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

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Twenty-eighth meeting of the Animals Committee
Tel Aviv (Israel), 30 August-3 September 2015

Interpretation and implementation of the Convention

Exemptions and special trade provisions

Implementation of the Convention relating to captive-bred and ranched specimens (Decision 16.65)

# REPORT OF THE INTERSESSIONAL WORKING GROUP

1. This document has been submitted by Marcel Calvar Agrelo (Member for Central and South America and the Caribbean) and Vincent Fleming (Member for Europe) [*].

2. At the 27th meeting of the Animals in Veracruz, Mexico, 28 April – 3 May 2014, the Committee established an inter-sessional working group to take forward the work required by Decision 16.65; Marcel Calvar Agrelo and Vincent Fleming were appointed as co-chairs.

3. This group has worked by email since then and the attached Annex provides a report of its progress. Where some differences still persist within the group on some topics, text has been left in brackets for further discussion. It is intended that members of the working group meet to continue the work of the group during the meeting of the 28th Animals Committee.

4. The interim workings of the group were shared with the Chairs of other relevant working groups including those on the Evaluation of the Review of Significant Trade, illegal trade in cheetahs and snake trade & conservation management.

5. The Animals Committee is asked to:

   a) note the progress and conclusions of the working group to-date;

   b) consider the recommendations of the working group;

   c) provide comment on the options for a possible compliance mechanism; and

   d) forward the outcome of discussions at this meeting to the Standing Committee for their consideration at its 66th meeting.

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

REPORT OF THE WORKING GROUP ON CAPTIVE BRED & RANCHED SPECIMENS

1. This document has been prepared by the co-chairs of this working group: Marcel Calvar Agrelo (Member for Central and South America and the Caribbean) and Vincent Fleming (Member for Europe). It summarises the outcome of inter-sessional discussions of the working group with respect to the mandate provided to it by the meeting of the Animals Committee (AC) in Veracruz, Mexico (28 April-3 May 2014).

2. The composition of the working group is provided in Annex 2. The group has worked by email using documents prepared and revised by the co-chairs.

3. Decision 16.65, directed to the Animals Committees states the following: *The Animals Committee, at its 27th meeting, shall review the report* [derived from Decision 16.63] *and provide recommendations to the Standing Committee*

4. This topic, informed by document AC27 Doc 17 (Rev.1), was discussed at the 27th meeting of the Animals Committees in Veracruz, Mexico. A working group was established by the Committee (AC27 Sum.1 Rev.1) and provided recommendations for the future work of the working group (see AC27 WG2 Doc.1 as amended by the Committee AC27 Sum.3 Rev.1, para. 17). The mandate for the work of the group is reproduced below.

   *Future work*

   *The working group recommends that the Animals Committee:*

   *a) agrees that, in order to complete the tasks directed to it under Decision 16.65, the working group should continue to work intersessionally; the role of this group shall be:*

      *i. to consider in more detail the conservation implications of the concerns identified with respect to specimens claimed to be derived from captive production systems;*

      *ii. to consider and review additional outputs arising from Decision 16.63 as they become available;*

      *iii. to liaise with, and take account of, the outcome of other Animals Committee working groups also addressing issues related to captive production systems;*

      *iv. to consider means and criteria by which regular monitoring and analysis of trade data can be used to identify cases where trade in specimens reported to be produced in captive production systems suggests there are concerns which require further analysis and consideration;*

      *v. to consider possible mechanisms to address concerns identified with deliberate misuse of source codes for specimens reported to be derived from captive production systems and suggest options to address these, noting that the emphasis should be, where feasible, on using or amending existing mechanisms available under the Convention rather than creating new mechanisms;*

      *v. to provide a report to the 28th Animals Committee detailing the conclusion of their work.*

Conservation implications of false claims of captive breeding

5. Captive breeding, and other captive production systems, can have a number of benefits compared with direct harvests from the wild (e.g. see CoP14 Doc.48 Rev. 1). However, the incorrect application of source codes and/or misuse or false declaration of source codes (e.g. see AC27 Doc.17 Annex 1) can reduce or negate such benefits where they exist, have negative implications for conservation and undermine the purpose and effective implementation of the Convention, as follows.

   Over-harvesting

   i. Incorrectly identifying wild-taken specimens in trade as being derived from captive-production systems obscures patterns of trade and may suggest that levels of wild harvest are lower than is actually the case

ii. Wild populations might thus be subject to over-harvest, but this will not be detected through analysis of trade data and exports will not be based on fully informed non-detriment findings

iii. Species that might otherwise have been flagged as being of concern in, for example, the review of significant trade, might not be subject to remedial measures to prevent unsustainable exploitation

Illegal trade

iv. Specimens might be falsely declared as being derived from captive-production systems in order to evade measures to reduce or prevent trade in wild-taken specimens, such as by restrictions established by CITES, through non-detriment findings, by export quotas used by countries of origin or import restrictions put in place by destination countries

v. Misuse of source codes or false declarations of captive production can thus be used to facilitate illegal (and unsustainable) harvesting and trade

vi. Exports of captive-produced specimens from non-range States may receive less scrutiny from Management and Scientific Authorities than for native species and so also enable illegal trade (if founder stock were illegally acquired or specimens are being laundered through a third country)

Loss of local community benefits

vii. Incorrect/false declarations of captive-produced specimens might also avoid any sharing of benefits with relevant indigenous and local communities and others arising from the use of wild-taken biological resources

Undermining legitimate programmes and businesses

viii. Deliberate laundering of wild-taken specimens, as if they were captive-produced, might undermine, through unfair competition, legitimate and genuine closed-cycle captive breeding facilities, ranching operations or sustainable wild harvests (because of the lower costs or the greater production possible by laundering), whilst also continuing to detrimentally affect wild populations

*In situ / ex situ* conservation

ix. Deliberate misuse of source codes might undermine *in situ* conservation efforts in range States and so reduce incentives for conservation management (and the benefits that might otherwise accrue)

x. Incorrect use of source codes can potentially affect efforts to maintain or improve genetic variation in the *ex situ* management of captive breeding programmes by zoological institutions and others

Governance

xi. Misuse of source codes often seems to be designed to circumvent CITES requirements, exposing governance weaknesses and the possibility of corrupt practices.

Detecting false claims of captive production

6. Means to identify cases of concern where specimens in trade are reported to be produced in captivity include the following.

i. Review of Significant Trade (RST) - as currently formulated, the RST does not itself address trade in specimens derived from captive breeding as it focuses on trade in Appendix II specimens of wild origin (but including source codes R, U and trade reported without a source code specified). However, the RST often identifies cases (but typically only after a species is selected for review) where trade in reportedly captive-produced specimens seems to be of concern; these are then referred to the Secretariat and/or Standing Committee for their consideration. On occasions (e.g. AC27 WG1), the RST has, in the absence of an alternative compliance mechanism, made recommendations with respect to captive breeding issues.

ii. Reports by importing Parties – queries and concerns might be made by importing (or re-exporting) Parties which receive specimens which have source codes indicating the specimens have been

produced in captivity but over which some doubt has been raised (e.g. for reasons identified in paragraph 5 of SC62 Doc. 26 or where marking required under traceability schemes has not been applied). Parties are able to raise these issues bilaterally and to bring them to the attention of Secretariat; however, there is currently no structured mechanism for capturing or sharing these concerns with other Parties or Secretariat.

iii. Systematic and critical analysis of trade data – periodic or programmed analyses of data in the CITES trade database (e.g. AC27 Doc. 17 Annexes 1 & 2) might provide an indication of cases which warrant further investigation to validate claims of captive production, e.g. through analysis of discrepancies in the source codes reported by importers and exporters, or in points i, iii and v of paragraph 5 of SC62 Doc. 26 (see section 8 below).

iv. *Ad hoc* reports - occasional reports and investigations such as those produced by UN organisations, IUCN specialist groups, International Studbook keepers, TRAFFIC, other non-governmental organisations or in the scientific literature might provide evidence which confirm, or refute, doubts or concerns over captive production claims.

7. Together, these four sources of information could provide a sample of specimens in trade over which concerns have been identified and which could be subject to scrutiny under any future compliance mechanism.

Potential criteria

8. Criteria that might help to identify captive-produced specimens in trade over which there might be concerns include the following.

Analysis of trade data

8.1. This step is one that is most effectively undertaken by UNEP-WCMC and is akin to step a) of Resolution Conf 12.8 (Rev. CoP13), namely an analysis of the CITES trade database for trade in specimens of source codes C, F and D using the following criteria.

i. Sudden increases in trade in specimens declared as captive-produced (source codes C, D, F & R) following trade restrictions (in importing or exporting countries) applying to wild-caught specimens

ii. Trade from non-range States of specimens produced in captivity with no evidence of lawful acquisition of parental breeding stock (i.e. no recorded imports - but note 8.2.vii below)

iii. Shifts and fluctuations between different captive-production source codes in volumes of specimens traded

iv. Species-country combinations that have only ever been traded as C (or D, F or R) and never as W

v. Inconsistencies between export and import codes

vi. Misuse of codes such as: 'A' for animal species or 'D' for Appendix I species that have not been registered in compliance with the provisions of Resolution Conf. 12.10 (Rev. CoP15).

Secondary judgements

8.2 This step could be informed by the sources of information identified in paragraph 6 above and by the expertise available from the Animals Committee and could include the following potential criteria.

i. High volume trade (or high volume relative to preceding years) in captive-produced specimens of species [which are known to be difficult to maintain or breed in captivity and / or that have low reproductive output]

ii. Unusually high use of source codes F & R which is either inconsistent with past practice or which is biologically questionable

iii. High volume in trade from recently established facilities (if known)

iv. Specimens declared as captive-bred or captive-produced from facilities that seem to exceed their breeding capacity

v. Specimens reported in trade as captive-produced which are derived from unusual trade routes

vi. Trade in specimens which, based on their condition or appearance (such as parasite loads, scarring etc.) or other factors, make claims of captive production seem unlikely

vii. Difficulties associated with documenting or providing evidence to demonstrate legal acquisition of founder stock, including those acquired pre-Convention

viii. Specimens exported as captive-produced or ranched from countries where no such facilities are known to exist

ix. Specimens exported as captive-produced to/from countries where significant illegal trade in the species is known or believed to occur

x. Claimed ranching of specimens involving species for which the definition of ranching in Resolution Conf. 11.16 (Rev. CoP15) cannot reasonably be applied

Options for possible compliance mechanisms

9. There are two issues that any mechanism(s) should seek to address: a) to deter, detect and remedy any deliberate misuse of source codes and b) to avoid, as far as possible, the unintentional incorrect application of source codes.

10. It needs to be recognised that the deliberate misuse is likely to be driven by applicants for permits making false declarations, but that the ability to detect these in source countries may be limited by lack of capacity. Equally, the possibility of a Party being subject to compliance measures may provide an incentive for Parties in such a situation to identify capacity needs that will increase their chances of detecting false declarations.

11. Whilst considering options for possible compliance mechanisms, we need to be clear which forms of captive production this mechanism should address, noting that, for example, the RST already deals with specimens in trade produced by ranching (source code R), which involve specimens taken originally from the wild. For clarity, the group agreed that the recommendations and options presented here refer to trade in specimens of species under source codes C, F, R & D, noting that the specimens of the latter are Appendix I species but which, when captive bred, are treated as if in Appendix II. The group also agreed that source code R should also be part of the focus of this mechanism because: a) specimens of the same species may be produced by both ranching and captive-production even in the same facility; b) the RST addresses issues related to Article IV 2) a) only whereas this proposed mechanism can address wider issues of compliance; and c) because ranching is specified in Decisions 16.63-66.

Deliberate misuse of source codes

12. Options for possible formal compliance mechanisms include seeking to amend the Review of Significant Trade (Resolution Conf. 12.8 (Rev. CoP13)), to make use of the compliance procedures in Resolution Conf. 14.3 or to introduce compliance measures into Res. Conf. 10.16 (Rev.) on captive breeding. Alternatively, a separate, new Resolution on the topic could be drafted. The relative merits of each of these options are as follows.

12.1 Option 1. The RST provides a mechanism that has many parallels with any likely mechanism for captive breeding and it already has the remit to address trade in Appendix II specimens with source code R, i.e. another form of captive production. Moreover, it is already being reviewed in parallel through Decision 13.67 (Rev CoP14) and the process is likely to be streamlined as a result. It also relies on a programmed and structured analysis of trade data to identify trade in species that could be of concern. It would be feasible for the trade analysis described in paragraphs a) and b) of Res. Conf. 12.8 to be adjusted and modified, using revised criteria derived from para 5 of SC62 Doc.26, to incorporate an analysis of trade in specimens of source codes C, F & D (supplemented by information from other sources – see 8.1 and 8.2 above). Such an analysis is likely to be able to identify situations

where the exported volume of specimens claimed to be produced in captivity is sufficient to justify concern. Identified species/countries of concern could then be dealt with in a similar but parallel process to species of source codes W and R (see later). In other words, the RST could be amended to incorporate a mechanism for dealing with source codes C, F and D. If so, there would then be no need, from the RST process, to identify to the Secretariat and Standing Committee any concerns relating to specimens with source code C, D and F – such specimens could be dealt with under another part of the same process (except that some issues under captive breeding are properly the competence of the Standing Committee not the Animals Committee). However, with changes already likely to be proposed to Resolution Conf.12.8, seeking to introduce further changes may complicate the Resolution unnecessarily.

12.2 Option 2. Introducing compliance measures into Resolution Conf. 10.16, perhaps as an Annex. This has the advantage that issues related to captive breeding would be grouped together (with the exception of registration of captive breeding under Resolution Conf. 12.10) but it creates a new process separate to the RST and Resolution Conf.14.3. However, as the scope of the Decisions and the mandate of working group extend beyond captive-breeding to other forms of captive production, amendment of this Resolution might not be most suitable way forward.

12.3 Option 3. Res. Conf. 14.3 addresses the general principles relating to CITES compliance issues, notes the role of the different CITES bodies, and that the Animals and Plants Committees have delegated duties in relation to RST, and also describes how specific compliance issues are handled. But Res. Conf. 14.3 does not describe in detail a process that is likely to be required to address issues relating to compliance in captive production issues. However, there is no reason why a captive-production compliance mechanism could not be incorporated into this Resolution as an Annex.

12.4 Option 4. Alternatively, a new Resolution could be drafted to deal with this issue specifically incorporating all the measures suggested above. The merit in creating a new Resolution is that of clarity, simplicity, and that the scope and procedures of any new mechanism are available all in one place, easing the burden on Parties of interpretation and understanding the process and requirements

Incorrect application of source codes

13. A number of steps are already underway to address this issue. The output from Decision 15.52 should assist CITES authorities and producers/exporters to better understand which source code is most appropriately applied to specimens derived from different production systems (see AC28 Doc.12). Similarly, the products from other Decisions and AC working groups, such as the development of checklists, model *proforma*, mechanisms to enable traceability and identification of specimens produced in captivity, and guides to inspecting captive breeding facilities (Decision 16.63 a) vii) & elements of Decision 16.102), should also assist Parties in being able to apply the correct source code to different means of captive production (see AC28 Doc. 13.1).

14. The working group considered that measures to support capacity might be developed further, for example, by having a dedicated area for such guidance on the CITES website, by identifying the need for additional specific guidance which is currently lacking or by developing training modules as part of the CITES virtual college. Translation into more languages than just the three official Convention languages would also enable the guidance to reach more of those who are responsible for implementing CITES 'on the ground'. Sharing non-CITES resources, such as taxon-specific best management practices, may also be desirable, both for regulators and managers of captive-production facilities.

15. One significant difference between dealing with compliance in the RST, for example, and with compliance for captive breeding and production is that concerns might relate to specific captive breeding facilities and not relate to all facilities in a country. However, it is likely that any recommendations arising from a compliance mechanism will have to be at the level of species-country combination and not at any finer scale. [Addressing differences in compliance between facilities internally within a country will need to remain the responsibility of the relevant Party.]

16. An additional tool considered by the group includes the use of a database on captive production operations (and perhaps on parameters of breeding biology), which could be based on the one currently being used internally by Member States of the European Union. Such a database would need further consideration relating to its purpose, how the database would be populated and by whom, and how it would be managed and funded in the long-term (see report by Secretariat on Decision 16.63 a) v) – AC28 Doc.13.1).

17. Regardless of where any future compliance measure is placed, the steps involved are likely to be similar. The following sequential steps might be an outline of a future mechanism for a review of trade in specimens claimed to be produced in captivity.

    i. Identification by AC at its 1st meeting post-CoP of trade in specimens (source codes C, F, R & D) of concern – derived from section 7 above, namely: UNEP-WCMC structured analysis of trade data, concerns raised by Parties, *ad hoc* reports and any issues referred from RST

    ii. AC reviews the analysis and selects species/country combinations for further review where concerns related to Resolution Conf. 10.16 [and/or 11.16 (Rev. CoP15), 12.3 (Rev. CoP16) & 12.10 (Rev. CoP15)] arise [and reports to next SC meeting]

    iii. Opportunity for urgent or exceptional cases to enter at any stage/time (as in RST)

    iv. Secretariat writes to the Party or Parties concerned asking them to provide information (in time for next AC meeting), in response to general or specific questions, developed by the AC, to determine if the correct source codes have been used, under the applicable Resolutions, for specimens claimed to be produced in captivity, [recognising that some information might be personal or commercially confidential and so might not be available for disclosure outside the Committee members and alternate members].

    iv. Secretariat commissions a short review of the species identified to summarise known information relating to breeding biology and captive husbandry of the species concerned and impacts, if relevant, of removal of founder stock from the wild

    vi. Responses from Parties, and commissioned review, provided by Secretariat to AC for consideration at their 2nd inter-CoP meeting. AC determines if the response, and any other available evidence, indicates that the provisions of Resolution Conf. 10.16 (Rev.) (relevant to AC competence) or related provisions are met or not. If so, the species-country combination is excluded from the review.

    vii. Where AC decides to retain species/country combinations in the review or where there is doubt or lack of certainty, the AC provides draft recommendations directed to the Parties (each with specified time limits – short term and/or long term) for onward transmission to the SC.

    viii. SC reviews the recommendations made by the AC and makes any further recommendations it thinks appropriate for those issues beyond the AC mandate.

    ix. The Secretariat transmits to the relevant Party the joint recommendations of the SC & AC, along with the timeframes in which action and responses are required, for measures to help them meet the requirements of the relevant Resolutions and other provisions of the Convention

    x. Secretariat, in consultation with the Chair and members of the SC and AC (final decision of the Committees to rest with the Chairs), determines if recommendations complied with and reports back to the SC.

    xi. Where recommendations have been met, the country is removed from the compliance mechanism

    xii. SC decides whether to take further action [under Resolution Conf. 14.3] including recommending, as a last resort, to suspend trade with a Party.

Potential recommendations

18. Possible recommendations (and/or support) that the AC or SC might wish to make **to Parties**, under steps vii & viii of paragraph 17 above, might include, where appropriate, some of the issues listed below. Recommendations should, as far as possible, be specific, realistic, measurable, time-bound and proportionate to the identified concerns / risks. However, it should also be recognised that, ultimately, it is up to captive production facilities and/or exporters to provide evidence in support of their claims of captive production.

19. The suggestions provided below are provided as indicative examples only of recommendations; they are not meant to comprise a complete final list. It is likely that other recommendations not included below might

be required and each suggested recommendation might need to be modified and expanded depending on the circumstances to which any recommendation is being applied.

i. Requiring facilities to keep full records of appropriate parameters related to captive production and for these to be inspected by national CITES Authorities

ii. Providing evidence to demonstrate that the founder stock was acquired legally and without detriment to the wild population

iii. Demonstrating that the breeding stock is capable of producing the claimed number of offspring to the generation claimed (F1, F2 etc.) and within the timescales claimed

iv. Ensuring, for captive-bred specimens, that no wild specimens are introduced into the breeding stock [(or only for specific reasons provided under Resolution Conf. 10.16 (Rev.)]

v. Ensuring that the facilities genuinely meet the definition of a controlled environment as defined in Resolution Conf. 10.16 (Rev. )

vi. Requiring physical inspections of facilities (as well as inspections of records) against recommended checklists (see below) including enabling announced and unannounced inspections by national authorities and, where appropriate, CITES Secretariat and/or external specialists

vii. Undertaking genetic (DNA) tests to investigate links between offspring and their claimed parents and/or to identify the sub-specific or geographical origin of specimens (if this is pertinent)

viii. Undertaking other relevant scientific tests (e.g. isotope analysis) to determine the origin of founder stock and/or the recent diet of specimens (wild or captive)

ix. Introducing or improving relevant marking of individual specimens (through tags, microchips etc.) or other means of traceability

x. Implementing size or other restrictions on specimens in trade (e.g. only allowing in trade in specimens above or below a certain size or demonstrable age)

xi. Providing additional evidence of captive-production for specific species by, for example, adding empty egg shells for reptiles and birds to the specimens to be exported

xii. Establishing harvest quotas for any take of wild specimens for use in captive production facilities

xiii. Suspending trade from all, or from specific, facilities or producers pending completion of other recommendations

20. Recommendations might also be accompanied with links to relevant guidance, such as on the correct application of source codes, and means by which capacity to deal with captive production issues might be addressed.

21. Available guidance includes:

    TRAFFIC (2013) Inspection Manual for use in Commercial Reptile Breeding Facilities in Southeast Asia. https://cites.unia.es/cites/file.php/1/files/cb-captive-breeding-manual-en.pdf

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