

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



Sixty-fifth meeting of the Standing Committee  
Geneva (Switzerland), 7-11 July 2014

Interpretation and implementation of the Convention

Trade control and traceability

INTRODUCTION FROM THE SEA

1. This document has been prepared by the Secretariat.
2. At its 62nd meeting (SC62, Geneva, July 2012), the Standing Committee “expressed [its] appreciation for the progress made by the Working Group on Introduction from the Sea and agreed to transmit the results of its work to CoP16 [the 16th meeting of the Conference of the Parties (Bangkok, 2013)]”.
3. Following its consideration of a document prepared by the Chair and Vice-Chair of the Working Group on Introduction from the Sea, on behalf of the Standing Committee and in consultation with the Secretariat<sup>1</sup>, the Conference of the Parties adopted Resolution Conf. 14.6 (Rev. CoP16), attached to this document as an Annex . The revised Resolution, including a new Annex, provides additional guidance to Parties on the uniform interpretation and implementation of introduction from the sea.
4. The Conference also adopted Decisions 16.48 to 16.51 on chartering and Decision 16.52 on capacity building and special requirements of developing States, as follows:

***Directed to the Secretariat***

16.48 *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. CoP16).*

*The report should focus in particular 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. It should especially assess the capacity of chartering States and the States in which the vessels are registered to control compliance with the provisions of the CITES Convention.*

*In that regard, the report should pay special attention to the implementation of the provisions of the Resolution pertaining to the legality of the acquisition and landing of the specimens concerned.*

*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 (RFMO/A).*

*Between now and the 17th meeting of the Conference of the Parties (CoP17), the Secretariat shall further communicate with the Secretariat of the relevant RFMO/A and other relevant international organizations, in particular regarding the implementation of the relevant obligations resulting from these RFMO/As or other international organizations, and share information provided with Parties on a timely basis.*

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<sup>1</sup>) CITES document CoP16 Doc. 32 (Rev. 1). Available at <http://www.cites.org/sites/default/files/eng/cop/16/doc/E-CoP16-32.pdf>

### **Directed to Parties**

16.49 *Parties taking advantage of the provision on chartering arrangements provided for in Resolution Conf. 14.6 (Rev. CoP16) should provide in a timely manner all information that might be requested from them by the Secretariat in view of the establishment of its report on this issue at the 65th and 66th meetings of the Standing Committee.*

### **Directed to the Standing Committee**

16.50 *The Standing Committee shall assess the findings of the report of the Secretariat 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. CoP16). On the basis of this report and any other information available, the Standing Committee shall provide an assessment on the implementation of this provision and, where relevant, propose amendments to this provision at CoP17.*

### **Directed to Parties**

16.51 *On the basis of the assessment of the Standing Committee and any other relevant information, the Parties should review at CoP17 the provisions on chartering provided for in Resolution Conf. 14.6 (Rev. CoP16).*

### **Directed to the Secretariat**

16.52 *The Secretariat shall 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.*

### Chartering

5. At the time of writing (May 2014), the Secretariat had not yet moved forward with the implementation of Decisions 16.48, 16.49 and 16.52 as the CoP16 decision to list certain sharks and rays in Appendix II of the Convention had not yet entered into effect.
6. The Secretariat has been invited to give a presentation on “CITES and international trade in freshwater and marine commercially-exploited aquatic species” to a meeting of the Regional Fishery Body (RFB) Secretariats’ Network to be held on 7 June 2014, shortly before the 31st session of the Committee on Fisheries of the Food and Agriculture Organization of the United Nations (FAO) (Rome, 9-13 June 2014). The Secretariat will draw the attention of RFB Secretariats to Decisions 16.48 – 16.51, as well as Resolution Conf. 14.6 (Rev. CoP16) and Decision 16.52, and invite them to cooperate on the implementation of these Decisions.

### Capacity building and special requirements of developing States

7. Information on introduction from the sea is provided in the shark/ray section of the CITES website.<sup>2</sup>
8. The Secretariat developed a joint CITES/FAO PowerPoint presentation on introduction from the sea for use in the “Latin America and the Caribbean Regional Workshop on Sharks Listed in Appendix II of CITES – Preparing for Implementation” organized in Brazil in December 2013. The presentation was given by the former Chair of the Standing Committee Working Group on Introduction from the Sea. The CITES Management Authority of New Zealand used this presentation as a basis for developing a similar PowerPoint presentation for use in the “CITES Oceania Regional Workshop on Implementation of CoP16 Shark and Ray Appendix-II Listings” organized in Australia later the same month. The Secretariat has integrated the two presentations into a revised joint CITES/FAO presentation, which will shortly be made available on the shark/ray section of the CITES website.
9. The ‘IFS Fact Sheet’ prepared by the United States of America for distribution at CoP16 was updated and made available to participants in the Brazil workshop mentioned in paragraph 8 above. Arabic, English,

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<sup>2</sup> See: <http://www.cites.org/prog/shark>

French, Portuguese and Spanish versions of this 'IFS Fact Sheet' are available on the CITES page of the National Oceanic and Atmospheric Administration (NOAA) website<sup>3</sup>.

10. In April 2014, with external funds provided by Stetson University College of Law (Florida), the CITES Secretariat and the Pro-Tempore Secretariat of the Inter-American Convention for the Protection and Conservation of Sea Turtles served as judges in the 18th annual International Environmental Moot Court Competition (IEMCC). The law professor responsible for organizing the IEMCC (Royal Gardner) is chair of the Scientific and Technical Review Panel of the Ramsar Convention on Wetlands. One of the legal issues in IEMCC-18, involving a hypothetical case before the International Court of Justice, was the applicability of CITES provisions on introduction from the sea to a fictitious marine turtle species taken in the marine area beyond the Exclusive Economic Zone but within the 'presential sea' claimed by a fictitious country. The case was argued by teams of law students from 8 countries (the Bahamas, Brazil, China, Colombia, India, Ireland, the Philippines and the United States of America). Materials developed for IEMCC-18 (e.g. the initial case record, clarifications to the record and written memorials prepared by participating teams) may be useful to Parties and the Secretariat in developing capacity building materials on introduction from the sea.

#### Recommendation

11. The Secretariat invites the Standing Committee to note this report, and the Secretariat's oral report at the present meeting.
12. The Secretariat further invites relevant Parties, in accordance with Decision 16.49, to provide to the Secretariat the information anticipated by Decision 16.48, that is, experience gained by Parties with the provision on chartering arrangements in Resolution Conf. 14.6 (Rev. CoP16), specifically:
  - the conditions under which non-detriment findings are made and permits and certificates are issued;
  - the relationship between chartering States and States in which the vessel is registered, in performing those tasks;
  - the capacity of chartering States and the States in which the vessels are registered to control compliance with the provisions of the CITES Convention, paying special attention to the implementation of the provisions of the Resolution pertaining to the legality of the acquisition and landing of the specimens concerned; and
  - any cases where Parties have been unable to take advantage of the provision, including in situations where at least one of the States involved is not party to a relevant Regional Fishery Management Organization/Arrangement (RFMO/A).

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<sup>3</sup> [http://www.nmfs.noaa.gov/ia/agreements/global\\_agreements/cites\\_page/cites.html](http://www.nmfs.noaa.gov/ia/agreements/global_agreements/cites_page/cites.html)

## **Resolution Conf. 14.6 (Rev. CoP16) 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 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 meetings of the Standing Committee Working Group on Introduction from the sea (Bergen, 24-26 May 2011, and Shepherdstown, 24-26 April 2012), 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 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, Article IV, paragraph 6, and Article XIV, paragraph 5, place certain obligations on the State of introduction;

DESIRING that States cooperate in a manner that supports and complies with the provisions of the Convention with respect to specimens taken in the marine environment not under the jurisdiction of any State;

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 (FAO) on measures to promote responsible fisheries, 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 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 and improve the accuracy of CITES trade data;

RECOGNIZING FURTHER that "introduction from the sea" is unique to the Convention and affirming that the present 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;

- 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; and
- 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;

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:

- i) 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
- ii) 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;

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.

**CLARIFICATION OF IMPLEMENTATION ISSUES RELATED TO  
INTRODUCTION FROM THE SEA AND  
EXPORT/IMPORT/RE-EXPORT OF SPECIMENTS TAKEN IN  
THE MARINE ENVIRONMENT NOT UNDER JURISDICTION OF ANY STATE**

**I. Introduction from the sea [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 Article XIV, paragraph 4 and paragraph 5, concerning the export and import of Appendix-II specimens, where only the issuance of a certificate of accordance 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 [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 Article XIV, paragraph 4 and paragraph 5, concerning the export and import of Appendix-II specimens, where only the issuance of a certificate of accordence 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.