

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



Twenty-fourth meeting of the Animals Committee
Geneva, (Switzerland), 20-24 April 2009

Transport of live animals

ANALYSIS OF PARTIES' LEGISLATIVE PROVISIONS AND DRAFT LEGISLATIVE GUIDANCE

1. This document has been prepared by the Secretariat.
2. At its 14th meeting (The Hague, 2007), the Conference of the Parties adopted Decision 14.59 on the *Transport of live specimens*. Paragraph d) of the Decision provided that the Animals Committee, in consultation with the Secretariat, should review at its 24th meeting the following documents from the Secretariat:
 - a) *an analysis of the Parties' legislative provisions on the transport of live animals by road, rail and ship contained in materials gathered under the CITES National Legislation Project; and*
 - b) *draft legislative guidance for the transport of live specimens;*
3. In preparing this document, the Secretariat reviewed draft and enacted CITES-implementing legislation, both national and supra-national, for a number of exporting and importing countries from the six CITES regions (i.e. Afghanistan, Albania, Australia, Barbados, Bulgaria, Cambodia, Canada, Czech Republic, Fiji, Germany, Ghana, Guyana, Hong Kong Special Administrative Region, Indonesia, Jamaica, Jordan, Malawi, Malaysia, Namibia, New Zealand, Saint Kitts and Nevis, Saint Lucia, Singapore, Slovenia, Slovakia, South Africa, Swaziland, Switzerland, the United Arab Emirates, the United Republic of Tanzania, the United States of America, Viet Nam and the European Union).
4. The Secretariat also reviewed relevant provisions of the Convention, Resolution Conf. 10.21 (Rev. CoP14) on the *Transport of live specimens*, selected background documents for meetings of the Animals Committee and the Conference of the Parties, some examples of animal or plant health or protection legislation (e.g. from Cyprus, Estonia, Finland, Ireland, the United States and the European Union), legislative analyses and guidance documents produced under the CITES National Legislation Project, the websites and relevant materials of the International Air Transport Association (IATA), the World Animal Health Organization (OIE), the International Plant Protection Convention (IPPC), the World Association of Zoos and Aquariums (WAZA) and information from the transport sector related to rail, road, inland waterway, civil aviation, maritime and combined transportation.
5. There has not been any indication in the context of the National Legislation Project that existing legislative provisions for the transport of live specimens might somehow be insufficient and the Secretariat is not aware of any legal challenge regarding such provisions. Nevertheless, Decision

14.59 has offered the Secretariat an opportunity to compare the ways in which Parties have addressed the transport of live specimens in their CITES-implementing legislation and to consider how guidance documents and advice under the National Legislation Project might be adjusted to better assist Parties with this aspect of international wildlife trade. Such work is quite timely as a number of Parties are currently in the process of enacting CITES-implementing legislation.

Historical background

6. The transport of live specimens was one of the issues addressed at the first meeting of the Conference of the Parties in 1976. A set of *CITES Guidelines for transport and preparation for shipment of live wild animals and plants* was adopted in 1979 and revised in 1981. During its 4th meeting (CoP14, Gaborone, 1983), the Conference of the Parties adopted Resolution Conf. 4.20 which stated that the IATA *Live Animals Regulations* are generally deemed to meet the *CITES Guidelines* in respect of air transport. Compliance with the *Guidelines* and the *Live Animals Regulations* has thereafter been promoted as a condition of CITES trade. This is reflected in the standard permit/certificate form recommended by the Conference of the Parties [see Annexes 1 and 2 of Resolution Conf. 12.3 (Rev. CoP14)].
7. At its 9th meeting (Fort Lauderdale, 1994), the Conference of the Parties adopted Resolution Conf. 9.23 on *Transport of live specimens*, which consolidated five earlier resolutions on the subject. This Resolution was replaced by Resolution Conf. 10.21 in 1997, which was thereafter revised in 2007 [see Resolution Conf. 10.21 (Rev. CoP14)]. The latest revision of the Resolution includes a reference not only to IATA's *Live Animals Regulations* but also its *Perishable Cargo Regulations*, which contain a number of sections relevant to international trade in live specimens of CITES-listed plant species. It is recommended in the Resolution that live plant specimens of CITES-listed species be transported in accordance with the *Perishable Cargo Regulations*. The most recent version of the Resolution also recommends that a relationship between the Secretariat and the Standing Committee and the OIE and IPPC be developed.
8. The Convention, Resolution Conf. 10.21 (Rev. CoP14) and the *CITES Guidelines* address live specimens of CITES-listed animal and plant species. The Resolution directs the Animals and Plants Committees 'to deal with matters relating to the transport of live specimens'. Accordingly, the Plants Committee has been working with the Animals Committee to develop guidance on the transport of live specimens. In this connection, the Plants Committee considered at its 18th meeting (Buenos Aires, 17-21 March 2009) a report by the chairmen of working group PC17/AC23 WG4 on transport of live animals and plants (see document PC18 Doc. 21.2).
9. The 'transport of live animals' is now a regular agenda item at meetings of the Animals Committee. Levels of mortality during such transport have been recognized by the Committee to be generally low. Parties are therefore no longer requested to submit regular reports of mortalities which occur during transport (unless there is supra-national or national legislation requiring such reports). Instead, they have been invited to provide the Chairman of the Transport Working Group with information concerning cases of high mortality of live specimens, using standard reporting forms for shipment mortality [see Notification to the Parties No. 2008/050 (30 July 2008)]. According to document AC24 Doc. 15.1, no cases of high mortality shipments have been reported by any Party. The statement in the preamble to Resolution Conf. 10.21 (Rev. CoP14) that trade-related mortality "for certain species has not been reduced significantly" and that "some species are far more difficult to prepare and ship, without risk of injury, damage to health and cruel treatment than others" might therefore be reconsidered and its accuracy verified.

National Legislation Project in general

10. The National Legislation Project was established in 1992, after the adoption of Resolution Conf. 8.4 [now Resolution Conf. 8.4 (Rev. CoP14)]. Its aims are to identify Parties whose domestic measures do not provide them with the authority to properly enforce the Convention and to provide technical assistance to Parties in the development of their measures to implement the Convention. Under the National Legislation Project, Parties provide the Secretariat with copies of their draft and enacted CITES-related legislation. The Secretariat provides comments on draft legislation which are aimed at ensuring that Parties enact legislation that is adequate for implementation of the Convention. Enacted

legislation is analysed and categorized in relation to the fulfilment of four minimum requirements provided in the Resolution (i.e. legislative authority to designate at least one CITES Management Authority and one Scientific Authority, prohibit trade in specimens in violation of the Convention, penalize such trade and confiscate specimens illegally traded or possessed).

11. Legislation that is believed generally to meet the requirements for implementation of CITES is placed in Category 1. Legislation that is believed generally not to meet all of the requirements for implementation of CITES is placed in Category 2. Legislation that is believed generally not to meet the requirements for implementation of CITES is placed in Category 3. The categorization of Parties' (and dependent territories') legislation is reflected in a legislative status chart which is periodically updated (see Annex to document SC57 Doc. 18). Legislative analyses and legislative categories under the NLP are revised when new legislation is enacted.
12. By using material already gathered under the National Legislation Project to analyze Parties' legislative provisions for the transport of live animals by road, rail or ship, the Secretariat had hoped to avoid placing an additional reporting burden on Parties. The analysis has shown, however, that not all transport-relevant legislation has been collected under the National Legislation Project and there may be a need to gather additional information from Parties. The legislative analysis and draft guidance provided in this document, therefore, might be considered as the first step in a multi-step process.

Transport guidance provided by international organizations

13. There are a number of international organizations involved in the transport sector but only a small number of them appear to have standards directly related to the transport of live animals and plants. For example, the United Nations Economic Commission for Europe (UNECE) has 57 agreements related to road, rail, inland waterway and combined transport (e.g. the Agreement on International Carriage of Perishable Foodstuffs), but none of them seems to specifically address the transport of animals and plants. The UNECE is a recognized leader in the transport of dangerous goods and perhaps useful lessons could be learned from its efforts, and those of other international organizations, to harmonize international practice in this area.
14. The International Civil Aviation Organization and the International Maritime Organization are lead organizations for the transport sector. Other transport organizations include the International Union of Railways, the International Road Transport Union and the International Transport Forum. None of these organizations appears to have developed specific guidance on or standards for the transportation of live animals and plants.
15. The Animal Transport Association (AATA) is a non-profit association organized in 1976 which seeks to ensure safe, humane and expeditious transport of live animals. Its members include representatives of airlines, truck and shipping firms, government agencies, universities and research organizations, breeders, importers/exporters, veterinarians and other interested parties. AATA originally dealt only with air transport but changed its name to emphasize the need to cover air, land, and sea transport. It provides an independent system for assessing attendants and has been working to incorporate into the *Live Animals Regulations* provisions on the competence and assessment of animal attendants. AATA includes among its partners the International Federation of Freight Forwarders Association and the International Air Cargo Association.

IATA

16. IATA was established in 1945 as the successor to the International Air Traffic Organization established in 1919. It is a trade body that represents 230 airlines (including courier services like UPS, FedEx and DHL) comprising 93% of scheduled air traffic. The IATA Live Animals and Perishables Board is responsible, with the assistance of an advisory panel, for periodically reviewing and updating the *Live Animals Regulations* and the *Perishable Cargo Regulations*. The Board consults with CITES Parties and other stakeholders during this process. Although several airlines outside Europe and North America participate in the LAPB, it seems that overall involvement of producer or export countries might be strengthened.

17. The *Live Animals Regulations* include information on government and carrier regulations, reservations and advance arrangements, animal behaviour, listing and description of species, documentation, container requirements (for construction, ventilation, safety, animal welfare and health, food and water, stocking density), marking and labelling, acceptance and handling of shipments (e.g. loading, feeding and watering, health and hygiene), logistics for laboratory animals, ambient temperature ranges and live animals in airmail. Copies of the *Live Animals Regulations* (as well as the *Perishable Cargo Regulations*) are not available on-line and must be purchased from IATA. The Secretariat collaborated with IATA to provide interested Parties with copies of the most recent edition of the *Live Animals Regulations* (though apparently not the *Perishable Cargo Regulations*) but only 12 Parties and one dependent territory responded to the offer (see document AC24 Doc. 15.3 on distribution of the current IATA *Live Animals Regulations*). The Transport Working Group has suggested in document AC24 Doc. 15.1 that the Secretariat send a Notification encouraging more Parties to purchase copies but perhaps other options need to be explored as well (e.g. to seek or purchase from IATA each year copies of the two sets of regulations that would be sufficient for distribution to the lead Management Authority of each Party or to make both sets of regulations accessible through the Management Authority forum on the CITES website).
18. The *Perishable Cargo Regulations* contain information on government and carrier regulations, perishable classifications, packaging, documentation and labelling, acceptance and control, traceability and tracking, perishable handling facilities and procedures, airport ground operators, claims, ventilation and heating or cooling capabilities of aircraft, general design requirements for thermal, insulated and refrigerated containers, preconditioning of plants before transport, shipping via the fastest transportation mode available, appropriate care during transport, communication of a shipment before arrival and adherence to phytosanitary regulations.
19. There are a number of references to CITES in both sets of IATA *Regulations*, and some of these references might be better aligned with official information on the CITES website and in CITES documents. For example, a few references do not seem to make any distinction between Appendix-I and -II listed species and treat both as 'endangered' species. Perhaps IATA could be asked to consider these and other identified references during preparation of the next edition of the *Regulations*. If desired, the Secretariat could review and comment on any revised text.
20. There are periodic IATA training courses on application of the *Live Animals Regulations* in cities like Geneva, Beijing, Montreal and Singapore. These are primarily designed for freight forwarders and cargo agents, shippers and consolidators, cargo acceptance staff for airlines, training specialists, customer service agents and cargo officers and cargo import/export specialists. The courses address, among other things, government and airline regulations, classification and identification of live animals, special shipping procedures and considerations for endangered species and completion of CITES documentation. In Notification to the Parties No. 2008/050 (30 July 2008), Parties were invited to contact IATA concerning opportunities and options for such training. In document AC24 Doc. 15.1, the Transport Working Group recommended the involvement of zoo authorities in the training of airline personnel and suggested other ways in which transport-related information could be conveyed to and exchanged with Parties. Perhaps even more could be done to respond to developing country requests for training in the application of IATA regulations.

OIE

21. The OIE was created in 1924 and now has 173 member countries and territories. At the request of its member countries, it has become the leading organisation for animal welfare and one of its objectives is to promote animal welfare through a science-based approach. OIE established a permanent working group on animal welfare in 2002 and included guiding principles on animal welfare in its *Terrestrial Animal Health Code* in 2004. These principles distinguish animal welfare (i.e. the state of the animal) from the treatment that it receives (e.g. humane treatment).
22. Five animal welfare standards were included in the *Terrestrial Code* in 2005, three of which relate to the transport of live animals by sea, land and air. The standards for air transport appear to be less comprehensive than the other two standards. The standards for land and sea apply to the transport of certain 'live domesticated animals'. This seems to include guanacos and vicuña in relation to land transport and guanacos, vicuña and zebras in relation to sea transport. The air transport standards

appear to cover only 'livestock'. It is explained in the standards for transport by land (which cover both road and rail transport) that 'wild, feral and partially domesticated animals may need different conditions'. It is indicated in document AC24 Doc. 15.1 that OIE is interested in undertaking work on wildlife with the assistance of the Chair of the CITES Transport Working Group.

23. It is stated in document AC Doc. 15.1 that land transport is involved in almost all cases of air transport (e.g. in going to and from airport). It is also stated that container requirements in the *Live Animals Regulations* can also be used for land transport, except for certain taxa that require modified containers and procedures. This led the TWG to determine that it would be inefficient to write new guidelines for land transport. The same document indicates that it is rare for live CITES specimens to be transported by ship or sea, so the TWG has suggested that Parties be surveyed on how frequently sea transport is used and which methods are involved.
24. OIE transport standards relate to: the general behaviour of animals, responsibilities of all persons involved in the transport, competence of persons responsible for animals during journeys, planning of journeys (including nature and duration of the journey, preparation of the animals for the journey, vessel and container design and maintenance, space allowance, rest, water and food, emergency response procedures), documentation, pre-journey periods (including fitness to travel), loading, travel, unloading and post-journey handling, actions in the event of a refusal to allow the importation of a shipment and species-specific issues. The standards for land and sea transport state that the amount of time animals spend on a journey should be kept to the minimum.
25. OIE collaborates closely with IATA as evidenced by the election of OIE's Director General on 24 October 2007 to a two-year term on IATA's Live Animals and Perishables Advisory Panel and a cooperation agreement signed between the two organizations in September 2008. Additional cooperation agreements include those between OIE and the World Customs Organization (which contains a reference to CITES), the Food and Agriculture Organization of the United Nations, the World Trade Organization and the World Society for the Protection of Animals.

IPPC

26. The IPPC was adopted in 1951 and revised in 1979 and 1997. It provides a framework for the development and application of harmonized phytosanitary measures and the elaboration of international standards to that effect. As of September 2008, there were 170 contracting parties to the IPPC and each of them has established an official national plant protection organization. Among other things, NPPOs are responsible for the inspection of consignments of plants and plant products moving in international traffic and the issuance of phytosanitary certificates. Contracting parties have the sovereign authority to regulate, in accordance with applicable international agreements, the entry of plant and plant products and have undertaken to minimize interference with international trade (e.g. by agreeing to institute only phytosanitary measures that are technically justified, consistent with the pest risk involved and represent the least restrictive measures available, and result in the minimum impediment to the international movement of people, commodities and conveyances).
27. The IPPC has adopted 29 international standards for phytosanitary measures, a number of which have relevance for international trade as well as the management of invasive species (e.g. export system, import system, inspection, etc.). A call for topics for new standards is issued biennially, including one in 2009. National, regional and international organizations can submit topics to be considered by relevant IPPC bodies.

WAZA

28. WAZA was established in 2000 as the successor organization to the International Union of Zoological Gardens originally founded in 1935. As of July 2008, its membership included 241 leading zoological institutions, 25 regional, subregional or national zoo and aquarium associations and 14 affiliate organizations. In 2005, WAZA adopted The World Zoo and Aquarium Conservation Strategy. One of its recommendations is that all animal transportation must be in accord with regulations, such as the IATA *Live Animals Regulations*, and with relevant national regulations.

Guidance provided by other entities

29. The website for the UPS courier service explains that packages containing live animals must provide for basic humane care and safety of the animal during transportation. Any package containing a live animal shall be considered a perishable commodity and will be accepted for transportation solely at shipper's risk for damage or loss arising from the perishable nature of the item. Live animals that will not be accepted for transportation are listed. Packaging to be used for transport must first be tested by a laboratory certified by the International Safe Transit Association.
30. As indicated in Appendix E of the IATA *Live Animals Regulations*, the Universal Postal Convention and the Postal Parcels Agreement generally prohibit the insertion of live animals in letter-post items and in all categories of parcels. Exceptions are made, respectively, for bees, leeches and worms as well as live animals whose conveyance is authorized by postal regulations of the countries concerned and which are appropriately labelled.
31. A book entitled *Guidelines for the humane transportation of research animals* was published in 2006 by the United States Institute for Laboratory Animal Research.

Convention provisions related to the transport of living specimens

32. The starting point for any analysis of Parties' legislative provisions and the preparation of legislative guidance regarding the transport of live specimens is the Convention itself. Relevant provisions of the Convention cover both live animals and plants as well as commercial and non-commercial trade. They do not specify any particular mode of transport and therefore apply to all forms of transport.
33. Articles III, IV and V of the Convention require CITES Management Authorities, before granting an export permit, to be satisfied that any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment. This is a prerequisite as well for the granting of re-export permits for living specimens of Appendix-I and -II listed species.
34. Article IV, paragraph 6, of the Convention requires a Management Authority, before granting a certificate for introduction from the sea, to be satisfied that any living specimen will be so handled as to minimize the risk of injury, damage to health or cruel treatment.
35. Article VII, paragraph 7(c), of the Convention requires a Management Authority to be satisfied, before allowing the movement of specimens which form part of a travelling exhibition, that any living specimen will be so transported and cared for as to minimize the risk of injury, damage to health or cruel treatment.
36. Article VIII, paragraph 3, of the Convention requires Parties to ensure 'that all living specimens, during any period of transit, holding or shipment, are properly cared for so as to minimize the risk of injury, damage to health or cruel treatment'. The same paragraph requires Parties to 'ensure that specimens pass through any formalities required for trade with a minimum of delay. To facilitate such passage, a Party may designate ports of exit or ports of entry at which specimens must be presented for clearance'.
37. The slight differences in wording among the above provisions have made it challenging at times for Parties to accurately reflect them in CITES-implementing legislation.

Resolution Conf. 10.21 (Rev. CoP14)

38. Long-term interpretive guidance on the transport of live specimens is provided in Resolution Conf. 10.21 (Rev. CoP14). A number of provisions in the Resolution are useful for the analysis and development of national legislative provisions on the transport of live specimens.
39. It is recommended in the Resolution that the IATA *Live Animals Regulations* (for animals) and the *Perishable Cargo Regulations* (for plants) be deemed to meet CITES air transport requirements. In addition, '[w]here appropriate, the *Live Animals Regulations* (for animals) and the *Perishable Cargo Regulations* (for plants) should be used as a reference to indicate suitable conditions for carriage by means other than air'. It is further recommended that the *Live Animals Regulations* and the sections

of the *Perishable Cargo Regulations* related to the transport of live plant specimens be incorporated into Parties' domestic legislation or policies.

40. Other recommendations in the Resolution do not mention any particular mode of transport and are therefore applicable to all forms of transport. This includes the following recommendations:

Applicants for export permits or re-export or travelling exhibition certificates be notified that, as a condition of issuance, they are required to prepare and ship live specimens in accordance with the *Live Animals Regulations* and the *Perishable Cargo Regulations*;

Shipments of live specimens be examined and necessary action taken to ensure the well-being of the specimens by CITES-designated persons or transport company personnel during extended holding periods at transfer points.

Where Parties have designated ports of entry and exit, holding facilities for live animals and plants should be provided. Parties should ensure that animal- and plant-holding facilities are open for inspection of shipments, with the concurrence of the transport company, by CITES-designated enforcement personnel or designated observers; and that any documented information be made available to the appropriate authorities and transport companies;

Legislative guidance documents and advice under the NLP

41. Provisions for the transport of live specimens have generally been considered under the second legislative requirement of the NLP which concerns the regulation of CITES trade. Ensuring that live specimens are prepared, shipped, transported, handled and cared for in accordance with the Convention is one of the conditions for such trade. Until recently, legislative guidance documents and other legislative advice provided under the National Legislation Project have recommended that Parties incorporate, by reference, the *CITES Guidelines for transport and preparation for shipment of live wild animals and plants* and the *IATA Live Animals Regulations* within their domestic legislation. Such incorporation renders the *Guidelines* and the *Regulations* legally binding upon natural and legal persons and enforceable in a court of law as a condition of trade in CITES-listed species.
42. As the *CITES Guidelines* cover both animals and plants and all forms of transport, their recommended legislative incorporation previously ensured that the transport of live specimens by road, rail and ship would be covered. More recently, because the *CITES Guidelines* are now outdated, the Secretariat has discouraged Parties from referring to them in new legislation. It has instead advised Parties to apply the *IATA Live Animals Regulations*, where appropriate, to other modes of transport. This advice seems consistent with the recommendations contained in Resolution Conf. 10.21 (Rev. CoP14) and is now being extended to encourage application of the *Perishable Cargo Regulations*, where appropriate, to other modes of transport. Such advice is also consistent with the suggestion in document AC24 Doc. 15.1 that the *Live Animal Regulations* can, in most cases, be used for land transport.
43. One significant exception to the Secretariat's practice of discouraging use of the *CITES Guidelines* has been the Secretariat's acceptance of references to the *CITES Guidelines* in any permit/certificate forms that are included in legislation. References to the *CITES Guidelines* remain in paragraph n) of Annex 1 of Resolution Conf. 12.3 (Rev. CoP14) and in the standard permit/certificate form contained in Annex 2 of the Resolution (see Box 5 on Special conditions). These references were not discussed at CoP14 and are now inconsistent with Resolution Conf. 10.21 (Rev. CoP14) on *Transport of live specimens*. The Secretariat will therefore make a proposal to correct this inconsistency at the 15th meeting of the Conference of the Parties (Doha, 2010). As the permit/certificate forms of many Parties refer to the *Guidelines*, they will also need to be revised in the future and this may require amendments to domestic legislation.

Analysis of Parties' legislative provisions on the transport of live animals by road, rail and ship

44. Some legislative provisions addressing the transport of live specimens may only be indirectly related to CITES and therefore not provided or analyzed under the National Legislation Project. An example of such legislation is European Union Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations. This legislation is applicable to all commercial trade in

vertebrates and requires *inter alia* competent staff, the registration and authorization of animal transporters, a route plan for each transport, etc. Another piece of legislation [European Parliament Regulation (EC) No. 998/2003] provides animal health requirements for the non-commercial movement of pet animals. There is also a European Convention for the protection of animals during international transport (1971, amended in 1995 and 2002). This supra-national legislation has led to the adoption of related domestic legislation at national level.

45. The United States Lacey Act, among other things, prohibits and penalizes transport that violates state, federal, tribal or foreign laws and regulations. This provision is implemented through Part 14 of Title 50 of the United States Code of Federal Regulations on the importation, exportation and transportation of wildlife (i.e. wild animals) and Part 24 on the importation and exportation of plants. The United States also has an Animal Welfare Act (7 USC 2131 et seq.) which provides standards for the humane handling, care, treatment and transportation of animals.
46. Based on a very limited review, it appears that general transport regulation is aimed at ensuring safe, secure, energy efficient, economical and non-polluting transport by road, rail and ship and that general sanitary and phytosanitary regulation is aimed at preventing the transmission of disease or pests through international transport. This means that such legislation may not be directly relevant to CITES requirements for the transport of live animals and plants, regardless of the mode of transport.
47. As explained below, Parties' CITES-implementing legislation refers to the transport of live specimens in a range of provisions including those related to: the overall purpose of the legislation; definitions; conditions of trade; permit/certificate applications and forms; recordkeeping; exemptions and special procedures; and offences and penalties. Many of these legislative provisions are written rather broadly and cover all modes for transporting live specimens. More details about particular sorts of legislative provisions are described below.

Preamble, definitions and effect on other legislation

48. It is rare that the transport of live specimens is mentioned in the preamble of legislation, unless the entire legal instrument is devoted to the transport of animals or plants. In such cases, no particular mode of transport is usually mentioned. Occasionally, there is reference to 'IATA Regulations' in national legislative provisions that define terms used in the legislation. Legislative provisions in a number of countries state that CITES-implementing legislation does not impliedly repeal existing animal or plant health or protection legislation and that it should be applied together with such legislation.

Powers and duties of the Management Authority

49. Legislative provisions in many countries authorize the Management Authority to attach conditions to permits and certificates. In a few countries the Management Authority is specifically authorized to regulate and monitor transport.
50. Under one country's legislative provisions the Management Authority is responsible for determining, after consultation with the Scientific Authority and any other Ministry, the method of shipment including the container and other packaging requirements necessary for the transportation of a CITES specimen.
51. Legislative provisions in another country require the Management Authority to draft regulations necessary to regulate and monitor both the production of and trade in CITES specimens, including the transportation of live animals in accordance with international standards for air, sea and land.

Conditions of trade

52. The legislative provisions adopted by many Parties restate, more or less verbatim, the conditions of trade (including those related to live specimens) found in Articles III, IV and V of the Convention. Such provisions cover commercial and non-commercial trade and usually state that an export permit or re-export certificate or introduction from the sea certificate shall only be granted if the Management Authority is satisfied that any living specimen will be so prepared and shipped or handled as to minimize the risk of injury, damage to health or cruel treatment. Some legislative

provisions generally require trade to be conducted in accordance with Articles III, VI and V. Both kinds of legislative provisions cover the transport of live animals by road, rail and ship.

53. Many legislative provisions require exports and re-exports to conform to the CITES *Guidelines* for where a live animal or plant is shipped by modes of transport other than air (e.g. land or sea) and the IATA *Live Animals Regulations* where it is shipped by air. These provisions often refer to the 'most recent edition' of the *Regulations* (or the *Regulations* 'as amended from time to time') but there are a few provisions which refer to a particular edition, and this presents a potential problem. The *Regulations* indicate when a new edition becomes effective and thereafter the old edition expires and must not be used. Thus far, the Secretariat has identified only one reference to the *Perishable Cargo Regulations* and this was contained in draft national legislation.

Trade restrictions and other stricter domestic measures

54. Certain importing countries and supra-national entities (e.g. the European Union) have legislative provisions allowing them to establish restrictions on imports from countries with high transport mortalities. One country's legislative provisions allow the Management Authority to adopt stricter domestic measures related to transport.

Permit/certificate applications and forms

55. Legislative provisions in some countries list the information required from a permit applicant or provide a permit application form. These provisions may require a description of the method or type of transportation as well as the size and construction of the container to be used or arrangements for watering and otherwise caring for live specimens during transportation.
56. The legislative provisions of one country expressly authorize the Management Authority to refuse to grant a permit or certificate where it has reason to believe that the transportation arrangements, whether by land, sea or air, for any living plant or animal are inadequate and present serious risk of injury or damage thereto.
57. The CITES permit or certificate adopted by a country is often contained in an annex or schedule to legislation. It usually includes a statement that the document is valid only if transport conditions for living specimens comply with CITES' *Guidelines* or the IATA *Live Animals Regulations*.

Invalidity, suspension or revocation of a permit or certificate

58. Legislative provisions often render permits or certificates automatically invalid if one of their conditions or stipulations has been breached. Legislative provisions also often authorize the CITES Management Authority to suspend or revoke a permit when a permit condition or stipulation has been breached.

Registration

59. A number of Parties' legislative provisions require the registration of traders, producers and re-processors of CITES specimens. It is unclear whether related registration procedures or conditions address transport conditions. Some animal protection legislation requires the registration and certification of transporters.

Recordkeeping

60. Legislative provisions in some countries require persons who are granted a permit or certificate to keep records showing the mortality of specimens imported, exported, re-exported or introduced from the sea.
61. One country's legislative provisions require storage and transit facilities to be inspected and an official record of those inspections to be kept.

Designation of ports

62. Many countries have legislative provisions designating ports of entry and exit for living and other CITES specimens.

Transit/transshipment

63. One country's legislative provisions require transit to be in accordance with the conditions of transport laid down in the relevant law and national customs laws.
64. Some legislative provisions require, if live specimens are held during any period of transit or transshipment, that those specimens be properly cared for so as to minimize the risk of injury, damage to health or cruel treatment. There may also be a cross-reference to other relevant legislation on the protection of live specimens during transport.
65. Some importing countries have legislative provisions allowing them to establish restrictions on the holding or movement of specimens of species in relation to species for which import restrictions have been established.

Travelling exhibitions

66. Many countries have legislative provisions requiring the Management Authority to be satisfied, before waiving the requirements of Articles III, IV and V to allow the movement of specimens which form part of a travelling exhibition, that any living specimen will be so transported and cared for as to minimize the risk of injury, damage to health or cruel treatment.

Compliance monitoring

67. Some legislative provisions require government authorities to monitor compliance and to take appropriate steps if, at any time, they have reason to believe that legislation is being infringed.
68. One country's legislation requires the Management Authority to monitor the mortality rates of live CITES specimens during their transport, conveyance, movement, import, export, re-export and introduction from the sea.

Offences

69. Some legislative provisions make it a punishable administrative or criminal offence to engage in any trade in any specimens contrary to the provisions of the Convention or national legislation implementing the Convention or the conditions within a permit or certificate.
70. Many countries have legislative provisions that establish a punishable offence for making a false declaration or knowingly providing false information in order to obtain a permit or certificate.
71. Some countries have legislative provisions that establish a punishable offence for illegal transportation or the shipment of live specimens not properly prepared so as to minimize the risk of injury, damage to health or cruel treatment.
72. In one country, it is a punishable offence if a person encloses in or with any letter, parcel, packet or other matter sent by post (which includes courier service), any endangered species or knowingly uses for the transportation of any endangered species any mail bag or mail van, aircraft, ship or other vehicle used for the carrying of mail.

Confiscation and disposal

73. The legislative provisions of many Parties authorize the confiscation, holding and disposal of illegally traded, living specimens. They often authorize as well the confiscation of containers, vessels, vehicles and conveyances as well as other items involved in an offence.

74. One country's legislation requires, for repatriation, proper maintenance and housing during the voyage, flight or journey.

Draft legislative guidance for the transport of live specimens

75. Taking into account the information provided above, the Secretariat has tried to develop a set of legislative guidance elements which are categorized as essential (derived from the Convention), desirable (derived from applicable Resolutions) and optional (derived from Parties' additional and perhaps stricter domestic measures).

76. Parties with legislation in Category 1 and Parties in the process of enacting adequate legislation for implementation of the Convention should review their existing or draft legislative provisions related to the transport of live specimens, in light of legislative guidance that results from this document. Thereafter, they should amend any existing or draft legislation which does not provide for adequate implementation of the Convention's provisions on the transport of living specimens.

Essential

77. National legislation must require as a condition of export, re-export, introduction from the sea and movement of travelling exhibitions (in conformity with Articles III, IV, V and VII of the Convention) that any living specimen will be so prepared and shipped or so handled or so transported and cared for as to minimize the risk of injury, damage to health or cruel treatment. Trade in specimens in violation of these and other provisions of the Convention must be prohibited and penalized.

78. In conformity with Article VIII, national legislation must require, as far as possible, that specimens pass through formalities required for trade with a minimum of delay and require that all living specimens are properly cared for during any period of transit, holding or shipment so as to minimize the risk of injury, damage to health or cruel treatment.

Desirable

79. The relevant operative provisions of legislation and any permit or certificate form contained in an annex or schedule, as well as related instructions, should require the transport of live specimens by air, and other modes of transport, where appropriate, to conform to the most recent edition of the IATA *Live Animals Regulations* (for animals) and *Perishable Cargo Regulations* (for plants). Parties should avoid referring to any specific edition of the *Live Animals Regulations* or *Perishable Cargo Regulations*, as they are amended annually. National legislation should provide punishable administrative and criminal offences for the failure to comply with IATA regulations and other regulations made applicable by or provided in national legislation. Unless Parties decide to update the CITES *Guidelines*, Parties should amend existing legislation to delete any references to those *Guidelines* and ensure that new legislation does not include any such references.

80. National legislation should designate ports of entry and exit for the transport of live specimens of animals and plants by air, land or sea.

81. Primary CITES-implementing legislation should cross-reference other legislation relevant to the transport of living specimens (e.g. international animal or plant transport, animal or plant health or protection or maritime legislation).

82. National legislation should authorize shipments of live specimens to be examined and necessary action taken to ensure the well-being of the specimens by CITES-designated persons or transport company personnel during extended holding periods at transfer points. The legislation should provide for holding facilities for live animals and plants at ports of entry and exit that are designated for live specimens. The legislation should require access and relevant documentary information to be provided to enforcement officers and authorize them to inspect such facilities.

Optional

83. National legislation could require all trade in live specimens, regardless of the applicable Appendix or the type of trade or any special provision, to be transported in accordance with IATA regulations.

84. National legislation could require the Management Authority obtain the advice of the Scientific Authority before determining whether it is satisfied that transportation arrangements for the export or re-export of any living specimen are adequate to minimize the risk of injury, damage to health or cruel treatment.
85. National legislation could require registered, legally established businesses to undertake the international transportation of live CITES specimens whether for commercial or non-commercial purposes.
86. National legislation could, in addition to the IATA regulations, provide other requirements for the transport of live specimens or for their holding and care before and after transport. Alternatively, national legislation could authorize the Management Authority to review and propose such requirements, after consultation with the Scientific Authority.
87. National legislation could authorize the Management Authority, in consultation with the country of origin concerned, in accordance with a specific procedure and taking account of any opinion from the Scientific Authority, to establish general restrictions, or restrictions relating to certain countries of origin, on the import of live specimens of species listed in Appendix II which have a high mortality rate during shipment.
88. National legislation could require persons to keep a wildlife register with mortality records for live CITES specimens in trade and could create a punishable offence for the failure to keep such records.
89. National legislation could apply criteria used for the issuance and acceptance of domestic permits and certificates for live specimens to the issuance and acceptance of foreign permits or certificates. It could also require that applicants provide sufficient information for government authorities to find that a proposed trade activity meets all of the applicable criteria.

Additional considerations

90. Generally speaking, legitimate traders and transporters (and even those engaged in illegal trade) have a strong economic interest in ensuring that mortality levels during transport remain low. During its country missions, the Secretariat has noted that government agencies, traders and airline companies appear to be familiar and compliant with container and other requirements contained in IATA's *Live Animals Regulations*. In one developing country, a live bird exporter was observed to have voluntarily and innovatively gone beyond the IATA requirements in order to better ensure the safe and humane transport of live specimens. She also made a point of using native materials and food for the containers that provided local people with livelihood opportunities.
91. Like CITES, the transport sector is interested in procedures that can facilitate and expedite the clearance of shipments as well as the identification and traceability of items being shipped, such as electronic documents and the 'single window' approach. The CITES Secretariat recently met with Geneva-based IATA officials to discuss the implementation of electronic documents and possible synergies related to the transport of live CITES specimens. The transport sector is also interested in overall cost-effectiveness and keeping costs as low as possible. Past CoP decisions have shown that CITES Parties are also interested in cost-effective options for containers and packing materials for all means of transport.
92. National policies on animal and plant health or protection are quite varied and reflect different philosophies about the relationship between people and wildlife. Policy statements, legislative guidance material or technical guidelines developed and used in the context of CITES should therefore be based on internationally agreed standards which are aligned as closely as possible with the Convention.
93. OIE animal health standards and IPPC plant health standards are references within the framework of the World Trade Organization's Agreement on the Application of Sanitary and Phytosanitary Measures. During a 14 March 2009 meeting between the heads of OIE and WTO where they discussed such measures, the OIE referred to its standard-setting work in the field of animal welfare. There appears to be an interest on the part of one or more countries to incorporate animal welfare considerations into rules agreed by Member States to WTO. The possible involvement of WTO in

such matters would help to ensure that related standards do not constitute technical barriers to international trade.

94. The issue of transport of live specimens in trade may be affected by the adoption of policies and practices aimed at achieving a low-carbon economy. Article 2(2) of the Kyoto Protocol to the United Nations Framework Convention on Climate Change requires parties listed in Annex I of the UNFCCC to work through the International Civil Aviation Organization and the International Maritime Organization to limit or reduce emissions of greenhouse gases not controlled by the Montreal Protocol from aviation and marine bunker fuels. In this connection, an ICAO Group on International Aviation and Climate Change and an IMO Working Group on Greenhouse Gas Emissions (GHG) from Ships have been established. The results of their work are to be presented to the 15th meeting of the Conference of the Parties to UNFCCC (Copenhagen, December 2009). Article 2(3) of the Kyoto Protocol requires parties listed in Annex 1 of the UNFCCC to strive to implement listed policies and measures in such a way as to minimize adverse effects, including the adverse effects of climate change, effects on international trade and social, environmental and economic impacts on other parties, especially developing country parties.

Recommendations

95. Animals Committee representatives and observers are invited to provide comments on the draft legislative guidance contained in paragraphs 77 to 89. The Secretariat will make every effort to incorporate these comments in the final version of the legislative guidance before it is added to the Secretariat's broader package of legislative guidance materials and made available on the CITES website. The planned inclusion of CITES-implementing legislation (or links to national legislative databases) on the CITES website should provide Parties and the private sector with better access to relevant legislative provisions.
96. Ways of enhancing the involvement of exporting countries in relevant activities should be explored, particularly the review and further development of IATA regulations as well as other technical guidance or standards for the transportation of live specimens. Efforts should be made to avoid technical guidance or standards that could be overly burdensome for developing countries, unreasonable or not cost-effective for private sector parties or technical barriers to trade
97. Means for providing, on a regular basis, reduced cost or no-cost copies of the IATA regulations to CITES Management Authorities should be explored. There is merit in identifying ways to encourage information exchange about transport procedures and experience.
98. The Animals and Plants Committees should continue to liaise and collaborate on work related to the transport of live specimens.
99. CITES committees, the Conference of the Parties and the Secretariat should continue liaising with IATA, OIE, IPPC, WAZA, AATA and other relevant organizations (e.g. those interested in scientific research, the insect or pet trade, circuses, *ex situ* conservation and reintroduction projects, etc.) on issues related to the transport of live CITES specimens. As the transport of live specimens is already highly regulated and as IATA, OIE, IPPC and CITES all have the possibility to develop additional guidelines, every effort should be made to avoid potential problems with duplicative or overlapping transport requirements at the national or international level.
100. The CITES *Guidelines* served a useful purpose for many years and there may be benefit in updating them in order to provide simple, practical guidance for the transport of live specimens by means other than air. CITES Parties should consider this possibility and take a final decision on whether the Guidelines should be updated or wholly repealed.