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

Seventy-seventh meeting of the Standing Committee
Geneva (Switzerland), 6–10 November 2023

Compliance

Compliance matters

APPLICATION OF ARTICLE XIII IN THE EUROPEAN UNION

1. This document has been prepared by the Secretariat

Introduction

2. The European Union is the first regional economic integration organization (REIO) to accede to the Convention since the coming into effect of the Gaborone amendment to the text of the Convention on 29 November 2013. The Convention entered into force for the European Union on 8 July 2015 and it is therefore also the first time that a REIO is subject to the application of Article XIII.

3. At its 74th meeting (SC74; Lyon, March 2022), the Standing Committee reviewed the case of the European Union (EU) under Article XIII concerning the registration of operations that breed Appendix-I animal species in captivity for commercial purposes and agreed that the Secretariat shall continue to keep close communication and strengthen the cooperation with the EU and its Member States regarding this case and seek an invitation from the EU to provide in-country assistance, conduct a technical assessment and a verification mission to several selected operations to know the type of trade controls that are put in place to verify the legal origin of the parental stock and the commercial or non-commercial nature of those operations. The aim of the visits would be to have a clearer understanding of the purpose of the breeding and the specific characteristics and objectives of the operations breeding bird and reptile species listed in Appendix I. The Secretariat shall present its findings and recommendations to SC75.

4. Article XIII of the Convention stipulates that:

   1. *When the Secretariat, in the light of information received, is satisfied that any species included in Appendix I or II is being affected adversely by trade in specimens of that species or that the provisions of the present Convention are not being effectively implemented, it shall communicate such information to the authorized Management Authority of the Party or Parties concerned.*

   2. *When any Party receives a communication as indicated in paragraph 1 of this Article, it shall, as soon as possible, inform the Secretariat of any relevant facts insofar as its laws permit and, where appropriate, propose remedial action. Where the Party considers that an inquiry is desirable, such inquiry may be carried out by one or more persons expressly authorized by the Party.*

   3. *The information provided by the Party or resulting from any inquiry as specified in paragraph 2 of this Article shall be reviewed by the next Conference of the Parties which may make whatever recommendations it deems appropriate.*

5. In accordance with the *Guide to CITES compliance procedures* contained in the Annex to Resolution Conf. 14.3 (Rev. CoP18) on *CITES compliance procedures*, the approach of CITES towards compliance matters is “supportive and non-adversarial” with the aim of ensuring long-term compliance. Compliance

matters are handled as quickly as possible. Such matters are considered by the Standing Committee and ensuing compliance measures are applied in a fair, consistent and transparent manner.

Background

6. As set out in document SC74 Doc. 28.1, the CITES Secretariat examined data extracted from annual reports submitted by Member States of the EU for the period 2011 to 2020 (which included trade data of the United Kingdom). The data showed a total of 47,337 transactions on export and re-export of captive-bred specimens of Appendix-I animals for commercial purposes (using purpose code 'T'). Of the export and re-export transactions of captive-bred Appendix-I species where the source code was C (animals traded for commercial purposes), the frequent countries of export and re-export) were Spain (30%), Germany (8%), the Netherlands (8%) and Austria (6%). A more thorough breakdown of the data can be found in document SC74 Doc. 28.1.

7. At SC74, the Secretariat noted that there were no commercial breeding operations registered for bird and reptile species by the EU or its 27 Member States, except for the breeding of falcons (i.e., Czech Republic, Denmark, Germany and Spain). Pursuant to Article II, paragraph 1, Article VII, paragraphs 4 and 5, Resolution Conf. 5.10 (Rev. CoP15)[1] on *Definition of 'primarily commercial purposes'* and Resolution Conf. 12.10 (Rev. CoP15) on *Registration of operations that breed Appendix-I animal species in captivity for commercial purposes*, the Secretariat enquired as to the reasons for registering only captive-breeding operations for falcons. At SC74, the Secretariat recalled that, even for Appendix-I species that breed readily in captivity, the CITES requirements remain applicable and the purpose of the breeding is one of the key factors to determine whether registration of an operation is required or not.

Identification of potential compliance matters regarding the registration of operations that breed Appendix-I animal species in captivity for commercial purposes

8. On 14 June 2022, the Secretariat sent a letter to the Management Authority of the EU requesting information with regard to operations breeding bird and reptile species listed in Appendix I. Information requested related to:

   a) How many facilities in the relevant Member States are breeding specimens of the species concerned which are subsequently being exported?

   b) Have all these facilities been inspected to ensure that the specimens are produced in accordance with Resolution Conf. 10.16 (Rev.)[1] on *Specimens of animal species bred in captivity*? Further explanations were requested regarding any regulations or measures currently in place for monitoring facilities which claim to be breeding Appendix-I species in captivity, for example whether facilities are required to keep records of the acquisition, maintenance or breeding of animals of this species, and whether authorities verify these records.

   c) Which authority carries out inspections of these breeding operations and how often are they undertaken?

   d) How was it determined that the breeding stock was established 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?

   e) Has the breeding stock been augmented with additional specimens from the wild since its establishment and, if so, how many specimens, and when and how was it determined that they were obtained 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?

9. The Secretariat also requested the EU to provide any additional information on the type of trade controls that are put in place at the relevant facilities and the commercial or non-commercial nature of their operation. It also requested that the EU consider issuing an invitation to undertake a technical assessment and a verification mission to several selected breeding operations in Germany and Spain to verify how the CITES authorities determine whether or not the animals are being bred for commercial purposes. The aim

[1] *Revised at CoP19*

of such a visit would be to have a clearer understanding of the specific characteristics, purpose and objectives of the operations breeding species listed in Appendix I.

10. The EU replied on 15 September 2022 and an invitation was received from the authorities of Germany and Spain to visit their countries. The Secretariat conducted a technical mission to Germany from 4 to 6 October 2022 and a mission to Spain from 19 to 22 October 2022. Field visits were made to captive-breeding facilities in Brandenburg (ACTP), and Mudershausen (Reptilia24) in Germany, and to Masquefa (Tortuland), Cubelles (Parrot Grys) and Denia (Radiata's paradise) in Spain. The Secretariat met and interviewed representatives of the main actors involved in the breeding of and trade in the birds and reptiles present in those facilities.

11. During the missions, the Secretariat met with the competent Management Authorities (MA) and the Scientific Authorities (SA) of the two countries. The Secretariat expresses its appreciation to the EU and to Germany and Spain, for the openness, transparency and technical and logistical support provided in planning and coordinating these visits. The hospitality offered to the Secretariat during its missions was also highly appreciated. The Secretariat also wishes to thank the representatives of the breeding operations met during these missions for their frank and open way of providing relevant information.

Review of the responses provided by the EU, Germany and Spain in writing and during the technical missions

General considerations

12. In its response of 15 September 2022, the EU stated that it implements CITES through the EU Wildlife Trade Regulations (EU WTR), which include stricter domestic measures than those provided in the Convention. In accordance with the EU WTR, exports of specimens of Appendix-I species (which are all included in Annex A of Regulation (EC) No 338/97) are subject to a case-by-case assessment, including checks on whether the specimens to be exported are captive-bred in accordance with the requirements of Resolution Conf. 10.16 (Rev. CoP19) or Article 54 of Regulation (EC) No 865/2006.The response is attached in Annex 1 to the present document at the request of the EU.

13. The EU WTR requires that any commercial use of an Annex A specimen within the EU territory has to be covered by an EU certificate (or internal trade certificate), issued in accordance with Article 10 of Regulation (EC) No 338/97. Certificates can only be issued if specific conditions are met. One of these is that a specimen can be considered as bred in captivity only if it was produced in accordance with Resolution Conf. 10.16 (Rev. CoP19) /Article 54 of Regulation (EC) No. 865/2006, as outlined in Article 8.3 of Regulation (EC) No. 338/97. All Annex A specimens used for commercial purposes need to be marked, for example by means of a closed ring or transponder. Acceptable marking methods are outlined in Articles 66 and 67 of Regulation (EC) No. 865/2006.

Regarding the number of facilities in Member States breeding and exporting specimens of Appendix-I species

14. It was not feasible for the EU to collate information on all facilities breeding Appendix I reptile and bird species across the 27 EU Member States in the time requested by the Secretariat. Based on the statistics presented at SC74, the Secretariat has prioritised nine taxa (*Amazona auropalliata, A. oratrix, Ara macao, Cyclura rileyi, Astrochelys radiata, Neurergus kaiseri, Conolophus* spp*., Brachylophus fasciatus, Cyanopsitta spixii*). The EU provided data for the five-year period 2016-2020, based on the information provided by 15 EU Member States: Austria, Belgium, Bulgaria, Czech Republic, Denmark, Finland, France, Germany, Hungary, Ireland, Italy, Malta, Netherlands, Slovakia and Spain. From those countries, Austria, Germany, Netherlands and Spain are frequent (re-)exporting States.

15. The data provided indicate that 155 breeding facilities were involved in the captive breeding of these priority taxa with subsequent export of specimens from those 15 Member States. The majority of these were breeding species of Psittaciformes: *Amazona oratrix* (77), *Ara macao* (39), *Amazona auropalliata* (29) and *Cyanopsitta spixii.* A smaller number were breeding reptiles: *Astrochelys radiata* (4), *Brachylophus fasciatus* (3) and *Cyclura rileyi* (2).

16. According to the EU, whilst most operations (138) are of a commercial nature and export specimens with purpose code "T", it should be noted that not all facilities are exporting specimens outside of the EU on a commercial basis; some exports of the priority species have taken place for zoological or re-introduction purposes. For example, 52 specimens of *Cyanopsitta spixii* were exported from Germany to Brazil for the purposes of a re-introduction programme; most of those specimens were bred in captivity in a facility in Qatar or in Germany (after the breeding stock was moved from Qatar to Germany), with a few from Switzerland.

17. Of the priority species identified by the Secretariat for which specimens were exported for commercial purposes in the period 2016-2020, such specimens were bred by 61 breeders in the Netherlands (mainly *Ara macao* and *Amazona oratrix*), and 34 in Belgium (*Amazona oratrix* and *A. auropalliata*). Germany has two breeders of these priority taxa, and Spain has one.

18. The EU also indicated that not all breeding facilities subsequently export specimens. In Belgium, for example, there were eight commercial exporters that exported specimens of *Amazona oratrix* and *A. auropalliata* over the five-year period. In addition, many breeders are private keepers or "hobbyists", who may own only one or a few breeding pairs that produce a limited number of offspring. The same situation applies in the Netherlands. In some Member States, these Appendix-I priority species are bred, but are sold within the EU and not exported. As an example, between 2016 and 2020, the CITES Authority of Brandenburg has issued 64 EU marketing permits for *Amazona oratrix* for 17 ("hobby") breeders (ranging from 1 to 15 permits per breeder). These permits do not allow for (re-) export outside the EU. However, in some Member States, such as Austria, Germany, the Netherlands, Spain and Slovakia, specimens that are bred by private keepers or "hobbyists" and that meet the requirements for captive-bred specimens set out in Resolution Conf. 10.16 (Rev.) and in Article 54 of Regulation (EC) No 865/2006 are also exported under source code C. Finally, specimens that are bred in one Member State may also be exported from the EU via another State.

Regarding the inspection of the facilities and details of the authorities undertaking inspections

19. The EU indicated that all captive-breeding facilities within Member States that export CITES Appendix-I specimens are subject to administrative checks, as required under the EU WTR. The approach to on-site inspection of facilities varies across EU Member States but is generally risk-based, with one of the key elements to consider being the species concerned as well as its ease of captive-breeding and rarity in captivity. Inspections are often triggered by applications for CITES documents or if any issues arise during the assessment of documentary evidence, such as the number of offspring claimed to be produced, or if there are any other concerns relating to malpractice or following successful breeding by new breeders. Inspections can also be triggered by information received through public complaint.

20. Depending on the particular case and the approach taken by the Member State, on-site inspection procedures may include the following aspects: physical inspection of the specimens; assessment of the adequacy of facilities; taking an inventory of offspring per breeding pair and their markings (often closed rings or microchip transponders); compiling photographs or video documentation; confirmation of legal origin; determining the methodology of successful breeding; and, for some Appendix-I bird facilities, collecting feathers for DNA analysis to confirm parentage. The guiding principles outlined in information document AC30 Inf. 25 are aligned with the EU's approach to inspections.

21. In the Czech Republic, for example, all facilities that breed species on the priority species list identified by the Secretariat are inspected physically to check marking prior to issuance of CITES certificates. In Belgium, apart from *ad hoc* inspections (for example following suspicious applications for CITES documents), specific priorities for inspections are set on a yearly basis and, in 2022, included the investigation of certain parrot breeders. In recent years, inspections have taken place in Belgium for three selected breeders of *Amazona auropalliata* and four selected breeders of *A. oratrix* (these facilities have actually been inspected multiple times). Belgium conducted 228 inspections in the last 10 years related to parrots alone. For the exporting facilities, all but one were inspected at least once in recent years. In Germany, breeder "DE1" producing *A. auropalliata* and *A. oratrix* was inspected annually in the period 2016-2020; the breeder of *Astrochelys radiata* was subject to two inspections in the period 2016-2020 and the breeder of *Cyanopsitta spixi* was subject to four inspections in that period.

22. In France, zoos are inspected annually, and commercial breeders are regularly inspected based on their size, with less frequent inspections – roughly every five years - for smaller breeders. In Spain, some inspections are based on the high-risk factors outlined above, in combination with other inspections undertaken based on random selection. In the Netherlands, besides a 100% administrative inspection, one third of all breeding facilities were inspected on site between 2016 and 2020.

23. On-site facility inspections are generally carried out by, or supported by, the relevant CITES Management Authority, which may be a local CITES authority. Other authorities and experts that carry out or support inspections include CITES enforcement focal points, CITES Scientific Authorities and domestic environmental inspection agencies, customs, or veterinary agencies. In Hungary, facilities are inspected by the regional government offices serving as regional enforcement authorities but, in case of doubts of illegal activity, also by other authorities (e.g., police, customs) that have powers to perform inspections.

Regarding the determination of whether breeding stocks were established in accordance with the CITES provisions and in compliance with national laws, and were non-detrimental to the wild populations

24. The EU explained that, given the number of breeding facilities involved, it was not possible to provide the details of the acquisition of founder breeding stock for each facility in the time available. However, it was indicated that the relevant founder breeding stocks were either composed of specimens that already had EU certificates (and were, therefore, subject to the relevant checks outlined above) or were legally imported on CITES permits. For example: in Austria, there were legal imports of live specimens of *Brachylophus fasciatus* and *Cyclura rileyi* from Switzerland; and in Germany, there were legal imports of live specimens of *Cyanopsitta spixii* from Qatar using valid CITES permits. Similarly, specimens of *Amazona auropalliata* were legally imported into Slovakia from Nicaragua as wild specimens in 1997. At that time, the species was included in Appendix II (it was transferred to Appendix I in 2003).

Regarding additional wild-taken specimens to increase breeding stocks in captivity legally and in a non-detrimental manner

25. The EU explained that the introduction into the EU of wild-taken specimens of species listed in Appendix I for commercial purposes is not allowed under the EU WTR. They believed that it did not seem possible that breeding stocks had been augmented with wild specimens since the priority species was listed in Appendix I. According to the EU, it is however possible that, for certain species, there are wild-caught specimens that are part of active breeding stocks but that were acquired prior to the listing on CITES (pre-Convention) or were imported with CITES permits when the species was listed in Appendix II (as in the example above). When proof is provided that the specimen is either pre-Convention or imported under the Appendix II regime, it is considered that these animals are of legal origin and obtained in a manner not detrimental to the survival of the species. A question was asked about the possibility that specimens from a seizure may also be used as breeding stock for commercial breeders. The Secretariat invites the attention of the Parties to the fact that seized/confiscated specimens should only be disposed according to the Convention and Resolution Conf. 17.8 (Rev. CoP19) on *Disposal of illegally traded and confiscated specimens of CITES-listed species*. If the specimens can be sold/exported as per the Convention and the Resolution, they can constitute a breeding stock that is legally acquired and non-detrimental to the species. But this depends on the application of the conditions on disposal and on captive breeding.

Regarding the type of trade controls that are put in place at the relevant facilities and commercial or non-commercial nature of the facilities

26. Exports of captive-bred specimens of Appendix-I species from the EU must be done in accordance with Article 5 of EU Regulation 338/97 and are assessed on a case-by-case basis, with the applicant required to demonstrate legal acquisition and details of the parental stock. The applicant would also be required to provide details of the unique identifier (either a closed ring or microchip) and a copy of the EU certificate that proves the specimen was legally acquired.

27. In addition to the general EU trade controls, further measures are in place to monitor relevant facilities across Member States that represent stringent trade controls, such as registration and requirements for marking. For example, in the Czech Republic, compulsory registration of Appendix-I (or Annex-A) species is required by national legislation. Any specimens imported or bred in the EU must be reported to the regional MA, as well as any changes such as ownership change, change of marking or death of the specimen. Similarly, in Slovakia, there is an obligation to notify the SA of these changes for Appendix-I mammal, bird or reptile species within 30 days of the change. Annex-A specimens (which include all Appendix-I species) must be registered in Bulgaria within 15 days of acquisition or 45 days after hatching unless the specimens are already covered by an EU certificate issued in the name of the holder. In Hungary, the registration of possession, purchase, sale, export, import, birth, death, (re-)marking of all specimens of vertebrate species listed in Annex A, and all live specimens of mammal, bird (with certain exemptions) and tortoise species listed in Annex B of the EU Regulations is obligatory. These specimens must be individually marked and, in the case of birds bred in captivity, primarily with a seamlessly closed leg-ring.

28. In Spain, it is compulsory for all breeders of Annex-A species to be registered in the Spanish MA's breeders database, for which they have to prove the legal acquisition of the parental stock and the legality of the facility and the breeding activity. Annex-B breeders have to prove the legal acquisition of the parental stock to acquire a captive breeding certificate but in this case, they do not have to be registered in the database above mentioned (although they can register voluntarily). All documentation provided by Annex-B breeders is stored in the Spanish MA's files. The certificates are specific to each specimen. The captive breeding certificate is also needed if they want to transfer Annex B and Annex C specimens. Additionally, it is compulsory for all breeders of Annex-A species to notify the Spanish MA of any changes in the breeding

stock (acquisition of new specimens or reductions to the stock and the causes – death, transfer, etc., and all clutches and births that occur in their facilities). Information on the parents, their markings and the marking of the offspring are required.

29. Germany also requires that the keeping of all vertebrates listed in Appendix I or II of CITES (and additional species protected by EU law) is notified to the respective local CITES authority. There are over 200 local CITES authorities. Only in some cases, like in Brandenburg, does the local CITES authority deal with the whole federal state. In other federal states, this task is delegated to county level. The notification should provide, *inter alia*, the following information: marking information, sale, acquisition, offspring, death, sex, origin of the animal. In addition, marking obligations apply in Germany to many species. Austria requires that breeders submit marking requirements (photo documentation, details of microchips or ring numbers) as well as updates to the breeding stock on a regular basis to the SA. The Netherlands and Belgium also have stricter domestic measures which require traders/breeders to keep detailed records of specimens entering and leaving their facility (register of entry and register of departure) which allows the MA to check origin and destination of traded animals upon request. Parental DNA analysis is used across a number of Member States for additional checks using a risk-based approach.

Main findings from the technical mission to Germany

30. During the technical mission conducted from 4 to 6 October 2022, the Management Authority of Germany explained that the Federal Agency for Nature Conservation (BfN) issues import and export permits to third countries only. BfN does not deal with internal market transactions within Germany or the EU. In other words, the BfN does not issue certificates for domestic purposes in Germany or for intra-EU transactions (e.g., internal trade certificates). BfN issues approximately between 20,000 to 30,000 permits per year of which 10% may be considered "more complex cases that require closer scrutiny".

31. The BfN also issues re-export certificates, as well as other specific CITES documents such as personal ownership certificates, certificates for musical instruments, travel exhibitions, sample collections, etc. BfN is responsible for making the legal acquisition findings, the non-detriment findings and looking at the origin of parental stock in case of captive breeding. For all issues concerning legal keeping or internal trade within the EU, the legal origin of specimens is checked by the local CITES authorities.

32. For authorizing the export of specimens of captive-bred Appendix-I species, the MA consults with the SA (also BfN) who does a “plausibility finding.” They ask breeders to show how they bred the species, and the number of offspring may not be plausible. This may cause further investigation/law enforcement actions.

33. Besides the BfN and the Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection as national CITES authorities, about 250 local CITES authorities exist in Germany, at Laender level, and for some Laenderat a more local level. The structure of administration differs from state to state (Land to Land).

34. At the State and local levels, keepers of Appendix-I and -II species must inform local CITES authorities when specimens are transferred or added (including new offspring). The state and local authorities operate independently based on guidance developed together by the Federal Agency for Nature Conservation (BfN) and the state authorities. The BfN also provides advice and support if needed.

35. During the mission, it was mentioned that 10,000 keepers of protected species (vertebrates) were registered in the state of Brandenburg. Since 2016 until today, the CITES authority for Brandenburg has issued almost 16,000 EU marketing certificates for specimens of Annex-A species to 1,750 keepers. This concerns mostly offspring produced by these keepers. The bulk of these certificates concerns *Testudo* turtles. Only 32 keepers obtained more than 100 of these certificates during the 8-year period reviewed and could therefore be regarded as regular breeders of Annex-A species. Brandenburg would not classify any of them as primarily commercial breeders.

36. A notification occurs in the following situations: new offspring, acquired animals, animals transferred to other keepers, animals that have died. One notification can cover several animals and several species kept by the same keeper. In 2022, 3,500 notifications were issued by the breeders and managed by a team of 5 employees in the state of Brandenburg who are the only ones with access to the registration database in this specific Federal State.

37. Before the end of 2023, Brandenburg is expected to provide keepers with a platform to notify online the required information on animals that they keep and changes in their stock (digital registration). Some

authorities in other German Federal States (Laender), e.g., North Rhine-Westphalia and Bavaria, already implemented an online registration system. Regarding the penalties, failure to register may result in fines of up to EUR 10,000 for the keeper and confiscation of the specimens. The penalty applied for violation of the individual marking obligation. In Brandenburg, there are currently about 40 cases per year regarding the above-mentioned non-criminal violations.

38. One of the key elements of the discussion was the distinction between commercial versus “hobby breeding”. BfN considered that it might be useful to attempt to develop a workable definition of commercial breeding that excludes “hobby breeders” and includes all commercial breeders. The BfN proposed to think about transferring the international registration procedure for commercial operations to the national (in Germany, federal) level to facilitate the procedure. For plants (operations that artificially propagate specimens of Appendix-I (plant) species for commercial purposes), this is the case, and the decisions are taken at the level of the CITES Party.

39. BfN further suggests that it might be helpful to explicitly exclude “hobby breeders” from the expectation to proceed through the current registration procedure as set out in Resolution Conf. 12.10 (Rev. CoP15). A difficulty is, how to define "hobby breeder" in a way that is meaningful and can be implemented in the domestic contexts of all Parties and in a way that is applicable to all species relevant for captive breeding.

40. For the CITES authority of Brandenburg, clarifying the definition of "primarily commercial" was identified as a key point during the visit. Resolution Conf. 5.10 (Rev. CoP19) *on Definition of ‘primarily commercial purposes’* provides guidance on how to ensure that the specimens in trade are "not to be used for primarily commercial purposes". Resolution Conf 5.10 (Rev. CoP19) reminds the Parties “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.”

41. With regard to Article II, paragraph 1, of the Convention and the final paragraph of the Annex to Resolution Conf. 5.10 (Rev. CoP19), the Brandenburg authorities explained that, at the moment, there is no need to distinguish between primarily commercial breeders or “hobby breeders” or breeders with other primary aims (like conservation breeding), because source code D is generally not being used in Brandenburg and source code C applied instead, based on an assessment in each individual case whether the requirements for captive-breeding are met. In addition, before BfN grants an export permit, this issue is assessed again. As explained in the submission by the EU Commission, the EU considers that this alternative approach in relation to exports from captive-breeding facilities is equivalent to, and in some ways goes beyond, what is required under the provisions of Resolution Conf. 12.10 (Rev. CoP15) on *Registration of operations that breed Appendix-I specimens in captivity for commercial purposes*. In its submission, the EU commission further stated that, given the existing measures in place, the EU does not implement Resolution Conf. 12.10 (Rev. CoP15) and exports of Appendix-I species that fulfil the criteria as captive bred as outlined above are permitted to be exported for commercial purposes with source code C. The only exception seems to be cases where the breeding stock consists of imported specimens that are not to be used for primarily commercial breeding. Such cases are in Brandenburg only known for the keeper ACTP. ACTP is being considered as primarily non-commercial because the aim of their breeding efforts is conservation breeding. In any case, Germany has confirmed that export permits for specimens of Appendix I species are not being issued for primarily commercial purposes (e.g., trade in Spix's Macaws is authorized only for purposes of the conservation breeding programme).

Visit to ACTP

42. ACTP e.V. (Association for the Conservation of Threatened Parrots e.V.) is a registered non-profit organization based in Germany. According to the statement in their website (https://www.act-parrots.org/), they dedicate their work to the protection and conservation of endangered parrots and their habitats. Together with a number of partners, ACTP explained that they develop measures in the range countries “to protect endangered parrots from illegal trafficking and to preserve their natural habitats from human influences”.

43. The aim of the visit to ACTP was to have a clearer understanding of the specific objectives of the scientific research and conservation programme for *Cyanopsitta spixii* (Spix’s macaws), *Amazona guildingii* (Saint Vincent amazon), *Amazona versicolor* (Saint Lucia Amazon) and *Anodorhynchus leari* (Lear’s macaw). Detailed explanations were provided on the research methodologies and construction of a Spix’s Macaw Release, Breeding and Research Centre (RBRC) on land within the Spix’s historical habitat in the Caatingaa (Brazil). A power-point presentation and some articles published in peer-reviewed scientific journals containing the results of their research activities were provided to the Secretariat.

44. During its technical mission, the Secretariat was able to access the facilities; visit the different steps for breeding Spix's macaws in captivity; and observe the science and techniques behind the breeding of macaws and other endangered parrots obtained from around the world. The Secretariat was allowed to check some documentation and discuss the intended purpose of those facilities. The owner provided detailed information on the controls put in place and their efforts to reintroduce certain species into the wild, linking "financial operations to conservation outcomes (money to conserve vs money to destroy)".

45. The breeders explained that they consider that the specimens are not to be used for primarily commercial purposes because they are part of a scientific research/re-introduction project. The sales operations of certain specimens to other breeders are not considered commercial as the proceeds of the sales are reinvested in the research/conservation project .

46. It should be noted that given the success of the captive-breeding of Spix's macaws, the number of specimens exceeds the capacity of the ACTP breeding centre. Also, the conservation programme for the species stipulates the establishment of additional breeding centres to diversify the risk and to increase breeding capacity of the conservation programme as a whole. Therefore, marketing permits restricted to transactions for the purposes of the breeding programme are being issued by the responsible CITES authority of Brandenburg and by BfN if this concerns an export to non-EU countries. Transactions for the purpose of the conservation programme can involve significant remunerations that are being re-invested into the conservation programme and to achieve a diversification of the risk. In this context and according to information received from other sources, some specimens of Spix's macaw were exported to a facility in India during the first half of 2023. The authorities explained that these exports from Germany to India were allowed in the context of a conservation breeding programme (i.e., primarily with the aim of having a reserve population in India and not just to generate income for the conservation breeding programme). Therefore, all specimens in India and their offspring are still part of the breeding operation and managed by the studbook keeper.

47. The state authority of Brandenburg made available to the Secretariat a document explaining the contribution to the development of implementation recommendations aimed at securing the world population of Spix's macaw within the framework of CITES and the EU regulation 338/97 (see Annex 2).

48. On the specific case of the import of two specimens of *Amazona imperialis* and the ten specimens of *A. arausiaca* from Dominica to Germany in 2018 by ACTP, the German authorities provided the following information. In the context of its application for import permits, ACTP submitted to the German CITES MA a copy of the CITES export permit issued by the Ministry of Agriculture and Fisheries of the Commonwealth of Dominica. The Secretariat notes that the Authority that issued the document is not the one registered in the directory of authorities on the CITES website.

49. According to the explanation provided, the parrots (source code W) were exported for emergency reasons, lifesaving in the case of *Amazona imperialis*, and to establish an *ex-situ* conservation breeding programme in the case of *Amazona arausiaca* and, if possible, for *Amazona imperialis* after a hurricane had devasted the island. In the box special conditions, the export permit refers to the parrot breeding programme agreement between the importer in Germany and Dominica as an essential part of the permit. As set out in the agreement, Dominica and the German breeder, ACTP, agree that the Government of Dominica will transfer a number of parrots to the breeder in Germany for breeding and scientific purposes in order to establish a reserve population with the long-term goal to restock the wild population. The agreement makes it clear that the parrots transferred under the agreement are to be maintained for breeding and scientific purposes only. The agreement also sets out that the parrots and any egg and offspring produced will, at all times, continue to be the property of the Government of Dominica. In addition, the costs for a return of parrots to Dominica, at any time, will be covered by the German breeder. For the Government of Dominica, the agreement is signed by the Permanent Secretary of the Ministry of Agriculture and Fisheries.

50. The export permit of the transfer was issued in the aftermath of (Category 5) Hurricane Maria that had largely devastated the two parrot species' habitat in Dominica in September 2017. In February 2018, the Ministry for Agriculture and Fisheries asked the German CITES MA for urgent support, in light of the impact of Hurricane Maria and in view of the possible impact during the upcoming next hurricane season. The Permanent Secretary of the Ministry of Agriculture and Fisheries pointed out that the impact on the birds had been devastating and that the Ministry has serious concerns with the survival of the birds.

51. Given Dominica's failure to submit annual reports to the CITES Secretariat during three consecutive years, at its 69th meeting in November 2017, the Standing Committee had recommended to Parties not to authorize trade in specimens of CITES-listed species with Dominica until further notice, unless it submitted its missing reports within 60 days of the meeting. As the missing reports had not been submitted during this period, by

notice of 30 January 2018, Parties were informed of the trade suspension (Notification No. 2018/016). The recommendation to suspend trade was lifted on 17 May 2018, after the Secretariat had received Dominica's annual reports for the years 2013-2016.

52. Based on the above information, the Standing Committee may wish to consider and agree on whether the transaction in question deviated from the requirements of the Convention and assess if the justification provided to do so is acceptable.

Visit to Reptilia 24

53. Regarding the keeping and breeding of reptiles and amphibians, the German authorities explained that there is a tradition in Germany lasting for over 150 years with a lot of what an expert called "traditional knowledge" and expertise developed by "hobbyists" that were able to reproduce the natural conditions *ex-situ*. Some of the species bred in captivity are long-living species and this information is relevant for tracing back the legal origin of the parental stock for most of them. The EU certificate (or internal trade certificate) issued in accordance with Article 10 of Regulation (EC) No 338/97 were considered and used as the main proof of legality for many of the transactions.

54. During the visit to Reptilia24 in Mudershausen, the Secretariat was able to check the book records; visit the incubators; observe the breeding process for many different species of reptiles; and witness the controls made by the local authorities, including the verification of microchips, transponders and photo materials. The Secretariat also collected some commercial and scientific information about some of the species that were listed in Appendix II at CoP19 and the potential impacts on the markets and the conservation of the species. The information made available to the Secretariat suggests that this operation is commercial in nature and that there is no opposition from the owner of the facility to registering the operation in order to have access to other markets that only allow trade from registered operations.

Main findings from the technical mission to Spain

55. During the technical mission conducted from 19 to 22 October 2022, the Management Authority of Spain explained that it had only been appointed in January 2022 as part of the Ministry of Environment (Miteco), based on a regulation from 2020 that entered into force in 2022. The Management Authority inherited a database of captive breeders of Appendix-I species where the data of breeders were historically registered (which exceptionally also includes sometimes breeders of Appendix-II species) from the previous Management Authority that where located in the Ministry of Trade and it appears that the database is incomplete and not fully updated.

56. The Management Authority is addressing this problem to ensure traceability. Throughout 2022, the new Management Authority found that there were breeders that did not fulfil all the legal requirements covered by the regulations of i) protected species in Spain, ii) animal health and iii) dangerous species. Consequently, from 2023, for each breeder included in the database mentioned above that applies for the first time for a CITES permit or certificate, the MA verifies that the operator fulfils the three regulations mentioned above before issuing the documents.

57. There are approximately 3,000 registered breeders in Spain breeding mainly Falconiformes and Psittacidae. The Secretariat did not receive information on how many breeders breed for commercial purposes and how many are "hobby breeders". It was the impression of the Secretariat that the Authorities suspect that a very large amount of breeders are breeding for commercial purposes but do not declare their operations with the tax authorities for fiscal reasons.

58. A possible solution foreseen by the Authorities is to require commercial breeders to have a registered business. If that were the case, the expectation of the Management Authority is that a low percentage of breeders would register a business. All Spanish breeders that export out of the EU are registered with the tax authorities because they have to declare the value of the exported merchandise as it passes through customs (through the sales invoice to the exporter) and therefore need a tax identification number for their business. The problem comes with breeders that sell, donate or transfer their captive-bred animals to another owner within Spain or within the rest of the EU. There is a legal practice of "donation" used by breeders in Spain that allows them to transfer the property of the specimens while avoiding to declare these transactions as commercial trade.

59. During the technical mission, the Management Authority expressed interest in ensuring that breeders of Appendix-I species fulfil all CITES requirements and more, as the EU and Spain have stricter domestic

measures in place. However, it was unclear to the Authorities how to implement the requirement mentioned in paragraph 5 j) of Resolution Conf. 12.10 (Rev. CoP15) which states that:

j) the Management Authority shall satisfy itself that the captive-breeding operation will make a continuing meaningful contribution according to the conservation needs of the species concerned; breeders should contribute to the conservation of the species they breed.

60. Regarding this requirement, the Authorities noted that the determination of whether it is satisfied is currently being done subjectively. They insisted on the need to have homogeneous criteria that should be developed and applied by all countries when assessing whether the contribution to the conservation of the species is continuous, in accordance with Resolution Conf. 12.10 (Rev. CoP15). Standardized and objective criteria are needed to assess the requirement, or otherwise this important requirement might be applied differently between authorities of different countries.

61. In the objection letter to the application made by Radiata's Paradise, the United States of America noted the following:

"we believe that it is important for this facility to engage with Malagasy authorities in support of in-situ *conservation efforts, similar to the actions taken by the two currently registered facilities for this species".*

Based on this sentence, the Management Authority of Spain considers that, in addition to having clear criteria to objectively assess whether the captive-breeding operation will make a continuing meaningful contribution according to the conservation needs of the species concerned, it would be useful if the CITES Secretariat could put together a detailed catalogue of examples of conservation measures specific for each species that are considered sufficient to fulfil requirement j).

62. During the technical mission to Spain, the Secretariat visited three facilities: Radiata's Paradise, Parrot Grys and Tortuland. A brief summary of the main issues discussed or identified is presented in the following paragraphs.

<u>Visit to Radiata's Paradise</u>

63. The main issue discussed during the visit to this facility was the registration process of this operation in the Register maintained by the Secretariat. Radiata's Paradise submitted an application in March 2021 which was withdrawn later in 2021 because it received objections from the Management Authority of the United States and Madagascar arguing that "*the parental stock was bred in captivity in Spain and other countries in the EU but provides no indication of source or pathway by which the founder specimens entered the EU. Additional explanation is needed regarding this matter*". Further, the objections noted that there was no information concerning the contribution of the breeding operation to the conservation of wild populations(s) of the species [point 15 of Annex 1 to Resolution Conf. 12.10 (Rev. CoP15)]. All specimens of the parental stock of the Radiata's Paradise had an EU certificate (or internal trade certificate) issued by the MA of Germany or Spain, in accordance with Article 10 of Regulation (EC) No 338/97, and the numbers of these certificates were included in the application. The Spanish MA does not understand why EU certificates are not considered a valid proof of legality by other MA of other Parties to CITES.

64. The Management Authority of Spain is aware that Radiata's Paradise is able to provide additional evidence to better document its efforts towards point 15 of Annex 1 to Resolution Conf. 12.10 (Rev. CoP 15) on *information to be provided to the Secretariat by the Management Authority on operations to be registered*, which requires:

15. Description of the strategies used or activities conducted by the breeding operation to contribute to the conservation of wild population(s) of the species.

65. On 10 August 2023, the Management Authority of Spain has provided an update to the Secretariat via email informing that during the first semester 2023, two re-export permits have been issued for *Astrochelys radiata* for a total number of 53 individuals. All those 53 individuals came from Germany and had EU certificates issued by the German Management Authority. Based on those certificates, the former Management Authority of Spain (in place until 2nd January 2022) issued the corresponding re-export certificates. Those certificates have not been used yet to re-export the animals out of the EU (allegedly to Asian markets) because the breeding facility is first trying to get registered in the CITES Secretariat Register of operations that breed Appendix-I species. In the meantime, the certificates have expired (6 months after date of issuance) and

Radiata's Paradise has applied for new documents which have been issued by the Management Authority of Spain.

66. The Management Authority of Spain intends to cooperate with the Management Authority of Germany on the issue of the traceability of the parental stock of these animals back to the source.

Visit to Parrot Grys

67. The main finding during the visit to that facility was that there is a division of labour between breeders and traders that happened to be different persons or legal entities. Those breeding the species are not the ones commercializing them in the domestic or international markets. They supply the specimens to traders that sometimes are based in other countries of the EU. This division of the tasks in the value chain renders the traceability and differentiation of responsibilities opaque and rather difficult. Breeders do not seem to have the commercial information but only the know-how and traditional knowledge to breed the species while the main traders active in the international markets do not appear to be linked or associated to the captive-breeding operations. In the update provided by the Management Authority on 10 August 2023, it was mentioned that this breeding centre has not applied for any EU certificate nor permit from 1 January to 31 July 2023.

Visit to Tortuland

68. This rather small facility specializes in reptiles and does not appear to trade internationally but mostly within the EU. According to the update provided by the Management Authority on 10 August 2023, three EU certificates for intra-EU commercial trade have been issued for this breeding centre for a total number of three individuals of *Astrochelys radiata* during the first semester of 2023.

Brief analysis of the requirements for operations that breed Appendix-I animal species in captivity for commercial purpose

69. The Secretariat recalls that the import of wild-caught specimens of Appendix-I species for purposes of establishing a commercial captive-breeding operation is precluded by Article III, paragraph 3 (c) of the Convention, as explained further in Resolution Conf. 5.10 (Rev. CoP19). The Conference of the Parties unanimously agreed that the exemption of Article VII, paragraph 4, should be implemented through the registration by the Secretariat of operations that breed specimens of Appendix-I species in captivity for commercial purposes, as provided in paragraph 2 of Resolution Conf. 12.10 (Rev. CoP15).

70. According to paragraph 2(b) of Article III of the Convention, prior to the issuance of an export permit a Management Authority of the State of export must be satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora. This requirement is related to the information requested in paragraph 5 of Annex 1 to Resolution Conf. 12.10 (Rev. CoP15) and is reflected in the Sample application form (Annex 3 to the Resolution).

71. In paragraph 8 a) of the same Resolution, the Conference of the Parties further agreed that Parties shall restrict imports for primarily commercial purposes, as defined in Resolution Conf. 5.10 (Rev. CoP19), of captive-bred specimens of Appendix-I species to those produced by operations 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 the document does not describe the specific identifying mark applied to each specimen.

72. According to paragraph 3 (c) of Article III of the Convention, prior to the issuance of an import permit, the Management Authority of the State of import must be satisfied that the specimen is not to be used for primarily commercial purposes. In practical terms, this implies that the Management Authority has to determine how the specimen will be used – for primarily commercial purposes or not. The plain text of the requirement therefore puts emphasis on the use of the specimen upon the import, and not on the motivation for the export. Principle d) of Resolution Conf. 5.10 (Rev. CoP19), which provides further guidance on the definition of 'primary commercial purposes'[2], further confirms that the element of "use" is of utmost

[2] *Resolution Conf. 5.10 was adopted at the 5th meeting of the CoP without objections from the Parties. See Proceedings of the 5th meeting of the Conference of the Parties (Buenos Aires, Argentina, 22 April – 3 May 1985), Summary Report of the Plenary Session, Seventh Session, 29 April 1985, 14h40-18h20, Item 8. The revision of Resolution Conf. 5.10 at the 15th meeting of the Conference of the Parties was accepted by consensus. See Summary Record of the 15th meeting of the Conference of the Parties, (Doha, Qatar, 13-25 March 2010), Summary Record of the third plenary session, 24 March 2010, 9h15-11h55, Item 18. The revision of Resolution*

importance in this provision. Principle d) states that “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”.

73. The Preamble of the Resolution recognizes that, because the term “primarily commercial purposes” is not defined in the Convention, it can be interpreted by the Parties in different ways. The Resolution further acknowledges that “the facts concerning each import will determine whether a proposed use would be for primarily commercial purposes”. Additionally, the Resolution provides general principles and examples to guide the Parties in assessing the commercial elements of the intended use.

74. Paragraph 1 of the Resolution lists general principles, including principles a) and b):

    a) Trade in Appendix-I species must be subject to particularly strict regulation and authorized only in exceptional circumstances.

    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.

75. Furthermore, according to principle 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”. As a result, “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.”

76. Therefore, the legal considerations to determine whether Article III, paragraph 5 (c) of the Convention is being effectively implemented are:

    a) whether the intended use of the specimens in the country of import is commercial;

    b) whether the trade is authorized in exceptional circumstances;

    c) whether the purpose of the activity is to obtain economic benefit; and

    d) whether non-commercial aspects of the use clearly predominate.

77. Furthermore, the Annex to Resolution Conf. 5.10 (Rev. CoP19) provides examples of transactions in which the non-commercial aspects may or may not be predominant. In example b) on scientific purposes, the Conference of the Parties recognized that:

    Article VII, paragraph 6, of the Convention uses the term "non-commercial loan, donation or exchange between scientists or scientific institutions". Thus, the Convention acknowledges that scientific purposes may justify a special departure from the Convention's general procedure. The import of specimens of an Appendix-I species may be permitted in those situations where the scientific purpose for such import is clearly predominant, the importer is a scientist or a scientific institution registered or otherwise acknowledged by the Management Authority of the country of import, and the resale or commercial exchange of the specimens, or their exhibit for economic benefit is not the primary intended use.

78. In light of those provisions, the Standing Committee may conclude either that:

    a) the Management Authority of the concerned Parties had no reasons to be satisfied that the specimens bred in captivity are not to be used for primarily commercial purposes, which would therefore be inconsistent with Article III, paragraph 5(c) of the Convention and Resolution Conf. 12.10 (Rev. CoP19); or

    b) the Management Authority had reasons to be satisfied that the Appendix-I specimens bred in captivity are not to be used for primarily commercial purposes because the scientific purpose is clearly predominant.

Conf. 5.10 (Rev. CoP15) at the 19th meeting of the Conference of the Parties was accepted by consensus. See Summary Record of the 19th meeting of the Conference of the Parties (Panama City, Panama, 14-25 November 2022). Summary Record of the second plenary session, 24 November 2022, 9h20-12h00, Item 42.

On the basis of the elements gathered during the technical missions and this brief legal analysis, the Secretariat has formulated some recommendations for the consideration of the Standing Committee.

79. The most fundamental consideration is the actual degree of commerciality of the transactions and the fact that some captive-bred specimens are not used for scientific research. The fact is that specimens are sold on the domestic market of the EU or traded internationally. In light of the text of Article III, paragraph 5(c) of the Convention and general principle d) in Resolution Conf. 5.10 (Rev. CoP19), the Secretariat is of the opinion that a significant number of captive-bred specimens found in the facilities visited during the two technical missions are traded for an intended use of a commercial nature, which suggests that they have been bred for primarily commercial purposes.

80. Having said that, it is important to recall that the Annex to Resolution Conf. 5.10 (Rev. CoP19) recognizes categories of transactions in which the non-commercial aspects may or may not be predominant, depending upon the facts of each situation, For instance, paragraph e) on Captive-breeding programmes states that:

Imports of specimens of Appendix-I species for captive-breeding purposes are a special case. Any import of such specimens for captive-breeding purposes should be in accordance with Resolution Conf. 10.16 (Rev. CoP19) and must be aimed as a priority at the long-term protection of the affected species, as required in Resolution Conf. 10.16 (Rev. CoP19). 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 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, 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.

81. During the technical missions, the Secretariat was not able to collect information on how the EU and/or Member States define what is a surplus and when the surplus becomes an industrial production given the success of the captive-breeding operation. It was also unclear how the authorities are verifying that profits of each breeder selling such specimens do not become a personal economic benefit and are fully used to support the continuation of the captive-breeding programme. The Secretariat was not able either to collect evidence about the benefits of the *ex situ* breeding operations for the conservation *in situ* of the species bred in captivity in the visited facilities. In this context, the Secretariat invites the attention of the Standing Committee to the fact that the provisions of Article III of the Convention remain the basis for permitting trade in specimens of Appendix-I species of animals that do not qualify for the exemptions of paragraphs 4 and 5 of Article VII. It is also important to bear in mind that the exemption of Article VII, paragraph 4, should be implemented through the registration by the Secretariat of operations that breed specimens of Appendix-I species in captivity for commercial purposes, in accordance with Resolution Conf. 12.10 (Rev. CoP15).

82. The Secretariat questions whether Article III, paragraph 2 (b) and paragraph 3 (c) of the Convention are currently being effectively implemented in Germany and Spain with regard to the breeding/parental stock of specimens bred in captivity. This includes records demonstrating that the specimen or parental stock was removed from the wild in accordance with relevant laws (licenses, collections permits, etc.); records identifying the specific specimen (band numbers or other marks, etc.) and documenting the history of transfers of ownership (sales, receipts, invoices, etc.); and records showing that the specimen was reared at a particular facility, for example. It is also unclear whether the Management Authorities of Spain and Germany have been able to satisfy themselves that the facilities are not breeding for primarily commercial purposes.

Existence of "economic benefit" of the ACTP captive-breeding operation visited in Germany by the Secretariat.

83. According to general principle b) of Resolution Conf. 5.10 (Rev. CoP19), the existence of economic benefit does not depend on the purpose for which the economic benefit is derived. Regardless of whether the proceeds from the activity are used for scientific purposes or not, an activity can be qualified as commercial under general principle b) from the moment that an economic benefit is derived from this activity.

84. The Secretariat considers that the sale, or other simulated forms of trade such as "exchange" or "donation" of Appendix-I captive-bred birds and reptiles on the domestic market of the EU or traded internationally is

an activity that can generally be described as commercial because its purpose is to obtain an economic benefit, and is directed toward a form of economic use and benefit, noting that in some cases the proceeds from the sale are used to finance research programmes.

85. In the view of the Secretariat, the "hobby" aspect, the passion and the personal commitment of the owners of those facilities is not a determining factor to assess the actual degree of commerciality of the transactions and the commercial nature of the operations. The fact that the proceeds of the sales do not cover the whole budget of a given research programme is also of little relevance for making that determination. According to the explanation provided by the authorities, one captive-breeding operation visited during the mission sells surplus specimens allegedly to underwrite the cost of the captive-breeding programme. However, the Secretariat was told during the visit that the facility was financed with carbon sequestration bonds. It appears also difficult to disaggregate possible personal economic benefits of a private individual or shareholder from the proceeds of the sales that are reinvested in the facility for the conservation activities. In addition, the argument that the animals exported also serve as a reserve population in a non-range State country seems to pose other questions that falls outside the scope of this document. Rather, the fact that the activity provides at least some part of the budget demonstrates the existence of economic benefit through the sale of captive-bred specimens of species listed in Appendix I. The application of general principle b) to the relevant facts therefore strongly suggests that the activity carried out by the facilities visited during the technical missions is commercial.

86. Application of Article III, paragraph 5(c) of the Convention, and of the general principles a), b), and d) in Resolution Conf. 5.10 (Rev. CoP19) to the matter before the Standing Committee provides grounds for the Standing Committee to conclude that the Management Authority of the concerned Parties have not had reasons to determine that some captive-bred specimens of birds and reptiles listed in Appendix I are being bred for non-commercial purposes.

Recommendations

87. In light of the above, the Secretariat recommends that the Standing Committee determine that Article III and Article VII para. 4 of the Convention are not being effectively implemented by the EU with regard to the registration of operations that breed Appendix-I animal species in captivity for commercial purposes, in particular concerning two main elements:

    a) the evidence that the parental stock has been obtained in accordance with relevant national laws and the provisions of the Convention (e.g. dated capture permits or receipts, CITES documents, markings, etc.); and

    b) the primarily commercial nature of the operations breeding Appendix-I animal species in captivity.

88. In accordance with Resolution Conf. 14.3 (Rev. CoP19) on *CITES compliance procedures*, the Standing Committee may decide to take one or more of the measures referred in paragraphs 29 and 30 of the Annex to Resolution Conf. 14.3 (Rev. CoP19). The Standing Committee may wish to urge the CITES Management Authorities of the EU to ensure that facilities that are breeding specimens of Appendix-I listed species for commercial purposes be registered with the CITES Secretariat in accordance with the procedures established in Resolution Conf 12.10 (Rev. CoP15). Further, in accordance with Article VII, paragraph 4 and Resolution Conf. 12.10 (Rev. CoP15), the Standing Committee may wish to recommend that the CITES Management Authorities of the EU do not issue CITES export permits or re-export certificates authorizing export for primarily commercial purposes of specimens of Appendix-I listed species that have been bred in unregistered facilities.

89. The Standing Committee may wish to recall paragraph 8 a) of Resolution 12.10 (Rev. CoP15) and invite Parties to restrict imports for primarily commercial purposes, as defined in Resolution Conf. 5.10 (Rev. CoP19), of captive-bred specimens of Appendix-I species to those produced by operations included in the CITES Register and to reject any permit or certificate granted under Article VII, paragraph 4, if the specimens concerned do not originate from a registered facility and if the permit or certificate does not describe the specific identifying mark applied to each specimen.

90. The Standing Committee may consider developing additional guidance with the assistance of the Secretariat for fulfilling the two requirements described in subparagraph a) and b) below and submit its recommendations to the next meeting of the Conference of the Parties:

a) specific guidance on the chain of custody required for demonstrating the legal acquisition of the parental stock, i.e., the chronological documentation, to the extent practicable and in accordance with applicable laws and records, of the transactions pertaining to the removal from the wild of a specimen and the subsequent ownership of that specimen;

b) standardized and objective criteria to implement the requirement stated in paragraph 5 j) of Resolution Conf. 12.10 (Rev. CoP15) to assist Management Authorities in making the findings about the continuing meaningful contribution that the captive-breeding operation will make to the conservation needs of the species concerned.

91. On the specific case of the import of two specimens of *Amazona imperialis* and the ten specimens of *A. arausiaca* from Dominica to Germany in 2018, the Standing Committee is invited to consider the explanation provided by Germany and determine whether a *force majeur* event (a hurricane/natural disaster) is an acceptable justification to authorize the transaction in question. Depending on its conclusion, the Standing Committee may further wish to determine whether it deviated from the requirements of the Convention or not.

EUROPEAN COMMISSION
DIRECTORATE-GENERAL ENVIRONMENT
Directorate F – Green Diplomacy & Multilateralism
Unit.F.3 – Global Environmental Cooperation and Multilateralism
Head of Unit

Brussels,
DG ENV.F3 (CITES) Ares(2022)

Ms Ivonne Higuero
Secretary General CITES Secretariat
Palais des Nations
Avenue de la Paix 8-14
CH-1211 Genève 10
Switzerland

E-Mail: info@cites.org

Subject: **EU response to Secretariat's request for information on exports of captive-bred Appendix I taxa for commercial purposes from non-registered breeding operations**

Dear Ms Higuero,

In response to the Secretariat's letter of 14 June 2022 requesting information on commercial trade in Appendix I taxa within the EU Member States, the following information has been compiled for consideration by the Secretariat and the CITES Standing Committee at its 74th meeting in Panama.

General considerations

Firstly, we would like to note that the European Union implements CITES through the EU Wildlife Trade Regulations (EU WTR)[1], which include stricter domestic measures. In accordance with the EU WTR, exports of specimens of Appendix I species which, alongside some other taxa, are all included in Annex A of Regulation (EC) No 338/97 are subject to a case-by-case assessment, including checks on whether the specimen is captive-bred in accordance with the requirements of Res. Conf. 10.16 (Rev.) on *Specimens of animal species bred in captivity* or Article 54 of Regulation (EC) No 865/2006.

The EU WTR require that any commercial use of an Annex A specimen within an EU territory has to be covered by an EU certificate (or internal trade certificate), issued in accordance with Article 10 of Regulation (EC) No 338/97. Certificates can only be issued if specific conditions are met, such as the specimen is captive bred in accordance with Conf. Res. 10.16 (Rev.)/Article 54 of Regulation (EC) No. 865/2006, as outlined in Article 8.3 of Regulation (EC) No 338/97. All Annex A specimens used for commercial purposes need to be marked, for example by means of a closed ring or transponder. Acceptable marking methods are outlined in Articles 66 and 67 of Commission Regulation (EC) 865/2006.

[1] https://ec.europa.eu/environment/cites/legislation_en.htm

In addition to the close monitoring of Appendix I specimens for captive breeding and trade internally, the EU scrutinises every individual export for commercial trade on a case-by-case basis ensuring a high level of control. To enable consistent application of these standards across the EU Member States, the Commission recently published a "*Guidance document on live animals bred in captivity under the EU Wildlife Trade Regulations*"[2]. The guidance, which has been developed in consultation with Member States over the past two years based on current practises, considers aspects such as establishment of breeding stocks for captive breeding, verification of legal origin of founder stocks that are non-detrimental to wild specimens, determination of source codes, and specific Scientific Authorities (SA) and Management Authorities (MA) roles.

As noted in the Guidance, if an application is received to export an Appendix I specimen from the EU that already has an EU certificate, it is subject to additional checks based on a number of risk factors, such as any sudden increases in productivity from the relevant facility, a high volume of trade in specimens that are difficult to breed, or the export is for a species that is not easy to breed to second generation (see Annex 1 of the Guidance).

Accordingly, the EU considers that this alternative approach is equivalent to, and in some ways goes beyond what is required under the provisions of Res. Conf. 12.10 (Rev. CoP15) on *Registration of operations that breed Appendix-I specimens in captivity for commercial purpose.* Given the existing measures in place and based on the considerations below, the EU does not implement Res. Conf. 12.10 (Rev. CoP15), and exports of Appendix I species that fulfil the criteria as captive bred as outlined above are permitted to be exported for commercial purposes with source code C. The only facilities that are included in the CITES Registration of operations that breed Appendix-I animal species in captivity for commercial purposes in the EU are facilities that are breeding and exporting falcons on a large scale in order to facilitate as much as possible the commercial import of these species into destination countries.

For a good understanding of the data submitted as part of this request and of the way the EU and its Member States operate, it is necessary to understand that there are many hobby breeders in the EU, some of which only have one or a few breeding pairs of a certain species. Some breeders do operate on a larger and clearly primarily commercial scale. Checks are done to ensure that offspring are produced in line with Res. Conf. 10.16 (Rev.), in which case they can be subsequently sold within the EU and exported. In some cases, it is the breeding facility itself that is responsible for the export, but in many cases, it is another entity, which could be a commercial breeder or trader, that collects birds or reptiles (which can come from different Member States) for export to third Parties. This practice clearly highlights the implementing issues linked to paragraph 4 and 5 of Art. VII, and the relevant Resolution Conf. 12.10 (Rev. CoP15). One difficulty lies in the fact that the breeding entity and the exporting entity are often not the same, and that for the breeder it is impossible to know if the specimen bred will be used for export or not.

Another difficulty is that the CITES registration procedure under Resolution. Conf 12.10 (Rev. CoP15) would be complex and potentially lengthy for small scale commercial breeders and would not be manageable at all for hobby breeders. For a limited number of occasional exports, the efforts required for the registration are disproportionate and we consider that a strict case-by-case assessment of individual exports on the basis of Res. Conf. 10.16 (Rev.) on *Specimens of animal species bred in captivity* or Article 54 of Regulation (EC) No

[2] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022XC0811(01)&from=EN

865/2006 is an equally appropriate instrument to ensure that captive breeding standards are met.

In view of the strict requirements imposed by the EU Wildlife Trade Regulations on our captive-breeding facilities, the EU would be open to a discussion with the Secretariat on a possible future review of Res. Conf.12.10 (Rev. CoP15).

Finally, it is important to note that some of the EU Member States are federal states and have distributed the tasks within the context of CITES to authorities at the federal as well as at the state level. For example, in Germany, CITES export permits and re-export certificates, as well as CITES import permits, are issued at the federal level by the Federal Agency for Nature Conservation. Germany is a federal state consisting of 16 so called '*Länder*'. Local and regional '*Länder*' authorities have powers to issue intra-Community EU certificates (for commercial use within the EU; for movement of live animals in the EU), carry out investigations and control trade within the EU. These powers include checking breeders' compliance with notification obligations on living specimens kept by them as well as with marking requirements.

In Spain, which has 17 regional administrations and a central administration, all CITES powers are under central administration. All three CITES Authorities – management, scientific and enforcement, are executed by state departments. Therefore, since 02/01/2022, all CITES permits and certificates are issued by the Ministry for the Ecological Transition and the Demographic Challenge. The registration in a national database and control of captive breeding operations is carried out by the Management Authority, after checks have taken place that the facility has the relevant authorisations and fulfils the necessary requirements (e.g. confirming compliance with the animal health standards, authorisation to hold and breed protected native species, authorisation to breed dangerous species). These authorisations are granted by the regional administrations, or local administrations in the case of breeding dangerous species.

Response to specific questions

Q1. Number of facilities in Member States breeding and exporting specimens of the species concerned that are being exported

It was not feasible to collate information on all facilities breeding Appendix I reptile and bird species across the 27 EU Member States in the time requested by the Secretariat. However, where feasible, information on breeding facilities for the nine priority taxa[3] outlined in the Secretariat's letter has been collected and is included in the attached Excel spreadsheet. The data included covers the five-year period 2016-2020 and is based on the information provided by 15 EU Member States[4]: Austria*, Belgium, Bulgaria, Czech Republic, Denmark, Finland, France, Germany*, Hungary, Ireland, Italy, Malta, Netherlands*, Slovakia and Spain*.

The data indicates that of these priority taxa, 155 breeding facilities were involved in the captive breeding with subsequent export of specimens from those 15 Member States, with the majority of these breeding Psittaciformes: *Amazona oratrix* (77), *Ara macao* (39), *Amazona auropalliata* (29) and *Cyanopsitta spixi*[5] (1), with a smaller number breeding reptiles

[3] *Amazona auropalliata, A. oratrix, Ara macao, Cyclura rileyi, Astrochelys radiata, Neurergus kaiseri, Conolophus* spp., *Brachylophus fasciatus, Cyanopsitta spixii.*

[4] * "Frequent" (re)exporting Member States as highlighted in the Secretariat's letter

[5] Operation breeding in the context of a conservation breeding and re-introduction programme

Astrochelys radiata (4), *Brachylophus fasciatus* (3) and *Cyclura rileyi* (2) (see worksheet 1 "*Number of operations*" and "*operations pivot*").

Whilst most operations (138) are of a commercial nature and export specimens with purpose code "T", it should be noted that not all of these facilities are exporting specimens outside of the EU on a commercial basis; some exports of the priority species have taken place for zoological or re-introduction purposes. For example, in the case of *Cyanopsitta spixi*, 52 specimens were exported from Germany to Brazil for the purposes of a re-introduction programme; most of those specimens were bred in captivity in a facility in Qatar or bred in Germany (after the breeding stock was moved from Qatar to Germany), with a few from Switzerland.

Of the priority species identified by the Secretariat for which specimens were exported within the reporting period 2016-2020, such specimens were bred by 61 breeders in the Netherlands (mainly *Ara macao* and *Amazona oratrix*), and 34 in Belgium (*Amazona oratrix* and *A. auropalliata*). Spain and Germany have one and two breeders of these priority taxa, respectively. We would note, however, that the data compiled reflects Member States interpretation of the nature of the request, with Netherlands and Belgium providing data on the breeders (notwithstanding the type of breeder or scale of breeding), of priority species that were known to have bred birds that were subsequently exported from the EU, with other Member States (such as Austria, France and Spain) reporting on the number of facilities breeding and also exporting relevant specimens in the reporting period. Accordingly, the summarised data for the 15 EU Member States is provided (Annex 2).

It is important to note that not all breeding facilities subsequently export the specimens. In Belgium for example, there were eight commercial exporters that exported the two selected species over the five-year period. In addition, many breeders are private keepers/hobbyists that may own only one or a few breeding pairs that produce a limited number of offspring. The same situation applies in the Netherlands. In some Member States, these Appendix I priority species are bred, but are sold within the EU and not directly exported. Data on these facilities is not reflected in this request. However, in some Member States, such as Austria, Germany, the Netherlands, Spain and Slovakia, specimens that are bred by private keepers/hobbyists and that meet the requirements for captive-bred specimens set out in Res. Conf. 10.16 (Rev.) on *Specimens of animal species bred in captivity* and in Article 54 of Regulation (EC) No 865/2006 are also exported under source code C. Finally, specimens that are bred in one Member State may also be exported from another.

Some detailed information on individual breeders is provided (see worksheet 2 "*Detailed facility info.*"). Due to data protection issues, the breeder's name within each country has been omitted and is referred to using the ISO code for the country and a number or is left out. This has been compiled for this specific data request and does not correspond to any type of EU breeder registration system. The Excel spreadsheet includes the evidence of legal acquisition of founder breeding stocks (see also Q3 response below), date of facility establishment, date of first breeding, details of marking, whether the breeder has bred to F2 or to F1 but in a manner to go to F2, whether an inspection has taken place, number of the breeding stock and regular monitoring measures (see also Q5).

Q2. Inspection of the facilities and details of the authorities undertaking inspections

All facilities within Member States that export CITES Appendix I specimens are subject to administrative checks as required under the EU Wildlife Trade Regulations, as referred to above. The approach to on-site inspection of facilities varies across EU Member States but is generally risk-based, with one of the key criteria being the species concerned as well as its

ease of captive-breeding and rarity in captivity. Inspections are often triggered by applications for CITES documents or if any issues arise during assessment of documentary evidence, for example the number of offspring claimed to be produced or if there are any other concerns relating to malpractice or following successful breeding by new breeders. Inspections can also be triggered by information received through public complaint.

Depending on the particular case and the approach taken by the Member State, on-site inspection procedures may include the following aspects: physical inspection of the specimens, assessment of the adequacy of facilities, taking an inventory of offspring per breeding pair and their markings (often closed rings or microchip transponders), compiling photographs or video documentation, confirmation of legal origin, determining the methodology of successful breeding and, for some Appendix I bird facilities, collecting feathers for DNA analysis to confirm parentage. The guiding principles outlined in document AC30 Inf. 25 are aligned with the EU's approach to inspections.

In the Czech Republic for example, all facilities that breed species on the higher risk list identified by the Secretariat are inspected physically to check marking prior to issuance of CITES certificates. In Belgium, apart from the ad hoc inspections (for example following suspicious applications for CITES documents), specific priorities for inspections are set on a yearly basis and, in 2022, included investigation of certain parrot breeders. In recent years, inspections have taken place in Belgium for three selected breeders of *A. auropalliata* and four selected breeders of *A. oratrix* (these facilities have actually been inspected multiple times). Belgium conducted 228 inspections in the last 10 years related to parrots alone. For the exporting facilities, all but one were inspected at least once in recent years. In Germany, breeder "DE1" producing *Amazona auropalliata* and *A. oratrix* is inspected annually; the breeder of *Astrochelys radiata* was subject to two inspections 2016-2020 and the breeder of *Cyanopsitta spixi* was subject to four inspections 2016-2020.

In France, zoos are inspected annually, and commercial breeders are regularly inspected based on their size, with less frequent inspections of around every five years or so for smaller breeders. In Spain, some inspections are based on the high-risk factors outlined above, in combination with other inspections undertaken based on random selection. In the Netherlands, besides a 100% administrative inspection, one third of all breeding facilities were inspected on site between 2016 and 2020.

On-site facility inspections are generally carried out, or are supported by, the relevant CITES Management Authority, which may be a local CITES MA. Other authorities/experts that carry out or support inspections include CITES Enforcement Authorities, CITES Scientific Authorities and domestic environmental inspection agencies, customs, or veterinary agencies.

In Hungary, facilities are inspected by the regional government offices serving as regional enforcement authorities, but in case of doubts of illegal activity, also other authorities (e.g. police, customs) that have powers to perform inspections.

It is notable that inspections are also undertaken for facilities that do not export CITES Appendix I species from the EU but breed them to produce offspring for commercial sale within the EU. Full information on inspections is provided in the Excel tab "*3. Inspections*" and further details of relevant organisations are included in tab 4 "*Inspection agency*".

Q3. Determination of whether breeding stocks were established in accordance with the CITES provisions and in compliance with national laws, and were non-detrimental to the wild populations

Given the number of breeding facilities involved, it was not possible to provide the details of the acquisition of founder breeding stock for each in the time available. However, as can be noted from each case in the spreadsheet concerning selected priority species (see worksheet 2 "*Detailed facility info.*"), the relevant founder breeding stocks were either composed of specimens that already had EU certificates (and were therefore subject to the relevant checks outlined above) or were legally imported on CITES permits. For example, Austria legally imported live specimens of *Brachylophus fasciatus* and *Cyclura rileyi* from Switzerland, and Germany legally imported live specimens of *Cyanopsitta spixii* from Qatar using valid CITES permits. Similarly, specimens of *Amazona auropalliata* were legally imported into Slovakia from Nicaragua as wild specimens in 1997; at that time the species was included in Appendix II (it was transferred to Appendix I only in 2003). All CITES permit numbers can be provided upon request.

Q4. Augmentation of wild-taken specimens for breeding stocks in captivity legally and in a non-detrimental manner

Introduction into the EU of specimens of species listed in Appendix I from wild origin for commercial purposes is not allowed under the EU WTR; therefore, it does not seem possible that augmentation of breeding stocks with wild specimens has taken place since the species was listed in Appendix I. It is however possible that for certain species there are wild caught specimens that are part of active breeding stocks but were acquired prior to the listing on CITES (pre-Convention) or were imported with CITES permits when the species was listed in Appendix II (as in the example above). When proof is provided that the specimen is either pre-Convention or imported under the Appendix II regime, it is considered that these animals are of legal origin and obtained in a manner not detrimental to the survival of the species. As noted in the spreadsheet under column K of "2. *Detailed facility information*", Member States have indicated that there has been no augmentation of breeding stocks with wild-taken individuals for the priority Appendix I species.

Q5. Type of trade controls that are put in place at the relevant facilities and commercial or non-commercial nature of the facilities

General EU trade controls

As noted above, exports of captive bred specimens of Appendix I specimens from the EU must be done in accordance with Article 5 of EU Regulation 338/97 and are assessed on a case-by-case basis, with the applicant required to demonstrate legal acquisition and details of the parental stock. The applicant would also be required to provide details of the unique identifier (either a closed ring or microchip) and a copy of the EU certificate that proves the specimen was legally acquired).

Additional national measures

Further measures are in place to monitor relevant facilities across Member States that represent stringent trade controls, such as registration and requirements for marking. For example, in the Czech Republic, compulsory registration of Appendix I (or Annex A) species is required by national legislation. Any specimens imported or bred in the EU must be reported to the regional MA, as well as any changes such as ownership change, change of marking or death of the specimen. Similarly, in Slovakia, there is an obligation to notify the SA of these changes for Appendix I mammal, birds or reptile species within 30 days of the change. Annex A specimens (which include all Appendix I species) must be registered in Bulgaria within 15 days of acquisition or 45 days after hatching unless the specimens is already covered by an EU certificate issued in the name of the holder. In Hungary, the

registration of possession, purchase, sale, export, import, birth, death, (re-)marking of all specimens of vertebrate species listed in Annex A, and all live specimens of mammals, birds (with certain exemptions) and tortoise species listed in Annex B of the EU Regulations is obligatory. These specimens must be individually marked, in case of birds bred in captivity, primarily with a seamlessly closed leg-ring.

In Spain, it is compulsory for all breeders of Annex A species to be registered in the Spanish MA's breeders database, for which they have to prove the legal acquisition of the parental stock and the legality of the facility and the breeding activity. Annex B breeders also have to be registered in this database to acquire a captive breeding certificate for their specimens. This document is also needed if they want to transfer Annex B specimens. Additionally, it is compulsory for all breeders of Annex A and Annex B species to notify the Spanish MA of any changes in the breeding stock (acquisition of new specimens or reductions to the stock and the causes –death, transfer, etc., and all clutches and births that occur in their facilities. Information on the parents, their markings and the marking of the offspring are required.

Germany also requires that the keeping of all vertebrates listed in Appendix I or II of CITES (and additional species protected by EU law) is notified at State (Länder) level, providing, inter alia, the following information: marking information, sale, acquisition, offspring, death, sex, origin of the animal. In addition, marking obligations apply in Germany to many species. Austria requires that breeders submit marking requirements (photo documentation, details of microchips or ring numbers) as well as updates to the breeding stock on a regular basis to the SA (the reporting interval varies and is dependent, inter alia, on the species kept. The Netherlands and Belgium also have stricter domestic measures which require traders/breeders (and in the Netherlands also all breeders of Appendix I specimen) to keep detailed records of specimens entering and leaving their facility (register of entry and register of departure) which allows the MA to check origin and destination of traded animals upon request. Parental DNA analysis is used across a number of Member States for additional checks using a risk-based approach. Information is summarised in the spreadsheet under 5. "*Monitoring measures*."

Specific case from Germany

On the specific case of the import of two specimens of *Amazona imperialis* and the ten specimens of *A. arausiaca* from Dominica to Germany in 2018, Germany has provided a detailed explanation, which is included in Annex 1.

Technical missions

Finally, as discussed at the meeting with the CITES Secretariat on 9th September 2022, the Commission would kindly request that the Secretariat liaise directly with the Management Authorities of Spain and Germany respectively to arrange the technical missions to selected operations.

We standby to provide any further additional data or information that may be required.

Yours sincerely,

e-signed

Jorge RODRÍGUEZ ROMERO

Encl. Annex 1 Contribution by German CITES MA to the response by the European Commission to the letter of the CITES Secretariat of 14/06/2022
Annex 2 Compiled data

Contribution to the development of implementation recommendations aimed at securing the world population of Spix's Macaw (*Cyanopsitta spixii*) within the framework of CITES and the EU regulation 338/97

last updated: January 2021 author: Frank Plücken – LfU Brandenburg

1. Current situation:

1.1 World population and conservation action to date

Spix's Macaw (*Cyanopsitta spixii*) has been moved in the IUCN Red List from "critically endangered" to "extinct in the wild" on 20 June 2019 (see www.iucnredlist.org). There has been no further sighting of the species in the wild since the last individual was recorded in the Caatinga region of the Bahia province of Brazil in the year 2000.

According to the IUCN Red List, the decline of the species was primarily a result of the illegal taking for the animal trade combined with habitat loss. More details of the IUCN assessment are provided as annex to this paper.

The worldwide population of the species in captivity has been estimated to be around 100 individuals in the year 2015 (EcoAmericas 2015).

As of January 2021, the stud book for Spix's Macaw now lists 204 individuals kept in captivity. The large majority of birds is being kept in Germany, in the "Bundesland" (administrative region) of Brandenburg within the breeding facility of the Association for the Conservation of Threatened Parrots eV (ACTP) (see fig.1). After the expert of 52 birds of the ACTP flock to Brazil in 2020 and the handover of 16 birds to the Belgian Zoo Pairi Daiza, the world population of January 2021 is distributed to three major locations (see fig. 2).

An important step towards saving the species were the first – and until today unique – breeding successes using artificial insemination of the Alwabra Wildlife Preservation (AWWP) of Katar. Their complete stock of Spix's Macaws had been transferred to ACTP in Brandenburg, who were the first ones to achieve natural breeding success without hand-raising or artificial insemination. ACTP was able to constantly increase the breeding success. Since 2019 all successful breeding is taking place either at ACTP or at the stock transferred back to Brazil's Facienda Cachoeira Breeding and Release Centre (22 new birds in 2019, 27 in 2020). The conservation breeding efforts of ACTP are being realised by the private not-for-profit association without any government support.

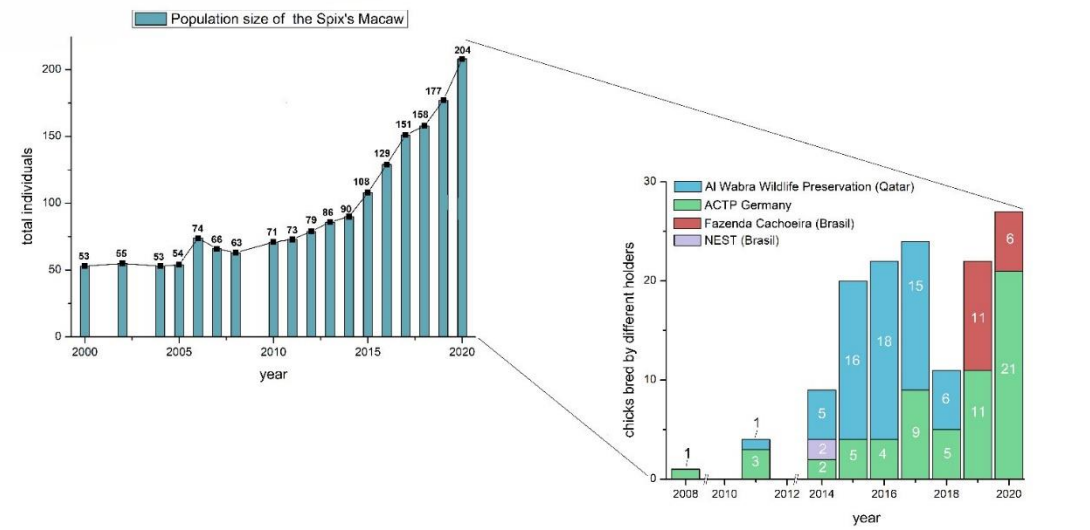
The transfer of birds to Brasil is part of the plan to further increase the breeding stock in the local breeding and release centre, where the birds are also to be prepared for release and eventually to be set free under controlled conditions. This centre is primarily financed by ACTP and has been realised in cooperation with AWWP of Katar and the Brazilian government. The centre is surrounded by a protected area designated and developed especially for the re-introduction of Spix's Macaws.

The measures implemented so far are based on programmes and action plans of the Brazilian government and several NGOs, with ACTP as an important partner organisation.

At the time of writing of this paper, we just heard that the Belgian Zoo Pairi Daiza, which only recently has joined the conservation breeding efforts for the species after receiving 16 birds for breeding from ACTP, can currently observe one pair of birds sitting on eggs.

Despite the recent success in breeding the species and despite the positive trend in numbers, the (captive) world population of Spix's Macaw is still threatened with extinction, especially because

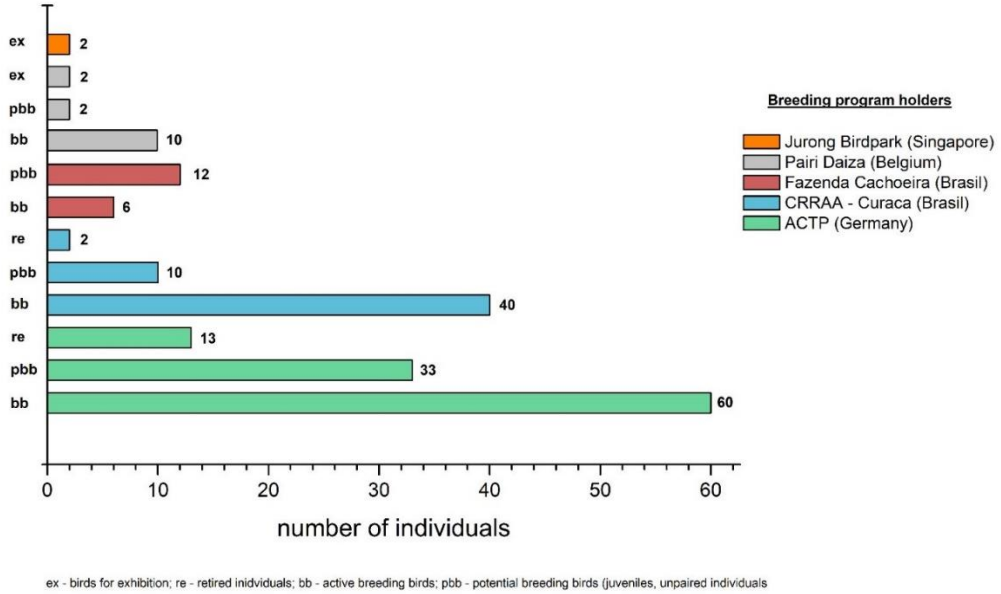
conservation breeding success is currently only being realised at two locations (see fig. 1 for data about population development and breeding success of January 2021 and fig. 2 for data on the distribution of breeding pairs to the different institutions/locations).



Artificial insemination, improvements in the intra-pair compatibility and the increasing genetic diversity of the F_x generations contributed to a steady population increase over the past decade in the Spix's Macaw captive breeding program.

With the disturbance and move of all Al Wabra's birds from Qatar to ACTP in Germany the 2018 breeding season produced 11 chicks. The drop in production for 2019 was expected, as the pairs from AWWP were required to settle in their novel environment and the new climate conditions. In 2020, following significant improvements of the actual pairings, changes in the nutritional plans for the breeding season and the accomplished habituation of the former AWWP pairings, the Spix's Macaw breeding program had an exceptional year, producing in total a world record breaking number of 27 chicks in season 2020. With the translocation of 52 birds in the beginning of 2020, however, a major percentage of the population was not breeding in 2020. With the ongoing preparations for the breeding season in 2021 and the increasing genetic diversity of current offspring's, we predict a substantial boost in the reproductive performance for the years to come.

Fig.1 : Population development and breeding success of Spix's Macaw, January 2021
Source: ACTP, January 2021



Considering the fact that all 27 chicks hatching in 2020; were produced only by two holders (ACTP Germany and Fazenda Cachoeira) there is an increased liklihood that the reproductive output of the species should continously increase over the coming years. All retired or specimens for exhibition (two specimens in Pairi Daiza and Jurong Birdpark, respectively) are excluded from the breeding program. The two females from Jurong Birdpark that were on loan for exhibition purposes are proposed to be sent back to ACTP Germany in February 2020.

Fig. 2: Distribution of breeding pairs of Spix's Macaws to the institutions taking part in the conservation breeding programme. Source: ACTP, January 2021

2. Recommendations on securing the world population of Spix's Macaws:

The following recommendations are based on a three-pillar model consisting of:

- ⇨ Securing the world population in captivity in several controlled and purpose-bound breeding centres (including exploration of re-financing options
- ⇨ Founding, establishing and securing a free-roaming population in Brazil
- ⇨ Contributing to the maintenance of the world population and reducing attractiveness of illegal animal trade by de-centralised keeping and breeding in captivity (establishment of a legal market)

To implement this model, the following measures are required: ***(in the following, the numbers and percentages to be developed and agreed upon amongst the programme partners and the Brazilian government are given in italics and bold print)***

1. Securing resp. initiating and developing of several (at least three) named conservation breeding centres, implementing breeding under controlled conditions in purpose-driven breeding institutions that are geographically and logistically functionable independently from each other.
2. Per breeding centre at least x ***(number to be developed)*** reproducing breeding pairs have to be maintained by the breeding management, and annually about x ***(number to be developed)*** offspring are to be produced.
3. To secure the sustainability of the breeding centres, annually x % ***(percentage to be developed)*** of offspring are to remain in the breeding centres to establish new breeding pairs.
4. From the breeding centres annually x % ***(percentage to be developed)*** of offspring are to be transferred to Brazil to be prepared for release into the wild.
5. For the re-introduction project target numbers and key figures of a **Minimum Viable Population (MVP)** are to be modelled and criteria for a cessation of releases into the wild are to be established in case bird loss in the wild exceeds a critical threshold. If the latter happens, species maintenance in captivity would have to be intensified as a transitional strategy.
6. The percentages of the annual offspring established under points 3. and 4. as well as the exchange of birds fit for reproduction amongst the breeding centres and the recruitment of new breeding partners should be set and realised in such way, that they can be adjusted flexibly by agreement of the programme partners.
7. To re-finance the costs of the programme, as a pilot project a certain percentage ***(maximum percentage to be agreed amongst breeding centres and programme partners)*** of annual offspring should be allowed to be put onto the market with the purpose of further conservation breeding. Offspring of such birds should be available for a controlled introduction into the market based on single-use marketing permits within the boundaries of existing CITES regulations.
8. When a certain size of the (captive) world population of x individuals **(number to be developed)** has been reached, further conservation breeding is secured and the population trend is still positive, it can be assumed, that a certain percentage **(to be developed)** of annual offspring can be used to establish a legal market with free marketing permits for those individuals within the boundaries of existing CITES regulations. This percentage could be increased when a sufficient free-roaming and self-sustaining population has been established that according to the relevant Brazilian authorities can be assessed as secure

(when this point will be reached, can probably only be decided at a later stage during the programme).

9. The conservation breeding centres mentioned under point 1. are to work closely with the respective responsible CITES management authorities. They will ensure the necessary flow of information amongst each other and to the authorities. They will keep a central stud book of the captive world population of Spix's Macaw.
10. The conservation breeding centres mentioned under point 1. will implement a transparent information and outreach policy.

3. Recommendations on the implementation of regulations of the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES) in order to secure the world population of Spix's Macaws:

Under the precondition that the missing numbers and percentages mentioned in chapter 2 have been agreed amongst the programme partners and with the relevant Brazilian authorities the following recommendations for discretionary decisions during the implementation of CITES rules can be made. The minimum size of the captive population given under point 2.8. can probably only be set at a much later stage, so that recommendation 3.4. becomes only relevant at that point in the future.

1. CITES authorities are adviced to pay special attention to any keeping of Spix's Macaws under their respective jurisdiction.
    a. Within Germany this includes the enforcement of the obligation to notify the keeping of every individual according to § 7 (2) of the national ordinance for species protection (BArtSchV), of the obligation to prove the legal origin of individuals kept according to § 46 (1) of the national law an nature conservation (BNatSchG) and of the obligation to individually mark each bird according to §§ 12 ff BArtSchV.
    b. CITES authorities of other EU member states and those of other countries are urged to use and implement equivalent supervisory and control mechanisms provided for in their countries that are suitable to control the keeping of Spix's Macaws and to exchange information within other CITES authorities.
2. For Spix's Macaws kept in Germany legal origin can to date only be shown by either an import permit issued by the Federal Agency for Nature Protection (BfN) or by EU marketing permits issued by the regional environmental authority of Brandenburg (LfU), which have to be checked.
3. Until further notice, the following permits should be issued for Spix's Macaws bred in captivity:
    a. For individuals that are to be transferred to Brazil for further on-location breeding and release to the wild and for individuals to be exchanged between breeding centres involved in the conservation breeding programme, EU marketing permits should be issued that confirm the legal origin of the birds and specify the purpose as conservation breeding, but do not permit any other use of the birds (see points 2.1. to 2.5.). If the birds have to be transferred to locations outside the EU (e.g. to Brazil), equivalent export permits should be issued.
    b. Offspring that are dispensable for the conservation breeding programme (retired birds, birds not fit for breeding, but also surplus individuals of over-represented genetic lineages) could be used for the re-financing of the conservation breeding programme by leaving them to external people for keeping, but also for additional

breeding in exchange for a contribution to the conservation breeding programme. For these transactions, single-use and permit-holder-bound marketing permits could be issued. An additional condition of such permits should be that for any offspring of such birds, again only single-use transaction-related marketing permits are to be issued (see point 2.6.).

4. When condition 2.8. has been fulfilled it can be considered to start issuing CITES/EU marketing permits without any further restrictions when all other legal preconditions are met.

Frank Plücken
Landesamt für Umwelt - Abteilung Naturschutz/ Brandenburger Naturlandschaften - Referat N4 – Internationaler Artenschutz/ Artenschutzvollzug – Postfach 601061 D -14410 Potsdam - Telefon: +49 (0) 33201 442 214 Fax: +49 (0) 33201 442 631
Email: frank.pluecken@lfu.brandenburg.de

Brandenburg State Office of Environment - Nature Conservation Department - Section N 4 - International Species Conservation / Species protection enforcement - P.O. Box: 60 10 61 D - 14410 Potsdam

Update notice as of October 2022:

The breeding programme at ACTP in Germany is going very well, producing 35 chicks in 2022. The current number of Spix's Macaw at this facility is 185, including 2022 offspring. As keeping space is limited both at the ACTP breeding facility as well as in the Brazilian breeding centre, single-use permit-holder-bound marketing permits for conservation breeding purposes are being issued by LfU (CITES authority in Brandenburg) since 2021 for birds dispensable for the breeding programme.

Fortunately, in the meantime financing of the conservation programme has been arranged from other sources than through the marketing of surplus individuals. Hence, marketing of Spix's Macaws is currently and for the foreseeable future not needed to re-finance the conservation programme. Marketing permits are therefore issued only in order to distribute the stock to additional conservation breeding centres and to clear as much space as possible in the facilities for actively breeding stock.

Annex

IUCN Red List (www.iucnredlist.org) entry for the Spix's Macaw, accessed 11.01.2021

Justification

Although this species exists in several captive populations, the last known individual in the wild disappeared at the end of 2000, with no subsequent confirmed sightings of wild individuals. Following the application of new methods for estimating the probability of a species remaining extant, the species is now considered to be Extinct in the Wild. The species's decline was primarily the result of trapping for trade plus habitat loss.

Geographic Range Information

This species was known for over 150 years, from small numbers of traded birds and a hunted bird taken by von Spix, until it was traced in 1985-1986 to near the rio São Francisco in north Bahia, **Brazil**. Only three birds remained and these were captured for trade in 1987 and 1988. However, a single male, paired with a female Blue-winged Macaw *Propyrrhura maracana*, was discovered at the site in July 1990. A female *C. spixii* was released from captivity in 1995 and initially paired with the male. Unfortunately, the female disappeared from the release site after seven weeks and is suspected to have collided with a power-line (Caparroz *et al.* 2001). The wild bird was still paired with the female *P. maracana* in January 2000 (Y. de Melo Barros *in litt.* 1999, 2000) but neither bird has been seen since the end of that year. In 2000, the total number of publicly declared birds in captivity was 60, but 54 of these were captive-bred (Schischakin 2000). The official captive population in 2015 totalled over 100 individuals (EcoAmericas 2015), with further individuals in private ownership. There have been occasional local reports, including from Serra da Capivara National Park, and a bird was filmed near Curaçá in June 2016, but this is now thought to have been a release from captivity. There have been no other records since 2000, despite fieldworker presence and surveying effort. Following the application of new methods for estimating the probability of a species remaining extant (Akcakaya *et al.* 2017, Keith *et al.* 2017, Thompson *et al.* 2017) the probability of Spix's Macaw being extant in the wild was estimated at 0.00006 based on records and surveys, and 0.083 based on threats (Butchart *et al.* 2018). Based on the probability thresholds recommended by Butchart *et al.* (2018), the species is now considered to be Extinct in the Wild.

Population Information

The species is now considered to be Extinct in the Wild (Butchart *et. al.* 2018).

Habitat and Ecology Information

It was found in the *caatinga* scrub zone, apparently requiring gallery woodland dominated by caraiba *Tabebuia caraiba* trees for nesting, but feeding mainly on two regionally characteristic *Euphorbiaceae* plant species. Breeding occurred during the austral summer. Two or three eggs were laid in the wild (up to five in captivity). The wild bird and the *P. maracana* apparently produced infertile eggs, although one experienced very early embryo death, subsequent DNA analysis revealing a hybrid.

Threats Information

The decline of the species has generally been attributed to two principal factors. First, long-term destruction of the specific gallery woodland habitat on which the species apparently depended, the result of the colonisation and exploitation of the region along the rio São Francisco corridor during more than three centuries. Secondly, trapping for the illegal live bird trade in recent decades pushed the species towards extinction. In addition, the colonisation of the distributional range by introduced aggressive African bees, and the building of the Sobradinho hydroelectric dam above Juazeiro may have contributed, perhaps significantly, to the species's decline in the 1970s and 1980s. Direct hunting is considered a factor of minor importance in the overall decline (Barros *et. al.* 2012), even though several reports of shooting are on record. The remaining caatinga habitat has suffered degradation and clearance as a result of grazing by cattle and goats (Barros *et. al.* 2012).

Use and Trade Information

Spix's Macaw has historically been trapped for food locally, as well as traded internationally as a cage-bird.

Conservation Actions Information

Conservation Actions Underway

CITES Appendix I and protected under Brazilian law. Considered Extinct in the Wild in Brazil (Silveira and Straube 2008) and officially listed as Critically Endangered (Possibly Extinct in the Wild) (MMA 2014). A species action plan was produced in 2012 (Barros *et. al.* 2012) and the 'Projeto Ararinha na Natureza' (Macaw in Nature Project') has been working to conserve the species since 2012.

A captive breeding programme is underway, with the population held in the official captive breeding programme numbering over 100 individuals in 2015 (EcoAmericas 2015), and further captive individuals outside the official programme. The majority of the captive individuals are currently held by Al-Wabra Wildlife Preservation (AWWP) in Qatar, which has maintained the species since 1984, with other captive individuals held in Brazil and Germany.

In 2009 AWWP announced the purchase of the 2,200 ha Concordia Farm in Bahia, the site of one of the last recorded sightings of wild Spix's Macaw (October 2000) (Al-Wabra Wildlife Preservation undated). Concordia Farm was also the release site for the only captive Spix's Macaw yet to be released back into the wild, in 1995. Concordia Farm abuts the 400 ha Gangorra Farm, previously purchased by a conservation consortium. In 2018, the government officially designated the 30 ha Refúgio de Vida Silvestre Ararinha Azul (Spix's Macaw Wildlife Refuge) and the 90 ha Área de Proteção Ambiental Ararinha Azul (Spix's Macaw Environmental Protection Area) in Curaçá and Juazeiro, Bahia (Reisfeld 2018) and there are plans to reintroduce the species at these sites, as well as at Concordia Farm (Reisfeld 2018, ACTP 2019). Work has been underway to conserve habitat in areas suitable for reintroduction, including by controlling goats (Reisfeld 2017).

Work has also been carried out to engage the local communities to raise awareness of the conservation of Spix's macaw and its habitat, including through cultural activities (Barros *et. al.* 2012). Local farmers have been educated about the benefits of supplementary feeding of goats to reduce their impact on the *caatinga* habitat (Reisfeld 2017). A new 'Spix's Macaw Release, Breeding and Research Centre' is being built to act as a base for the species's reintroduction (ACTP 2019).

Conservation Actions Proposed

Protect and improve habitat at the identified release sites, including by management of goats (de Soye and de Melo Barros 2004, Reisfeld 2017). Introduce captive-bred fledglings and ensure protection from trappers. Continue to develop artificial reproduction techniques to boost the population. Analyse the genetic diversity in the captive population (Barros *et. al.* 2012). Continue cooperation between holders of captive birds. Continue ecological studies to assess the need for habitat management (Snyder *et al.* 2000). Continue the community education and engagement programmes (Reisfeld 2018).