

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

Fifth Meeting of the Conference of the Parties

Buenos Aires (Argentina), 22 April to 3 May 1985

Interpretation and Implementation of the Convention

CERTIFICATES OF ORIGIN FOR APPENDIX III SPECIMENS

This document has been prepared and submitted by the United States of America.

1. Article V, paragraph 3, requires that a certificate of origin shall be presented on import of an Appendix III specimen from a country of export (excluding re-export) that has not included the species in Appendix III.
2. Since customs authorities normally issue certificates of origin in the performance of their customs responsibilities, there has been some confusion as to whether the certificates of origin mentioned in Article V, paragraph 3, may be issued by customs officials who are not in any way associated with a Management Authority, or nature conservation authority in the case of states not a Party to the Convention (see Conf. 3.8).
3. At the Seminar on CITES Implementation in Asia and Oceania, the delegate of India stated that certain Appendix III snake skin specimens were being smuggled out of India and were "laundered" in another country by obtaining certificates of origin from customs officials.
4. Certificates of origin issued for Appendix III specimens under Article V, paragraph 3, can only be issued by Management Authorities competent to grant permits or certificates on behalf of the Party, or by the appropriate nature conservation authorities.
5. Article IX, paragraph 2, requires each Party to designate one or more Management Authorities competent to grant permits or certificates on behalf of that Party.
6. Article VI, paragraphs 1 and 3, provide that each permit or certificate granted under Articles III, IV and V shall contain the name and any identifying stamp of the granting Management Authority and a control number assigned by that Authority.
7. Thus Article IX, paragraph 3, and Article VI, paragraphs 1 and 3, taken together stand for the proposition that only designated Management Authorities competent to grant CITES permits and certificates may do so and that includes certificates of origin issued by countries exporting Appendix III specimens if they did not include the species in Appendix III.

8. Opposition, which has been expressed against the contention of this paper, centres on an interpretation of Article V and on the difficulties presented to traders who might be inconvenienced if they had to get certificates of origin from Management Authorities or other competent authorities rather than from customs officials.
9. The opposition contends that Article V, paragraph 3, does not make mention of who should issue these certificates of origin. But Article V, paragraph 3, also mentions export permits without mentioning who is to issue them. Is it contended that export permits may also be issued by customs officials not competent to issue CITES documents? Furthermore, the comparable paragraphs in Articles III and IV (paragraphs 3 and 4 respectively) do not state who should issue the permits to be presented on import, but only provide that certain findings shall be made by the Management and Scientific Authorities before a permit may be issued. In order to determine who shall issue any permit or certificate one must consult Article VI which, as stated above, requires permits and certificates granted under Articles III, IV, and V to be granted by a competent Management Authority.
10. Whether obtaining a certificate of origin from a competent authority is more burdensome than obtaining one from a customs official would vary with the country and the individual applicant. Certainly those exporters who also regularly deal in Appendix II specimens would find it more convenient to get their Appendix III certificates of origin from the same authority. Convenience should not be more important than what is required by the Convention and what is needed to assure that documents are issued under the appropriate circumstances.

DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES

Certificates of Origin for Appendix III Specimens

RECALLING that according to Article VI of the Convention each permit or certificate shall contain the title of the Convention, the name and any identifying stamp of the Management Authority granting it and a control number assigned by the Management Authority;

RECALLING also that Resolution Conf. 3.6 urges every Party to comply fully with the requirements of Article VI;

RECOGNIZING that the practice of issuing certificates of origin for export of Appendix III specimens by customs or other authorities that are not designated as competent to issue Convention permits or certificates does not satisfy the requirements of Articles V and VI of the Convention and can diminish the effective implementation of the Convention;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

RECOMMENDS that certificates of origin issued for export of specimens of species listed in Appendix III only be issued by a Management Authority competent to grant Convention permits or certificates or by the competent authority if trade is from a state not a Party to the Convention and that Parties do not accept certificates of origin unless they are issued by such authorities.