

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

Sixty-second meeting of the Standing Committee
Geneva (Switzerland), 23-27 July 2012

Interpretation and implementation of the Convention

Trade control and marking

INTRODUCTION FROM THE SEA

1. This document has been prepared by the Standing Committee Working Group on Introduction from the Sea*.
2. At its 61st meeting (SC61, Geneva, August 2011), the Standing Committee endorsed a draft revision of Resolution Conf. 14.6 (Rev. CoP15) on *Introduction from the sea* which had been agreed by consensus of the Working Group on Introduction from the Sea (see document SC61 Com. 1). The Committee approved the Working Group's plans to continue working on the subject, particularly to clarify issues related to implementation as well as chartering and to report back at the present meeting.
3. In January 2012, the Working Group began considering how it might complete its work in relation to the issue of chartered vessels and to address the remainder of its mandate under Decision 14.48 (Rev. CoP15), specifically implementation issues linked to introduction from the sea. The Chair and Vice-Chair proposed that the Working Group meet face-to-face in April 2012 and that a preparatory meeting among the Chair, Vice-Chair and Secretariat be held in March 2012.
4. At the end of March 2012, on behalf of the Chair and Vice-Chair, the Secretariat provided Working Group members with a draft agenda and discussion document for their consideration and use in preparing for the April meeting.
5. The following members of the Working Group met from 24 to 26 April 2012 at the U.S. Fish and Wildlife Service's National Conservation Training Center in Shepherdstown, West Virginia: the Chair (Fabio Hazin of Brazil), the Vice-Chair (Robert Gabel of the United States), Argentina, Australia, Brazil, Canada, Chile, China, Germany, Japan, Republic of Korea, New Zealand, Norway, the United States of America, the European Commission, the Food and Agriculture Organization of the United Nations, IWMC-World Conservation Trust, Lewis & Clark College (IELP), Pew Environment Group and WWF International. Their positive and constructive discussions led to the development of an additional text on chartering for inclusion in the draft revision of Resolution Conf. 14.6 (Rev. CoP15), a draft annex to the draft revision of Resolution Conf. 14.6 (Rev. CoP15) containing explanatory notes for its implementation, a draft revision to Resolution Conf. 12.3 (Rev. CoP15) on *Permits and certificates* to include a source code for specimens originating in the marine environment not under the jurisdiction of any State, a draft decision directing the Secretariat to report on the implementation of chartering provisions included in the Resolution and a draft decision on capacity building for the implementation of the Convention in relation to specimens taken from the marine environment not under the jurisdiction of any State.
6. The additional text on chartering, for inclusion as paragraph c) under "FURTHER AGREES that", in the draft revision of Resolution Conf. 14.6 (Rev. CoP15), was the result of the deliberations by the Working Group with the understanding that the Working Group members needed some time (by 17 May 2012) to

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

consider it and, if not in agreement with it, to express any reservations in writing. Argentina expressed its position that it would only agree with the text of paragraph c) if the words 'if applicable' were added at the end of subparagraphs (i) and (ii) of that paragraph.

7. On 16 May 2012, the European Commission advised the Chair and Vice-Chair by email that it was pursuing its internal discussions on the draft provision on chartering elaborated by the Working Group and requested that the following text be included in the report from the Working Group to the Standing Committee, which accompanies the proposed Resolution:

The European Commission is holding internal consultations on the additional text, relating to the obligations of flag and chartering States, proposed for inclusion in the draft revision of Resolution Conf. 14.6 (Rev. CoP15). It is not in a position at this stage to express a final view on this additional text. The European Commission will make sure that a position on this issue is expressed by the EU and its Member States at the 62nd meeting of the Standing Committee.

At the request of the Chair and Vice-Chair, this communication was transmitted to the members of the Working Group by the Secretariat.

8. On 18 May 2012, Argentina advised other Working Group members of the following by email:

Argentina would like to refer to the additional text on chartering included as paragraph c) under "FURTHER AGREES that" in the draft revision of Resolution Conf. 14.6 (Rev. CoP15) that was prepared by the Working Group during the meeting that took place from 24 to 26 April in Shepherdstown, West Virginia (USA).

In this regard, Argentina would like to reaffirm that it could only agree with the text of the above-mentioned paragraph c) if the words "if applicable" were added at the end of subparagraphs (i) and (ii) of that paragraph, as already expressed in the Standing Committee Working Group on Introduction from the Sea Recommendation.

Argentina also drew attention to several divergences between the English and Spanish versions of the draft revision of Resolution Conf. 14.6 (Rev. CoP15), contained in document SC61 Com. 1, and suggested that the Spanish translation be revised in specific places to ensure that it was identical to the English version.

9. The outcomes of the Working Group's meeting in Shepherdstown are annexed to the present document, as follows:
 - Annex 1 contains the text on chartering that should be included as paragraph c) under "FURTHER AGREES that" in the draft revision of Resolution Conf. 14.6 (Rev. CoP15). The latter text (contained in document SC61 Com. 1) was agreed by the Working Group and endorsed by the Standing Committee at SC61;
 - Annex 2 contains the draft annex to the draft revision of Resolution Conf. 14.6 (Rev. CoP15) which provides Explanatory Notes for its implementation;
 - Annex 3 contains the draft revision of Resolution Conf. 12.3 (Rev. CoP15), which includes a new source code for specimens originating in the marine environment not under the jurisdiction of any State; and
 - Annex 4 contains two draft decisions on chartering and capacity building, respectively.
10. The Annexes described in paragraph 9 above are submitted for endorsement by the Standing Committee at the present meeting and for onward transmission to the 16th meeting of the Conference of the Parties (CoP16, Bangkok, March 2013).

Recommendation

11. The Working Group on Introduction from the Sea recommends that the Standing Committee endorse the draft revised Resolutions, draft Annex and draft decisions contained in Annexes 1, 2, 3 and 4 and transmit them to CoP16 for consideration.

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

[See document SC61 Com. 1 for full text.]

...

FURTHER AGREES that,

...

c) In the case of chartering operations, under the conditions that:

- i) The operation is under a written arrangement between the State where the vessel is registered and the chartering State, consistent with the framework on chartering operations of a relevant RFMO/A;

and that

- ii) The CITES Secretariat has been informed of this arrangement in advance of its entry into effect and that the CITES Secretariat makes this arrangement available to all Parties and to any relevant RFMO/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 chartered by another State and transported into that chartering State, the provisions of Article III, paragraph 5, or Article IV, paragraphs 6 and 7, or the provisions of Article III, paragraphs 2 and 3, or Article IV, paragraphs 2, 3 and 4, respectively, may be applied. In such cases, the State in which the vessel is registered should be the State of export or the chartering State should be the State of Introduction, as mutually agreed in the written arrangement;

Whenever any specimen of a species included in Appendix II is taken in the marine environment not under the jurisdiction of any State by a vessel registered in one State and chartered by another State, and transported into a third State, the provisions of Article IV, paragraphs 2, 3 and 4 should be applied. In this case, the State in which the vessel is registered should be considered as the State of export and the issuance by this State of the export permit would be conditional upon prior consultation with and agreement by the chartering State. Subject to the authorization by the State in which the vessel is registered and provided that such an authorization is clearly specified in the written arrangement referred to above in paragraph (i), the chartering State may be the State of export.

[The following explanatory notes may assist Parties in implementing the draft revision of Resolution Conf. 14.6 (Rev. CoP15)]

Annex

Explanatory Notes

Clarification of implementation issues related to introduction from the sea and export/import/re-export of specimens taken in the marine environment not under the jurisdiction of any State

I. Introduction from the sea [draft revision of Resolution Conf. 14.6 (Rev. CoP15), under “FURTHER AGREES that”, a)]

1. Conditions for issuing an introduction from the sea (IFS) certificate:

1.1. The Scientific Authority of the State of introduction makes a non-detriment finding (NDF) [Articles III, paragraph 5. (a), IV, paragraph 6 (a)] (in the case of Appendix II, also as provided for by Article IV, paragraph 7).

1.2. In the case of living specimens:

a) Appendix I: the proposed recipient of a living specimen is suitably equipped to house and care for it [Article III, paragraph 5 (b)].

b) Appendix II: the living specimen will be so handled as to minimize the risk of injury, damage to health or cruel treatment [Article IV, paragraph 6 (b)].

1.3. In the case of Appendix I, the specimen is not to be used for primarily commercial purposes [Article III, paragraph 5 (c)].

2. The Management Authority of the State of introduction issues the IFS certificate.

3. The IFS certificate is issued prior to transportation into the State of introduction. (Articles III, paragraph 5, and IV, paragraph 6, require the prior granting of a certificate from a Management Authority of the State of introduction).

Note: Introduction from the sea does not apply to Appendix-III specimens.

II. Export / import / re-export, occurring after an IFS

This section applies when specimens are exported from the territory of the State of export and the export occurs after an IFS. Such an export should follow the same rules and procedures as any export, except in the case foreseen in Articles XIV, paragraph 4, and XIV, paragraph 5, concerning the export and import of Appendix-II specimens, where only the issuance of a certificate of accordant shall be required.

1. Export

1.1. Conditions for issuing an export permit:

1.1.1. A non-detriment finding is required. Since, in this case, the export would occur after an IFS certificate has been issued, the Scientific Authority of the State of export should take into consideration the NDF made for the IFS when making the NDF for the export.

1.1.2. To export a specimen that has been introduced from the sea, a legal acquisition finding (i.e. a finding that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora) is required as a condition for the issuance of the export permit [Articles III, paragraph 2 (b), and IV, paragraph 2 (b)].

1.1.3. Any living specimen of an Appendix-I or -II species will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment [Articles III, paragraph 2. (c), and IV, paragraph 2 (c)].

1.1.4. In the case of Appendix-I species, the Management Authority of the State of export is satisfied that an import permit has been granted for the specimen [Article III, paragraph 2. (d)].

1.2. The Management Authority of the State of export issues the export permit.

1.3. The export permit is issued before export takes place (Articles III, paragraph 2, and IV, paragraph 2, require the prior grant and presentation of an export permit).

1.4. An export permit is issued for every shipment, although the export permit may be valid for six months (Article VI, paragraph 2).

2. Import

2.1. Conditions for issuing an import permit, in the case of Appendix-I species only:

- a) The Scientific Authority of the State of import makes an NDF [Article III, paragraph 3. (a)];
- b) The proposed recipient of a living specimen is suitably equipped to house and care for it [Article III, paragraph 3. (b)]; and
- c) The specimen is not to be used for primarily commercial purposes [Article III, paragraph 3. (c)].

2.2. The import permit is issued before import takes place (Article III, paragraph 3, requires the prior grant and presentation of an import permit and either an export permit or a re-export certificate).

2.3. In the case of specimens of Appendix-II species, the import requires the prior presentation of either an export permit or a re-export certificate (Article IV, paragraph 4).

3. Re-export

3.1. Conditions for issuing a re-export certificate, in the case of Appendix-I and Appendix-II species:

- a) The specimen was imported in accordance with the Convention [Articles III, paragraph 4 (a), and IV, paragraph 5 (a)];
- b) Any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment [Articles III, paragraph 4 (b), and IV, paragraph 5 (b)]; and
- c) Only in the case of Appendix-I living specimens, an import permit has been granted [Article III, paragraph 4 (c)].

3.2. The re-export certificate is issued before re-export takes place (Articles III, paragraph 4, and IV, paragraph 5, require the prior grant and presentation of a re-export certificate).

III. Export / import / re-export, not occurring after an IFS [draft revision of Resolution Conf. 14.6 (Rev. CoP15), under "FURTHER AGREES that", paragraph b)]

1. Export

1.1. Conditions for issuing an export permit:

1.1.1. The Scientific Authority of the State of export makes an NDF [Articles III, paragraph 2 (a), and IV, paragraph 2 (a)]. It is recommended 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.

1.1.2. The Management Authority makes a legal acquisition finding (i.e. a finding that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora) before issuing an export permit [Articles III, paragraph 2. (b), and IV, paragraph 2 (b)].

1.1.3. In the case of living specimens of Appendix-I or -II species: the living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment [Articles III, paragraph 2 (c), and IV, paragraph 2 (c)].

1.1.4. In the case of Appendix-I species, the Management Authority of the State of export is satisfied that an import permit has been granted for the specimen [Article III, paragraph 2. (d)].

1.2. The Management Authority of the State of export issues the export permit.

1.3. The export permit is issued before export takes place (Articles III, paragraph 2, and IV, paragraph 2, require the prior grant and presentation of an export permit).

1.4. An export permit is issued for every shipment, although the export permit may be valid for six months (Article VI, paragraph 2).

2. Import

2.1. Conditions for issuing an import permit, in the case of Appendix-I species only:

a) The Scientific Authority of the State of import makes an NDF (for the purposes of import) [Article III, paragraph 3 (a)];

b) The proposed recipient of a living specimen is suitably equipped to house and care for it [Article III, paragraph 3 (b)]; and

c) The specimen is not to be used for primarily commercial purposes [Article III, paragraph 3 (c)].

2.2. The import permit is issued before import takes place (Article III, paragraph 3, requires the prior grant and presentation of an import permit and either an export permit or a re-export certificate).

2.3. In the case of specimens of Appendix-II species, the import requires only the prior presentation of either an export permit or a re-export certificate (Article IV, paragraph 4), except in the case foreseen in Articles XIV, paragraph 4, and XIV, paragraph 5, concerning the export and import of Appendix-II specimens, where only the issuance of a certificate of accordance shall be required.

3. Re-export

3.1. Conditions for issuing a re-export certificate, in the case of Appendix-I and Appendix-II species:

a) The specimen was imported in accordance with the Convention [Articles III, paragraph 4. (a), and IV, paragraph 5. (a)];

b) Any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment [Article III, paragraph 4. (b), and IV, paragraph 5. (b)]; and

c) Only in the case of Appendix-I living specimens, an import permit has been granted [Article III, paragraph 4. (c)].

3.2. The re-export certificate is issued before re-export takes place (Articles III, paragraph 4, and IV, paragraph 5, require the prior grant and presentation of a re-export certificate).

IV. Transshipment

1. In the case of an IFS, the transshipment would only serve as a means of transportation and the same considerations for IFS should apply. In this case, the IFS certificate should be issued prior to transshipment, or the Master of the vessel receiving the transshipped specimens should obtain satisfactory proof that the IFS certificate already exists or will be issued before the IFS occurs.

2. In the case of export, the export permit should be issued prior to transshipment, or the Master of the vessel receiving the transshipped specimens should obtain satisfactory proof that the export permit already exists or will be issued before the import occurs.

Draft revision of Resolution Conf. 12.3 (Rev. CoP15)

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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”.

Draft decisions of the Conference of the Parties

Introduction from the sea - chartering

Decision 16.xx

Directed to the Secretariat:

The Secretariat shall report at the 65th and 66th meetings of the Standing Committee on the implementation of the Convention by the Parties concerned in relation to the provision on chartering arrangements provided for in Resolution Conf. 14.6 (Rev. CoP 16). The report should in particular focus on the conditions under which non-detriment findings are made and permits and certificates are issued, as well as on the relationship between chartering States and States in which the vessel is registered, in performing those tasks. The report shall also include any cases where Parties have been unable to take advantage of this provision, including in situations where at least one of the States involved is not party to a relevant Regional Fishery Management Organization/Arrangement.

Decision 16.xx

Directed to the Secretariat

The Introduction from the sea - capacity building and special requirements of developing States

Secretariat should develop capacity-building tools and materials for use by Parties (e.g. a module in the CITES Virtual College) related to the implementation of the Convention for specimens taken from the marine environment not under the jurisdiction of any State.