

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



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CONSIDERATION OF ADDITIONAL EFFICIENCIES
IN THE MOVEMENT OF MUSICAL INSTRUMENTS FOR NON-COMMERCIAL PURPOSES

1. This document has been submitted by the United States of America in relation to agenda items 9.1.1 and 41.*

Introduction

2. Musicians frequently transport musical instruments internationally in personally accompanying baggage and via cargo for non-commercial purposes, including personal use, paid or unpaid performance, display or competition. Many such instruments contain specimens of CITES-listed species. This activity generally constitutes a “low conservation concern” for the listed species as the instruments are not being sold or ownership transferred otherwise in the course of these activities. Nevertheless, such international movement is subject to CITES requirements, including the issuance of CITES documents and inspection and clearance at ports of entry and exit. Because of these requirements, musicians traveling internationally with their instruments can encounter delays during transport. The CITES requirements are particularly important now as travel returns to normal after the COVID-19 pandemic altered travel for the last couple of years. While the Parties have sought to find efficiencies and reduce the burden to CITES authorities and musicians, there may be additional measures that Parties can take to facilitate the non-commercial movement of musical instruments, while ensuring all CITES requirements continue to be met, as outlined below.

Background – Musical instruments and CITES

3. Amateur and professional musicians travel internationally with their musical instruments, accessories, and parts to support their performances. These instruments, accessories, and parts may be manufactured using CITES-listed species as decorative or structural components, often in small amounts.
4. Many instruments have a unique cultural and monetary value due to their age. Those considered “Antique” (as defined in Chapter 9705 and 9706 of Harmonized Tariff System of the World Customs Organization) have important status within the musical community. As relevant to CITES, many instruments classified as “Antique” may also qualify as pre-Convention and if so, be regulated consistent with Article VII of the Convention and Resolution Conf. 13.6 (Rev. CoP18) on *Implementation of Article VII paragraph 2, concerning ‘pre-Convention specimens.’*
5. Although performance with such instruments may be paid, the Parties have resolved that the cross-border movement of musical instruments for certain activities (including paid or unpaid performance, exhibition, display, or competition) may be considered non-commercial for the purpose of issuing CITES documents, in accordance with Resolution Conf. 16.8 (Rev. CoP17) on *Frequent cross-border non-commercial movements of musical instruments*. For the activity to be considered non-commercial, the instrument may not be sold or otherwise change ownership and must return with the musician to the state where the instrument is normally held. This activity is typically categorized as of ‘low conservation concern’ as the

* *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.*

instruments are returning to their origin country with the musician at completion of the activity. For example, since December 2018, no known violations associated with this activity have occurred in the United States per law enforcement records.

Regulation of musical instruments in international trade

6. Challenges in the past with implementation in regard to the non-commercial cross-border movement of musical instruments have created concerns among musicians and owners of musical instruments (Document SC74 Inf. 14). Additionally, CITES requirements may be interpreted or implemented differently among the Parties. The musician community has reported delays leading to canceled performances, instruments being damaged or broken during inspection or seizure, and parts of instruments being swapped for non-CITES species, leading to a reduction in their value.¹
7. In 2012, at the 62nd meeting of the Standing Committee (SC62; Geneva 2012), the United States brought attention to some of the challenges that musicians face in complying with CITES requirements. The United States noted that it had received comments from the musical industry “proposing a streamlined process for cross-border transport of personally-owned musical instruments containing CITES-listed species” (Document SC62 Doc. 34). The Conference of the Parties subsequently adopted Resolution Conf. 16.8 (Rev. CoP17) on *Frequent cross-border non-commercial movements of musical instruments* to address and facilitate this activity through a new traveling musical instrument certificate that allows for multiple movements under the same CITES document, subject to certain requirements.
8. Additionally, efforts have been made to standardize implementation of procedures across Parties and to implement simplified procedures or exemptions for musical instruments where appropriate and allowed under the Convention. For example, at the 17th meeting of the Conference of the Parties (CoP17; Johannesburg, 2016), when the Parties adopted a proposal to include the genus *Dalbergia* in Appendix II (with the exception to the species already included in Appendix I), international movement of all species in the genus *Dalbergia* became subject to CITES controls (Document PC23 Inf. 16). The musician community reported that the listing had significant impacts on musicians traveling internationally with rosewood instruments, which led to clearance delays, seizures, and canceled performances.² Amendments to the annotation to the listing of *Dalbergia* spp. in Appendix II adopted at the 18th meeting of the Conference of the Parties (CoP18, Geneva, 2019), eased CITES requirements for orchestras and traveling musicians.

Current impact of regulations on musical instruments and musicians

9. The Conference of the Parties in Resolution Conf. 13.7 (Rev. CoP17) on *Control of trade in personal and household effects* has adopted provisions to allow for uniform application of the limited exemption from CITES requirements under certain circumstances for personal and household effects under Article VII(3). The personal effects exemption provides relief for many musicians traveling internationally for performance, display, or competition with instruments that are personally owned or possessed for non-commercial purposes, contain Appendix-II or –III listed species. To qualify for this exemption, personal effects may not be shipped via cargo and must be carried with the musician or included in their personal baggage. However, not all Parties recognize the exemption. Thus, other options and efficiencies have been developed for permitting non-commercial trade in musical instruments containing CITES-listed species.
10. Other options available to individuals traveling for non-commercial purposes with instruments containing CITES-listed species are the traveling exhibition certificate (TEC) or musical instrument certificate (MIC). The TEC allows for groups of musicians, such as an orchestra, traveling internationally to be covered under one CITES document per trip, and remains valid for up to 3 years. The MIC covers an individual traveling with an instrument, allows for multiple trips, and remains valid for up to 3 years. For both the TEC and MIC, inspection and clearance requirements must be followed, including where applicable, the use of designated ports and compliance with other relevant laws and regulations.
11. In recent years, more Parties have implemented the use of MICs in accordance with Resolution Conf. 16.8 (Rev. CoP17) (see Notification to the Parties No. 2021/050) but some Parties have not implemented this system for issuance of CITES documents and acceptance of CITES documents issued by other

¹ <https://www.npr.org/2017/11/30/566927001/the-tree-that-rocked-the-music-industry>

² <https://www.npr.org/2019/08/27/754509680/musical-instruments-to-be-exempt-from-restrictions-on-heavily-trafficked-rosewood>

Parties. Additionally, variations in the format of CITES documents and what they authorize has led to confusion among CITES authorities and enforcement agencies.

12. Beyond differences in CITES documents, musicians traveling internationally with instruments may encounter additional complexities where Parties implement stricter domestic measures, which are allowed pursuant to Article XIV, paragraph 1 of the Convention. These differing requirements may be confusing and complicate efforts to prepare for non-commercial movement of a musical instrument in advance.
13. Staff from the orchestra or ensemble, or personnel authorized by the orchestra or ensemble, are encouraged to be available to respond to inspector inquiries during inspections to facilitate timely clearance. Inspections outside of normal business hours are subject to inspector availability.

Additional considerations

14. While the current requirements have made significant improvements for Parties, CITES authorities, and musicians, in regulating the non-commercial movement of musical instruments, there are several ongoing discussion opportunities that could provide additional avenues for consideration.
15. At CoP19, the Conference of the Parties is invited to adopt new draft decisions on *Electronic systems and information technologies*. While these draft decisions do not specifically call for consideration of the non-commercial movement of musical instruments, we believe that in the context of the future discussions of these issues, the Parties could consider the development of standards and best practices for utilizing electronic systems to improve permitting procedures for the non-commercial cross-border movement of musical instruments (see Document SC74 Doc. 41). Additionally, individual Parties may wish to consider this activity in pilot projects and early implementation of electronic permitting initiatives.
16. Noting that Resolution Conf. 12.3 (Rev. CoP18) on *Permits and certificates* recommends that 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, we believe that it would be appropriate to include the non-commercial movement of musical instruments in future discussions and development of guidance and capacity-building under this issue (see current guidance endorsed by the Standing Committee at its 73rd meeting (SC73; online, May 2021) in the Annex to Document SC73 Doc. 20)..

Recommendations

17. While there have been improvements to facilitate the non-commercial movement of musical instruments, we believe that there may be additional opportunities to consider in facilitating this generally low-conservation risk activity, including:
 - a) Amend draft decision 19.AA in Annex 5 to Document CoP19 Doc. 9.1.1 also to consider the non-commercial movement of musical instruments for purposes of performance, display, or competition in the Standing Committee's discussions on development of guidance and capacity-building on use of simplified procedures in accordance with the recommendations in Part XIII of Resolution Conf. 12.3 (Rev. CoP18) on *Permits and certificates*;
 - b) Include in the terms of reference for the ongoing work on electronic systems and information technologies consideration of the ways in which electronic CITES permitting systems could be utilized to improve permitting procedures for the non-commercial movement of musical instruments; and
 - c) Parties are encouraged to share experiences, training opportunities, and best practices related to non-commercial movement of musical instruments, and to consider this activity in pilot projects and early implementation of electronic permitting initiatives.