

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

Trade control and traceability

STOCKS AND STOCKPILES OF SPECIMENS OF CITES-LISTED SPECIES:
REPORT OF THE WORKING GROUP

1. This document has been prepared by the representative of Europe (Israel).*
2. At its 17th meeting the CITES Conference of the Parties adopted Decision 17.170: "**Decision directed to:** Standing Committee. The Standing Committee shall, with the assistance of the Secretariat, review the existing provisions agreed by the Parties concerning controls on stocks of specimens of CITES-listed species. It shall consider their objectives and implementation, and the resource implications for Parties and the Secretariat, and shall report its conclusions and recommendations at the 18th meeting of the Conference of the Parties."
3. At its 69th meeting, the Standing Committee established a Working Group on Stocks and Stockpiles of Specimens of CITES-listed species (SC69 Doc.43). The terms of reference for this Working Group, as amended by Canada and the United States, are recorded in document SC69 Com. 4. These terms of reference can be identified in bold time under item 5 below.
4. The membership of the intersessional working group on stocks and stockpiles was agreed as follows: Israel (Chair), Canada, China, Democratic Republic of the Congo, Gabon, Mozambique, Russian Federation, Singapore, South Africa, United States of America, Viet Nam, and Zimbabwe; and Born Free Foundation, C.F. Martin & Co., Inc., Environmental Investigation Agency – US, Humane Society International, International Fund for Animal Welfare, International Union for Conservation of Nature, Ivory Education Institute, IWMC – World Conservation Trust, Species Survival Network, TRAFFIC, Wildlife Conservation Society, and World Wildlife Fund.
5. Following are the specific items of the terms of reference, **printed in bold type**, followed by observations, concerns and proposals offered by this Working Group:

With the assistance of the Secretariat, the working group will pursue the following objectives:

- a) **review the existing provisions agreed by the Parties concerning controls on stocks of specimens of CITES-listed species provided in Annex 2 of document SC69 Doc. 43;**

The Working Group established that the principal motivation for the control of CITES stockpiles is for compliance with the provisions of Article II.4 of the Convention; "The Parties shall not allow trade in

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

specimens of species included in Appendices I, II and III except in accordance with the provisions of the present Convention.” By extension, the application of this Article to stocks and stockpiles seeks:

- i) to assure that specimens in trade are legally acquired,
- ii) to prevent specimens of species that normally cannot be traded legally (e.g. stocks acquired before an Appendix I listing, or stocks of confiscated specimens) from entering international trade, and
- iii) to establish verification mechanisms useful as a means for tracing specimens in trade back to their origins.

A comprehensive review, prepared by Canada, of existing provisions in these matters as agreed to by the Parties is appended as Annex 1 to this document.

b) identify CITES conservation and enforcement objectives in the management of both government and privately held stocks and stockpiles of specimens;

The Working Group reviewed the “Text” and “Context” categories in Annex 1 to this document since they discuss particular concerns and objectives for each Stock and Stockpile identified in SC69 Doc. 43.

The mandate of this Working Group identifies two objectives: conservation and enforcement. The Working Group agreed to define them as:

- i) The conservation objective in the management of Stocks and Stockpiles should comply with the conservation motivations expressed in the text of the Convention. The practical application of the conservation objective is to assure, to the greatest extent possible, that Stocks and Stockpiles are secured and managed in a manner that provides long-term benefit to wild fauna and flora and natural systems.
- ii) The enforcement objective in the management of Stocks and Stockpiles should comply with the enforcement motivations expressed in Article II.4 of the Convention. The practical application of the enforcement objective is to prevent specimens of CITES-listed species from contributing to illegal trade, or becoming vulnerable to theft, corruption or other illegal activities. Furthermore, Article VIII provides for appropriate measures to be taken by Parties on penalizing illegal trade, returning confiscated specimens to the State of export and placement of live specimens

Notwithstanding, the Working Group reaffirms the right of Parties to apply domestic measures as codified in article XIV.2 of the Convention. Additional guidance can be found within the provisions of Resolution Conf. 17.8

More explicit means for achieving the objectives addressed in this section will be found under item c), immediately below.

c) suggest definitions of “stock” and “stockpile”;

Most of the members of this Working Group agree that the conventional definitions of “stock” and “stockpile” are too vague for practical application within CITES, and that dictionary definitions are sometimes inappropriate. Furthermore, there is also acknowledgement that the list of CITES “stocks” and “stockpiles” is growing and becoming more complex, but without any comprehensive mechanism to systematize its and harmonize its management. Finally, we acknowledge that there are specific cases where particular concerns or vulnerabilities warrant exceptional management or vigilance. Therefore, the Working Group proposes the creation of the designations of “CITES Declared Stock” for live specimens and “CITES Declared Stockpile” for parts and derivatives, along with the establishment in the CITES Secretariat of a comprehensive, systematic mechanism for monitoring and assisting with coordination of all declared Stocks and Stockpiles.

Note, one Party, subsequently supported by a second Party, said it did not see practical need to invest effort required to establish official CITES definitions of “stocks” and “stockpiles.” It is unaware of specific instances where the absence of official definitions has proven to be problematic.

Note, other Parties hold that the definitions suggested (below) need further work before they could be acceptable and propose that the mandate of this Working Group be extended until CoP19, for the purpose, *inter alia*, of providing opportunity reconsider the suggested definitions.

Notwithstanding, the Working Group offers the following “Suggested Definitions” at least as a starting point for further discussions:

SUGGESTED DEFINITIONS:

- i) A CITES Declared Stock is any discrete collection of live specimens of species listed on the CITES Appendices for which particular concerns or vulnerabilities warrant exceptional management and/or vigilance, and which have been formally declared as CITES Declared Stock by the CITES Management Authority with jurisdiction over the collection, or by the Conference of the Parties or its designated surrogates, particularly the CITES Secretariat or the CITES Standing Committee.

[Note: One Party objects to the inclusion of live specimens into this consideration because such matters are already covered by species-specific resolutions, and prefers the Working Group’s efforts focus on parts and derivatives only.]

- ii) A CITES Declared Stockpile is any discrete collection of parts and derivatives of specimens of species listed on the CITES Appendices for which particular concerns or vulnerabilities warrant exceptional management and/or vigilance, and which have been formally declared as CITES Declared Stockpile by the CITES Management Authority with jurisdiction over the collection, or by the Conference of the Parties or its designated surrogates, particularly the CITES Secretariat or the CITES Standing Committee.

[NOTE: Some Working Group members hold that the declaration of a CITES Declared Stock or Stockpile should be made only by the CITES Management Authority having jurisdiction over the subject Stock or Stockpile, and not by the Conference of the Parties or its surrogates.]

When the Working Group achieves substantive agreement on definitions, the following draft propositions may be considered as guidelines for the practical application of the definitions:

- i) The designation of CITES Declared Stock or CITES Declared Stockpile would apply only to discrete collections of CITES-listed specimens that have been formally declared as such. All other aggregations of CITES-listed specimens are not included within this designation.
- ii) A CITES Declared Stock and a CITES Declared Stockpile can be government-owned, or privately-owned specimens, or those for which ownership is uncertain or in dispute. The Stock or Stockpile can include wild or captive bred/propagated specimens listed on any Appendix of the Convention, without discrimination. [Note: One Party held that Appendix III specimens, as well as captive-bred and artificially propagated specimens, should be excluded.]
- iii) Disposal of CITES Stocks and Stockpiles should be accomplished in a transparent and responsible manner that is consistent with the text of the Convention and with Resolution Conf. 17.8. The Museum Conservation Institute (see Annex 2 below) can provide technical advice for best practices on both the conservation and destruction of biological materials. If specimens are to be destroyed (which is a valid option after law enforcement requirements are completed for high-value, high security risk specimens), rigorous inventories should be performed on all specimens prior to destruction.
- iv) Each CITES Declared Stock and CITES Declared Stockpile shall be subject to both General Criteria and Specific Criteria. General Criteria are those common to all CITES Declared Stocks and CITES Declared Stockpiles. Specific Criteria are those that apply to the individual CITES Declared Stockpile only.
- v) All CITES Declared Stocks and CITES Declared Stockpiles should be registered with the CITES Secretariat, which shall monitor them on an on-going basis.
- vi) Care should be taken to declare and register only those stocks and stockpiles that, because of intrinsic vulnerabilities, high demand by illegal trade, or some other compelling reasons, would benefit from a particularly assiduous monitor.

- vii) Information reported in the General and Specific Criteria for a CITES Declared Stock or CITES Declared Stockpile should be kept confidential, accessible only to the CITES Secretariat and its individually credentialed surrogates on a need to know basis only.

The following draft General Criteria are offered as tentative reporting requirements that the Secretariat may hold in confidence as part of its monitor of particular CITES Declared Stocks or CITES Declared Stockpiles:

- i) Identification of species stocked or stockpiled (including both common and scientific names).
- ii) Location – where the stock or stockpile is being held. This item should also include description of any risk assessment and/or site security plan created to assure the protected specimens will not be vulnerable to misappropriation, whether from the Stock or Stockpile location itself, or while in transit. Access to the CITES Declared Stock or Stockpile should be restricted to authorized persons only. The security plan should, to the extent possible, make use of all available best practices, including electronic and other technologically sophisticated surveillance in addition to a guard. The security plan should also have a contingency element to be used in the event of intrusion, theft or other loss, and include a law enforcement response protocol, as well as a requirement to notify the CITES Secretariat.
- iii) Quantification- including both quantification of the numbers of specimens included in the CITES Declared Stock or Stockpile as well as statement of the method(s) of on-going inventory and audit. Quantification will vary depending upon the species and the management considerations involved, but in any case, the decision to declare a Stock or a Stockpile should be prompted by holding custody of a “significant” quantity of the subject species. Inventory should provide the capacity to identify individual items, and also provide a reliable monitor that records when individual items are removed or added to the CITES Stock or Stockpile. For live animals, secure microchips, DNA fingerprinting, or comparable methods should be employed.
- iv) Statement of purpose for the stockpile [a minority of Working Group members objected to inclusion of this item].
- v) Expiration date – when the statement of purpose is expected to be fulfilled. [a minority of Working Group members objected to the inclusion of this item].
- vi) Controlling authority – identification and contact details of the agency responsible for supervising the management and security of the Stock or Stockpile.
- vii) Finance – statement identifying the adequate and stable funding source responsible for management and security of the Stock or Stockpile at least until the expiration date of the CITES Declared Stockpile Statement of Purpose. [A minority of Working Group members objected to the inclusion of this item].
- viii) Reporting – A statement describing agreed periodic reporting to the CITES Secretariat concerning the status of the Declared Stock or Stockpile, including evidence of compliance with both the General and Specific criteria associated with the concerned Stock or Stockpile, including reporting of any acquisitions, disposal or loss of specimens that occurred since the previous report. Reports (or lack thereof) shall constitute an important element of the Secretariat’s monitoring of particular Stocks and Stockpiles, as well as a premise for the Secretariat initiating discussions with concerned Parties regarding the status of such Stocks and Stockpiles. Generalized summaries of Stock and Stockpile status shall be part of the Secretariat’s normal reporting to the Parties.

Specific Criteria for a CITES Stock or Stockpile can include an itemized list of requirements that address the particular issues associated with the creation of the particular CITES Stock or Stockpile involved. These, for example, could include monitoring of disputed ownership, participation in targeted law enforcement activities, legal status of the Stock or Stockpile (for example, whether the specimens are *sub judice*) or any other pertinent concerns not identified in the General Criteria.

There are many guidelines available for the management of stocks and stockpiles with special risks, such as natural history museum collections, pharmaceuticals and weapons. Some of these may be considered as CITES addresses this issue in greater detail. Links to a few such guidelines may be found in Annex 3 of this document.

- d) **consult with Parties affected by the measures in Annex 2 of document SC69 Doc. 43, through a Notification to them, to request information concerning the resources they use to implement these Resolutions and Decisions including any significant challenges they face in maintaining these stockpiles and, using this information, consider resource implications for Parties and the Secretariat;**

Parties affected by measures in Annex 2 of document SC69 Doc. 43 were consulted via CITES Notification to the Parties Number 2018/008 dated 16/1/2018. The Working Group received reports from only two Parties (Thailand and Madagascar). Thailand provided detailed individual reports on the status of seized elephant ivory, rhinoceros horn, pangolin, Asian big cat and python, that included inventory records, registries, transfer terms and conditions, supervision and disposal techniques. Madagascar provided a general inventory of *Dalbergia* and *Diospyros* stockpiles along with an explanation describing financial constraints.

The Notification requested information concerning resources being used to implement various Resolutions and Decisions, as well as information about significant challenges faced while maintaining these stockpiles.

The poor response rate suggests CITES may benefit from a more solicitous effort to engage Parties with SC69 Doc. 43 Annex 2 stockpiles, in an attempt to better define the magnitude of their stockpiles as well as significant challenges posed by their management.

- e) **consult with Parties, INTERPOL, World Customs Organization, UN Office on Drugs and Crime, World Trade Organization, museums, appropriate representatives of private industry and any other technical experts to identify best practices for robust stockpile management systems, identification of specimens (age and origin), inventory, corruption prevention, and disposal / destruction, with particular sensitivity to cost effectiveness required by developing countries;**

Consultation with technical experts has been accomplished and reported in Annex 2 to this document: "Comments by Technical Experts." Additionally, conversations with many technical experts influenced the preparation of this document, helping to identify priorities and avoid the irrelevant. Gratitude is extended to the Environmental Law Institute, Natural Resources Defence Fund, New York City BAR Association (Animal Law Committee) for their voluntary contributions of time and expertise. Further gratitude is extended to multiple technical experts in academia, botanical gardens, businesses, international agencies, museums, zoological gardens, and other institutions who prefer to remain anonymous.

- f) **explore the legal implications of a Party selling confiscated specimens;**

[Note: One Party, supported by a second, held that there is no need to alter disposal methods provided in Resolution Conf. 17.8. These Parties affirmed the right of the Party to determine the particulars of disposal after confiscation. They acknowledge the risks involved with the sale of confiscated specimens and believe it may be fruitful to seek opportunities that could strengthen controls and better ensure that the specimens do not re-enter illegal trade.]

Despite the provisions of Resolution Conf. 17.8, the Working Group was split on the merits of authorizing the sale of confiscated specimens. Research into the legal implications of a Party selling confiscated specimens provide several substantive arguments to reject such sales. Important considerations include:

- i) international law is unsettled on the rightful ownership of confiscated items. Wildlife, in particular, is legally considered by many countries to be *res publica*, a natural resource or a patrimony that the government manages on behalf of that country. Illegal acquisition and illegal export of wild plants and animals might not extinguish the ownership rights of the habitat country. There is the argument that a government selling confiscated specimens originating in another country might itself become complicit in trading in stolen goods.
- ii) The Nagoya Protocol on Access to Genetic Resources and Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (Nagoya Protocol on Access and Benefit Sharing – ABS) provides a requirement that habitat countries benefit from any exploitation of their biological resources. The Nagoya Protocol now has 105 Parties and should be taken into account when a CITES Party contemplates sale of confiscated CITES specimens that

were illegally exported from another country. Details of the Nagoya Protocol can be read at: <https://www.cbd.int/abs/about/>

- iii) There are many cases in which Parties seizing both live specimens and parts and derivatives have returned such specimens to the country of export. Some of these returns were the results of court orders that determined the country of export retained legal ownership of the specimens involved. There are two cases of note in the U.S. In one, a federal appeals court compelled a convicted defendant to return two trophy elephant tusks to Zimbabwe after evidence demonstrated they had been illegally acquired and illegally exported (<https://www.justice.gov/usao-co/pr/evergreen-man-pleads-guilty-and-sentenced-violation-endangeredd-species-act-related>) In another case, a convicted defendant was required to pay restitution to South Africa for the value of rock lobsters that had been illegally taken from within South African jurisdiction limits. (U.S. v Bengis (2d Cir. 2011))

Article XIV.2 of CITES says the Convention “shall in no way affect the provisions of any domestic measures.” Thus, the text of the Convention protects a confiscating authority’s decisions regarding what to do with confiscated specimens, including selling them if so decided, if such a decision is based on domestic law.

Nevertheless, some parts of Resolution 17.8 appear to be inconsistent with other provisions of the Convention, and other legal references, which suggest the sale of confiscated specimens may not be appropriate.

Article II.4 prescribes that Parties **shall not** allow trade in specimens listed on the Appendices except in accordance with the provisions of the Convention. The act of confiscation may serve as *de facto* evidence of the subject specimens having been involved in trade not in accordance with the Convention. As a consequence, they should not be permitted to re-enter trade.

Article VIII of the Convention provides further guidance for confiscated live animals which may be either confiscated or returned to the State of export. Article VIII again is prescriptive, using the verb “shall” and it provides no options other than those stated.

In this regard, we refer to the ISACS 05.20 (Appendix 4) definition of “shall.” ISACS is the UN-administered initiative on the control of small arms. Twenty UN agencies participate in its application. The ISACS definition is: “a) “shall” indicates a requirement: It is used to indicate requirements strictly to be followed in order to conform to the document and from which no deviation is permitted.” Parties must comply only with the options presented in the text of the Convention. There are no other options.

It is further understood that the acts of seizure and confiscation of illegal specimens commonly provide *prima facie* evidence of an illegal market. Sale of confiscated specimens carries with it the serious risk of those specimens being ultimately entered into illegal trade, thus undermining the objectives of the Convention.

- g) consider different approaches to managing stockpiles of legally acquired specimens, and stockpiles of confiscated specimens, as well as the different treatment of stockpiles containing species listed in Appendices I, II and III; and**

Normally, all CITES Stocks and Stockpiles should be subject to the same General Criteria. Necessary distinctions can be applied in the Specific Criteria of individual CITES Stockpiles, where the need to accommodate specific criteria, such as Rules of Evidence, can be included.

[One Party emphasized that declarations should be limited to “specific specimens of specific species” particularly those that are in high demand by the illicit trade.]

- h) on the basis of the discussions at the 69th meeting of the Standing Committee and the results of paragraphs a) to g) above, report conclusions and recommendations to the 70th meeting of the Standing Committee.**

Significant differences of opinion divide this Working Group, and it is unlikely that concurrence upon an agreed text can be achieved prior to CoP18. Therefore, we offer a series of tentative conclusions, along with a proposal to extend the existence of this Working Group until CoP19.

Based on items a) through g) of this document, this Working Group tentatively concludes:

- i) The existing CITES provisions concerning controls on stocks and stockpiles have as their objectives;
 - A) Compliance with the provisions of the Convention, especially Article II.4
 - B) Assurance that specimens in trade are legally acquired
 - C) Prevention of trade in specimens that normally cannot be traded legally (e.g. stocks acquired before an Appendix I listing, or stocks of confiscated specimens) from entering international trade, and
 - D) Establishing verification mechanisms useful as a means for tracing specimens in trade back to their origins.
- ii) There is merit in creating a mechanism that formally defines “stocks” and “stockpiles” in a CITES context, definitions that provide for equitable, comprehensive and efficient means of addressing stock and stockpile issues systematically throughout the CITES community. Definitions as suggested under **bold item c).** above may be of use in this regard.
- iii) There is merit in creating a standardized, format-oriented mechanism for the formal declaration of “stocks” and “stockpiles” within a CITES context. The General and Specific criteria suggested under **bold item c.)** above can serve such purpose. [Note: Two Parties object to this conclusion].
- iv) The poor response to CITES Notification 2018/008 might be suggestive that existing mechanisms for monitoring and control of identified stocks and stockpiles are inadequate, and a more collegial, engaging and solicitous effort should be made in an attempt to better define the magnitude of existing stockpiles as well as significant challenges posed by their management.
- v) Technical experts have much to contribute by way of advising of best practices for robust stockpile management systems, identification of specimens, inventory, corruption prevention, and disposal / destruction of specimens, with sensitivity to cost effectiveness required by developing countries. A sampling of initial research in this regard may be studied in Annex 2 to this document.
- vi) There are multiple legal concerns regarding the sale of confiscated specimens. Principal considerations are itemized and described under **bold item f.)** above. There appears to be some inconsistency between some of these legal considerations and existing CITES provisions, particularly regarding Resolution Conf. 17.8.
- vii) Most Working Group members prefer a consistent management regime applied to all CITES-listed specimens, regardless of which Appendix they are listed on. [One Party disagrees with this conclusion]

Despite these broad conclusions, there is significant division within the Working Group, particularly regarding specifics of any recommendations based upon these conclusions. As a consequence, we request the Standing Committee to propose the following Decision to CoP18, requesting extension of the Working Group's mandate until CoP19.

Decision 17.170 (Rev. CoP18)

Directed to the Standing Committee

The Standing Committee shall, taking account of its provisional assessment in document SC70 Doc. 41 and with the assistance of the Secretariat, continue its review the existing provisions agreed by the Parties concerning controls on stocks and stockpiles of specimens of CITES-listed species. It shall consider their objectives and implementation, and the resource implications for Parties and the Secretariat, and shall report its conclusions and recommendations at the 19th meeting of the Conference of the Parties.

Review of Existing Provisions Agreed by the Parties

SC69 working group on Stocks and stockpiles <https://cites.org/sites/default/files/eng/com/sc/69/E-SC69-43.pdf>

This analysis represents the review of the existing provisions agreed to by the Parties concerning controls on stocks of specimens of CITES listed species provided in Annex 2 of document SC69 Doc. 43 prepared by Canada

CITES Doc	Species	Text	Context
Conf. 12.5 (Rev. CoP17) https://cites.org/sites/default/files/document/E-Res-12-05-R17.pdf	Tigers and other Asian big cats Appendix I/II	h) those Parties and non-Parties on whose territories there exist stocks of parts and derivatives of tiger and other Asian big cat species (such as tiger bone stocks), but not including preConvention specimens, to consolidate and ensure adequate control of such stocks, and where possible destroy the same, with the exception of those used for educational and scientific purposes;	https://www.cites.org/sites/default/files/eng/cop/09/doc/E9-Doc-29_29-4.pdf A first tiger resolution was adopted at CoP9 as “those Parties and non-Parties in whose countries stocks of tiger parts and products exist to consolidate and ensure adequate control of such stocks;” Focus is on illegal trade, particularly on domestic stocks for internal trade
Decision 17.228 https://cites.org/eng/dec/valid/17/81877	Asian big cats (Felidae spp.) Appendix I/II	Subject to external funds, the Secretariat shall, in consultation with range and consumer States, and in cooperation with partner organizations in the International Consortium on Combating Wildlife Crime (ICWC) and, as appropriate, other experts and organizations, continue the review of implementation of Resolution Conf. 12.5 (Rev. CoP17) and associated Decisions and prepare a report in consideration of legislative and regulatory measures; national law enforcement; demand reduction, education and awareness; prevention of illegal trade in parts and derivatives from facilities for keeping Asian big cats in captivity; and management of national and privately-held stocks of parts and derivatives.	At CoP8 China attempted to register a tiger breeding facility. This was a Long term facility with no wild tigers removed from wild since 1960. Tiger bone was used for TCM https://www.cites.org/sites/default/files/eng/cop/08/E-Com-1.pdf Issues therefore include wild vs captive bred, legal/ illegal; domestic use/ international trade; pre-convention / post-convention; consumer/source parties There have been decisions that tigers should only be bred for conservation use. There is also the issue of the scope of CITES – international trade, not management within range states for domestic use

CITES Doc	Species	Text	Context
Conf. 10.10 (Rev. CoP17)	Trade in elephant specimens Appendix I/II	<p>6. FURTHER URGES those Parties in whose jurisdiction there is an ivory carving industry, a legal domestic trade in ivory, an unregulated market for or illegal trade in ivory, or where ivory stockpiles exist, and Parties designated as ivory importing countries, to ensure that they have put in place comprehensive internal legislative, regulatory, enforcement and other measures to:</p> <p>c) introduce recording and inspection procedures to enable the Management Authority and other appropriate government agencies to monitor the movement of ivory within the State, particularly by means of:</p> <p>i) compulsory trade controls over raw ivory; and</p> <p>ii) comprehensive and demonstrably effective stock inventory, reporting, and enforcement systems for worked ivory;</p>	<p>There is another initiative directed to elephant ivory, https://cites.org/sites/default/files/eng/com/sc/69/E-SC69-51-03.pdf related to preparation of practical CITES guidance for the management of stockpiles, including their disposal. It should be noted that this guidance is not designed to be prescriptive to any Party, but rather to highlight options and best practice. the security burden and cost for Parties in managing or disposing of large and growing ivory stockpiles could be lightened through the wide dissemination of best practices and the development of comprehensive guidance for their management, including disposal</p>
Conf. 10.10 (Rev. CoP17)	Trade in elephant specimens Appendix I/II	<p>e) maintain an inventory of government-held stockpiles of ivory and, where possible, of significant privately held stockpiles of ivory within their territory, and inform the Secretariat of the level of this stock each year before 28 February, inter alia to be made available to the programme Monitoring the Illegal Killing of Elephants (MIKE) and the Elephant Trade Information System (ETIS) for their analyses, indicating the number of pieces and their weight per type of ivory (raw or worked); for relevant pieces, and if marked, their markings in accordance with the provisions of this Resolution; the source of the ivory; and the reasons for any significant changes in the stockpile compared to the preceding year;</p>	<p>Maintain detailed inventory Country reporting</p>
Conf. 10.10 (Rev. CoP17)	Trade in elephant specimens Appendix I/II	<p>9. FURTHER DIRECTS the Secretariat, with reference to the findings of ETIS, MIKE and its findings on the status of domestic ivory markets, and within available resources:</p> <p>a) to identify those Parties that have unregulated internal markets for ivory, where ivory is found to</p>	<p>Secretariat to report parties that are weak in regulation of ivory trade</p>

CITES Doc	Species	Text	Context
		be illegally traded, where ivory stockpiles are not well secured, or that have significant levels of illegal trade in ivory;	
Conf. 10.10 (Rev. CoP17)	Trade in elephant specimens Appendix I/II	10. DIRECTS the Secretariat, subject to available resources, to provide technical assistance to Parties to: b) support, where requested, the security and registration of government-held ivory stockpiles, and provide practical guidance for the management of these stockpiles; and	Secretariat to provide support and guidance
Conf. 9.14 (Rev. CoP17)	African and Asian rhinoceroses Appendix I/II	a) all Parties that have stocks of rhinoceros horn to identify, mark, register and secure such stocks, and declare these to the Secretariat each year before 28 February, in a format to be defined by the Secretariat; b) the Secretariat and other appropriate bodies, where possible, to assist those Parties with inadequate legislation, enforcement, or control of stocks, by providing them technical advice and relevant information;	Maintain inventory and report annually
Conf. 9.14 (Rev. CoP17)	African and Asian rhinoceroses Appendix I/II	7. DIRECTS the Secretariat, prior to each meeting of the Conference of the Parties, and pending external funding, to commission the IUCN/SSC African and Asian Rhino Specialist Groups and TRAFFIC to submit a report to the Secretariat on: c) stocks of specimens of rhinoceros and stock management,	Secretariat to facilitate a report to each CoP
Decision 17.138	Rhinoceroses (Rhinocerotidae spp.) Appendix I/II	The Secretariat shall report to the 69th meeting of the Standing Committee on its mission to Mozambique, paying particular attention to both the rate of successful or unsuccessful prosecutions, convictions and penalties, the reasons for these successes and failures and priority actions needed to address these, and to the status and security of Mozambique's stockpiles and the strength of its stockpile management system; that report should include any recommendations for the consideration of the Standing Committee.	The Secretariat should report on country specific mission on status and controls on a country specific management system

CITES Doc	Species	Text	Context
Decision 17.269	Saiga antelope (Saiga spp.) Appendix II	Range States of Saiga spp. and important consumer and trading countries of saiga parts and derivatives are encouraged to address challenges in controlling illicit trade in saiga horns and derivatives thereof by: b) ensuring effective stockpile management;	Unlike most of the other species in this review Saiga antelope is Appendix II. The Saiga antelope is a migratory species in S-E Europe and Central Asia that has declined drastically since the breakup of the former USSR and is now critically endangered. Threats include uncontrolled hunting for meat and horns. The horns from males are exported for traditional Chinese medicine and are presumably what is stockpiled. There is an MOU now in place between range states under the Convention on Migratory species (CMS) and an international work plan to address the conservation of the species in range states. In recent years seizures have declined. Issues are mainly stockpiles of wild specimens, maintaining legal stock piles without introduction of illegal supply.
Decision 17.271	Saiga antelope (Saiga spp.) Appendix II	Subject to the availability of external resources, the Secretariat should assist saiga range States and major trading and consumer States, upon request, in ensuring effective stockpile management and monitoring, including the development of inventories and improving stockpile security.	
Resolution Conf. 11.8	Tibetan antelope (Pantholops hodsonii) Appendix I	d) all Parties and non-Parties in whose territory stocks of Tibetan antelope parts and raw materials exist, adopt a registration system and national measures to prevent such stocks from re-entering into trade	Stocks of parts and raw materials would be the underfur (that cannot be harvested from live animals) that is used for the making of shatoosh shawls. Horns are also used in TCM, but trade driving population decline is the underfur. Due to strict control, populations are recovering from 1980s-90s lows due to commercial poaching but continuing strict controls are necessary to maintain recovery.
Decision 17.239	Pangolins (Mantis spp.) Appendix I	The Secretariat shall: b) subject to external funding, prepare in cooperation with relevant organizations, and in consultation with range and implicated States, at least two months before the 69th meeting of the Standing Committee, a report on: iii) relevant information on enforcement actions taken, including seizures, forensic analysis of seized specimens, arrests, prosecutions and judgments relating to illegal trade in pangolins as well as disposal of seized specimens;	There has been very little legal trade in pangolins. Large stock piles have been accumulated since/in anticipation of the CoP17 transfer to Appendix I by countries under the belief that specimens harvested while the species was still on Appendix II could be traded commercially after the Appendix I transfer came into force. This is due to differences in how Parties (and the Secretariat) interpret retroactivity to CITES listings. This issue could be resolved at CoP18. SC69 decision: in the

CITES Doc	Species	Text	Context
		iv) stock-piles of specimens and derivatives of pangolins and stockpile management including existing registration systems;	interim and until a decision is made by CoP18, Parties should treat specimens, including stockpiles, of Appendix I species of pangolin obtained when the species was listed in Appendix II, as Appendix I specimens and regulate trade in accordance with Article III of the Convention*. *CN regards this as a voluntary stricter domestic measure. This is a complex issue
From SC69		i) maintain an inventory of government-held stockpiles of pangolin scales and other specimens, including seized and confiscated specimens and, where possible, of significant privately held stockpiles of pangolin scales within their territory, and inform the Secretariat of the level of this stock and date of acquisition; the source of the stockpile; and the reasons for any significant changes in the stockpile before 28 February	
Conf. 17.12	Snakes Appendix II	a) that Parties, prior to the implementation of a traceability system for python skins, inventory and tag those skins and provide this information to the Secretariat as a baseline; b) that Parties ensure that the tagging method used distinguishes between skins of the initial stockpiles and skins harvested at later points in time; c) that Parties ensure that the inventories of the initial stockpiles contain information on the species concerned, the stage of processing of the skins (crust, dried, etc.) and the corresponding quantities and tag numbers, and also the year of harvest for skins newly entering the stockpiles;	CITES has been active in consideration potential issues related to snakes and stockpiles. However, the work of the AC has not shown a significant issue with illegal or unsustainable trade. Stockpiles are mentioned here within the context of implementation of a traceability system.
Decision 17.203	Malagasy ebonies (Diospyros spp.) and palisanders and rosewoods (Dalbergia spp.) Appendix II	Source, transit and destination Parties for specimens of species of the genera Dalbergia and Diospyros occurring in Madagascar are urged to: b) develop action plans to effectively manage timber stockpiles of Dalbergia spp. and Diospyros spp. from Madagascar;	MG populations of Diospyros spp. and Dalbergia spp at CoP16. There is currently a recommendation to suspend commercial trade in species from MG. Issues pertain to management of preconvention stockpiles and disposal of seized specimens.

CITES Doc	Species	Text	Context
Decision 17.204	Malagasy ebonies (<i>Diospyros</i> spp.) and palisanders and rosewoods (<i>Dalbergia</i> spp.) Appendix II	Madagascar shall: f) submit regular updates on audited inventories of at least a third of the stockpiles of species of <i>Dalbergia</i> and <i>Diospyros</i> from Madagascar, and a use plan for consideration, approval and further guidance from the Standing Committee;	As part of the listing of MG populations as proposed by MG, MG also proposed a series of decisions related to the management of the trade in these species. Key to the action plans was a pre-convention stockpile audit. https://www.cites.org/sites/default/files/common/cop/16/sum/E-CoP16-Com-I-Rec-13.pdf MG has not yet completely fulfilled the action plan
Decision 17.205	Malagasy ebonies (<i>Diospyros</i> spp.) and palisanders and rosewoods (<i>Dalbergia</i> spp.) Appendix II	Parties and relevant partners indicated in Decision 17.204 paragraph a) are invited to: b) provide technical and financial assistance in support of conducting audited inventories of <i>Dalbergia</i> spp. and <i>Diospyros</i> spp. from Madagascar;	
Decision 17.207	Malagasy ebonies (<i>Diospyros</i> spp.) and palisanders and rosewoods (<i>Dalbergia</i> spp.) Appendix II	The Standing Committee shall review and assess reports from Madagascar on the implementation of Decision 17.204 paragraph e) and f), and from the Secretariat on the implementation of Decision 17.208, and make recommendations, which may include appropriate compliance measures and an assessment as to whether the conditions for a partial sale of audited stocks are in place, in accordance with the criteria established in Decision 17.204, paragraphs e) and f).	

Comments by Technical Experts

World Customs Organization

Definitions:

It is well recognized that there are innumerable legal regimes in place within the WCO Member national frameworks that define and limit the extent of Customs authority. It is, therefore, undesired to propose or institutionalise a particular legal system over another. Due to the application of various legal systems by the WCO's Members, various definitions (and interpretations) may exist in relation to concepts such as detentions, seizures, forfeited goods and so on.

I have referenced both the Compendium of Customs Operational Practices for Enforcement and Seizures (COPES), as well as the Strategic Trade Control Enforcement (STCE) Implementation Guide – both documents are unfortunately only available to WCO member Administrations.

According to the STCE Implementation Guide, a detention is generally regarded as a formal hold on an item without transfer of ownership and may or may not lead to a seizure. When a potentially illicit shipment of a strategic commodity (i.e. a shipment potentially requiring authorization that has not been authorized) is discovered through the targeting and inspection processes, it may be necessary to detain the shipment to definitively identify the item, classify it with respect to national control lists, and determine the licensing/permitting status of the shipment. These activities will generally require technical research and /or referral to the licensing/permitting agency. If a violation / contravention is discovered, seizure of the goods (the first stage in a formal process that could result in forfeiture, or the transfer of property ownership, to the government) is possible, and an investigation may be launched. Seized property may have evidentiary value in addition to its intrinsic value as property, and special handling considerations may apply.

In light hereof, the WCO, as far as I could determine, does not have a standard definition for "stockpile" or "contraband". "Ownership" is likewise defined, as explained above, in terms of unique national legislation. However, in general terms, ownership is vested in the importer (or his agent or in some instances the carrier when shipped under cover of certain bills of lading / air waybills) until a contravention has been detected and the goods have been seized and forfeited (i.e. during seizure, there may still be ongoing litigation in order to determine whether an item is in fact subject to seizure, or not).

Procedures:

When customs seizes a consignment / item, it is either seized for a (i) customs contravention (e.g. undervaluation, incorrect tariff heading or even for a falsified CITES permit), or (ii) on behalf of another authority or state department for a possible contravention in terms of their legislation, which may also include the falsification of a CITES permit. This differentiation is important as in the first instance, the customs agency processes the consignment in accordance with customs legislation and procedures. In the second instance, customs usually hands the seized consignment to the relevant authority that then deals with it according to a different legal framework. There is usually no clear rule that prescribes when a seized consignment is supposed to be dealt with in accordance with customs legislation for a customs contravention, or not.

In addition, whether there is only an administrative penalty to be levied or whether criminal prosecution will be instituted also determines how seized goods will be dealt with. Therefore, after customs initiates a seizure on behalf of another agency, the case may be turned over for further disposition - a close working relationship between customs and other regulatory, investigative, and enforcement agencies is necessary. The point is, there are various aspects that come to play when a seizure is performed and each case should be dealt with on its own merit and in accordance with the prevailing local national legislation – once size does not fit all.

The governmental act of taking property is a sensitive issue and can be a liability-laden role for Customs. Customs needs to have procedures in place for handling dangerous, illicit, and/or high-value property, but in some instances this may not be fully developed. These procedures must also protect and preserve the value, including evidentiary value, of goods, as alluded to above.

Many customs warehouses / seizure stores lack the facilities (and staff the knowhow) to deal with live animals. Here health and safety aspects are of importance and Customs would mostly transfer live animals to organisations or institutions that can take care for the animals – e.g. a zoo. This should of course be subject to approval of the designated state veterinarian where cognisance is taken of quarantine requirements. With regards to parts of animals, these are, in the vast majority of cases, disposed of in a safe manner by the customs authority that effected the seizure. The return of seized animals and / or parts therefore are the exception and is usually negotiated on a bilateral basis.

I am of the opinion that a comparative analysis by members will probably highlight the need to expand and enhance their respective legal regimes in ways that may relate to seizures and enforcement practices.

As it turns out, I have requested for funding to develop a Practical Guide for Frontline Customs Officers on how to deal with various environmental matters (from waste shipments to CITES). The emphasis will fall on practical operational aspects, e.g. how to process seized live animals, or parts of animals. The matter which you are addressing is therefore also on our agenda and it may be of value for us to compare notes as we progress?

UNODC

We need to distinguish between evidentiary management, destruction or disposal of contraband, and “stockpiles”. Wildlife contraband is somewhat unusual in that it often has some current or anticipated legitimate commercial value. This not true, for example, for illicit drugs, which have no legal use and are destroyed as soon as they have served their evidentiary purpose. So, you do not have “stockpiles” of confiscated cocaine, for example. Commercial goods that are seized as counterfeit or as the proceeds of crime may be sold by the state, but they are not stockpiled for any length of time, so this would fall under the heading of evidentiary management.

Probably the best analogue to wildlife would be firearms, which are often stored by the state long term and may be sold to the public. There are several requirements around this, including mandatory registration and marking, that are detailed in our model law:

[https://www.unodc.org/documents/firearms-protocol/14-08330 Firearms revised ebook.pdf](https://www.unodc.org/documents/firearms-protocol/14-08330_Firearms_revised_ebook.pdf)

With regard to destruction, every type of contraband is different. We do make reference to ivory disposal in our forensic guide on the topic, but it mainly just refers to the CITES standards:

https://www.unodc.org/documents/scientific/Ivory_-_Ebook_Final.pdf

Some of the work we have produced on drug disposal may be relevant, since it goes over the environmental considerations of the various methods:

<https://www.unodc.org/unodc/en/scientists/safe-handling-and-disposal-of-chemicals-used-in-the-illicit-manufacture-of-drugs.html>

We have just produced an illustrated guide which is really good but not yet launched – maybe you call could do something similar for wildlife.

The question of “who owns wildlife” is a complicated one. In many national legal situations, it is not at all clear. If it were, it would make the matter of wildlife trafficking a lot simpler legally, because we could deem any unauthorised taking as the theft of state property. I’ve made this argument with regard to illegal fishing before, but this is easier, because the state property interest in territorial waters is agreed in the Convention on the Law of the Sea.

Under common law, wildlife deemed a “fugitive resource”, so traditionally if a deer wanders onto your land, you can shoot it. In this context, licensing of hunting involves the legal authorisation of a regulated activity, not a transfer of property rights.

National criminal laws can involve confiscation of property, which then becomes the property of the state. Under Article VIII.4.(b), the state can offer to transfer this property to another state by international agreement, but I don’t think this is tantamount to recognising the original ownership right of the origin state. States can contract to do whatever they like with their property.

INTERPOL

INTERPOL has developed a "STRIPES" database for stockpiles of tiger skins. The database has the ability to match individual tiger skins, and this has resulted in positive identification of skins stolen from stockpiles. India has an active database and is working with Nepal and Bhutan to expand the project.

Smithsonian Institution

* Intent is important and should be stated. The permanent collections of the Smithsonian Institution have a policy of "intent to keep forever."

* Most items are declared as "not valued," but footnotes on balance sheets direct readers to appropriate policies and regulations. Some items, such as those on loan, are appraised for insurance purposes.

* The Nagoya Protocol of the Convention on Biological Diversity may apply. A country of origin may have "ongoing interest" in an object. The Nagoya Protocol has created a permit system for the export of biological specimens.

* There are many collection management databases that include inventory. Features such as an attached photo, data and notes, and an inventory number, are often useful.

* Conversion from analog to digital inventory is a large and expensive process. Small inventories may benefit from remaining analog.

* The Museum Conservation Institute has guidance on the preservation of biological items. Smithsonian Institution can help to identify best practices for the preservation of priority CITES specimens.

* Smithsonian Institution has hosted symposia on the conservation and long-term preservation of museum specimens. Most advice encourages a stable, low temperature and low humidity environment. Great care needs to be taken when using chemicals, which also carry a serious liability risk.

* Smithsonian Institution can provide advice on best practices for the destruction of unwanted specimens that have been subjected to deaccession.

* Collection security involves physical, electronic and policy elements. Management tactics, such as storing valuable specimens in intentionally mislabeled and locked cabinets, can be useful. Security guards are sometimes the minimum-wage "weak links" that can be tempted. Increased reliance on electronic security helps to overcome the risks of temptation.

* Collections should be inventoried periodically. In large collections, "sampling" of specific items can sometimes be used in place of a total inventory. "SPECIFY" is a relatively inexpensive yet robust and useful inventory product which is available in English and Spanish. It is produced by the University of Kansas.

Stardust Materials

This is a research and development business that specializes in covert marking technology which can be applied to specimens of various CITES-listed species, such as timber and elephant ivory. A description of their products can be viewed at:

[file:///C:/Users/Bill/Downloads/Timber%20Brochure%20\(1\).pdf](file:///C:/Users/Bill/Downloads/Timber%20Brochure%20(1).pdf)

Resources

There are many guidelines available for stockpile management, and these may be considered as CITES addresses this issue in greater detail. A few such guidelines may be found in:

Svalbard Global Seed Vault (an excellent example of a carefully planned and managed project that is intent upon the secure stockpiling of genetic resources)

<https://www.regjeringen.no/en/topics/food-fisheries-and-agriculture/svalbard-global-seed-vault/id462220/>

Various major medical emergency stockpiles – stockpiles of vaccines or other medical items that must be properly inventoried and secure so they are immediately available in case of pandemic or other major medical emergency. Cholera preparation is an example. A descriptive document may be viewed at:

http://www.who.int/cholera/vaccines/Briefing_OCV_stockpile.pdf

Small arms stockpile management can provide yet additional best practices guidance on the stockpiling of items that might have an elevated risk of attempted theft. Very good guidance in stockpile management and security is available from International Small Arms Control Standards <http://www.smallarmsstandards.org/isacs/>

Additional professional guidance can be found at;

<file:///C:/Users/Owner/Downloads/SALW-module-9.pdf>
<file:///C:/Users/Owner/Downloads/SALW-module-9.pdf>

On-line inventory management systems: There are many inventory management systems available on-line. Some of these specialize in providing inventory guidance for collections that would be similar to CITES Declared Stockpiles, such as natural history museum collections, zoos, and other facilities. A few of the more popular inventory management systems are NetX, Doubleknot, Argus, Veevart, Eloquent Museum add Resource Mate.