

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



Sixty-sixth meeting of the Standing Committee
Geneva (Switzerland), 11-15 January 2016

Interpretation and implementation of the Convention

Compliance and enforcement

Enforcement matters

IMPLEMENTATION AND ENFORCEMENT OF THE CONVENTION
AS IT RELATES TO THE TRADE IN SPECIES LISTED IN APPENDIX I
REPORT OF THE WORKING GROUP

1. This document has been submitted by the United States as Chair of the Working Group.*
2. At its 16th meeting (CoP16, Bangkok, 2013), the Conference of the Parties adopted Decision 16.39:

Directed to the Standing Committee

16.39 *At its 65th meeting, the Standing Committee shall initiate a process to assess implementation and enforcement of the Convention as it relates to the trade in species listed in Appendix I. The Committee shall report its findings at the 17th meeting of the Conference of the Parties to CITES.*

3. At the 65th meeting of the CITES Standing Committee (Geneva, July 2014), a working group was established that developed the following terms of reference:

Taking into account the mandate in Decision 16.39, information included in document CoP16 Inf. 34 and other relevant information, the SC65 inter-sessional working group on implementation of Decision 16.39 will:

- i. Evaluate existing CITES mechanisms that may be useful to address this issue;*
- ii. Consider appropriate revisions to those mechanisms;*
- iii. Consider whether a new mechanism would be appropriate; and*
- iv. Make recommendations to the Standing Committee at its 66th meeting.*

4. The Working Group was chaired by the United States and included the European Union, Germany, Indonesia, South Africa, Animal Welfare Institute, Environmental Investigation Agency, Humane Society International, International Fund for Animal Welfare, IUCN, Lewis and Clark College, Natural Resources Defense Council, Species Survival Network, UNEP-WCMC, Wildlife Conservation Society and WWF.

* *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.*

5. The Working Group members had a comprehensive discussion of existing CITES mechanisms that might be useful to address implementation and enforcement of the Convention as it relates to trade in species listed in Appendix I. The Working Group discussed strengths and weaknesses of existing provisions in the Convention and relevant resolutions, and the potential revision of existing resolutions to address gaps or inadequacies of currently available mechanisms.
6. The Working Group also considered whether a new mechanism might be appropriate to assess implementation and enforcement of the Convention as it relates to trade in species listed in Appendix I. To that end, the Working Group considered discussions held at the 28th meeting of the CITES Animals Committee (Tel Aviv, September 2015). In particular the Working Group considered the output of the Working Group on Implementation of the Convention relating to Captive-bred and Ranched Specimens, which reported to the Animals Committee and met during the meeting, and considered a provisional resolution on review of trade in specimens reported as produced in captivity. Based on the Working Group's recommendations, the Animals Committee agreed that the provisional resolution in Document AC28 Com.5 Annex 1 is a good starting point and to provide the provisional text to the Standing Committee for its consideration. In addition, the Animals Committee recommended that, to avoid duplication of effort and to achieve maximum efficiency, the outcome of the Animals Committee deliberations on this topic are shared with our working group.
7. Based on the significant overlap between the concerns identified in Document CoP16 Inf. 34 and the Working Group's consideration of needs for assessing implementation and enforcement of the Convention as it relates to Appendix-I species, and the work of the Animals Committee Working Group on Implementation of the Convention relating to Captive-bred and Ranched Specimens, the Working Group concluded that it would be appropriate to consider the provisional resolution in Document AC28 Com.5 Annex 1 as a basis for addressing a substantial proportion of our mandate.
8. The Working Group identified several edits and revisions to the provisional resolution in Document AC28 Com.5 that would further the mandate of our terms of reference. In addition, the Working Group identified several additional recommendations for the Standing Committee's consideration.

Recommendations

9. Article XXIII of the Convention explicitly recognizes the authority of Parties to trade under reservation. However, Resolution Conf. 4.25 (Rev. CoP14) *Reservations* recommends that any Party having entered a reservation with regard to any species included in Appendix I treat that species as if it were included in Appendix II for all purposes, including documentation and control. The Working Group recommends that the Standing Committee include specific reference to Resolution Conf. 4.25 (Rev. CoP14) in the revision to Resolution Conf. 12.8 (Rev. CoP13) *Review of significant trade in specimens of Appendix-II species* and to recommend that trade in specimens of Appendix-I species under reservation be considered by the Animals and Plants Committees in the Review of Significant Trade process, and be considered by the Standing Committee if issues of illegal trade or legal acquisition of specimens are relevant.
10. This working group agrees that there is significant overlap between the Animals Committee Working Group on Implementation of the Convention relating to Captive-bred and Ranched Specimens and our work regarding assessing implementation and enforcement of the Convention as it relates to the trade in species listed in Appendix I. Given this overlap, we recommend that the Standing Committee task this working group with reviewing the Animals Committee's work, including the provisional resolution on review of trade in specimens reported as produced in captivity. To that end, we have already begun but not yet finalized discussing this document and potential revisions, both to further the work of the Animals Committee and to address issues of particular interest to this working group. That working draft document is attached to this report as an Annex, with all changes to the Animals Committee document reflected in underline/strikethrough text. We may also continue to discuss whether this content may be incorporated into existing resolutions. It is the intent of our Working Group that this review be completed at the 66th meeting of the Standing Committee.
11. Although the issues related to misuse of captive production source codes appear more pervasive with regard to animal species, we note there are examples of trade in wild-collected CITES-listed plants reported as artificially propagated. We believe that it may be useful to expand the scope of the provisional resolution noted above to cover trade in Appendix-I plants reported as artificially propagated, as is the case for similar evaluations in Resolution Conf. 12.8 (Rev. CoP13) *Review of significant trade in specimens of Appendix-II species*. We recommend that the Standing Committee consult with the Chair of the Plants Committee about the utility of expanding the scope of the provisional resolution to also consider plants

reported as artificially propagated and to incorporate a similar role for the Plants Committee. This issue could be resolved at the 66th meeting of the Standing Committee or at CoP17.

12. The Working Group noted that there are existing mechanisms to address problems relating to implementation of the Convention regarding trade in specimens of Appendix-I species. These include Article XIII of the Convention and Resolution Conf. 11.3 (Rev. CoP16) *Compliance and Enforcement* and Resolution Conf. 14.3 *CITES Compliance Procedures*. The Working Group noted concerns about the length of time often required for implementation of these processes and the need to address compliance concerns under Article XIII, particularly with regard to trade in specimens of Appendix-I species, with more urgency. The Working Group recommends that the Standing Committee urge the Secretariat to move as expeditiously as possible with regard to compliance issues raised under Article XIII and to keep the Standing Committee informed of these issues intersessionally as well as at meetings of the Standing Committee. The Working Group also recommends that the Standing Committee consider taking action intersessionally based on reports provided by the Secretariat.
13. The Working Group recommends that the Standing Committee allow the Working Group to continue its work during SC66 and, if needed, intersessionally between SC66 and SC67 on the above recommendations. In addition, the Working Group recommends that it continue to examine whether a more comprehensive review process is needed to examine commercial trade in specimens of Appendix-I species obtained from the wild, and to consider the utility of creating a formal body (e.g., a Compliance Committee) consisting of government and independent enforcement experts and other experts. Such a body could advise the Standing Committee on possible compliance measures/recommendations to encourage effective implementation and enforcement of the Convention in relation to trade in specimens of Appendix-I species. Although we hope to close discussions on some aspects of our work by the close of SC66, it is likely that some aspects of our mandate will be unresolved prior to CoP17. If that is the case, we recommend that the Standing Committee recommend that Decision 16.39 be maintained as a valid decision at CoP17, with revisions to reflect the mandate that remains incomplete.

Suggested provisional Resolution text[†]

REVIEW OF TRADE IN SPECIMENS REPORTED AS PRODUCED IN CAPTIVITY

CONSIDERING that the Convention provides, in Article VII, paragraphs 4 and 5, for special treatment of animal specimens that are bred in captivity as defined in Res. Conf. 10.16 (Rev);

NOTING that, in accordance with Article VII, paragraph 4, specimens of Appendix-I species bred in captivity for commercial purposes shall be deemed to be specimens of species included in Appendix II and that therefore they shall be traded in accordance with the provisions of Article IV;

RECOGNISING that specimens in trade are derived from a variety of captive production systems, which are attributed to different source codes as defined by Res. Conf. 12.3 (Rev. CoP16);

RECOGNISING that captive breeding, and other captive production systems, can have a number of benefits compared with direct harvests from the wild;

CONCERNED that the incorrect application of source codes and/or misuse or false declaration of source codes can reduce or negate such benefits where they exist, have negative implications for conservation and undermine the purpose and effective implementation of the Convention;

FURTHER CONCERNED that in addition to inadvertent misuse of source codes, there is growing evidence of cases of illegal trade in wild-caught specimens of CITES-listed species, through fraudulent claims that wild-caught specimens are captive bred;

ACKNOWLEDGING that the intent of the Review Of Trade In Specimens Reported As Produced In Captivity is to ensure that such trade is ~~being~~ conducted in accordance with provisions of the Convention and to identify remedial actions where it is needed to advance the purpose and effective ~~with the ultimate intent of improving the implementation of the Convention;~~

EXPECTING that the implementation of recommendations and actions resulting from the Review Of Trade In Specimens Reported As Produced In Captivity will improve the capacity of the Parties to properly assess that specimens are genuinely produced by the captive production system claimed;

AFFIRMING that the Review of Trade in Specimens Reported as Produced in Captivity should be transparent, timely and simple;

NOTING the Guide to CITES compliance procedures found in Resolution Conf. 14.3 (CITES compliance procedures);

NOTING further that there are existing mechanisms to address urgent issues of non-compliance with the Convention, including Article XIII and Resolution Conf. 11.3 (Compliance and enforcement), and that this resolution should not preclude or limit the use of these existing mechanisms;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

DIRECTS the Animals and Standing Committees, in cooperation with the Secretariat, relevant experts and in consultation with Parties, to review biological, trade and other relevant information regarding animal species subject to significant levels of trade using source codes C₁/D₁/F or R, to identify problems associated with the implementation of the Convention and to develop solutions in accordance with the following procedure.

Stage 1 ~~i~~ **identification of species-country combinations for review**

a) Within 90 days after each regular meeting of the Conference of the Parties to the Convention, subject to the availability of funds, ~~t~~The Secretariat shall, ~~produce~~ produce ~~within 90 days after each meeting of the Conference of the Parties to the Convention, subject to the availability of funds, to produce, or appoint consultants to produce,~~

[†] Track changes reflect how the working group would amend the version that the Animals Committee is presenting in Document SC66 Doc. 41.2

a summary from the CITES Trade Database of annual report statistics of species traded, derived from the five most recent years, under source codes C, D, F or R ~~and D~~ and will undertake, or appoint consultants to undertake, an ~~extended~~ analysis of such data to identify species-country combinations for review using the following criteria:

i. significant increases in trade in specimens declared as captive-produced (source codes C, D, F &and R);

ii. trade in significant numbers of specimens ~~from countries of specimens~~ declared as produced in captivity;

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

iv. inconsistencies between source codes reported by exporting and importing Parties for specimens declared as produced in captivity;

v. apparent incorrect application of captive production codes such as: 'A' for animal species or 'D' for Appendix ~~I~~ species that have not been registered in compliance with the provisions of Res. Conf. 12.10 (Rev. CoP15).

b) The Secretariat shall also compile any other relevant information made available to it, with respect to concerns about captive production, including any cases identified from the Review of Significant Trade under Res. Conf. 12.10, referred to it by Parties or available in relevant ~~ad hoc~~ reports.

c) The Secretariat shall provide the outcome of the analyses in a) and a compilation of information from b) to the first regular meeting of the Animals Committee following a meeting of the Conference of the Parties. ~~for~~ The Animals Committee shall to select a limited number of species-country combinations for review; urgent enforcement matters identified at this stage should be referred to the Standing Committee.

d) In exceptional cases, outside steps a)-c) above, and where new information provided to the Secretariat indicates that urgent action may be needed concerning problems relating to the implementation of provisions under the Convention for captive production of specimens, the Secretariat ~~shall~~:

i. shall verify that the proponent has provided a justification for the exceptional case, including supporting information;

ii. may request UNEP-WCMC to produce a summary and analysis of trade from the CITES Trade Database in relation to the species-country combination; and

iii. provide the information from i) and ii) above, as soon as possible to the Animals Committee or Standing Committee, as appropriate, for their inter-sessional review and decision on whether to include the species-country ~~combination~~ in ~~stage 2~~ the next stage of the review process.

Stage 2—Consultation with countries and compilation of information

e) The Secretariat shall, within 30 days after the relevant meeting of the Animals Committee, notify the ~~Party or Parties~~ country or countries concerned that ~~that~~ species produced in captivity in their country have been selected for review, and provide them with an overview of the review process and an explanation for their selection. The Secretariat shall ask them country or countries to provide information, within 60 days, in response to general or specific questions, developed by the Animals Committee, to determine if the correct source codes have been used, under the applicable Resolutions, for specimens claimed to be produced in captivity.

f) The Secretariat shall also commission, if requested by the Animals Committee, a short review of the species concerned, in consultation with relevant countries and specialists, to compile and summarise known information relating to the breeding biology and captive husbandry and any impacts, if relevant, of removal of founder stock from the wild.

Stage 3—RReview and recommendation by the Animals and Standing Committee

g) The Animals Committee shall, at their second meeting following ~~the~~ [a regular meeting of the](#) Conference of the Parties, review the responses from Parties, ~~any~~ [the](#) review commissioned by ~~the~~ Secretariat and any additional relevant information, and determine ~~if~~ [if](#) there is compliance with the relevant provisions of the Convention in relation to captive production. If so, the species-country combination will be excluded from the review and the Secretariat will inform ~~them~~ [the country or countries](#) of this outcome within 60 days.

h) Where a species-country combination is retained within the review and where action is needed as a result, the Animals Committee shall, in consultation with the Secretariat, formulate draft recommendations directed to the relevant Party which are time-bound, feasible, measurable, proportionate, transparent and which, if appropriate, aim to promote capacity building and enhance the ability of the ~~Party~~ [country](#) to implement [relevant provisions of](#) the Convention.

i) The Secretariat shall transmit these draft recommendations and supporting information, from the Animals Committee to the next meeting of the Standing Committee for their review, revision if necessary, and endorsement;

j) The Secretariat shall, within 30 days of the meeting of the Standing Committee [in i\)](#), transmit the combined recommendations of the Standing and Animals Committees to the ~~Party~~ [country or countries](#) concerned and also provide ~~them~~ [the country or countries](#) with ~~links to~~ relevant guidance, such as on the correct application of source codes, and means by which their capacity to deal with captive production issues might be enhanced.

Stage 4: Measures to be taken regarding the implementation of recommendations

k) ~~¶~~ [T](#)he Secretariat shall monitor progress against the recommendations, taking account of the different deadlines, and, following ~~electronic~~ consultation with the Chairs and members of the Standing and Animals Committees, determine whether the recommendations referred to above have been implemented;

i. where the recommendations have been met, the Secretariat shall, following consultation with the ~~Chairman~~ of the Standing Committee, notify the Parties that the species/~~country~~ combination was removed from the review process; or

ii. when the recommendations are not deemed to have been met (and no new information is provided), the Secretariat shall, in consultation with the Chairs and members of the Standing and Animals Committees, recommend to the Standing Committee appropriate action, which may include, as a last resort, a [recommendation to suspend trade](#) ~~suspension of trade~~ in the ~~___~~ affected species with that State[‡]; or

iii. where the recommendations are not deemed to have been met or have been partially met, and there is new information suggesting the recommendation may require updating, the Secretariat shall ~~electronically~~ request the Chair and members of the Standing and Animals Committees to prepare a revised recommendation, keeping in mind the principles that recommendations should be time-bound, feasible, measurable, proportionate, transparent, and should promote capacity building. The Secretariat shall provide the revised recommendation to the countries within 30 days of its drafting .

l) ~~¶~~ [T](#)he Secretariat shall report to the Standing Committee on its evaluation of the implementation of the recommendations, including the rationale for its evaluation, and a summary of the views expressed by the Animals Committee. The Secretariat shall additionally report on any further actions taken by the Animals Committee in the case of countries where new information has resulted in revised recommendations;

m) ~~¶~~ [F](#)or countries where recommendations are not deemed to have been met, the Standing Committee shall decide on appropriate actions and make recommendations to the ~~Party~~ [country or countries](#) concerned, ~~or to all Parties~~, keeping in mind that these recommendations should be time-bound, feasible, measurable, proportionate, transparent, and should, if appropriate, promote capacity building. In exceptional circumstances, where the country under consideration provides new information on the implementation of the recommendations to the Standing Committee, the Standing Committee shall consult intersessionally with the Animals Committee through the Chair prior to making a decision on appropriate action;

n) ~~¶~~ [T](#)he Secretariat shall notify the Parties of any recommendations or actions taken by the Standing Committee;

[‡] [In addition, Res. Conf. 14.3 shall be amended: there should be a reference in Res. Conf. 14.3 \(footnote 1 to paragraph 30\) to this new resolution.](#)

o) ~~a~~ Any recommendation by the Standing Committee to suspend trade in the affected species with the ~~State~~ country concerned should be withdrawn only when that ~~State~~ country demonstrates to the satisfaction of the Standing Committee, through the Secretariat, in consultation with the Chairs and members of the Animals or Plants Committee, compliance with the provisions of the Convention with respect to the captive production of specimens; and

p) ~~The~~ Standing Committee, in consultation with the Secretariat and the Chair of the Animals Committee, shall, where appropriate, review recommendations to suspend trade that have been in place for longer than two years, consult with the relevant country, evaluate the reasons why this is the case ~~in consultation with the relevant country~~, and, if appropriate, take measures to address the situation.

Regarding capacity building, monitoring, reporting, and evaluating the review process

DIRECTS the Secretariat, for the purpose of monitoring and facilitating the implementation of this Resolution and the relevant provisions of the Convention:

a) ~~To~~ report at each meeting of the Standing and Animals Committee on the implementation, by the countries concerned, of the recommendations made by the Standing and Animals Committee; and

b) ~~To~~ maintain a database of species/~~country~~ combinations that are included in the review process set out in this Resolution, including a record of progress with ~~the~~ implementation of recommendations;

DIRECTS the Secretariat to include training on this review process of specimens produced through captive production as part of its capacity-~~building~~ activities related to the implementation of the Convention;

DIRECTS the Standing and Animals Committees, in consultation with the Secretariat, to ~~undertake a regular review~~ periodically evaluate of the outcomes of this Review by, for example, examining a sample of past species/~~country~~ combinations to assess whether the desired result was achieved. Based on these evaluations, ~~The~~ Standing and Animals Committees should ~~consider the results of this review and propose revisions to revise~~ the review process as necessary. In these periodic evaluations ~~doing so~~, feedback should be sought ~~obtained~~ from countries (including their Scientific Authorities) that have been ~~who have been~~ through the review process.