</p> <p>continuation of the captive-breeding programme to the benefit of the Appendix I species. It should not, therefore, be assumed that imports under such circumstances are inappropriate. As for imports of captive-bred specimens for captive-breeding programmes for commercial purposes, Article VII, paragraphs 4 and 5, eliminate the need to address the ‘primarily commercial purposes’ requirement in Article III,</p> | <p>Mechanism to allow operations that breed specimens of Appendix I species to import breeding stock in accordance with Resolution Conf. 10.16</p> <p>It may not be necessary to include C and D specimens here as they would be allowed under the new general principle e)</p> |

~~paragraph 3 (c). In connection with captive breeding purposes, it should be noted that, as a general rule, imports must be part of general programmes aimed at the recovery of species and be undertaken with the help of the Parties in whose territory the species originate. The profit that might result should be used to support the continuation of the programme aimed at the recovery of the Appendix I species.~~

Table 4. Suggested changes to Resolution Conf. 12.10 pertaining to the application of Article VII, paragraphs 4 and 5 to address the current implementation challenges in the application of the Convention to non-wild specimens discussed in [Section 3](#) above, as well as other issues identified in Canada’s intervention from April 2021.

| Resolution Conf. 12.10: Registration of operations that breed Appendix-I animals species in captivity for commercial purposes | Comments |
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| <p>RECALLING Resolution Conf. 8.15, adopted by the Conference of the Parties at its eighth meeting (Kyoto, 1992) and Resolution Conf. 11.14, adopted at its 11th meeting (Gigiri, 2000);</p> | |
| <p>RECOGNIZING that Article VII, paragraph 4, of the Convention provides that specimens of Appendix I animal species bred in captivity <u>in accordance with Resolution Conf. 10.16 may be imported for primarily commercial purposes;</u> for commercial purposes shall be deemed to be specimens of species included in Appendix II;</p> | <p>To implement new interpretation Section 3 b.</p> <p>This reflects an alternative, slightly stricter interpretation of VII.4 as Appendix II species may be imported for commercial purpose, the same is true for specimens of Appendix I species that are bred in captivity. This interpretation is stricter because it still assumes that the other provisions of Article III are in place as amended in the next preambular paragraph</p> |
| <p>RECOGNIZING also that the provisions of Article III of the Convention remain the basis for permitting trade in specimens of Appendix-I species of animals <u>that are bred in captivity that do not qualify for the exemptions of paragraphs 4 and 5 of Article VII;</u></p> | |
| <p>NOTING that import <u>criteria for the introduction</u> of wild-caught specimens of Appendix-I species <u>as breeding stock, whether or not they are bred for commercial for purposes is provided in Resolution Conf. 10.16 of establishing a commercial captive-breeding operation is precluded by Article III, paragraph 3 (c),</u> as explained further in Resolution Conf. 5.10 (Rev. CoP15), adopted by the Conference of the Parties at its fifth meeting (Buenos Aires, 1985) and amended at its 15th meeting (Doha, 2010);</p> | <p>The “whether or not” condition was removed because this is clearly stated in Resolution Conf. 10.16</p> |
| <p>RECALLING that Resolution Conf. 10.16 (Rev.), adopted by the Conference of the Parties at its 10th meeting (Harare, 1997) and amended at its 11th meeting, establishes the definition of 'bred in captivity' and provides the basis for</p> | |

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| determining whether or not an operation is eligible to be considered for registration; | |
| NOTING that, in accordance with Article VII, paragraph 5, the import of specimens of Appendix I species bred in captivity not for commercial purposes that are covered by a certificate of captive breeding does not require the issuance of an import permit and may therefore be authorized whether or not the purpose is commercial; | The linking paragraph in Resolution Conf. 10.16 is also deleted |
| THE CONFERENCE OF THE PARTIES TO THE CONVENTION | |
| 1. DETERMINES that the term 'bred in captivity for commercial purposes', as used in Article VII, paragraph 4, shall be interpreted as referring to any specimen of an animal bred to obtain economic benefit, whether in cash or otherwise, where the purpose is directed toward sale, exchange or provision of a service or any other form of economic use or benefit; | To implement new interpretation Section 3 b) and c) . A definition of the term "bred in captivity for commercial purposes is no longer required as this would not be used as the basis for separating VII.4 and VII.5 provisions |
| 2. 1.-AGREES that the exemption of Article VII, paragraph 4, should be implemented <u>as an exemption from the Article III Paragraphs 3a) and 5c) commercial prohibition when through the registration by the Secretariat of operations that breed specimens of Appendix-I species in captivity for commercial purposes; All other regular provisions of Article III paragraph 3 and 5 still apply.</u> | To implement new interpretation Section 3 b) . |
| 3. 2. AGREES to the following procedure to register a captive-breeding operation for each Appendix-I listed animal species <u>bred for commercial purposes is optional and that operations that are not registered may still continue exporting specimens of Appendix-I species that are bred in captivity in accordance with Resolution Conf. 10.16 using the regular provisions of Article III;</u> | Harmonizes with Resolution 9.19 for registration of plants |
| 4. 3. AGREES also that determination of whether or not to apply the exemptions in Article VII, paragraph 4, for the <u>export import</u> of specimens of Appendix-I animals bred in captivity <u>for commercial purposes remains is</u> the responsibility of the Management Authority of the <u>exporting importing</u> Party on the advice of the Scientific Authority that each operation complies with the provisions of Resolution Conf. 10.16 (Rev.); | To implement new interpretation Section 3 b) . |
| <i>Paragraphs 5, 6 and 7 pertain to conditions related to the registration process and not to the interpretation of resolutions and will not be discussed at this time</i> | |

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| 8. <u>7.</u> AGREES further that: | |
| a) Parties shall restrict imports for primarily commercial purposes, as defined in Resolution Conf. 5.10 (Rev. CoP15), of captive-bred to specimens of Appendix-I species to those produced by operations that are in accordance with Resolution Conf. 10.16 included in the Secretariat's Register and shall reject any document granted under Article VII, paragraph 4, if the specimens concerned do not originate from such an operation and if <u>when</u> the document does not describes the specific identifying mark applied to each specimen; and | To implement new interpretation Section 3 b). Removes the import restriction for specimens from non-registered operations |
| b) comparable documentation granted in accordance with the Convention by States that are not Parties to the Convention shall not be accepted by Parties without prior consultation with the Secretariat; and | |
| It is proposed to move Annex 1 and 3 to Resolution Conf. 10.16 Annex 2 is the process for CITES registration and should be retained. | |