

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



Sixty-ninth meeting of the Standing Committee
Geneva (Switzerland), 27 November - 1 December 2017

Interpretation and implementation matters

Trade control and traceability

INTRODUCTION FROM THE SEA:
REPORT OF THE SECRETARIAT

1. This document has been prepared by the Secretariat.
2. At its 17th meeting (CoP17, Johannesburg, 2016), the Conference of the Parties adopted Decision 17.181 and renewed Decisions 16.48 to 16.51 on *Introduction from the sea* as follows:

Directed to the Secretariat

16.48 (Rev. CoP 17)

The Secretariat shall report at the 69th or 70th 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) on Introduction from the sea.

To compile the aforementioned report, the Secretariat shall, where appropriate, approach relevant Parties bilaterally regarding their experience with the implementation of the above mentioned provisions.

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 Fisheries Management Organization or Arrangement (RFMO/A).

Between now and the 18th meeting of the Conference of the Parties, 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.

Directed to Parties

16.49 (Rev. CoP17)

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 69th and 70th meetings of the Standing Committee.

Directed to the Standing Committee

16.50 (Rev. CoP17)

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 the 18th meeting of the Conference of the Parties.

Directed to Parties

16.51 (Rev. CoP17)

On the basis of the assessment of the Standing Committee and any other relevant information, the Parties should review at the 18th meeting of the Conference of the Parties the provisions on chartering provided for in Resolution Conf. 14.6 (Rev. CoP16).

3. Arising from the discussions on introduction from the sea at CoP17, the Conference also adopted the following Decision:

Directed to the Secretariat

17.181 *The Secretariat shall report to the Standing Committee, as appropriate, on the results of the negotiations on the development of an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ).*

Background information on Decisions pertaining to chartering

4. As previously reported in document [CoP17 Doc. 36](#), the Secretariat, prior to the 66th meeting of the Standing Committee (SC66, January 2016), issued Notification to the Parties [No. 2015/042](#) on *Information to be submitted for the 66th meeting of the Standing Committee*, including a request for Parties to provide information on the experience they gained with the following provisions on chartering arrangements contained in sub-paragraph 2 c) of Resolution Conf. 14.6 (Rev. CoP16) on *Introduction from the sea*:

2. 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;

5. At SC66, the Secretariat reported that two written responses and one oral update had been received in response to the Notification, which can be summarized as follows (see also document [SC66 Doc.33](#)):
 - a) China had not received any application for an introduction from the sea certificate since Resolution Conf. 14.6 (Rev. CoP16) took effect.
 - b) The United States of America had nothing to report with regard to chartering and did not have any experience dealing with the provisions of Resolution Conf. 14.6 (Rev. CoP16) on chartering arrangements.
 - c) Japan advised that for its two chartering agreements with countries that include operation on the high seas, the agreement contained a provision that CITES-listed shark species were not allowed to be retained on board and should be released live.
6. In light of the low number of responses, the Standing Committee had recommended, and the Conference of the Parties subsequently agreed, to extend Decisions 16.48, 16.49, 16.50. and 16.51 with a substantive amendment to Decision 16.48, requesting the Secretariat to approach relevant Parties bilaterally regarding their experience with the implementation of the provisions, in particular the elements listed in that Decision.

Implementation of the decisions pertaining to chartering

7. Since CoP17, only one Party has consulted the Secretariat regarding the use of the provisions on chartering contained in Resolution Conf. 14.6 (Rev. CoP16). In April 2017, Poland received an application to import scientific specimens of *Arctocephalus gazella*, included in CITES Appendix II, from Antarctica, by a Polish scientific institution using a chartered vessel under the flag of the Russian Federation. The Management Authority of Poland subsequently contacted the Management Authority of the Russian Federation to reach a written arrangement pertaining to the chartering operation in question, as required in sub-paragraph 2 c) i), but, at the time of writing of this document (September 2017), Poland had received no response from the Russian Federation.
8. It is possible that the provisions on chartering have not yet been applied by many Parties because they continue to follow the standard procedures applicable for issuing introduction from the sea certificates, as outlined in Resolution Conf. 14.6 (Rev. CoP16). However, the following alternative possible reasons were highlighted during consultations between Poland and the CITES Secretariat:
 - a) lack of awareness of the provisions by permit or certificate applicants;
 - b) limited information available to Management Authorities on the chartering status of vessels; and
 - c) limited experience of custom officers in dealing with introduction from the sea (including chartering).
9. The following example may illustrate the difficulty for authorities involved to have access to all relevant information. If applicants are not aware of the provisions, a national of Port State A may not include the information in the permit application that the vessel transporting the specimen from areas outside national jurisdiction into Port State A is chartered from Flag State B. The Management Authority of State A would receive an application to issue an introduction from the sea (IFS) certificate, and upon advice of the Scientific Authority of State A that the introduction was non-detrimental to the survival of the species concerned, proceed to issue the IFS certificate. The IFS certificate would most likely be accepted by customs, as they can validate it with the Management authority of State A, even if they have information in the papers that vessels flagged by State B are involved. The Management authority of Flag State B will not be involved, and

the Management Authority of State A may have no knowledge of the Flag State B's involvement in the operation.

10. The transport of scientific samples under introduction from the sea procedures has repeatedly been brought to the attention of the Secretariat by Parties and other stakeholders as posing major practical difficulties, as also reported in the SC69 document on *Sharks and rays (Elasmobranchii spp.)*. To avoid parallel discussions on these identified challenges, the Secretariat recommends to discuss them under the agenda item on *Sharks and rays*.
11. In addition to the bilateral consultation indicated in paragraph 7 above, the CITES Secretariat was invited by the Food and Agriculture Organisation of the United Nations (FAO) to give a presentation on Introduction from the Sea, including on the provisions on chartering, at a national workshop on the FAO Port State Measures Agreement in Thailand (4-9 September 2017). Given the positive feedback and the opportunities that this created to interact with Parties and relevant stakeholders on the topic of introduction from the sea, the Secretariat intends to continue doing so on similar occasions.
12. More generally, regarding the provisions on introduction from the sea contained in Resolution Conf. 14.6 (Rev. CoP16), the Secretariat would like to note that the data¹ contained in the CITES trade database since 2007 suggests that only a small number of Parties have implemented and reported any Introductions from the Sea. The low level of information forthcoming on issues pertaining to chartering could therefore be reflective of wider challenges in implementing the provisions for many countries.

Implementation of Decision 17.181

13. Pursuant to Decision 17.181, the Secretariat remotely monitored the third (27 March-7 April 2017) and fourth meetings (10-21 July 2017) of the Preparatory Committee Established by the UN General Assembly Resolution 69/292: Development of an International Legally Binding Instrument under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (BBNJ PrepCom).
14. Fulfilling its mandate, the BBNJ PrepCom, at its 4th meeting, submitted its [report](#) for the consideration of the United Nations General Assembly, which lists possible elements of an international legally binding instrument, but does not make a recommendation on whether or not to start negotiating such an agreement. In its report, it differentiates between "(...) elements that generated "convergence among most delegations" (Section A) and "main issues on which there is divergence of views" (Section B), with the added caveat that both sets of elements "do not reflect consensus."
15. The report of the BBNJ PrepCom will be considered during the current 72nd session of the United Nations General Assembly, but at the time of writing of this document, no time for this had been scheduled. Pursuant to Decision 17.181 the Secretariat will continue to follow this issue and report any new information at the 70th meeting of the Standing Committee.

¹ *Introductions from the Sea are currently reflected in one of two ways in the CITES trade database:*

1. *The Exporter is specified as "ZZ – Introduction from the Sea", reflecting a one-state transaction (Paragraph 2 a) of Resolution Conf. 14.6 (Rev. CoP16).*
2. *The source code "X – Specimens taken in the marine environment not under the jurisdiction of any State" is used. This would be a way to distinguish Introductions from the Sea that fall under Paragraph 2 b) of Resolution Conf. 14.6 (Rev. CoP16) from "normal" import-export transactions,*

At the time of writing of this document (September 2017), the following nine countries have conducted and reported introduction from the sea in one or both of these ways: Canada, Germany, Japan, Monaco, the Netherlands, New Zealand, Switzerland, South Africa, and the United States of America.

Recommendations

16. The Standing Committee is invited to take note of this document.
17. Regarding the implementation of Decision 16.50 (Rev. CoP17), the Standing Committee, in light of the information contained in paragraph 12, may further wish to consider looking more generally at implementation challenges Parties may face in implementing the provisions of Resolution Conf. 14.6 (Rev. CoP16) for its reporting to the 18th meeting of the Conference of the Parties. In this case, the Standing Committee could consider instructing the Secretariat to issue a Notification to the Parties requesting Parties to submit relevant information for consideration at the 70th meeting of the Standing Committee.