

Interpretation and Implementation of the Convention

IMPLEMENTATION OF ARTICLE XIV, PARAGRAPHS 4 AND 5

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

Background

1. Although the overwhelming majority of species now listed in the CITES appendices are terrestrial, the provisions of CITES apply to all species of wild fauna and flora, including marine species.
2. The management of many marine species comes under the jurisdiction or competence of another international treaty, convention or agreement. International trade in any species of marine fauna or flora is also within the purview and competence of CITES. Therefore, even if a marine species is subject to management under another international treaty, convention or agreement, if it is listed in any CITES appendix, international trade and introduction from the sea in the species is regulated by CITES.
3. CITES made preparation for such dual competence when the treaty was written. Article XIV, paragraph 4, of the Convention provides that a State party to the Convention, which is also a party to any other treaty, convention or international agreement which was in force at the time of the coming into force of CITES and under the provisions of which protection is afforded to marine species included in Appendix II, is relieved of the obligations imposed on it under CITES with respect to trade in specimens included in Appendix II that are taken by ships registered in that State and in accordance with

the provisions of such other treaty, convention or international agreement. This relief from CITES obligations does not apply to specimens of species included in Appendix I.

4. This provision of the Convention has never been used and standards for its implementation have not been developed.
5. Currently no marine species whose management is under the competence of another treaty, convention or agreement is listed in Appendix II. A number of whale species are managed under the competence of the International Convention for the Regulation of Whaling, but all those species are listed in Appendix I.
6. It would be wise to plan for the inclusion in Appendix II of a species to which Article XIV, paragraph 4, relates, by specifying requirements for certificates issued pursuant to Article XIV, paragraph 5, of the Convention, even though use of Article XIV, paragraph 5, is not necessary at this time.

Notes from the Secretariat

1. The Secretariat can not confirm whether it is true, that the provision of Article XIV, paragraph 4, has never been used, as stated under point 4.
2. The West Greenland stock of *Balaenoptera acutorostrata* is listed in Appendix II and is under the competence of IWC. The statements in points 5. and 6. are therefore not totally correct.

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DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES

Implementation of Article XIV, paragraphs 4 and 5

RECALLING the provisions of Article VI of the Convention regarding permits and certificates;

RECALLING that Article XIV, paragraph 2, of the Convention states that the provisions of the Convention shall in no way affect the provisions of any domestic measures or the obligations of Parties deriving from any treaty, convention, or international agreement relating to other aspects of trade, taking, possession, or transport of specimens which is in force or subsequently may enter into force for any Party including any measure pertaining to the Customs, public health, veterinary or plant quarantine fields;

RECALLING that Article XIV, paragraph 4, of the Convention provides that a State party to the Convention, which is also a party to any other treaty, convention or international agreement which was in force at the time of the coming into force of CITES and under the provisions of which protection is afforded to marine species included in Appendix II, is relieved of the obligations imposed on it under CITES with respect to trade in specimens included in Appendix II that are taken by ships registered in that State and in accordance with the provisions of such other treaty, convention or international agreement;

RECALLING further that, notwithstanding the provisions of Article IV, any export of an Appendix-II marine specimen taken in accordance with Article XIV, paragraph 4, shall

only require a certificate from a Management Authority of the State of introduction to the effect that the specimen was taken in accordance with the provisions of the other treaty, convention or international agreement, if the Party is also party to the other treaty, convention or agreement;

RECALLING the standardization of permits and certificates issued by the Parties called for in Resolution Conf. 3.6 and Conf. 8.5 adopted at the third (New Delhi, 1981) and eighth (Kyoto, 1992) meetings of the Conference of the Parties;

NOTING that this provision of the Convention has never been used and that standards for its implementation have not been developed;

NOTING that while management of marine species may come under the jurisdiction or competence of another international treaty, convention or agreement, international trade in any species of marine fauna or flora is within the purview and competence of CITES;

RECALLING that for Parties which are not party to the other convention, treaty or agreement, CITES permit requirements of Article IV and relevant Resolutions of the Conference of the Parties remain in effect;

RECALLING the obligation for CITES Parties under Article VIII to submit annual reports detailing trade in specimens of species included in Appendices I, II and III;

THE CONFERENCE OF THE PARTIES TO THE
CONVENTION

RECOMMENDS that, in the implementation of paragraphs 4 and 5 of Article XIV:

- a) for CITES Parties that are parties to another treaty, convention or agreement, a valid certificate under Article XIV, paragraph 5, consists of any certificate of origin, observer report or statistical document issued by or on the authority of the other treaty, convention or international agreement which was in force at the time of the coming into force of CITES and under the provisions of which protection is afforded to marine species included in Appendix II;
- b) if a document already is used by the other treaty, convention or agreement, which contains the information specified in c), below, it serve as a valid certificate under Article XIV, paragraph 5;
- c) minimum information included on the certificate include the following:
 - i) a control number;
 - ii) exporter's name and address;
 - iii) importer's name and address;

- iv) names of plant or animal species – common and scientific;
 - v) description of the specimens;
 - vi) numbers or marks appearing on the specimens, if applicable;
 - vii) quantity and weight of specimens, and unit of measure used;
 - viii) country of export (including introduction from the sea);
 - ix) country or countries of re-export, if applicable; and
 - x) date of issue and date of expiry;
- d) validation of the above certificate by the Management Authority may consist of one of the following:
 - i) stamp or seal and signature of the Management Authority; or
 - ii) a copy of a letter signed by the Management Authority stating that the certificate shall serve as a valid certificate under Article XIV, paragraph 5, if attached to the copy of the letter; and
 - e) such certificate state that the taking was in accordance with the provisions of the other treaty, convention or international agreement.