

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



Seventy-first meeting of the Standing Committee
Colombo (Sri Lanka), 22 May 2019

Interpretation and implementation matters

General compliance and enforcement

Application of Article XIII

INTRODUCTION FROM THE SEA OF SEI WHALES
(*BALAENOPTERA BOREALIS*) BY JAPAN

1. This document has been prepared by the Secretariat.

Background

2. At its 69th meeting (SC69, Geneva, November 2017), the Standing Committee reviewed the case of Japan under Article XIII concerning the introduction from the sea of specimens from the North Pacific population of sei whale (*Balaenoptera borealis*), and agreed that:

The Secretariat should review the responses provided by Japan and, in consultation and cooperation with the Party concerned and the Chair of the Standing Committee, determine whether there is additional information to be considered. The Standing Committee requested the Secretariat at the invitation of the Government of Japan, to conduct a technical mission to the country pursuant to Article XIII of the Convention to assess the scientific, administrative and legislative arrangements for authorizing the introduction from the sea of specimens from the North Pacific population of the sei whale; and report its findings and recommendations to the 70th meeting of the Standing Committee (SC70).¹

3. Based on the report by the Secretariat of its technical mission to Japan contained in document SC70 Doc. 27.3.4, the Standing Committee at its 70th meeting (SC70, Sochi, October 2018) reviewed the present case, and agreed that the provisions of the Convention are not being effectively implemented with regard to:
 - a) the description of the specimens introduced from the sea by Japan;
 - b) the certificates for introduction from the sea issued by the Management Authority of Japan; and
 - c) the use of source codes in the annual reports submitted by Japan before 2016.
4. The Standing Committee noted that Japan had committed to adopting technical remedial actions addressing these matters. The Standing Committee further agreed that the introduction from the sea (IFS) of certain specimens (e.g. whale meat and blubber) of sei whales (*Balaenoptera borealis*) from the North Pacific population was not in compliance with Article III, paragraph 5(c) of the Convention. The Standing Committee reached this conclusion on the basis of the analysis in paragraphs 52 to 60 of document [SC70 Doc. 27.3.4](#) and approved the analysis and conclusion referred to as option a), which states that “the Management Authority of Japan has not had reasons to be satisfied that the specimens of sei whales are not to be used for primarily commercial purposes”. The Standing Committee recommended that Japan take immediate remedial action to comply with Article III, paragraph 5(c) of the Convention.

¹ SC69 Summary record, page 21.

5. The Standing Committee noted and accepted Japan's commitment to delay the departure of its research whaling vessels to the western North Pacific until after the 71st meeting of the Standing Committee (SC71) and to not issue any IFS certificates for specimens of sei whales from the North Pacific population prior to SC71, noting that there were no outstanding IFS certificates for sei whales that could be used.
6. The Standing Committee requested Japan to report to the Secretariat by 1 February 2019 on:
 - a) the implementation of the technical remedial actions mentioned above, and
 - b) the remedial actions implemented and proposed by Japan to accommodate the compliance matters concerning Article III, paragraph 5(c) of the Convention.
7. The Standing Committee requested the Secretariat to convey these reports and its recommendations to the 71st meeting of the Standing Committee. At its 71st meeting, the Standing Committee would review the Secretariat's report and, if not satisfied that the provisions of Article III, paragraph 5(c) are being met, take compliance measures.

Remedial actions proposed by Japan

8. Japan sent a letter to the Secretariat on 31 January 2019, reporting on the remedial actions that it had identified and implemented pursuant to the SC70 recommendations.

Regarding the implementation of the technical remedial actions

9. Japan reported on the three technical remedial actions identified in paragraph 3 above, as follows:
 - a) *the description of the specimens introduced from the sea.* Certificates of introduction from the sea (IFS certificates) issued in the future will include information describing the parts and derivatives that are introduced from the sea;
 - b) *the certificates for introduction from the sea issued by the Management Authority of Japan.* The format of the IFS certificates has been revised to contain the "information that should be included in CITES permits and certificates", as recommended in Resolution Conf. 12.3 (Rev. CoP17) on *Permits and certificates*. The letter from Japan was accompanied by an example of the new format for the IFS certificates to be used by the Japanese authorities. This format could be a good model for other Parties that are designing new templates for IFS certificates;
 - c) *the use of source codes in the annual reports submitted by Japan before 2016.* Japan has requested the Secretariat to replace the source code 'W' with 'X' of the specimens in the annual reports submitted before 2016.

Regarding the remedial actions implemented and proposed to accommodate the compliance matters concerning Article III, paragraph 5(c) of the Convention

10. In its letter of 31 January 2019, Japan informed the Secretariat that specimens of sei whales (*Balaenoptera borealis*) from the North Pacific population will not be introduced from the sea under lethal scientific whale research [i.e. New Scientific Whale Research Programme in the western North Pacific (NEWREP-NP)].
11. Japan further confirmed that it will cease any lethal sampling of sei whales from the North Pacific and that it would only undertake biopsy sampling using non-lethal methods. The information reported by Japan clearly indicates that the use of non-lethal methods implies that the introduction of whole bodies and by-products will cease because of this new policy. As a result, the introduction from the sea of specimens of whale meat and blubber will no longer take place. Japan also confirmed that it will not issue any IFS certificates pursuant to Article III, paragraph 5(c) of the Convention for specimens of sei whales (*Balaenoptera borealis*) from the North Pacific population, except for those obtained from non-lethal biopsy sampling (i.e. small pieces of whale skin) to be used for scientific analysis.
12. Japan finally stated that in the event that specimens of sei whales (*Balaenoptera borealis*) from the North Pacific population are to be introduced from the sea in accordance with Article III, paragraph 5 (c) of the Convention, it will respect the following conditions:

- a) the issuance of the IFS certificates will be in compliance with Article III, paragraph 5 (c) of the Convention, taking into account the conclusions of the SC70; and
- b) prior to the issuance of the IFS certificates for those specimens, except for those obtained from the biopsy sampling, Japan will report to the Standing Committee for its review. The report will include the explanation on how the issuance of the IFS certificates is in compliance with Article III, paragraph 5(c) of the Convention.

Consideration of the remedial actions proposed by Japan

13. The Secretariat recognizes the efforts made by Japan to identify and implement the technical remedial actions regarding the description of the specimens, the format of the certificates and the use of source codes in annual reports as described in paragraph 9 above. These actions are in accordance with the provisions of the Convention and relevant resolutions of the Conference of the Parties, in particular with Resolution Conf. 12.3 (Rev. CoP17).
14. The Secretariat notes that Japan has indicated that IFS certificates will be issued after the collection of specimens and before landing, so that the information on parts and derivatives that will be effectively introduced from the sea can be accurately described in the certificates. The Secretariat has requested the United Nations Environment Programme – World Conservation Monitoring Centre (UNEP-WCMC) to correct the source codes used before 2016 in the CITES trade database.
15. Regarding the remedial actions implemented and proposed to accommodate the compliance matters concerning Article III, paragraph 5(c) of the Convention, the Secretariat draws the attention of the Committee to the announcement made by Japan that it will not introduce specimens of sei whales from the North Pacific under lethal scientific whale research (i.e. it will cease lethal sampling of sei whales under the New Scientific Whale Research Program in the western North Pacific (NEWREP-NP)). The Secretariat notes the confirmation that Japan will not issue any IFS certificates pursuant to Article III, paragraph 5 (c) of the Convention for specimens of sei whales (*Balaenoptera borealis*) from the North Pacific population, except for those obtained from non-lethal biopsy sampling (i.e. small pieces of whale skin) to be used for scientific analysis on land; thus the introduction from the sea of specimens of whale meat and blubber will no longer take place.
16. Regarding the meaning and scope of the announcement described in paragraph 12 above, Japan has clarified that there are no current plans or even consideration of collecting specimens obtained from lethal sampling. Following a request from the Secretariat, Japan reconfirmed that it does not have at present a specific plan to issue IFS certificates pursuant to Article III, paragraph 5 c) of the Convention for specimens of sei whales (*Balaenoptera borealis*) from the North Pacific population, except for those obtained from non-lethal biopsy sampling (i.e. small pieces of whale skin) to be used in scientific analysis.
17. Nonetheless, Japan recognizes that there may be possible scientific needs in the future for specimens of sei whales from the North Pacific that can only be obtained from other methods than the non-lethal sampling. Should such circumstances arise, Japan explained that it would make sure that the issuance of relevant IFS certificates is in accordance with Article III paragraph 5 (c). To do so, Japan would report to the Standing Committee prior to the issuance of the IFS certificates the reasons on which it believes that the issuance of the IFS certificates is in compliance with relevant CITES provisions. Until the Standing Committee has not confirmed that the transactions are in compliance with the Convention, the IFS certificates referred to would not be issued and therefore the IFS of such specimens would not take place.

Recommendations

18. In light of the above, the Secretariat recommends that the Standing Committee determine that the compliance matters described in paragraph 9 above have been corrected by Japan and therefore can be considered resolved.
19. With regard to the compliance matter under Article III, paragraph 5(c) of the Convention, depending on its understanding of the explanations provided by Japan, the Standing Committee may decide to consider the compliance matter resolved and close the case or adopt adequate monitoring and implementation measures in accordance with paragraph 33 of the Annex to Resolution Conf. 14.3 on *CITES compliance procedures*.