

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

Appendices of the ConventionAnnotations

IMPLICATIONS OF THE TRANSFER OF A SPECIES FROM ONE APPENDIX TO ANOTHER

1. This document has been prepared by the Secretariat.
2. At its 19th meeting (CoP19; Panama City, 2022), the Conference of the Parties (CoP) revised Decision 18.151 (Rev. CoP19) on *Implications of the transfer of a species from one Appendix to another* as follows:

Directed to the Standing Committee, with the assistance of the Secretariat

18.151 (Rev. CoP19) *The Standing Committee shall, with the assistance of the Secretariat, consider whether further guidance related to the period of transition, including the period between the adoption of a proposal to transfer a species from one Appendix to another and the entry into force of the new listing, should be developed and, if so, present amendments to an existing Resolution or a new draft resolution to the 20th meeting of the Conference of the Parties. In this context, the Standing Committee shall consider, in consultation with the Plants Committee, as appropriate, whether special recommendations should apply in the case of a transfer of a tree species with annotation #5 or other annotated plant species.*

3. At CoP18 (Geneva, 2019), the Secretariat presented document [CoP18 Doc. 49.1](#) on *Implications of the transfer of a species to Appendix I*. Based on the analysis developed, the Secretariat proposed that, except in situations where the exemption in Article VII, paragraph 2, applies, when a species is transferred from Appendix III or II to Appendix I, specimens concerned shall be subject to the provisions applicable to them at the time of export or import, i.e. that current rules are applied to current trade transactions. There is no “pre-Appendix I” treatment for specimens acquired while the species was included in Appendix II or Appendix III. The Secretariat further proposed that the same approach apply where a species has been transferred from Appendix III to Appendix II.
4. In order to ensure that all Parties and other stakeholders apply this interpretation, the Secretariat recommended that the Conference of the Parties amend Resolutions Conf. 12.3 (Rev. CoP17) on *Permits and certificates* and Conf. 13.6 (Rev. CoP16) on *Implementation of Article VII, paragraph 2, concerning ‘pre-Convention’ specimens*.
5. The Conference of the Parties adopted the proposed amendments, and these two resolutions were further revised at CoP19.
6. Section IV of Resolution Conf. 12.3 (Rev. CoP19) addresses the issuance of permits and certificates after the transfer of a species from one Appendix to another in paragraphs 10 and 11, as follows:
 10. **RESOLVES** *that in the case a species is transferred from one Appendix to another, specimens concerned shall be subject to the provisions applicable to them at the time of export, re-export, import or introduction from the sea;*

11. *RECOMMENDS that, in the case of a listing proposal adopted by the Conference of the Parties to transfer a species to Appendix I, the Management Authority ensures that any permit or certificate for trade in that species be valid only until the date that the new listing in Appendix I enters into force and that this be indicated in box 2 of the permit;*
7. Further, in paragraphs 1 c) and 3 of Resolution Conf. 13.6 (Rev. CoP19), the Conference of the Parties:
 1. *RECOMMENDS that, for the purposes of Article VII, paragraph 2: (...)*
 - c) *only specimens acquired before the date on which the species concerned was first included in the Appendices qualify for this exemption;*
 - (...)
 3. *CALLS on Parties to take any necessary measures in order to prevent excessive acquisition of specimens of a species between the date on which the Conference of the Parties approves the inclusion of that species in Appendix I and the date on which the inclusion takes effect;*
8. In document [CoP18 Doc. 49.1](#), the Secretariat reflected that the issue of the implications of the transfer of a species from one Appendix to another refers to possible 'transition arrangements', which is different and separate from the question of the exemption provided under Article VII of the Convention for 'pre-Convention' specimens.
9. The legal framework applicable to the transfer of a species from one Appendix to another has thus been clarified by the revisions made to Resolutions Conf. 12.3 (Rev. CoP19) and Conf. 13.6 (Rev. CoP19). However, further questions remain. For instance, there may be a time lapse between the export and the import of specimens and during this time, the "provisions applicable to them" may have changed leading to different rules applying to the export and to the import of the same specimens. The Secretariat is of the view that further guidance related to the period between the adoption of a proposal to transfer a species from one Appendix to another and the entry into force of the new listing may be beneficial to ensure that Parties have a common interpretation of the aforementioned provisions and develop consistent practice.
10. The Secretariat further notes that, beyond the transfer of a species from one Appendix to another, other situations such as the period between the adoption of a listing of a new species or new specimens in the Convention's Appendices and the entry into force of such listings, or the period when Parties request a delay in the entry into force of the listings (12 months for Carcharhinidae spp., 24 months for *Handroanthus* spp., *Roseodendron* spp. and *Tabebuia* spp.), constitute periods of transition.
11. Such periods of transition trigger similar questions on the date of entry into force of the listings, the application of the new rules during the first weeks of entry into force of the new listings or more largely the rules applicable to the export, re-export, import or introduction from the sea of a species or specimens at a given time, potential transitory measures, etc. The Secretariat has already received such questions from Parties, especially concerning timber and sharks.
12. Additional guidance on periods of transition would thus support the Parties in harmonizing their implementation of the Convention and Resolutions Conf. 12.3 (Rev. CoP19) and 13.6 (Rev. CoP19) not only during the period between the adoption of a proposal to transfer a species from one Appendix to another and the entry into force of the new listing, but during all periods of transition.

Recommendations

13. The Standing Committee is invited to request the Secretariat to
 - a) develop draft guidance and best practices related to periods of transition and possible transitory measures, including but not limited to the period between the adoption of a proposal to transfer a species from one Appendix to another and the entry into force of the new listing;
 - b) in accordance with Decision 18.151 (Rev. CoP19), consider, in consultation with the Plants Committee, as appropriate, whether special recommendations should apply in the case of a transfer of a tree species with annotation #5 or other annotated plant species; and
 - c) report back to the Standing Committee at its 78th meeting.