

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



Seventieth meeting of the Standing Committee  
Rosa Khutor, Sochi (Russian Federation), 1-5 October 2018

Interpretation and implementation matters

General compliance and enforcement

Trade in specimens bred in captivity or artificially propagated

REVIEW OF AMBIGUITIES AND INCONSISTENCIES IN THE APPLICATION  
OF ARTICLE VII, PARAGRAPHS 4 AND 5, AND RELATED RESOLUTIONS:  
REPORT OF THE SECRETARIAT

1. This document has been prepared by the Secretariat.

Background

2. Over the years, the proportion of reported trade in specimens of CITES-listed species taken from the wild has declined, while the proportion from various types of production systems, including captive breeding and artificial propagation, has increased. As reported in document [SC66 Doc. 41.1](#), today, over half of all reported commercial trade in CITES animal species involves specimens from non-wild sources. This trend is mirrored in relation to natural resources more generally. The Food and Agriculture Organization of the United Nations' (FAO) *State of World Fisheries and Aquaculture 2016* states that in terms of food supply, aquaculture provided more fish than capture fisheries for the first time in 2014. This trend is expected to continue.<sup>1</sup> Similarly, areas of planted forests are increasing, while those of natural forests are decreasing.<sup>2</sup>
3. Between the 16th (Bangkok, 2013) and 17th (CoP17, Johannesburg, 2016) meetings of the Conference of the Parties, Decisions 16.63 to 16.66 on *Implementation of the Convention relating to captive-bred and ranched specimens* were completed. Arising from their implementation, the Standing Committee made a number of proposals to the 17th meeting of the Conference of the Parties including the following two Decisions:

**Decision 17.101 directed to the Secretariat**

*Subject to available resources, the Secretariat shall review ambiguities and inconsistencies in the application of Article VII paragraphs 4 and 5, Resolution Conf. 10.16 (Rev.) on Specimens of animal species bred in captivity, Resolution Conf. 12.10 (Rev. CoP15) on Registration of operations that breed Appendix-I animal species in captivity for commercial purposes, Resolution Conf. 11.11 (Rev. CoP17) on Regulation of trade in plants, Resolution Conf. 9.19 (Rev. CoP15) on Registration of nurseries that artificially propagate specimens of Appendix-I plant species for export purposes, Resolution Conf. 5.10 (Rev. CoP15) on Definition of 'primarily commercial purposes' and Resolution Conf. 12.3 (Rev. CoP17) on Permits and certificates as it relates to the use of source codes R, F, D, A and C, including the underlying CITES policy assumptions and differing national interpretations that may have contributed to uneven application of these provisions, as well as the captive breeding issues presented in document*

<sup>1</sup> <http://www.fao.org/docrep/019/i3640e/i3640e.pdf>

<sup>2</sup> <http://www.fao.org/3/a-i4793e.pdf>

SC66 Doc. 17 and legal acquisition issues, including founder stock, as presented in document SC66 Doc. 32.4, submit the review to Parties and stakeholders for comments through a notification, and submit its conclusions and recommendations along with the comments of Parties and stakeholders to the Standing Committee.

**Decision 17.106 directed to the Standing Committee**

*The Standing Committee shall review the conclusions and recommendations of the Secretariat under Decision 17.101 and make recommendations to the Conference of the Parties as appropriate.*

4. In proposing these two Decisions to CoP17, the Committee noted that more attention needed to be paid to the control of trade in specimens claimed to have been bred in captivity or ranched. Concerns were noted particularly about the confusing and challenging nature of the wording of current CITES Resolutions, about insufficient checks on the legal origin of the breeding stock used in captive-breeding facilities and about the establishment of captive-breeding facilities outside the country of origin of the specimens and species concerned.
5. In addition, CoP17 also adopted five other Decisions which are closely related to the Committee's review of ambiguities and inconsistencies in the application of Article VII paragraphs 4 and 5 and related Resolutions:

**Decision 17.66 directed to the Standing Committee**

*The Standing Committee shall, with the assistance of the Secretariat:*

- a) .....
- b) .....
- c) *provide guidance on verifying the legal acquisition of founder stock of captive-bred CITES listed species to be exported; and*
- d) *make appropriate recommendations for consideration at the 18th meeting of the Conference of the Parties*

**Decision 16.156 (Rev. CoP17) directed to the Plants Committee**

*The Plants Committee shall consider the current production systems of tree species, including mixed and monospecific plantations, and assess the applicability of the current definitions of artificial propagation in Resolution Conf. 10.13 (Rev. CoP15) on Implementation of the Convention for timber species and Resolution Conf. 11.11 (Rev. CoP17) on Regulation of trade in plants respectively, and report back at the 18th meeting of the Conference of the Parties.*

**Decisions 17.175-176 directed to the Plants Committee**

*The Plants Committee shall review current production systems for artificial propagation and cultivation of non-tree-plant taxa listed in the Appendices and assess the applicability and utility of the current definitions of 'artificial propagation' and 'under controlled conditions' in Resolution Conf. 11.11 (Rev. CoP17).*

**Decision 17.176**

*The Plants Committee, following the review under Decision 17.175, shall consider if Resolution Conf. 11.11 (Rev. CoP17) and other relevant Resolutions need to be revised, and as appropriate, propose such amendments for consideration to the 70th meeting of the Standing Committee.*

**Decision 17.177 directed to the Standing Committee**

*The Standing Committee should consider the recommendations of the Plants Committee made in accordance with Decisions 17.175 and 17.176, and make recommendations, as appropriate, for consideration at the 18th meeting of the Conference of the Parties.*

## Conduct of the review of ambiguities and inconsistencies in the application of Article VII paragraphs 4 and 5 and related Resolutions under Decision 17.101

6. Based on its experiences and interactions with Parties, the Secretariat prepared a preliminary draft of the Review through a desk study. This was submitted to the Standing Committee at its 69th meeting (Geneva, November 2017) in document [SC69 Doc. 32](#). The Standing Committee noted document SC69 Doc. 32 and established an intersessional working on captive-bred and ranched specimens, chaired by the United States of America, with the mandate to provide advice to the Secretariat, upon request, in their fulfilment of Decision 17.101.
7. After having received extensive comments from the Committee's intersessional working group, the Secretariat submitted a revised version of the review report to Parties and stakeholders for comments through Notification to the Parties [No. 2018/048](#) of 15 May 2018. A copy of the review report is attached as Annex 7 to the present document.
8. Responses to the Notification to the Parties were received from the following Parties: Brazil, Canada, European Union, Mexico, New Zealand, and Thailand and from the following stakeholders: Environmental Investigation Agency (UK), R.P. Ganesan, Global Eye and the United States Association of Reptile Keepers. As instructed in Decision 17.101, copies of these comments, in the language in which they were submitted, are presented to the Committee in Annex 8 of the present document.
9. Decision 17.101 did not foresee the further revision of the review, but in the light of the helpful comments received the Secretariat nevertheless intends to further revise the review and make a final version available to the 18th meeting of the Conference of the Parties, taking into account further comments made at the present meeting.

## Results of the implementation of other related Decisions

10. Document SC70 Doc. 27.1 proposes some possible conclusions on Decision 17.66 paragraphs c) and d) on guidance on verifying the legal acquisition of founder stock of captive-bred CITES listed species to be exported. That document proposes that depending on the context and on a case-by-case basis, the same general principles that apply to the verification of legal acquisition prior to the issuance of export permits should be used for verifying the legal acquisition of founder stock used for the production of captive-bred specimens or artificially propagated specimens.
11. Proposals from the Plants Committee in relation to Decisions 16.156 (Rev. CoP17) and 17.176 on the current definitions of artificially propagated can be found in document SC70 Doc. 31.2. The Plants Committee proposes a new source code for plants obtained through assisted production, that is to say specimens that do not meet the definition of artificially propagated, but have been propagated or planted in an environment with some level of human intervention for the purpose of plant production.

## Conclusions of the Secretariat

12. The Secretariat notes that Parties have not determined the 'underlying CITES policy assumptions' that may have contributed to uneven application of provisions relating to the regulation of trade in specimens traded with source codes R, F, D, A and C in great detail. In practice, these have been articulated in the terms of the provisions themselves. Nevertheless, there are clearly differences of approach between Parties, particularly between those Parties that are range States and those non-range States in which specimens are subsequently being bred in captivity or artificially propagated.
13. Both the review and the comments received on it have demonstrated that the present processes established by Parties for regulating trade in specimens that have not been taken from the wild may be challenging to apply. This has resulted in different interpretations in their application between Parties which may cause confusion among the Parties themselves and some frustration for stakeholders who are trying to abide by them. This may be exploited for the conduct of trade which is not in accordance with the Convention as interpreted through the Resolutions of the Conference of the Parties. The current Resolutions will benefit from some streamlining and harmonization and for this reason the Secretariat recommends their revision to provide greater certainty, simplification and clarity.
14. Based on the review, included in Annex 7 of the present document, the Secretariat offers the following conclusions and suggestions on five major themes.

## **Overall guidance on the implementation of Article VII paragraphs 4 and 5 – proposal for a new resolution**

15. Almost all of the exemptions and other special provisions relating to trade found in Article VII have been the subject of a Resolution of the Conference of the Parties to provide guidance on their implementation: Resolution Conf. 9.7 (Rev. CoP15) on Transit and transshipment; Resolution Conf. 13.6 (Rev. CoP16) on Implementation of Article VII, paragraph 2, concerning 'pre-Convention' specimens; Resolution Conf. 13.7 (Rev. CoP17) on Control of trade in personal and household effects and Resolution Conf. 11.15 (Rev. CoP12) on Non-commercial loan, donation or exchange of museum and herbarium specimens.
16. Regarding the application of the special provisions in Article VII paragraphs 4 and 5 relating to trade in specimens which have been bred in captivity or artificially propagated, the provisions are fragmented, disconnected and partially covered in several Resolutions. Based on the review in Annex 7 of the present document, the Secretariat believes that there is merit in bringing these provisions together to avoid the current lack of harmonized implementation and application of these provisions. Such a consolidated resolution would permit the integration of the definitions of bred in captivity and artificially propagated which are presently spread out over four existing resolutions<sup>3</sup> making them difficult to apply in a harmonious and consistent way. In Annex 1 of the present document, the Secretariat provides a proposal for such a draft resolution, together with an explanation of the source of its content. A clean version of the proposed draft resolution is found in Annex 2 of the present document. The provisions in the four existing resolutions in footnote 3 would therefore be deleted.

### **Resolution Conf. 12.3 (Rev. CoP17) on Permits and certificates**

17. The second theme concerns possible amendment to Resolution Conf. 12.3 (Rev. CoP17). Until the 12th meeting of the Conference of the Parties (CoP12, Santiago 2002), Resolution Conf. 10.2 (Rev.) on *Permits and certificates* [now Resolution Conf. 12.3 (Rev. CoP17)] specified that every CITES trade document issued should indicate if it was being issued as a certificate of captive breeding or artificial propagation or not. Awareness of this fact allowed all involved in checking permits and certificates to ensure that other information on the permit or certificate corresponded to that objective. For reasons that are not explained in the document proposing them (document CoP12 Doc. 21.1.2), the words “certificate of captive breeding or artificial propagation” in what is now paragraph 2 d) of Resolution Conf. 12.3 Rev. CoP17), were replaced by the word “etc”. For clarity, the Secretariat suggests that the Committee propose that the provision to specify that every CITES trade document issued should indicate if it was being issued as a certificate of captive breeding or artificial propagation be instated, as indicated in Annex 3 of the present document.
18. Resolution Conf. 12.3 (Rev. CoP17) provides for the use of source codes F and R for animals. However, the circumstances under which these source codes are to be used are not defined by any clear criteria, either in Resolution Conf. 12.3 (Rev. CoP17) or in Resolution Conf. 11.16 (Rev. CoP15) on *Ranching and trade in ranched specimens of species transferred from Appendix I to Appendix II*. There are currently no equivalent ‘intermediate’ source codes for plants, although the Plants Committee is proposing that such a new source code be created in document SC70 Doc. 31.2.
19. In document [PC24 Doc. 16.1](#), the Plants Committee intersessional working group on the definition of the term ‘artificially propagated’ identified some reasons why many of its members felt that an ‘intermediate’ source code would be valuable. These can be summarized as follows:
  - a) some Parties feel that managed production systems that export specimens and clearly reduce pressure on wild sourced material are not being properly recognised for their efforts;
  - b) describing specimens that come from managed production systems as ‘wild’, reduces scientific accuracy and misrepresents the trade data;
  - c) trading of specimens from the wild can cause consumer and marketing issues which are really irrelevant to specimens from a managed production system;

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<sup>3</sup> *Resolution Conf. 10.16 (Rev.) on Specimens of animal species bred in captivity*  
*Resolution Conf. 11.11 (Rev. CoP17) on Regulation of trade in plants*  
*Resolution Conf. 10.13 (Rev. CoP15) on Implementation of the Convention for timber species; and*  
*Resolution Conf. 16.10 on Implementation of the Convention for agarwood-producing taxa*

- d) propagation should be encouraged but if the resultant specimens are described as 'wild' because of definitional problems then this creates disincentives;
  - e) specimens of species harvested outside their natural range cannot logically be classed as either wild or artificially propagated; and
  - f) specimens that are artificially propagated and subsequently grown under natural conditions cannot be exported with source codes wild or artificially propagated.
20. Many of these reasons could equally be applied to animals. The Secretariat does not fully subscribe to some of this argumentation, but recognizes the wish of many Parties for the existence of an intermediate source code category, between wild and artificially propagated / bred in captivity.
21. As explained in section 2 of the review in Annex 7 of the present document, the requirements for the issuance of permits and certificates for specimens with 'intermediate' source codes "R" and "F" (and potentially the new source code Y suggested by the Plants Committee) are exactly the same as those for specimens of wild origin. Many Parties are however under the mistaken impression that specimens exported with source codes F and R do not need a non-detriment finding. This situation is undermining one of the fundamental requirements for ensuring that trade in CITES specimens is not detrimental to the survival of the species. This should be clarified in the text of the Resolution relating to source codes and a proposal to this effect is included in Annex 3 of the present document.
22. The Animals Committee has been reviewing differences in the nature of non-detriment findings made for specimens with source code W, R and F under Decision 17.104 (see document [AC30 Doc. 10.1/PC24 Doc. 10.1](#)).
23. The current intermediate source codes F and R for animals are not defined by any clear criteria, either in Resolution Conf. 12.3 (Rev. CoP17) or in Resolution Conf. 11.16 (Rev. CoP15) on *Ranching and trade in ranched specimens of species transferred from Appendix I to Appendix II*. This has contributed to the misuse of these source codes: source code R has been incorrectly applied to specimens of plants species and as noted during the implementation of Resolution Conf. 17.7 on *Review of trade in animal specimens reported as produced in captivity*, trade in wild source specimens has been misclassified as either R or F source.
24. While recognizing the wish of many Parties to have an intermediate source code, the Secretariat is not convinced of the need for three separate source codes for this purpose (F, R and the new code of Y proposed by the Plants Committee). The Secretariat suggests that further thought be given to the possibility of developing one simple well-defined intermediate source code applying to both plants and animals. To avoid any confusion over the implications of its use while issuing permits and certificates, it should be inserted into Resolution Conf. 12.3 (Rev. CoP17), rather than any resolution dealing with the definition of bred in captivity or artificial propagation.
25. The Secretariat proposes some text for a draft decision to this effect in Annex 3 of the present document.

**Resolution Conf. 5.10 (Rev. CoP15) on Definition of 'primarily commercial purposes'**

26. Understanding when a specimen of an Appendix-I species has been bred in captivity or artificially propagated for commercial purposes is essential to determining when the provisions of Article VII paragraph 4 can be applied. At present the guidance adopted by the Conference of the Parties is very weak on this point. Neither Resolution Conf. 12.10 (Rev. CoP15) for animals, nor Resolution Conf. 9.19 (Rev. CoP15) for plants, provide any guidance on the definition of "commercial purposes". As explained in paragraph 3 of the review in Annex 7 of the present document, Resolution Conf. 5.10 (Rev. CoP15) contains a number of references to specimens bred in captivity which are not easy to understand and does not provide clear guidance for Parties. As can be seen in Figure 1 of the review in Annex 7 of the present document, large amounts of trade in Appendix-I specimens is taking place for commercial purposes (purpose code "T") despite the fact that the exporting Party is determining that the breeding is not for commercial purposes.
27. There would appear to be some logic in applying the same definition of "commercial purposes" in the application of Article III as in the application of Article VII paragraph 4, but this needs further discussion. Resolution Conf. 5.10 (Rev. CoP15) has changed little since it was adopted in 1985 and its lack of clarity is hampering effective implementation Article III.

28. The Secretariat therefore suggests that the Standing Committee proposes the draft Decision found in Annex 4 of the present document to CoP18.

*Definition of “bred in captivity” and “artificially propagated”*

29. The definitions of “bred in captivity” and “artificially propagated” which offer qualification for the special provisions relating to trade afforded by Article VII, paragraphs 4 and 5, of the Convention are currently spread over four different Resolutions. The Secretariat has observed that there are differences of understanding between the Parties concerning how the provisions in these different Resolutions fit together. For instance, concerning paragraph 1 g) of Resolution Conf. 10.13 (Rev. CoP15) on *Implementation of the Convention for timber species*:

- g) *timber or other parts or derivatives of trees grown in monospecific plantations be considered as being artificially propagated in accordance with the definition contained in Resolution Conf. 11.11 (Rev. CoP17)*

some Parties are of the view that any specimen of a tree grown in a monospecific plantation automatically fulfils the criteria for being considered as artificially propagated. Others believe that such specimens must still fulfil parts of Resolution Conf. 11.11 (Rev. CoP17), such as the parental stock needing to be established in accordance with the provisions of CITES and relevant national laws and in a manner not detrimental to the survival of the species in the wild.

30. In its day-to-day activities and in preparing the review in Annex 7 of the present document, the Secretariat has observed that the definitions of bred in captivity and artificially propagated are perceived as over-complicated. Sometimes, this is a result of the introduction of exceptions and exclusions which individually may have some logic, but collectively make the definitions extremely unwieldy and complicated as can be shown by the guide for Parties that the Secretariat has produced<sup>4</sup> and in sections 4.2 and 5.2 of the review in Annex 7 of the present document.
31. In recent years, there has been a trend to widen the scope of the definition of bred in captivity and artificially propagated, meaning more specimens in trade qualify for the exemptions in Article VII paragraphs 4 and 5. As noted in the review in Annex 7 of the present document, the original intent of the Parties in this regard was to restrict this special treatment only to captive populations sustained without augmentation from the wild. The existence of ‘intermediate’ source codes give the opportunity to consider a return towards that original intent.
32. In paragraph 16 and Annex 2 of the present document, the Secretariat recommends that the Standing Committee proposes consolidating the current definitions of bred in captivity and artificially in one place. However, there has been insufficient opportunity between CoP17 and CoP18 to give detailed consideration to the revision of the definitions. Such consideration of the part of the definition of bred in captivity and artificially propagated related to the legal origin of the founder stock, may be informed by the conclusions drawn from the implementation of Decision 17.66 paragraphs c) and d) (see document SC70 Doc. 27.1). The Secretariat therefore proposes the draft decisions found in Annex 5 of the present document.

**Resolution Conf. 9.19 (Rev. CoP15) on *Registration of nurseries that artificially propagate specimens of Appendix-I plant species for export purposes* and Resolution Conf. 12.10 (Rev. CoP15) on *Registration of operations that breed Appendix-I animal species in captivity for commercial purposes***

33. Concerning the registration of nurseries that artificially propagate specimens of Appendix-I plant species for export purposes, the last preambular paragraph of Resolution Conf. 9.19 reads: *RECOGNIZING that nurseries that are not registered may still continue exporting artificially propagated specimens of Appendix-I species using the standard procedures for obtaining export permits*. It appears that some Parties consider that this sentence means that the registration of such nurseries is entirely voluntary and that this is the reason that the description of the source code “D” in paragraph 3 i) of the Resolution Conf. 12.3 (Rev. CoP17) makes no mention of the need for specimens to originate from a nursery included in the Secretariat’s Register, in accordance with Resolution Conf. 9.19 (Rev. CoP15). It may be for this reason that few nurseries have been included in the register in recent years.

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<sup>4</sup> A guide to the application of CITES source codes. See document SC69 Inf. 3

34. Concerning registration of operations that breed Appendix-I animal species in captivity for commercial purposes, as explained in the review in Annex 7 of the present document, this is quite widely ignored or circumvented by Parties, with many thousands of specimens of Appendix-I species exported every year for trade purposes from unregistered facilities.
35. The existing registers consume resources for the Parties, the Animals and Standing Committees and the Secretariat, but in view of the level of commercial trade taking place in specimens of Appendix-I species from non-registered facilities, Secretariat considers that the registers should either be made compulsory and enforced, or responsibility for determining when Article VII paragraph 4 should be applied should be returned to the Parties and the registers maintained by the Secretariat should be discontinued.
36. In Annex 6 of the present document, the Secretariat therefore suggests a draft decision to review the implementation of Article VII, paragraph 4, of the Convention.
37. Concerning captive breeding of tigers *Panthera tigris*, the Conference of the Parties has agreed Decision 14.69 which has been maintained at all subsequent meetings of the CoP:

*Directed to the Parties, especially Appendix-I Asian big cat range States*

*Parties with intensive operations breeding tigers on a commercial scale shall implement measures to restrict the captive population to a level supportive only to conserving wild tigers; tigers should not be bred for trade in their parts and derivatives.*

38. Such a policy is long term, rather than short term and therefore unsuitable as a decision and should be incorporated into a Resolution. The Secretariat therefore suggests an amendment to Resolution Conf. 12.10 (Rev. CoP15) to this effect which can be found in Annex 6 to the present document.

#### Recommendations

39. The Secretariat recommends that in fulfilment of Decision 17.106, the Standing Committee:
  - a) take note of the presentation of the review of ambiguities and inconsistencies in the application of Article VII paragraphs 4 and 5 and related Resolutions presented in Annex 7 of the present document and the Secretariat's intention to further revise the review in the light of comments received from Parties in response to Notification to the Parties No. 2018/048 and at the present meeting;
  - b) propose the draft Resolution on *Implementation of Article VII paragraphs 4 and 5 concerning specimens bred in captivity or artificially propagated* included in Annex 2 of the present document to CoP18 for adoption;
  - c) propose the draft amendments to Resolution Conf. 12.3 (Rev CoP17) in Annex 3 of the present document to CoP18 for adoption;
  - d) propose the draft decision on an intermediate source code between bred in captivity/artificially propagated and wild in Annex 3 of the present document to CoP18 for adoption;
  - e) propose the draft decision on the definition of 'commercial purposes' and 'primarily commercial purposes' in Annex 4 of the present document to CoP18 for adoption;
  - f) propose the draft decisions on the definitions of the terms "bred in captivity" and "artificially propagated" in Annex 5 of the present document to CoP18 for adoption;
  - g) propose the draft decision on implementation of Article VII paragraph 4 of the Convention and Resolutions Conf. 9.19 (Rev. CoP15) on *Registration of nurseries that artificially propagate specimens of Appendix-I plant species for export purposes* and Resolution Conf. 12.10 (Rev. CoP15) on *Registration of operations that breed Appendix-I animal species in captivity for commercial purposes* in Annex 6 of the present document to CoP18 for adoption; and
  - h) propose the draft amendments to Resolution Conf. 12.10 (Rev CoP15) in Annex 6 of the present document to CoP18 for adoption.



**Draft Resolution on Implementation of Article VII paragraphs 4 and 5  
concerning specimens bred in captivity or artificially propagated  
annotated to show the source of its constituent parts**

RECALLING the special provisions relating to trade in specimens of species which have been bred in captivity or artificially propagated found in Article VII paragraphs 4 and 5.	Adapted from Resolution Conf. 10.16 (Rev.)
AGREEING on the need for a harmonious application of these provisions by all Parties in this regard.	Adapted from Resolution Conf. 2.12 (since repealed), but relevant today
RECOGNIZING the need for the Parties to agree on a standard interpretation of those provisions;	From Resolution Conf. 2.12 (since repealed), but relevant today
RECALLING that in the case of wildlife originally these provisions were intended to apply only to captive populations sustained without augmentation from the wild;	Adapted from Resolution Conf. (since repealed), but relevant today
RECOGNIZING that application of these provisions needs to strike a balance between facilitating trade in specimens which will have very little or no impact on the survival of the species concerned and the need to prevent the provisions being used for trade which could prove detrimental to the survival of the species involved.	New
<del>OBSERVING that certain Parties that authorize export of large quantities of artificially propagated plants need to find ways of reducing paperwork while maintaining protection for wild plants, and helping exporters of artificially propagated plants to understand and to comply with the requirements of the Convention;</del>	From Resolution Conf. 11.11 (Rev. CoP17) – and to be deleted therefrom
RECALLING Resolution Conf. 2.12 (Rev.), adopted by the Conference of the Parties at its second meeting (San José, 1979) and amended at its ninth meeting (Fort Lauderdale, 1994);	From Resolution Conf. 10.16 (Rev.)
<del>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;</del>	From Resolution Conf. 10.16 (Rev.)
<del>NOTING that, in accordance with Article VII, paragraph 5, the import of specimens of Appendix I species bred in captivity not for commercial purposes that are covered by a certificate of captive breeding does not require the issuance of an import permit and may therefore be authorized whether or not the purpose is commercial;</del>	From Resolution Conf. 10.16 (Rev.)
RECOGNIZING the need for the Parties to agree on a standard interpretation of the provisions of Article VII, paragraphs 4 and 5;	From Resolution Conf. 10.16 (Rev.)
CONCERNED however that, in spite of the adoption of several Resolutions at various meetings of the Conference of the Parties, some trade in specimens declared as bred in captivity or artificially propagated is undertaken contrary to the Convention and to Resolutions of the Conference of the Parties, and may be detrimental to the survival of wild populations of the species concerned;	Adapted from Resolution Conf. 10.16 (Rev.)
AWARE that the text of the Convention and several of the Resolutions of the Conference of the Parties on plants may not or could not have been drafted in the light of modern developments in plant propagation and of the trade in artificially propagated plants;	From Resolution Conf. 11.11 (Rev. CoP17) – and to be deleted therefrom



RECOGNIZING that there are unique aspects of the plant trade and plant biology, such as those related to flaked orchid seedlings, that are not considered analogous to those for animals and that a different approach for plants is sometimes necessary;	From Resolution Conf. 11.11 (Rev. CoP17) – and to be deleted therefrom
RECOGNIZING that the control of the trade in flaked seedlings of orchids from closed nursery systems generally is not considered to be relevant to the protection of the natural populations of orchid species;	From Resolution Conf. 11.11 (Rev. CoP17) – and to be deleted therefrom
<del>RECOGNIZING that many of the problems associated with regulating international trade in plants under the Convention involve artificially propagated specimens;</del>	From Resolution Conf. 11.11 (Rev. CoP17) – and to be deleted therefrom
<del>REALIZING that Resolution Conf. 11.11 (Rev. CoP17) on Regulation of trade in plants, adopted at the 11th meeting of the Conference of the Parties (Gigiri, 2000), and amended at the 13th, 14th, 15th and 17th meetings (Bangkok, 2004; The Hague, 2007; Doha, 2010; Johannesburg, 2016), provides a definition of 'artificially propagated';</del>	From Resolution Conf. 16.10 and to be deleted therefrom
<del>ALSO REALIZING that Resolution Conf. 10.13 (Rev. CoP15), on Implementation of the Convention for timber species, further clarifies how to apply the definition above to specimens from plantations;</del>	From Resolution Conf. 16.10 and to be deleted therefrom
RECOGNIZING that some tree species are easy to propagate artificially and can be manipulated to produce the agarwood resin;	From Resolution Conf. 16.10 and to be deleted therefrom
CONSIDERING that the current definition of 'artificially propagated', in Resolution Conf. 11.11 (Rev. CoP17), cannot be applied to tree plantations;	From Resolution Conf. 16.10 and to be deleted therefrom
<del>RECOGNIZING that, for a plant species artificially propagated, and for a part of such plant, the provisions of Article VII, paragraph 5), of the Convention will apply</del>	From Resolution Conf. 16.10 and to be deleted therefrom
RECALLING that Resolution Conf. 12.3 (Rev. CoP18) agrees that every form should indicate which type of document it is (import or export permit, re-export or pre-Convention certificate or certificate of captive breeding or artificial propagation)	New [If agreed in the context of revisions to Resolution Conf. 12.3]

#### THE CONFERENCE OF THE PARTIES TO THE CONVENTION

1. <u>AGREES</u> that	New, but reflects para 3 i) of Resolution Conf. 12.3 (Rev. CoP17)
a) trade in all specimens of species included in Appendix I bred in captivity or artificially propagated for commercial purposes shall be undertaken under the provisions of Article IV paragraph 4; and	
b) trade in all specimens of species included in Appendix I bred in captivity or artificially propagated not for commercial purposes and of specimens of species included in Appendix II for any purpose shall be undertaken under the provisions of Article VII paragraph 5.	New, but reflects para 3 i) of Resolution Conf. 12.3 (Rev. CoP17)
2. <u>FURTHER AGREES</u> that the provisions of Article VII, paragraph 4, of the Convention be applied separately from those of Article VII, paragraph 5. Specimens of animal species in Appendix I bred in captivity for commercial purposes or plant species in Appendix I artificially propagated for commercial purposes shall be treated as if they were in Appendix II, and shall not be exempted from the provisions of Article IV by the granting of certificates to the effect that they were bred in captivity or artificially propagated;	From Resolution Conf. 2.12 (since repealed), but relevant today
3. <u>ADOPTS</u> , for the purposes of the implementation of Article VII paragraphs 4 and 5, the definitions of “bred in captivity” and ‘artificially propagated” in Annexes 1 and 2 of present resolution.	New

<p><u>Regarding the trade in specimens of Appendix-I species bred in captivity</u></p> <p>4. <u>RECOMMENDS that the trade in a specimen bred in captivity be permitted only if it is marked in accordance with the provisions on marking in the Resolutions adopted by the Conference of the Parties and if the type and number of the mark are indicated on the document authorizing the trade</u></p>	<p>Adapted from Resolution Conf. 10.16 (Rev.)</p>
<p>5. <u>REPEALS the Resolutions, or parts thereof, hereunder:</u></p> <p>a) Resolution Conf. 10.16 (Rev.) on <i>Specimens of animal species bred in captivity</i></p> <p>b) the 3rd, 5th, 6th, 7th and 10th paragraphs of the preamble, the sections on <i>Regarding the definition of 'artificially propagated'</i>, <i>Regarding grafted plants</i>, and <i>Regarding flaked seedlings of Appendix-I orchid</i> and paragraph 6 b) under <i>Regarding hybrids</i> of Resolution Conf. 11.11 (Rev. CoP17) on <i>Regulation of trade in plants</i>.</p> <p>c) the 1st, 2nd, 6th, 8th and 9th paragraphs of the preamble, the section on <i>Regarding artificially propagated specimens</i> and paragraph 7 under <i>Regarding management and trade control</i> of Resolution Conf. 16.10 on <i>Implementation of the Convention for agarwood-producing taxa</i>.</p> <p>d) the section on <i>Regarding the definition of 'artificially propagated'</i> of Resolution Conf. 10.13 (Rev. CoP15) on <i>Implementation of the Convention for timber species</i>.</p>	<p>New</p>

Annex 1 of draft Resolution on *Implementation of Article VII paragraphs 4 and 5 concerning specimens bred in captivity or artificially propagated*

<p><b>Definition of “bred in captivity”</b></p>	<p>Text from Resolution Conf. 10.16 (Rev.)</p>
<p><u>Regarding terminology</u></p> <p>1. ADOPTS the following definitions of terms used in this Resolution:</p> <p>a) “first-generation offspring (F1)” are specimens produced in a controlled environment from parents at least one of which was conceived in or taken from the wild;</p> <p>b) “offspring of second generation (F2) or subsequent generation (F3, F4, etc.)” are specimens produced in a controlled environment from parents that were also produced in a controlled environment;</p> <p>c) the “breeding stock” of an operation means the ensemble of the animals in the operation that are used for reproduction; and</p> <p>d) “a controlled environment” is an environment that is manipulated for the purpose of producing animals of a particular species, that has boundaries designed to prevent animals, eggs or gametes of the species from entering or leaving the controlled environment, and the general characteristics of which may include but are not limited to: artificial housing; waste removal; health care; protection from predators; and artificially supplied food;</p> <p><u>Regarding the term ‘bred in captivity’</u></p> <p>2. DECIDES that:</p> <p>a) the definition provided below shall apply to the specimens bred in captivity of species included in Appendix I, II or III, whether or not they were bred for commercial purposes; and</p> <p>b) the term ‘bred in captivity’ shall be interpreted to refer only to specimens, as defined in Article I, paragraph (b), of the Convention, born or otherwise produced in a controlled environment, and shall apply only if:</p> <p>i) the parents mated or gametes were otherwise transferred in a controlled environment, if reproduction is sexual, or the parents were in a controlled environment when development of the offspring began, if reproduction is asexual; and</p> <p>ii) the breeding stock, to the satisfaction of the competent government authorities of the exporting country:</p>	<p>From Resolution Conf. 10.16 (Rev.)</p>

<p>A. was established in accordance with the provisions of CITES and relevant national laws and in a manner not detrimental to the survival of the species in the wild;</p> <p>B. is maintained without the introduction of specimens from the wild, except for the occasional addition of animals, eggs or gametes, in accordance with the provisions of CITES and relevant national laws and in a manner not detrimental to the survival of the species in the wild as advised by the Scientific Authority:</p> <ol style="list-style-type: none"> <li>1. to prevent or alleviate deleterious inbreeding, with the magnitude of such addition determined by the need for new genetic material; or</li> <li>2. to dispose of confiscated animals in accordance with Resolution Conf. 17.8<sup>5</sup>; or</li> <li>3. exceptionally, for use as breeding stock; and</li> </ol> <p>C. 1. has produced offspring of second generation (F2) or subsequent generation (F3, F4, etc.) in a controlled environment; or</p> <ol style="list-style-type: none"> <li>2. is managed in a manner that has been demonstrated to be capable of reliably producing second-generation offspring in a controlled environment; and</li> </ol>	
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Annex 2 of draft Resolution on *Implementation of Article VII paragraphs 4 and 5 concerning specimens bred in captivity or artificially propagated*

<p><b>Definition of “artificially propagated”</b></p>	
<p><u>Regarding the definition of ‘artificially propagated’</u></p> <p>1. ADOPTS the following definitions for terms used in this Resolution:</p> <ol style="list-style-type: none"> <li>a) ‘under controlled conditions’ means in a non-natural environment that is intensively manipulated by human intervention for the purpose of plant production. General characteristics of controlled conditions may include but are not limited to tillage, fertilization, weed and pest control, irrigation, or nursery operations such as potting, bedding or protection from weather;</li> <li>b) ‘cultivated parental stock’ means the ensemble of plants grown under controlled conditions that are used for reproduction, and which must have been, to the satisfaction of the designated CITES authorities of the exporting country: <ol style="list-style-type: none"> <li>i) established in accordance with the provisions of CITES and relevant national laws and in a manner not detrimental to the survival of the species in the wild; and</li> <li>ii) maintained in sufficient quantities for propagation so as to minimize or eliminate the need for augmentation from the wild, with such augmentation occurring only as an exception and limited to the amount necessary to maintain the vigour and productivity of the cultivated parental stock; and</li> </ol> </li> <li>c) ‘cultivar’ means, following the definition of the 8th edition of the <i>International Code of Nomenclature for Cultivated Plants</i>, an assemblage of plants that (a) has been selected for a particular character or combination of characters, (b) is distinct, uniform, and stable in these characters, and (c) when propagated by appropriate means, retains those characters (but see Article 9.1 Note 1)<sup>6</sup></li> </ol>	<p>From Resolution Conf. 11.11 (Rev. CoP17) – and to be deleted therefrom and with changes to paragraph 4 as proposed by the Plants Committee in document SC70 Doc. 31.2.</p>

<sup>5</sup> Corrected by the Secretariat following the 15th and 17th meetings of the Conference of the Parties: originally referred to Resolution Conf. 10.7, replaced by Resolution Conf. 17.8.

<sup>6</sup> Article 9.1 Note 1 states that no new taxon of cultivated plants (including a cultivar) can be regarded as such until its category name and circumscription have been formally published.

2. DETERMINES that the term 'artificially propagated' shall be interpreted to refer to plant specimens:
  - a) grown under controlled conditions; and
  - b) grown from seeds, cuttings, divisions, callus tissues or other plant tissues, spores or other propagules that either are exempt from the provisions of the Convention or have been derived from cultivated parental stock;
3. DETERMINES that plants grown from cuttings or divisions are considered to be artificially propagated only if the traded specimens do not contain any material collected from the wild; and
4. RECOMMENDS that for populations of Appendix-I listed species, an exception may be granted and specimens deemed to be artificially propagated if, for the taxon involved:
  - a)
    - i) the establishment of a cultivated parental stock presents significant difficulties in practice because specimens take a long time to reach reproductive age, as for many tree species;
    - ii) the propagules are collected from the wild and grown under controlled conditions within a range State, which must also be the country of origin of the propagules;
    - iii) the relevant Management Authority of that range State has determined that the collection of propagules consistent with relevant national laws for the protection and conservation of the species; and
    - iv) the relevant Scientific Authority of that range State has determined that:
      - A. collection of propagules was not detrimental to the survival of the species in the wild, based on a non-detriment finding, in accordance with Article III of the Convention; and
      - B. allowing trade in such specimens has a positive effect on the conservation of wild populations;
  - b) at a minimum, to comply with subparagraphs 4 a) iv) A. and B. above:
    - i) collection of propagules for this purpose is limited in such a manner such as to allow regeneration of the wild population;
    - ii) a portion of the plants produced under such circumstances is used to establish plantations to serve as cultivated parental stock in the future and become an additional source of propagules and thus reduce or eliminate the need to collect propagules from the wild; and
    - iii) a portion of the plants produced under such circumstances is used for replanting in the wild, to enhance recovery of existing populations or to re-establish populations that have been extirpated; and
  - c) in the case of operations propagating Appendix-I species for commercial purposes under such conditions they are registered with the CITES Secretariat in accordance with Resolution Conf. 9.19 (Rev. CoP15) on *Guidelines for the registration of nurseries exporting artificially propagated specimens of Appendix-I species*;

Regarding grafted plants

5. RECOMMENDS that:
  - a) grafted plants be recognized as artificially propagated only when both the root-stock and the graft have been taken from specimens that have been artificially propagated in accordance with the definition above; and
  - b) grafted specimens consisting of taxa from different Appendices be treated as specimens of the taxon included in the more restrictive Appendix;

<p><u>Regarding hybrids</u></p> <p>6. DETERMINES that regarding artificially propagated hybrids:</p> <ol style="list-style-type: none"> <li>a) plant species or other taxa included in Appendix I shall be annotated (in accordance with Article XV) if the provisions relevant to the most restrictive Appendix are to apply;</li> <li>b) if a plant species or other taxon included in Appendix I is annotated, an export permit or re-export certificate shall be required for trade in specimens of all artificially propagated hybrids derived from it; but</li> <li>c) artificially propagated hybrids derived from one or more unannotated Appendix-I species or other taxa shall be regarded as being included in Appendix II and entitled therefore to all exemptions applicable to artificially propagated specimens of species included in Appendix II;</li> </ol> <p><u>Regarding flasks seedlings of Appendix-I orchids</u></p> <p>7. RECOMMENDS that flasks seedlings of orchid species included in Appendix I obtained <i>in vitro</i>, in solid or liquid media, and transported in sterile containers, be interpreted as being exempt from CITES control only if they have been artificially propagated in accordance with the definition provided above, taking into account the provisions of Article VII, paragraph 4, and Article I, paragraph (b) (iii), and agreeing to a derogation from Resolution Conf. 9.6 (Rev. CoP16)<sup>2</sup> for this exemption;</p>	
<p><b><i>Regarding the definition of 'artificially propagated' for timber or other parts or derivatives of trees grown in monospecific plantations</i></b></p> <ol style="list-style-type: none"> <li>g) timber or other parts or derivatives of trees grown in monospecific plantations be considered as being artificially propagated in accordance with the definition contained in Resolution Conf. 11.11 (Rev. CoP17);</li> </ol>	<p>From Resolution Conf. 10.13 (Rev. CoP15) and to be deleted therefrom</p>
<p><b><i>Regarding artificially propagated specimens for agarwood-producing taxa</i></b></p> <ol style="list-style-type: none"> <li>1. AGREES that: <ol style="list-style-type: none"> <li>a) the current definition of 'artificially propagated' in Resolution Conf. 11.11 (Rev. CoP17) does not meet the circumstances of agarwood-producing taxa, due to the definition of the term 'under controlled conditions', and that the source of parental stock is not suitable and fully complied with in the plantation activities of agarwood-producing taxa; and</li> <li>b) the source of seeds or propagules for cultivation of agarwood-producing species may be obtained from the wild according to the definition of 'cultivated parental stock' in Resolution Conf. 11.11 (Rev. CoP17);</li> </ol> </li> <li>2. ADOPTS the following definition for terms used in this Resolution: For agarwood-producing taxa, 'under controlled conditions' means in a tree plantation, including other non-natural environment, that is manipulated by human intervention for the purpose of producing plants or plant parts and derivatives;</li> <li>3. DETERMINES that the term 'artificially propagated' shall be interpreted to refer to plant specimens of agarwood as follows: <ol style="list-style-type: none"> <li>a) grown under controlled conditions; and</li> <li>b) grown from seeds, seedlings, saplings, cuttings, grafting, marcoting/air-layering, divisions, plant tissues or other propagules that have been derived from wild or cultivated parental stocks, according to the definition of 'cultivated parental stock' in Resolution Conf. 11.11 (Rev. CoP17);</li> </ol> </li> <li>4. AGREES that trees of agarwood-producing taxa grown in cultivation such as:</li> </ol>	<p>From Resolution Conf. 16.10 and to be deleted therefrom</p>

<sup>2</sup> Corrected by the Secretariat following the 16th meeting of the Conference of the Parties: originally referred to Resolution Conf. 9.6 (Rev.).

<p>a) gardens (home and/or community garden); and</p> <p>b) state, private or community production plantation, either monospecific or mixed species; shall be considered as artificially propagated in accordance with the definition above;</p> <p>7. ENCOURAGES range States to establish a registration system for the artificial propagation of agarwood-producing trees;</p>	
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**Draft Resolution on Implementation of Article VII paragraphs 4 and 5  
concerning specimens bred in captivity or artificially propagated  
[clean version]**

RECALLING the special provisions relating to trade in specimens of species which have been bred in captivity or artificially propagated found in Article VII, paragraphs 4 and 5;

AGREEING on the need for a harmonious application of these provisions by all Parties;

RECOGNIZING the need for the Parties to agree on a standard interpretation of those provisions;

RECALLING that originally these provisions were intended to apply only to captive populations sustained without augmentation from the wild;

RECOGNIZING that application of these provisions needs to strike a balance between facilitating trade in specimens which will have very little or no impact on the survival of the species concerned and the need to prevent the provisions being used for trade which could prove detrimental to the survival of the species involved;

CONCERNED however that, in spite of the adoption of several Resolutions at various meetings of the Conference of the Parties, some trade in specimens declared as bred in captivity or artificially propagated is undertaken contrary to the Convention and to Resolutions of the Conference of the Parties, and may be detrimental to the survival of wild populations of the species concerned;

AWARE that the text of the Convention and several of the Resolutions of the Conference of the Parties on plants may not or could not have been drafted in the light of modern developments in plant propagation and of the trade in artificially propagated plants;

RECOGNIZING that there are unique aspects of the plant trade and plant biology, such as those related to flaked orchid seedlings, that are not considered analogous to those for animals and that a different approach for plants is sometimes necessary;

RECOGNIZING that the control of the trade in flaked seedlings of orchids from closed nursery systems generally is not considered to be relevant to the protection of the natural populations of orchid species;

RECOGNIZING that some tree species are easy to propagate artificially and can be manipulated to produce the agarwood resin;

CONSIDERING that the current definition of 'artificially propagated', in Resolution Conf. 11.11 (Rev. CoP17), cannot be applied to tree plantations; and

RECALLING that Resolution Conf. 12.3 (Rev. CoP18) agrees that every form should indicate which type of document it is (import or export permit, re-export or pre-Convention certificate or certificate of captive breeding or artificial propagation);

**THE CONFERENCE OF THE PARTIES TO THE CONVENTION**

1. AGREES that:

- a) trade in all specimens of species included in Appendix I bred in captivity or artificially propagated for commercial purposes shall be undertaken under the provisions of Article IV, paragraph 4; and
- b) trade in all specimens of species included in Appendix I bred in captivity or artificially propagated not for commercial purposes and of specimens of species included in Appendix II for any purpose shall be undertaken under the provisions of Article VII, paragraph 5;

2. FURTHER AGREES that the provisions of Article VII, paragraph 4, of the Convention be applied separately from those of Article VII, paragraph 5. Specimens of animal species in Appendix I bred in captivity for



commercial purposes or plant species in Appendix I artificially propagated for commercial purposes shall be treated as if they were in Appendix II, and shall not be exempted from the provisions of Article IV by the granting of certificates to the effect that they were bred in captivity or artificially propagated;

3. ADOPTS, for the purposes of the implementation of Article VII paragraphs 4 and 5, the definitions of “bred in captivity” and ‘artificially propagated’ in Annexes 1 and 2 of present Resolution;

Regarding the trade in specimens of Appendix-I species bred in captivity

4. RECOMMENDS that the trade in a specimen bred in captivity be permitted only if it is marked in accordance with the provisions on marking in the Resolutions adopted by the Conference of the Parties and if the type and number of the mark are indicated on the document authorizing the trade; and
5. REPEALS the Resolutions, or parts thereof, hereunder:
  - a) Resolution Conf. 10.16 (Rev.) on *Specimens of animal species bred in captivity*
  - b) the 3rd, 5th, 6th, 7th and 10th paragraphs of the preamble, the sections on *Regarding the definition of ‘artificially propagated’*, *Regarding grafted plants*, and *Regarding flaked seedlings of Appendix-I orchid* and paragraph 6 b) under *Regarding hybrids* of Resolution Conf. 11.11 (Rev. CoP17) on *Regulation of trade in plants*.
  - c) the 1st, 2nd, 6th, 8th and 9th paragraphs of the preamble, the section on *Regarding artificially propagated specimens* and paragraph 7 under *Regarding management and trade control* of Resolution Conf. 16.10 on *Implementation of the Convention for agarwood-producing taxa*.
  - d) The section on *Regarding the definition of ‘artificially propagated’* of Resolution Conf. 10.13 (Rev. CoP15) on *Implementation of the Convention for timber species*.

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Annex 1 of draft Resolution on *Implementation of Article VII paragraphs 4 and 5 concerning specimens bred in captivity or artificially propagated*

**Definition of “bred in captivity”**

Regarding terminology

1. ADOPTS the following definitions of terms used in this Resolution:
  - a) “first-generation offspring (F1)” are specimens produced in a controlled environment from parents at least one of which was conceived in or taken from the wild;
  - b) “offspring of second generation (F2) or subsequent generation (F3, F4, etc.)” are specimens produced in a controlled environment from parents that were also produced in a controlled environment;
  - c) the “breeding stock” of an operation means the ensemble of the animals in the operation that are used for reproduction; and
  - d) “a controlled environment” is an environment that is manipulated for the purpose of producing animals of a particular species, that has boundaries designed to prevent animals, eggs or gametes of the species from entering or leaving the controlled environment, and the general characteristics of which may include but are not limited to: artificial housing; waste removal; health care; protection from predators; and artificially supplied food;

Regarding the term ‘bred in captivity’

2. DECIDES that:
  - a) the definition provided below shall apply to the specimens bred in captivity of species included in Appendix I, II or III, whether or not they were bred for commercial purposes; and

- b) the term 'bred in captivity' shall be interpreted to refer only to specimens, as defined in Article I, paragraph (b), of the Convention, born or otherwise produced in a controlled environment, and shall apply only if:
  - i) the parents mated or gametes were otherwise transferred in a controlled environment, if reproduction is sexual, or the parents were in a controlled environment when development of the offspring began, if reproduction is asexual; and
  - ii) the breeding stock, to the satisfaction of the competent government authorities of the exporting country:
    - A. was established in accordance with the provisions of CITES and relevant national laws and in a manner not detrimental to the survival of the species in the wild;
    - B. is maintained without the introduction of specimens from the wild, except for the occasional addition of animals, eggs or gametes, in accordance with the provisions of CITES and relevant national laws and in a manner not detrimental to the survival of the species in the wild as advised by the Scientific Authority:
      - 1. to prevent or alleviate deleterious inbreeding, with the magnitude of such addition determined by the need for new genetic material; or
      - 2. to dispose of confiscated animals in accordance with Resolution Conf. 17.8<sup>7</sup>; or
      - 3. exceptionally, for use as breeding stock; and
    - C. 1. has produced offspring of second generation (F2) or subsequent generation (F3, F4, etc.) in a controlled environment; or
    - 2. is managed in a manner that has been demonstrated to be capable of reliably producing second-generation offspring in a controlled environment; ~~and~~

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Annex 2 of draft Resolution on *Implementation of Article VII paragraphs 4 and 5 concerning specimens bred in captivity or artificially propagated*

**Definition of "artificially propagated"**

Regarding the definition of 'artificially propagated'

1. ADOPTS the following definitions for terms used in this Resolution:
  - a) 'under controlled conditions' means in a non-natural environment that is intensively manipulated by human intervention for the purpose of plant production. General characteristics of controlled conditions may include but are not limited to tillage, fertilization, weed and pest control, irrigation, or nursery operations such as potting, bedding or protection from weather;
  - b) 'cultivated parental stock' means the ensemble of plants grown under controlled conditions that are used for reproduction, and which must have been, to the satisfaction of the designated CITES authorities of the exporting country:
    - i) established in accordance with the provisions of CITES and relevant national laws and in a manner not detrimental to the survival of the species in the wild; and

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<sup>7</sup> Corrected by the Secretariat following the 15th and 17th meetings of the Conference of the Parties: originally referred to Resolution Conf. 10.7, replaced by Resolution Conf. 17.8.

- ii) maintained in sufficient quantities for propagation so as to minimize or eliminate the need for augmentation from the wild, with such augmentation occurring only as an exception and limited to the amount necessary to maintain the vigour and productivity of the cultivated parental stock; and
  - c) 'cultivar' means, following the definition of the 8th edition of the *International Code of Nomenclature for Cultivated Plants*, an assemblage of plants that (a) has been selected for a particular character or combination of characters, (b) is distinct, uniform, and stable in these characters, and (c) when propagated by appropriate means, retains those characters (but see Article 9.1 Note 1)<sup>8</sup>
2. DETERMINES that the term 'artificially propagated' shall be interpreted to refer to plant specimens:
- a) grown under controlled conditions; and
  - b) grown from seeds, cuttings, divisions, callus tissues or other plant tissues, spores or other propagules that either are exempt from the provisions of the Convention or have been derived from cultivated parental stock;
3. DETERMINES that plants grown from cuttings or divisions are considered to be artificially propagated only if the traded specimens do not contain any material collected from the wild; and
4. RECOMMENDS that for populations of Appendix-I listed species, an exception may be granted and specimens deemed to be artificially propagated if, for the taxon involved:
- a) i) the establishment of a cultivated parental stock presents significant difficulties in practice because specimens take a long time to reach reproductive age, as for many tree species;
  - ii) the propagules are collected from the wild and grown under controlled conditions within a range State, which must also be the country of origin of the propagules;
  - iii) the relevant Management Authority of that range State has determined that the collection of propagules consistent with relevant national laws for the protection and conservation of the species; and
  - iv) the relevant Scientific Authority of that range State has determined that:
    - A. collection of propagules was not detrimental to the survival of the species in the wild, based on a non-detriment finding, in accordance with Article III of the Convention; and
    - B. allowing trade in such specimens has a positive effect on the conservation of wild populations;
  - b) at a minimum, to comply with subparagraphs 4 a) iv) A. and B. above:
    - i) collection of propagules for this purpose is limited in such a manner such as to allow regeneration of the wild population;
    - ii) a portion of the plants produced under such circumstances is used to establish plantations to serve as cultivated parental stock in the future and become an additional source of propagules and thus reduce or eliminate the need to collect propagules from the wild; and
    - iii) a portion of the plants produced under such circumstances is used for replanting in the wild, to enhance recovery of existing populations or to re-establish populations that have been extirpated; and
  - c) in the case of operations propagating Appendix-I species for commercial purposes under such conditions they are registered with the CITES Secretariat in accordance with Resolution Conf. 9.19 (Rev. CoP15) on *Guidelines for the registration of nurseries exporting artificially propagated specimens of Appendix-I species*;

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<sup>8</sup> Article 9.1 Note 1 states that no new taxon of cultivated plants (including a cultivar) can be regarded as such until its category name and circumscription have been formally published.

#### Regarding grafted plants

5. RECOMMENDS that:

- a) grafted plants be recognized as artificially propagated only when both the root-stock and the graft have been taken from specimens that have been artificially propagated in accordance with the definition above; and
- b) grafted specimens consisting of taxa from different Appendices be treated as specimens of the taxon included in the more restrictive Appendix;

#### Regarding hybrids

6. DETERMINES that regarding artificially propagated hybrids:

- a) plant species or other taxa included in Appendix I shall be annotated (in accordance with Article XV) if the provisions relevant to the most restrictive Appendix are to apply;
- b) if a plant species or other taxon included in Appendix I is annotated, an export permit or re-export certificate shall be required for trade in specimens of all artificially propagated hybrids derived from it; but
- c) artificially propagated hybrids derived from one or more unannotated Appendix-I species or other taxa shall be regarded as being included in Appendix II and entitled therefore to all exemptions applicable to artificially propagated specimens of species included in Appendix II;

#### Regarding flaked seedlings of Appendix-I orchids

7. RECOMMENDS that flaked seedlings of orchid species included in Appendix I obtained *in vitro*, in solid or liquid media, and transported in sterile containers, be interpreted as being exempt from CITES control only if they have been artificially propagated in accordance with the definition provided above, taking into account the provisions of Article VII, paragraph 4, and Article I, paragraph (b) (iii), and agreeing to a derogation from Resolution Conf. 9.6 (Rev. CoP16)<sup>2</sup> for this exemption;

#### Regarding the definition of 'artificially propagated' for timber or other parts or derivatives of trees grown in monospecific plantations

8. timber or other parts or derivatives of trees grown in monospecific plantations be considered as being artificially propagated in accordance with the definition contained in Resolution Conf. 11.11 (Rev. CoP17);

#### Regarding artificially propagated specimens for agarwood-producing taxa

9. AGREES that:

- a) the current definition of 'artificially propagated' in Resolution Conf. 11.11 (Rev. CoP17) does not meet the circumstances of agarwood-producing taxa, due to the definition of the term 'under controlled conditions', and that the source of parental stock is not suitable and fully complied with in the plantation activities of agarwood-producing taxa; and
- b) the source of seeds or propagules for cultivation of agarwood-producing species may be obtained from the wild according to the definition of 'cultivated parental stock' in Resolution Conf. 11.11 (Rev. CoP17);

10. ADOPTS the following definition for terms used in this Resolution:

For agarwood-producing taxa, 'under controlled conditions' means in a tree plantation, including other non-natural environment, that is manipulated by human intervention for the purpose of producing plants or plant parts and derivatives;

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<sup>2</sup> Corrected by the Secretariat following the 16th meeting of the Conference of the Parties: originally referred to Resolution Conf. 9.6 (Rev.).

11. DETERMINES that the term 'artificially propagated' shall be interpreted to refer to plant specimens of agarwood as follows:
  - a) grown under controlled conditions; and
  - b) grown from seeds, seedlings, saplings, cuttings, grafting, marcoting/air-layering, divisions, plant tissues or other propagules that have been derived from wild or cultivated parental stocks, according to the definition of 'cultivated parental stock' in Resolution Conf. 11.11 (Rev. CoP17);
12. AGREES that trees of agarwood-producing taxa grown in cultivation such as:
  - a) gardens (home and/or community garden); and
  - b) state, private or community production plantation, either monospecific or mixed species;shall be considered as artificially propagated in accordance with the definition above;
13. ENCOURAGES range States to establish a registration system for the artificial propagation of agarwood-producing trees.

**Draft amendments to Resolution Conf. 12.3 (Rev. CoP17)  
on Permits and certificates and draft Decision on an intermediate source code  
between bred in captivity/artificially propagated and wild**

1. Suggested draft amendments to Resolution Conf. 12.3 (Rev. CoP17)

Changes shown in strikethrough or underline.

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

2. AGREES that:

.....

- d) every form should indicate which type of document it is (e.g. import or export permit, re-export or pre-Convention certificate, certificate of captive breeding or artificial propagation etc.);

.....

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

**W\*** Specimens taken from the wild;

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

**R\*** Ranched specimens: specimens of animals reared in a controlled environment, taken as eggs or juveniles from the wild, where they would otherwise have had a very low probability of surviving to adulthood;

**D\*** Appendix-I animals bred in captivity for commercial purposes in operations included in the Secretariat's Register, in accordance with Resolution Conf. 12.10 (Rev. CoP15), and Appendix-I plants artificially propagated for commercial purposes, as well as parts and derivatives thereof, exported under the provisions of Article VII, paragraph 4, of the Convention;

**A** Plants that are artificially propagated in accordance with Resolution Conf. 11.11 (Rev. CoP17), as well as parts and derivatives thereof, exported under the provisions of Article VII, paragraph 5 (specimens of species included in Appendix I that have been propagated artificially for non-commercial purposes and specimens of species included in Appendices II and III);

**C** Animals bred in captivity in accordance with Resolution Conf. 10.16 (Rev.), as well as parts and derivatives thereof, exported under the provisions of Article VII, paragraph 5;

**F\*** Animals born in captivity (F1 or subsequent generations) that do not fulfil the definition of 'bred in captivity' in Resolution Conf. 10.16 (Rev.), as well as parts and derivatives thereof;

**U\*** Source unknown (**must be justified**);

**I\*** Confiscated or seized specimens;

**O** Pre-Convention specimens;

Except in relation to trade under Article VII paragraphs 1, 6 and 7, specimens exported with source codes indicated with an asterisk (\*) require a non-detriment finding under Article III 2 (a), Article III 5 (a), Article IV 2 (a) or Article IV 6 (a).

2. Draft decision of the Conference of the Parties on intermediate source code between bred in captivity/artificially propagated and wild

Decision 18.AA directed to the Standing Committee in consultation with Animals and Plants Committees

Through a working group, including at least one member from each region of the Animals and Plants Committee, the Standing Committee shall:

- a) devise a clear, but simply defined, intermediate source code between bred in captivity/artificially propagated and wild, incorporating the current source codes F and R and the proposal for a source code Y contained in document SC70 Doc. 31.2;
- b) provide guidance on how the source code should be used and what requirements apply to permits and certificates on which it is used; and
- c) prepare any consequent changes to resolutions of the Conference of the Parties and accompanying guidance and submit this to the 19th meeting of the Conference of the Parties.



**Draft Decision on the definition of ‘commercial purposes’ and ‘primarily commercial purposes’**

***Directed to the Standing Committee***

- a) Taking account of the review of ambiguities and inconsistencies in the application of Article VII paragraphs 4 and 5 and related Resolutions under Decision 17.101 and on the basis of a background document from the Secretariat, the Standing Committee shall review Resolution Conf. 5.10 (Rev. CoP15) on *Definition of ‘primarily commercial purposes’*, including the merits of applying the same definition of “commercial purposes” in the application of Article VII, paragraph 4, as apply in the application of Article III, paragraphs 3 and 5.
- b) If not included in its proposal for a revised version of Resolution Conf. 5.10 (Rev. CoP15), the Standing Committee shall propose a definition of ‘commercial purposes’ in the context of the implementation of Article VII, paragraph 4, for inclusion in Resolution Conf. 12.10 (Rev. CoP15) on *Registration of operations that breed Appendix-I animal species in captivity for commercial purposes* and Resolution Conf. 9.19 (Rev. CoP15) on *Registration of nurseries that artificially propagate specimens of Appendix-I plant species for export purposes*.
- c) The Standing Committee shall report its conclusions and recommendations to the 18th meeting of the Conference of the Parties.

**Draft decision on the definitions of the terms “bred in captivity” and “artificially propagated”**

Decision 18.AA

***Directed to the Animals and Plants Committees***

Taking account of the review of ambiguities and inconsistencies in the application of Article VII, paragraphs 4 and 5, and related Resolutions under Decision 17.101 and on the basis of a proposal from the Secretariat, the Animals and Plants Committees shall:

- a) review the definitions of the terms “bred in captivity” and “artificially propagated” in the Resolutions adopted by the Conference of the Parties; and
- b) report to the Standing Committee with proposals for increasing the simplicity of the definitions and limiting their applicability to facilities that do not take further specimens from the wild.

Decision 18.BB

***Directed to the Standing Committee***

Taking account of the review of ambiguities and inconsistencies in the application of Article VII, paragraphs 4 and 5, and related Resolutions under Decision 17.101 and the proposals from the Animals and Plants Committees made under Decision 18.AA, the Standing Committee shall:

- a) review the definitions of the terms “bred in captivity” and “artificially propagated” in the Resolutions adopted by the Conference of the Parties with suggestions for increasing their simplicity and limiting their applicability to facilities that do not continue to take further specimens from the wild; and
- b) make recommendations, as appropriate, to the 19th meeting of the Conference of the Parties.

**Draft decision and draft revisions to Resolution Conf. 12.10 (Rev. CoP15), relating to trade in specimens of an animal species included in Appendix I bred in captivity for commercial purposes, or of a plant species included in Appendix I artificially propagated for commercial purposes**

1. Draft Decision relating to implementation of Article VII, paragraph 4, of the Convention and Resolutions Conf. 9.19 (Rev. CoP15) and Resolution Conf. 12.10 (Rev. CoP15).

Draft Decision of the Conference of the Parties

***Directed to the Standing Committee***

The Standing Committee shall:

- a) review the implementation of Article VII, paragraph 4, of the Convention and the effectiveness of Resolution Conf. 9.19 (Rev. CoP15) on *Registration of nurseries that artificially propagate specimens of Appendix-I plant species for export purposes* and Resolution Conf. 12.10 (Rev. CoP15) on *Registration of operations that breed Appendix-I animal species in captivity for commercial purposes* for that purpose;
  - b) consider whether guidance on the implementation of Article VII, paragraph 4, would be best placed together with any general resolution about the implementation of the special provisions in Article VII paragraphs 4 and 5; and
  - c) present its conclusions and recommendations to the 19th meeting of the Conference of the Parties.
2. Proposed amendments to Resolution Conf. 12.10 (Rev. CoP15) on Registration of operations that breed Appendix-I animal species in captivity for commercial purposes.

New paragraphs after paragraph 4

- X. URGES Parties, especially Appendix-I Asian big cat range States, with intensive operations breeding tigers *Panthera tigris* on a commercial scale, to implement measures to restrict the captive population to a level supportive only to conserving wild tigers and not to breed tigers for trade in their parts and derivatives;
- X. AGREES that no operation for tigers should be included in the registration of operations that breed Appendix-I animal species in captivity for commercial purposes and that no Party should deem a tiger specimen to be included in Appendix II by virtue of Article VII, paragraph 4;