

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



Sixty-first meeting of the Standing Committee  
Geneva (Switzerland), 15-19 August 2011

Interpretation and implementation of the Convention

Trade control and marking

INTRODUCTION FROM THE SEA

1. This document has been prepared by the Secretariat on behalf of the Standing Committee Working Group on Introduction from the Sea.
2. At its 15th meeting (CoP15, Doha, 2010), the Conference of the Parties adopted Decision 14.48 (Rev. CoP15) which provides:

*The Standing Committee shall:*

- a) *extend operation of the Working Group on Introduction from the Sea, established at SC57, with the understanding that it shall continue to work primarily through electronic means, to consider a definition for 'transportation into a State', clarification of the term 'State of introduction' and the process for issuing a certificate of introduction from the sea as well as other issues identified for further consideration in the final report of the CITES Workshop on Introduction from the Sea Issues (Geneva, 30 November – 2 December 2005) and the final report of the meeting of the working group held in Geneva from 14 to 16 September 2009;*
- b) *include in the working group representatives of CITES authorities and fishery authorities from each of the six CITES regions and request the participation of and input from the United Nations Division for Ocean Affairs and the Law of the Sea, the Food and Agriculture Organization of the United Nations, regional fishery bodies, the fishing industry, and intergovernmental organizations and non-governmental organizations with CITES and fishery expertise; and*
- c) *ask the working group to prepare a discussion paper and draft revised resolution for consideration by the Standing Committee at its 62nd meeting and for consideration at the 16th meeting of the Conference of the Parties.*

The Conference also adopted Decision 15.50, which provides:

*The Secretariat shall, contingent on the availability of external funding, convene two meetings of the working group before the 62nd meeting of the Standing Committee.*

3. Nominations for a Chair and Vice-chair of the Working Group were circulated by the CITES Secretariat in May 2010 and, in June 2010, government members of the Working Group elected Mr Fabio Hazin (Brazil) as Chair and Mr Roddy Gabel (United States of America) as Vice-Chair. Thereafter, the Chair and Vice-Chair reviewed relevant materials on introduction from the sea, especially those documents which reflected discussions, recommendations and decisions by the Working Group, the Standing Committee and the Conference of the Parties. Following this review, the Chair and Vice-Chair conferred by telephone on 3 September 2010 and then met face-to-face in Washington, D. C., United States, on 2 November 2010. They determined that a small meeting among the Chair, Vice-Chair and CITES Secretariat should be held in Geneva in late 2010 and that a full meeting of the Working Group should be organized in Norway during 2011.

4. A draft discussion document was developed by the Chair, Vice-Chair and Secretariat during their Geneva meeting from 14 to 16 December 2010. This draft document was then circulated to members of the Working Group on 21 December 2010 for review and comment. On the basis of the comments received, a second version of the draft document was developed and circulated on 22 March 2011 for comment. The Chair, Vice-Chair and Secretariat then met in Washington, D.C. from 11 to 13 April 2011 to develop a third version of the draft document, which was circulated on 19 April 2011 for comment. A fourth version of the draft document was then developed, taking into account the comments that were submitted, and circulated to the Working Group on 22 May 2011.
5. A face-to-face meeting of the Working Group was organized from 24 to 26 May 2011 in Bergen, Norway, with much-appreciated logistical and financial support from Norway, the European Union and the United States. During the meeting, the Working Group discussed Version 4 of the draft document, developed a Version 5, and otherwise addressed the terms of reference contained in Decision 14.48 (Rev. CoP15). The report of the Bergen meeting is contained in Annex 2 to the present document.
6. During several days of active and constructive debate in Bergen, members of the Working Group reached agreement on all but one paragraph of the discussion document and a draft revision of Resolution Conf. 14.6 (Rev. CoP15) on Introduction from the sea, which are contained in Annex 1 to the present document. The first part of the discussion document outlines efforts undertaken by Parties since 2000 to harmonize their interpretation and implementation of provisions in the Convention that concern introduction from the sea. Subsequent parts of the draft document summarize the current status of those efforts and how they might be taken forward. A draft revision of Resolution Conf. 14.6 (Rev. CoP15) is included at the end.
7. The paragraph placed in brackets addresses the issue of chartered vessels. A small drafting group, composed of Australia, Brazil, Norway and the European Commission, undertook to develop a consensus text that could be submitted to the Working Group for consideration and possible agreement before 16 June 2011 (i.e. the document deadline for the present meeting).

#### Recommendations

8. The Working Group recommends that the Standing Committee consider the discussion document and draft revision of Resolution Conf. 14.6 (Rev. CoP15) contained in Annex 1. As the Working Group has been unable to resolve the bracketed text on chartered vessels, the Working Group recommends that the Standing Committee consider how best to develop a consensus text without brackets.
9. The Working Group invites the Standing Committee to consider whether the Working Group has completed its terms of reference or whether there are specific issues it should address before the next meeting of the Committee (e.g. possible development of an Annex to the draft resolution which could contain related definitions and other implementation guidance).

Introduction from the Sea: a possible way forward?

Version 5

The background

1. The CITES text adopted on 3 March 1973 includes a number of provisions that address introduction from the sea (IFS). These provisions have remained unchanged since that time, with certain aspects of their interpretation remaining unresolved. It is proposed to resolve these outstanding issues at CoP16 in March 2013.
2. A number of the CITES provisions that address IFS leave significant room for different interpretations and little or no guidance exists for ensuring that Parties read and apply the provisions in a uniform manner. There have however been several attempts to address the interpretation and implementation of CITES provisions relating to IFS, namely:
  - at the 11th meeting of the Conference of the Parties to CITES (CoP11, Gigiri, 2000), on the basis of an Australian proposal. It did not achieve sufficient support for adoption.
  - in May and June 2004, at two Expert Consultations convened by the Food and Agriculture Organization of the United Nations (FAO) in relation to marine species covered by CITES. Discussions at these events included IFS.
  - in October of the same year, during CoP13 (Bangkok, 2004), the United States of America submitted a new proposal on IFS, which again did not achieve sufficient support for adoption. Nevertheless, at the same meeting, the Parties to CITES agreed to convene a workshop on IFS, which was held in Geneva, from 30 November to 2 December 2005.
  - at CoP14 (The Hague, 2007), the Parties adopted a definition of “marine environment not under the jurisdiction of any State” and established a working group of the Standing Committee on IFS.
  - from 14 to 16 September 2009, the IFS Working Group met for the first time in Geneva, but again failed to reach consensus on the main remaining issues related to IFS (“transportation into a State” and “State of Introduction”).
  - in March 2010, the IFS Working Group met several times in the margins of CoP15 and agreed on revisions to Resolution Conf. 14.6, as well as Decisions that could be put forward for consideration and adoption by the CoP.
  - also at CoP15, the Working Group agreed on a process to elect a new Chair and Vice-Chair, and a new meeting of the IFS Working Group was scheduled for 2011, in Norway. CoP15 ultimately adopted Resolution Conf. 14.6 (Rev CoP15), Decision 14.48 (Rev. CoP15) and Decision 15.50 on *Introduction from the sea*.

Where are we now?

3. According to Article III, paragraph 5, and Article IV, paragraph 6, of the Convention, it is the CITES authorities in the State of introduction that must carry out a non-detriment finding and determine whether to grant a certificate of introduction from the sea. Much of the discussion about CITES provisions related to IFS, therefore, has focused on whether the ‘flag State’ or the ‘port State’ should be considered the State of introduction. Parties appear to be divided between those that consider the port State to be the State of introduction and those that consider the flag State to be the State of introduction.
4. Certainly, a significant part of the difficulties has stemmed from the inclusion of historically sensitive fishery management issues, related to the duties and rights of port States versus flag States, in the negotiations. During the negotiations, several Parties have suggested that we should not lose sight of the main purpose of CITES which, according to its vision statement, is to conserve biodiversity and contribute to its

sustainable use by ensuring that no species of wild fauna or flora becomes or remains subject to unsustainable exploitation through international trade, thereby contributing to the significant reduction of the rate of biodiversity loss.

#### How can we move ahead?

5. One possible way to break the present 'stalemate' over flag State versus port State, and which of them should be considered the State of introduction, would be to focus, pragmatically, on the provisions of CITES rather than fishery management issues related to the duties and rights of port State and flag State, with the understanding that international fisheries' practices as well as recognized mechanisms for trade in marine species must be taken into account in resolving CITES implementation issues for marine species.
6. Article I, paragraph (c), of the Convention defines "trade" as "export", "re-export", "import" and "introduction from the sea"<sup>1</sup>. Although the first three types of trade are well known to all Parties, IFS is a concept unique to CITES and a type of trade that is both atypical (i.e. it can involve only one rather than two States) and infrequent.
7. "Introduction from the sea" is itself defined in the same Article, paragraph (e), as "transportation into a State of specimens of any species which were taken in the marine environment not under the jurisdiction of any State". If one excludes specimens in transit<sup>2</sup>, such transportation into a State can only happen in two cases:
  - a) There is only one State involved in the process. A ship registered in a State takes specimens in the marine environment not under the jurisdiction of any State, and transports them into the same State. In this case, there is no ambiguity regarding the Convention's IFS provisions, because there is only one State involved in the process and that State is clearly the State of introduction.
  - b) There are two or more different States involved in the process. A ship registered in one State takes specimens in the marine environment not under the jurisdiction of any State, and transports them into another State. In this case, the Parties have not yet agreed which State should be considered the State of introduction.
8. It is worth noting that, in the case of an export and import, for both Appendix-I and Appendix-II species, there is a clear requirement for an export permit to be not only granted by the exporting State, but also actually presented to the importing State prior to the import being allowed. By contrast, in the case of IFS, the Convention does not expressly require an IFS certificate to be presented. The absence of an express "presentation" requirement for introduction from the sea could be interpreted as indicating that introduction from the sea would involve only a single State.
9. It could be also that the function served by the introduction from the sea provisions in the Convention is to account for 'trade' in a CITES-listed species involving a single Party - defined as trade for the purposes of CITES because specimens are crossing from an area not under the jurisdiction of any State into an area under the jurisdiction of a State - and thus to ensure that the listing of marine species is effective. Without this provision, such trade would not fit within the usual export/import framework under CITES, and an individual Party could exploit a CITES-listed species outside the jurisdiction of any State, without any obligations under the Convention. The introduction from the sea provision of the Convention, therefore, ensures that not only is this activity subject to a non-detriment finding, but that this kind of trade is also subject to CITES documentation and reporting.
10. The fact that trade in Article I, paragraph (c), is defined as "export", "re-export", "import" and "introduction from the sea" means that introduction from the sea and export are different transactions. As noted in paragraph 7 above, when there is only one State involved in the process, there is no ambiguity regarding the Convention's IFS provisions. In the case where there are two or more different States involved in the process, however, the IFS provisions are not so clear. Most of the past discussions have been narrowed down to which State should be considered the State of introduction (the flag State versus the port State).

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<sup>1</sup> The use of the terms "export", "re-export", "import" and "introduction from the sea" in the present document is restricted to their meaning and application under the Convention.

<sup>2</sup> The use of the term "transit" in the present document is restricted to its meaning and application under the Convention.

## The way forward

11. Nevertheless, a possible third option would be to consider that, whenever two or more States are involved in the process, it should be treated as an export/import and not an introduction from the sea. In this case, the State in which the ship that harvested the specimens is registered would need to issue only an export permit, on the basis of the Convention's provisions related to export and import (Articles III, paragraphs 2 and 3, for Appendix I; and Article IV, paragraphs 2, 3 and 4, for Appendix II), and not an IFS certificate<sup>3</sup>. Such an approach would make sense, because of the need to avoid redundancy. Also, the requirements for issuing an export permit involve essentially the same findings as those for issuing an introduction from the sea certificate (non-detriment finding and transport requirements for live specimens) but are more comprehensive by also including a determination on legal acquisition. Language to this effect could be added to Resolution Conf. 14.6 (Rev. CoP15) as follows:

*Whenever any specimen of a species included in Appendix I or II taken in the marine environment not under the jurisdiction of any State by a ship registered in one State is transported into a different State, the provisions of Article III, paragraphs 2 and 3, or Article IV, paragraphs 2, 3 and 4, respectively, should be applied.*

12. In order to make sure that the origin of the specimens is clear, a specific source code could be included on the export permit indicating that the specimens were taken in the marine environment not under the jurisdiction of any State. To this aim, a new code for "specimens taken in the marine environment not under the jurisdiction of any State" could be added to Resolution Conf. 12.3 (Rev. CoP15), as follows:

*I. Regarding standardization of CITES permits and certificates...*

*RECOMMENDS that: ...*

*i) the following codes be used to indicate the source of the specimens:*

*X Specimens taken in "the marine environment not under the jurisdiction of any State".*

13. The quantity of specimens of a species included in Appendix I or II taken in the marine environment not under the jurisdiction of any State (the proposed source code 'X') should be properly identified and differentiated from the quantity of specimens of the same species taken in the marine environment under the jurisdiction of a State (source code 'W').

### Explanatory note on paragraphs 11, 12 and 13:

*Let's consider the following situation: a ship registered in State X catches CITES-listed specimens in the marine environment not under the jurisdiction of any State and transports those specimens into State Y. That could happen through an export/import that would then be covered by the relevant CITES provisions (Articles III, paragraphs 2 and 3, for Appendix I; and Article IV, paragraphs 2, 3, and 4, for Appendix II). Likewise, if the same CITES-listed specimens were taken inside the Exclusive Economic Zone (EEZ) of State X by a ship registered in State X and then transported by this same ship into State Y, it could be treated as an export/import. Nevertheless, in many (if not most) cases, the CITES-listed specimens will very likely be taken from both inside and outside the EEZ. The approach hereby proposed, therefore, is to apply the export/import process for both situations, differentiating the origin of the specimens taken, however, by distinct source codes. Note that, if this were instead considered to be IFS and State Y were to be considered the State of introduction, State X would have to make the NDF for that part of the catch taken inside its EEZ, and would apply the export/import provisions to those specimens. State Y would then make the NDF for that part of the catch taken outside the EEZ, and would apply the IFS provisions to it. Note further that, in a single trip, a vessel may very well go in and out of the EEZ of its State of registration several times and every time it does so, the State of introduction would then change. Even if State X were to make both NDFs, in case State X were to be considered the State of introduction, it would have to apply different provisions for different parts of the same cargo (i.e. IFS and export/ import). We, therefore, propose the alternative described above as a pragmatic solution to the problem, that is, to consider the activity as an export/import whenever there are two or more States involved in the process.*

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<sup>3</sup> It is important to note that in this case the ship is NOT being considered the legal equivalent to a State or to the territory of a State. The ship is simply being considered as a transport vessel (see the explanatory note, below).

*Some States, however, consider that the 'export' of goods requires the movement of goods from one country to another. These members have expressed the view that an 'export' can only occur when goods leave the Customs territory of a State. Therefore, specimens could not be considered to be 'exported' when they are transported from a vessel registered in one State directly into the territory of another State, without passing through the Customs control of the 'exporting' State. Although this is certainly true for those States expressing this view, it is important to clarify that many States do allow the export process to be done directly from the fishing vessel, without the need for the vessel to go back to the State in which it is registered to unload the catch and then export it by a transport vessel. In such a case, the fishing vessel acts as a transport vessel itself. Some members have also stated that this would imply that the vessel can effect an 'export', as though the vessel were legally equivalent to the territory of the flag State. This is not true, however, since all export documentation still would need to be issued by the export authorities of the State in which the fishing vessel is registered and would need to be cleared by the authorities of the State of import. Again, some States do not seem to allow their fishing vessels to act as transport vessels and require that specimens be transported into their territory and only then process exports by means of transport vessels. Likewise, it seems that some States do not accept imports directly from a fishing vessel, without the specimens first being landed in the State in which the vessel is registered. In these cases, since an export done directly **from** the fishing vessel (and not **by** the fishing vessel) would not be possible, the vessel would be required to first transport the specimens into the State in which it is registered. This would then be treated as an introduction from the sea, since it would involve a single State, in a process which would then precede the export process.*

14. The proposed procedures provided in paragraphs 11 and 12 would apply equally to specimens of Appendix-I and Appendix-II species. In practice, however, since the species included in Appendix I are not to be used for primarily commercial purposes<sup>4</sup>, these interpretations would be largely applied to specimens of species included in Appendix II.
15. It is important to recall, however, that to authorize the import of Appendix-I specimens the State of import must require the prior grant and presentation of both an import permit, to be issued by the importing State and an export permit, to be issued by the exporting State. This would allow for more effective control in comparison with the unilateral issuance of an IFS certificate. Export and import transactions also give a more significant role to the importing State, since they make clear that an import can only happen upon its authorization. Moreover, an import permit for Appendix-I specimens shall only be granted by a Management Authority when its Scientific Authority has advised that the import will be for purposes which are not detrimental to the survival of the species involved and when its Management Authority is satisfied that the specimens are not to be used for primarily commercial purposes. In addition, import permits must be issued before export permits may be issued. The Management Authority of the State of export, in turn, shall only grant the export permit if it is satisfied that the specimen was not obtained in contravention of its laws for the protection of fauna and flora, a very important element which is not applicable in the issuance of an IFS certificate. On the other hand, export and import transactions do not call into question, in any way, the jurisdiction of flag States over their vessels on the high seas, as has been argued to be the case if the State of introduction were to be the port State.
16. In the case of Appendix-II specimens, an import requires the presentation of an export permit before the import can be accepted. Therefore, although the primary responsibility for carrying out the non-detriment finding and ensuring the legal acquisition of the specimens being exported lies with the State of export, the State of import also plays a fundamental role in the process. As noted in paragraph 21, in the case of an export of specimens taken in the marine environment not under the jurisdiction of any State, the Scientific Authority of the State of export, in making its non-detriment finding, may consult with other national scientific authorities or, when appropriate, international scientific authorities.

Explanatory note on paragraphs 14, 15 and 16

*Appendix-I specimens (addressed in paragraph 15) are not to be used for primarily commercial purposes<sup>5</sup> **and** an import permit for such specimens may only be granted by the State of import if its Scientific Authority has advised that the import will be for purposes which are not detrimental to the survival of the species involved. These conditions significantly reduce the risk of Illegal, Unregulated and Unreported (IUU) specimens entering international trade and circumventing CITES controls.*

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<sup>4</sup> Except for those Parties which have entered a reservation, in which case Resolution Conf. 4.25 (Rev. CoP14) may apply.

<sup>5</sup> Except for those Parties which have entered a reservation, in which case Resolution Conf. 4.25 (Rev. CoP14) may apply.

*In the case of Appendix-II specimens (addressed in paragraph 16), when presented with an export permit, the State of import would be encouraged to take into account whether the specimen was or will be acquired and landed in a manner consistent with applicable measures under international law for the conservation and management of living marine resources.*

*In this way, not only would the role of the State of import be significantly enhanced for assuring the legality of the traded specimens, but due consideration would also be given to the international frameworks for the conservation and management of marine living resources, including enforcement and reporting.*

17. Another potential difficulty that has been frequently raised with regard to the definition of State of introduction is the case of transshipment at sea. As long as the transshipment or transshipments involve only one State (e.g., the transshipping vessels from State Y act only as transport vessels by taking the specimens at sea from the fishing vessel registered in State X and transporting them into State X), from a CITES point of view, State X is clearly the State of introduction. The same would also apply to the case of a transshipping vessel from State X transporting fish caught by a vessel registered in State X into State X.
18. In the case, however, where a vessel from State X takes CITES-listed specimens in the marine environment not under the jurisdiction of any State and delivers them at sea to a transshipping vessel of State Y, which then transports the specimens into a State other than X (e.g. State Z), two or more States would be involved in the process and, therefore, for CITES purposes, the operation should be considered to be an export/import, with State X being treated as the State of export and State Z as the State of import (in this case, as well, the transshipping vessel, regardless of its flag, would be simply transporting the specimens from the fishing vessel of State X into State Z). In this case, the Convention's provisions related to export and import should then apply (Articles III, paragraphs 2 and 3, for Appendix I; and Article IV, paragraphs 2, 3 and 4, for Appendix II). Again, the use of export/import provisions rather than IFS provisions when two or more States are involved in the harvest and delivery of specimens would provide much better means (i.e., the requirement for legal acquisition findings) for preventing trade in IUU specimens. The export/import process would also be more straightforward, as discussed in the "explanatory note" on paragraphs 11 and 12, above. For those States which impose certain requirements regarding transshipments, such operations may not be allowed.
19. In the case of transshipment at sea, it should be ensured that the transshipped specimens are accompanied by the applicable CITES documentation until the port of landing, in the case of an introduction from the sea, or until the import by another State, in the case of an export/import. For that purpose, the Master of the vessel receiving the transshipped specimens should:
  - a) verify the presence of a valid CITES permit or certificate required under the Convention; or
  - b) obtain satisfactory proof that the permit or certificate either already exists or will be issued before the import or IFS occurs.
20. Another possible scenario which has not been addressed above is the situation in which a vessel registered in State X takes a specimen of a CITES-listed species within the territorial waters or exclusive economic zone of State Y, by means of a bilateral fishing agreement, and then transports these specimens into State Y, into State X or into a third State Z. Since the specimens, in this case, would not have been taken in the marine environment not under the jurisdiction of any State, but rather from an area under the jurisdiction of another State, it is not an IFS.
21. During IFS negotiations to date, several Parties have expressed the view that much greater international cooperation is needed than originally foreseen in the Convention when specimens are taken in the marine environment not under the jurisdiction of any State. Therefore, if the approach proposed is agreeable, the next step would be to decide the extent to which Parties might wish to incorporate language into Resolutions Conf. 14.6 (Rev. CoP15) and Conf. 12.3 (Rev. CoP15) to enhance such international cooperation. One possible way of doing this would be, for instance, to encourage consultations like those described in Article IV, paragraph 7, for specimens of species included in Appendix II which are taken in the marine environment not under the jurisdiction of any State, in the context of an export and import.

**ANNEX**  
**DRAFT REVISION OF RESOLUTION CONF. 14.6 (Rev. CoP15)**  
**Introduction from the sea**

TAKING INTO ACCOUNT the CITES Workshop on Introduction from the Sea Issues (Geneva, 30 November-2 December 2005) held pursuant to Decision 13.18 of the Conference of the Parties, ~~and the meeting of the Standing Committee Working Group on Introduction from the Sea (Geneva, 14-16 September 2009) held pursuant to Decision 14.48 of the Conference of the Parties, and the meeting of the Standing Committee Working Group on Introduction from the sea (Bergen, 24-26 May 2011), held pursuant to Decision 14.48 (Rev. CoP15);~~

RECALLING that 'introduction from the sea' is defined in Article I, paragraph e), of the Convention as "transportation into a State of specimens of any species which were taken in the marine environment not under the jurisdiction of any State";

~~RECALLING ALSO that Article XIV, paragraph 6, of the convention provides that "Nothing in the present Convention shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea";~~

RECALLING ~~FURTHER~~ ALSO that Article III, paragraph 5, and Article IV, paragraphs 6 and 7, of the Convention, provide a framework to regulate the introduction from the sea of specimens of species included in Appendices I and II, respectively;

NOTING that 'State of introduction' is not defined in the Convention and that Article III, paragraph 5, and Article IV, paragraph 6, and Article XIV, paragraph 5, place certain obligations on the State of introduction;

DESIRING that ~~both flag States and port States~~ cooperate in a manner that supports and complies with the provisions of the Convention related to introduction from the sea with respect to specimens taken in the marine environment not under the jurisdiction of any State;

~~DESIRING ALSO that States consult and cooperate with relevant Regional Fisheries Management Organizations when issuing certificates of introduction from the sea;~~

RECOGNIZING the need for States to consult and cooperate with relevant Regional Fisheries Management Organizations and Arrangements (RFMO/A) when issuing certificates of introduction from the sea and export and import permits for specimens taken in the marine environment not under the jurisdiction of any State;

NOTING the progress made through the Food and Agriculture Organization of the United Nations on measures to promote responsible fisheries, ~~in particular including through the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, and the adoption of the 2009 Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing;~~

RECOGNIZING the need for a common understanding of the provisions of the Convention relating to ~~introduction from the sea specimens taken in the marine environment not under the jurisdiction of any State~~ in order to facilitate the standard implementation of trade controls for such specimens introduced from the sea and improve the accuracy of CITES trade data;

RECOGNIZING FURTHER that "introduction from the sea" is unique to the Convention and affirming that this Resolution applies only in relation to the implementation of the Convention for specimens taken in the marine environment not under the jurisdiction of any State and does not affect the rights or duties of Parties outside this context;

## THE CONFERENCE OF THE PARTIES TO THE CONVENTION

AGREES that 'the marine environment not under the jurisdiction of any State' means those marine areas beyond the areas subject to the sovereignty or sovereign rights of a State consistent with international law, as reflected in the United Nations Convention on the Law of the Sea;

FURTHER AGREES that,

- a) whenever any specimen of a species included in Appendix I or II is taken in the marine environment not under the jurisdiction of any State by a vessel registered in one State and is transported into that same State, the provisions of Article III, paragraph 5, or Article IV, paragraphs 6 and 7, respectively, should be applied; with that State being the State of introduction; and
- b) whenever any specimen of a species included in Appendix I or II is taken in the marine environment not under the jurisdiction of any State by a vessel registered in one State and is transported into a different State, the provisions of Article III, paragraphs 2 and 3, or Article IV, paragraphs 2, 3 and 4, respectively, should be applied, with the State in which the vessel that took the specimen is registered being the State of export and the State into which the specimen is transported being the State of import.
- c) **in the special case when a specimen of a species included in Appendix I or II is taken in the marine environment not under the jurisdiction of any State by a vessel registered in one State and is transported into a different State, but the specimen is treated under the legislation of the State into which the specimen is transported as a national product, the provisions of Article III, paragraph 5, or Article IV, paragraphs 6 and 7, respectively, should be applied.] [WITH THE LATTER STATE BEING THE STATE OF INTRODUCTION [WITHOUT PREJUDICE TO THE RULES OF ORIGIN APPLICABLE IN INTERNATIONAL TRADE SHOULD SUCH SPECIMENS SUBSEQUENTLY BE EXPORTED FROM THE STATE OF INTRODUCTION.]] [In this special case, the State of introduction may be either the State in which the vessel that took the specimen is registered or the State into which the specimen is transported, as agreed by them, without prejudice of the rights and duties of the flag State in regard of vessels entitled to fly their flag, in the marine environment not under the jurisdiction of any State.] [*especially those related to the responsibility for ensuring compliance with fisheries regulations*]**

\* The **bold** text was proposed by the Chair and Vice-chair; the UPPERCASE text was proposed by Norway; the *italic* text was proposed by Brazil.

RECOMMENDS that, in the case of specimens of species included in Appendix I or II taken in the marine environment not under the jurisdiction of any State, in satisfying itself that the provisions of the Convention are met:

- a) the State of introduction, prior to issuing a certificate of introduction from the sea,
- b) the State of export, prior to issuing an export permit, and
- c) the State of import, prior to issuing an import permit, or when presented with an export permit,

take into account whether or not the specimen was or will be acquired and landed:

- a) in a manner consistent with applicable measures under international law for the conservation and management of living marine resources, including those of any other treaty, convention or agreement with conservation and management measures for the marine species in question; and
- b) through any illegal, unreported or unregulated (IUU) fishing activity.

FURTHER RECOMMENDS that, in the case of an export of Appendix-II specimens, the Scientific Authority of the State of export, in making its non-detriment finding, consult with other national scientific authorities or, when appropriate, international scientific authorities;

[AGREES that, for CITES purpose and without prejudice to the jurisdiction of the flag State over its vessels in the marine environment not under jurisdiction of any State, when a vessel is chartered by an economic operator from a State different from the flag State and the specimens are transported into the chartering State, and provided that:

- a) the specimens of CITES-listed species are taken from marine areas not under the jurisdiction of any State in conjunction with a fishery regulated by a RFMO/A;
- b) the relevant RFMO/A allows that the catches pursuant to the chartering arrangement are to be counted against the quota or fishing possibilities of the chartering State; and
- c) the transportation of the specimens into the chartering State is not considered as an import/export operation, because the specimens are treated under the legislation of the chartering State as national products;

in spite of the fact there are 2 states involved, the operation should be treated as an IFS and [the IFS certificate should be issued either by the chartering State or the flag State, as appropriate, in conformity to the chartering agreement.] [the chartering State is to be considered the State of Introduction, unless otherwise provided by the chartering agreement.]; and

RECOMMENDS that Parties respond in a timely manner to a request for information necessary for issuing a certificate of introduction from the sea or an export permit for specimens of any species taken in the marine environment outside the jurisdiction of any State, or for verifying the authenticity and validity of such a certificate or permit.

**Meeting of the CITES Standing Committee Working Group on Introduction from the Sea  
(Bergen, 24-26 May 2011)**

**Report**

1. A meeting of the CITES Standing Committee Working Group on Introduction from the Sea was organized in Bergen, Norway, from 24 to 26 May 2011, pursuant to Decision 14.48 (Rev. CoP15) and Decision 15.50 of the Conference of the Parties. Financial and logistical support was provided by Norway, the European Union and the United States.
2. Meeting discussions were guided by the Working Group Chair, Mr Fabio Hazin (Brazil), and Vice-Chair, Mr Roddy Gabel (United States). The following Working Group members participated in the meeting: government representatives from CITES authorities, fishery departments and ministries of foreign affairs in Argentina, Australia (on behalf of Oceania), Brazil, Chile, Germany, Iceland, Japan, the Republic of Korea, New Zealand, Norway and the United States; intergovernmental representatives from the Food and Agriculture Organization of the United Nations, the European Commission and the CITES Secretariat; and non-governmental representatives from the International Environmental Law Project/Species Survival Network, IWMC World Conservation Trust, the Pew Environment Group and the World Wide Fund for Nature.
3. The meeting began with two brief presentations on the work of the Norwegian Fishery Directorate and its Fishery Monitoring Centre. Following adoption of the agenda and agreement on arrangements for the meeting, Ms Therese Johansen (Norway) was nominated and elected as meeting rapporteur.

General approach contained in Version 4 of the Chair/Vice-Chair's draft document

4. Participants introduced themselves and provided brief comments on the general approach contained in Version 4 of the Chair/Vice-Chair's draft discussion document and draft revision of Resolution Conf. 14.6 (Rev. CoP15), which had been circulated by email on 22 May 2011. A number of members expressed appreciation for the strong momentum on this issue that had been created by the Chair and Vice-Chair.
5. During the discussion which followed, Working Group members reached agreement on the general approach put forward by the Chair and Vice-Chair which proposed that introduction from the sea occurs when a ship registered in one State takes specimens in the marine environment not under the jurisdiction of any State and transports them into the same State. Members also agreed that, when a ship registered in one State takes specimens in the marine environment not under the jurisdiction of any State and transports them into another State, it should be treated as an export/import and not an introduction from the sea.

Specific implementation issues

6. The Chair advised members that their aim was not to bring CITES provisions on introduction from the sea into conformity with one or another piece of national legislation but, rather, to find a common interpretation of those provisions that could be implemented under different national legislative instruments. Working Group members thereafter discussed a number of specific implementation issues identified in the meeting agenda (origin of products, flow of products, chartering, differential treatment and WTO and determination of legal acquisition) as well as two other issues which were added during the meeting (reference to Regional Fisheries Management Organizations and timing of non-detriment findings and issuance of documents). The results of the discussions are reflected in the agreed document.

Draft revision of Resolution Conf. 14.6 (Rev. CoP15)

7. Following their consideration of the specific implementation issues mentioned above, Working Group members turned their attention to the draft revision of Resolution Conf. 14.6 (Rev. CoP15) and adjusted the preamble and operative paragraphs to reflect the results of their discussions. Proposed text on the issue of chartering was moved from the discussion document to the revised draft resolution but kept in brackets, pending further consultation on a consensus text.

#### Initial draft discussion document for SC61 and meeting report

8. An initial draft discussion document for SC61 and meeting report, prepared by the CITES Secretariat, was circulated for quick review and feedback. It was explained that the document and report would be further elaborated, taking into account the brief discussion the Working Group members had had, and then sent to the meeting rapporteur for verification of the main points as well as any corrections or additions that might be needed.

#### Conclusions

9. The Chair expressed his appreciation for the positive and constructive contributions made by Working Group members, for the support provided by the Vice-Chair and the CITES Secretariat, and for the generous hospitality afforded by Norway.