Doc. 9.54

Interpretation and Implementation of the Convention

DISPOSAL OF SKINS OF ILLEGAL ORIGIN

This document has been prepared and submitted by Italy.

1. During the period 1987–1990, many skins of *Varanus niloticus* entered Italy.
2. It was discovered later that skins had been imported from Nigeria into France in 1982 and were of illegal origin. Refer to the excerpt from the alleged infractions report (Doc. 8.19) attached as Annex.
3. It appears that the Italian trader was not involved in the infraction and is now being penalized for an infraction that he did not commit.
4. On 11 February 1993, the Italian Management Authority, in the presence of representatives of the Secretariat, made an inventory of the skins, which were then put under the control of the Italian Management Authority.
5. The current stock of skins is composed of 100,574 *Varanus* skins. More precisely the stock includes:

47,082	tanned and coloured skins
16,260	salt crusted skins
15,540	crusted skins
20,000	crusted skins
1,692	crusted scraps

6. At the seventh meeting of the Conference of the Parties, held in Lausanne in 1989, the Secretariat of the Convention introduced document Doc. 7.34 on Treatment of Genuine Re–export Certificates for Illegal Specimens and it requested a decision of the Conference of the Parties.
7. The Conference advised the Secretariat to "always advocate rejection of a shipment containing illegal specimens regardless of whether genuine re–export papers had been issued " for them.
8. Therefore, the Secretariat recommended to the Parties to refuse any Italian re–export certificate related to these specimens.
9. On 22 February 1993, we sent a letter to the Secretariat requesting it to submit the case to the attention of the Standing Committee in order to work out a solution.

   The Secretariat gave our request to the Chairman of the CITES Standing Committee. The answer of the Chairman was, "the Standing Committee is not able to change the decision of COP7".
10. Therefore Italy is requesting the Conference of the Parties to authorize the re–export of the stock at present under the control of the Italian Management Authority and the CITES Secretariat.

Doc. 9.54 Annex

Excerpt from Alleged Infractions Report (Document Doc. 8.19)

NUMBER: 12
REFERENCE: 50494
TITLE: MONITOR LIZARD SKINS FROM NIGERIA TO EUROPE

Case 1: Skins from Nigeria exported to France and subsequently imported by other countries in Europe

In March 1991, Argentina requested the Secretariat to confirm the validity of an Italian re-export certificate for 20,000 monitor lizard skins (*Varanus niloticus*; Appendix II) originating in Nigeria. Responding to an enquiry from the Secretariat, the Management Authority of Italy stated that the skins had been imported from Spain, having been imported there from France. Based upon the information detailed below, the Secretariat recommended to Argentina to confiscate the shipment and, if this were not possible, to send back the skins to Italy for confiscation. (On 15 September 1991 the skins were still in Argentina).

1. Between 27 October and 8 December 1982, a French trader imported several shipments of skins of *Varanus niloticus* from Nigeria, totalling 234,411 skins. No export permit from Nigeria was presented at the time of import.
2. On 8 December 1983, the Management Authority of France requested that the trader present the original export documents.
3. On 21 December 1983, the trader passed to the Management Authority of France two documents: a "hides and skins health and origin certificate" for 234,411 skins; and a "free disposal permit" issued in Kano in 1982 (nos. 134 and 135) for 100,000 skins.
4. On 8 June 1984, France issued EEC import permit no. I–84514 for 234,411 skins of *Varanus niloticus*. This import permit did not include the number of a Nigerian export permit (as required) but did indicate, as the source of the skins, "pre-Convention, 11 1983" (although the "11" was unclear and may have been "12"). The Convention entered into force in France on 9 August 1978 and in Nigeria on 1 July 1975. The species had been listed in the appendices since 1973. Therefore, there appears to be no reason to have considered the skins as pre–Convention.
5. On 19 June 1984, France issued re-export certificate no. E–843520 for the re–export of 132,743 skins of *Varanus niloticus* to Spain. No Nigerian permit number was indicated on the certificate, nor the source of the skins. According to a letter written by the trader, this re-export certificate was issued on the basis of import permit I–84514, noted above.
6. On 24 July 1984, the Management Authority of France cancelled import permit no. I-84514 because, they said, it had been issued "by mistake".
7. On 31 July 1984, the Management Authority of France informed the Customs Service that import permit no. I–84514 had been cancelled, and requested them to prevent any import with this permit. This was inconsequential because the skins had already been in France since 1982.
8. In spite of the cancellation of import permit no. I–84514, on 5 September 1984 the Management Authority of France issued, to the same trader, two certificates for re-export to Spain, nos. E–845311 and E–84512 for 16,179 and 85,489 skins, origin Nigeria. No Nigerian export permit number was given on the certificates but it was clear that they were based on import permit no. I–84514. The source indicated on the certificates was

"wild", and they included the statement "skins under control of Customs since 1982".

9. The three French re–export certificates thus accounted for all the skins that had been imported on import permit no. I–84514.

On the basis of this information, the following conclusions are made:

10. The skins were exported from Nigeria contrary to the Convention, the Management Authority having not issued an export permit for them. The skins were also imported into France contrary to the Convention.

11. It is unclear why France, after cancelling import permit no. I–84514, subsequently issued two certificates for re-export of skins.

12. The three re-export certificates issued by France were not valid, not only because the original import of skins from Nigeria was contrary to the Convention, but also because the re–export certificates did not indicate a Nigerian export permit number.

13. In 1987 Spain permitted the re–export of 104,500 skins, origin Nigeria, on the basis of French EEC certificate no. E–843520, as follows:

    41,800 skins to the United Kingdom (certificates CEE AA39/87 and AA40/87);

    62,700 skins to Germany (certificates CEE AA41/87, AA42/87 and AA43/87).

    The EEC certificates mentioned, as country of origin, "Nigeria re-exportation from France no. E–843520", and gave the date of acquisition as 19.6.84.

14. In September 1987, the Management Authority of Italy accepted an import from Spain of 20,900 skins with EEC certificate no. AA 42/87. This EEC certificate (stamped by the Management Authority of Italy) was then used in order to re–export skins to Austria, although such a document can not legally be used for re–export from the EEC, and the Austrian trader wanted to re-export the skins to the USA in July 1991. (The Secretariat informed the Management Authority Austria but did not receive a response).

    In 1988, the Management Authority of Italy accepted a further import from Spain of 20,900 skins with EEC certificate no. AA39/87.

15. In July 1989, Italy accepted yet another import of 20,900 skins from Spain, with EEC certificate AA41/87. On the basis of this document, on 4 April 1991 the Management Authority of Italy issued EEC certificate no. RC/1991/MI/0921, for 9,989 skins. This was used to export the skins to Switzerland although EEC certificates may not legally be used for export from the EEC. It specified as the country of origin "Nigeria del 19.6.84". It also gave 12.7.89 as the date of acquisition, which was incorrect.

Doc. 9.55 (Rev.)

Interpretation and Implementation of the Convention

DISPOSAL OF CONFISCATED LIVE ANIMALS

The attached draft resolution (Annex) has been prepared and submitted by the Animals Committee.

Notes from the Secretariat

1. Some confusion appears in the use of the terms "seized/seizure" and "confiscated/confiscation". As it would be useful to have guidelines applicable in both circumstances, the Secretariat suggests that:

   a) in the draft resolution, the further recommendation becomes recommendation d) and be amended to read "that in case ... the shipment be seized and then confiscated ...";

   b) in paragraph URGES, reference should be made to "seized and confiscated live specimens";

   c) Annex 2 to the draft resolution should be entitled "Guidelines to Develop an Action Plan for Seized and Confiscated Live Animals", and some paragraphs should be amended accordingly.

2. The Secretariat is not convinced that it should be informed of all decisions taken on the disposal of confiscated live animals. There is no indication of what it would be expected to do with so much information. If the information were limited to large commercial shipments and Appendix–I species, the Secretariat might hold this as a basis for offering advice when requested.

3. CITES deals with international trade. Therefore, dealing with the return of specimens to the wild is out of its scope of activities as are, e.g. anti–poaching activities or methods of capture. CITES Guidelines should be limited to the conditions for return of live animals to the country of export or origin, and for disposal in the country of confiscation. Some other options dealt with in Annex 1 to the draft resolution might also be outside the scope of CITES.

   This does not mean that Parties and the Secretariat should not be concerned about the issue of returning specimens to the wild.

4. In principle, the CITES Secretariat is authorized to communicate with one Management Authority of each Party (Article IX, paragraph 2). There are some exceptions with certain Parties. For example, the Secretariat asked the Parties to designate, if they so wished, enforcement bodies with which it could have direct communication in case of infractions (Notification to the Parties No. 630 of 8 April 1991). A very small number of Parties answered positively. Therefore the Secretariat recommends that paragraph 3 of Annex 2 to the draft resolution be amended to indicate that the Management Authority should be contacted.

Doc. 9.55 Annex

DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES

Disposal of Confiscated Live Animals of Species Included in the Appendices

RECALLING that according to Article VIII, paragraph 4(b), of the Convention, confiscated animals shall, after consultation with the State of export, be returned to that State at the expense of that State, or to a rescue centre or such other place as the Management Authority deems appropriate and consistent with the purposes of the Convention;

RECALLING that Article VIII, paragraph 4(c), of the Convention, leaves open the possibility for the Management Authority to obtain the advice of a Scientific Authority or of the Secretariat;

RECALLING Resolution Conf. 3.14, adopted at the third meeting of the Conference of the Parties (New Delhi, 1981), on the Disposal of Confiscated or Accumulated Specimens of Appendix–I Species;

RECALLING Resolution Conf. 4.17, adopted at the fourth meeting of the Conference of the Parties (Gaborone, 1983), on the Re–export of Confiscated Specimens;

RECALLING that Resolution Conf. 4.18, adopted at the fourth meeting of the Conference of the Parties (Gaborone, 1983), asks the Parties not having done so yet, to adopt legislation in order to charge the costs of returning confiscated live specimens to the State of origin or export, to the guilty importer and/or carrier;

RECALLING Resolution Conf. 7.6, adopted at the seventh meeting of the Conference of the Parties (Lausanne, 1989), about the Return of Live Animals of Appendix–II or –III Species;

NOTING that shipments of Appendix–II or –III live animals often include large quantities of specimens for which no adequate housing can be made available, and that in general there are no detailed data about provenance for these specimens;

CONSIDERING that the successful recovery of the costs of confiscation and disposal from the guilty party may be a disincentive for illegal trade;

CONSIDERING that specimens once in trade no longer form part of the reproducing wild population of the species concerned;

CONCERNED about the risks of releasing confiscated specimens into the wild, such as the introduction of pathogens and parasites, genetic pollution and negative effects on the local fauna and flora;

CONSIDERING that release to the wild may not always be in the best interest of the conservation of a species, especially one not in danger of extinction;

RECALLING that IUCN is developing draft Guidelines for the Disposal of Confiscated Animals and Guidelines for Re–introductions;

CONVINCED that the ultimate objective of the Convention is the continued existence of wild populations in their natural habitat;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

RECOMMENDS

a) that the Management Authorities before making a decision on the disposal of confiscated live animals of species in the appendices consult with and obtain the

advice of their own Scientific Authorities and, if possible, of that of the State of export of the confiscated animals, and other relevant experts, such as IUCN/SSC Specialist Groups;

b) that Scientific Authorities in preparing their advice take note of the guidelines in Annex 1; and

c) that the Secretariat be informed about any decision taken on the disposal of confiscated live animals that are either in Appendix I or, if in Appendix II or III, involve commercial quantities;

RECOMMENDS further

d) that in the case where live animals arrive in an importing country without the proper export permits or re–export certificates, and where an importer refuses to accept a shipment of live animals, the shipment be confiscated and the animals disposed of in accordance with the guidelines set out in Annex 1;

URGES Management Authorities, in consultation with Scientific Authorities and other bodies concerned, to develop action plans to deal with seized and confiscated live animals consistent with Annex 2; and

REPEALS the Resolutions, or parts thereof, listed hereunder:

a) Resolution Conf. 2.15 (San José, 1979) – Exchange of Confiscated Appendix–I Specimens;

b) Resolution Conf. 3.14 (New Delhi, 1981) – Disposal of Confiscated or Accumulated Specimens of Appendix–I Species, paragraphs b), f), g) and h); and

c) Resolution Conf. 7.6 (Lausanne, 1989) – Return of Live Animals of Appendix–II or –III Species.

Annex 1

CITES Guidelines for the Disposal of Confiscated Live Animals

Statement of Principle

When live animals are confiscated by government authorities, these authorities have a responsibility to dispose of them appropriately. Within the confines of the law, the ultimate decision on disposal of confiscated animals must achieve three goals: 1) to maximize conservation value of the specimens without in any way endangering the health, behavioural repertoire, or conservation status of wild or captive populations of the species[1]; 2) to discourage further illegal or irregular trade in the species; and 3) to provide a humane solution, whether this involves maintaining the animals in captivity, returning them to the wild, or employing euthanasia to destroy them.

Statement of Need

Increased regulation of trade in wild plants and animals and enforcement of these regulations has resulted in an increase in the number of wildlife shipments intercepted by government authorities as a result of non–compliance with these regulations. In some instances, the interception is a result of patently illegal trade; in others, it is in response to other irregularities, such as insufficient or incomplete paperwork from the exporting country or poor packing that has compromised the welfare of the live animals in the shipment. While in some cases the number of animals in a confiscated shipment is small, in many others the number is in the hundreds. Although in many countries, confiscated animals have usually been donated to zoos or aquaria, this option is proving less viable with large numbers of animals and, increasingly, common species. The international zoo community has recognized that placing animals of low conservation priority in limited cage space may benefit those individuals but may also detract from conservation efforts as a whole. They are, therefore, setting conservation priorities for cage space (IUDZG/CBSG 1993).

In light of these trends, there is an increasing demand — and urgent need — for information and advice to guide confiscating authorities in the disposal of live animals. Although specific guidelines have been formulated for certain groups of organisms, such as parrots (BirdLife International in prep.) and primates (Harcourt 1987), no general guidelines exist.

When disposing of confiscated animals, authorities must adhere to national, regional and international law. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) requires that confiscated individuals of species listed on the treaty's appendices be returned to the "State of export...or to a rescue centre or such other place as the Management Authority deems appropriate and consistent with the purpose of the Convention" (Article VIII). However, the treaty does not elaborate on this requirement, and CITES Management Authorities must act according to their own interpretation, not only with respect to repatriation but also as regards what constitutes disposal that is "appropriate and consistent" with the treaty. Although the present guidelines are intended to assist CITES Management Authorities in making this assessment, they are designed to be of general applicability to all confiscated live animals.

The lack of specific guidelines has resulted in confiscated animals' being disposed of in a variety of ways, many inconsistent with conservation objectives. In some cases, release of confiscated animals into existing wild populations has been made after careful evaluation and with due regard for existing guidelines (IUCN 1987). In other cases, such releases have not been well planned. Poorly planned releases of confiscated animals may doom these animals to a slow, painful death. Such releases may also have strong negative conservation value by threatening existing wild populations. Threats to existing populations can take several forms: 1) diseases and parasites acquired by the released animals while held in captivity may spread into existing wild populations; 2) individuals released into existing populations, or in areas near to existing populations, may not be of the same race or subspecies as those in the wild population, resulting in mixing of distinct genetic lineages; 3) animals held in captivity, particularly juveniles and immatures, may acquire an inappropriate behavioural repertoire from individuals of other related species. Release of these animals could result in inter–specific hybridization.

Disposal of confiscated animals is not a simple process. Only on rare occasions will such disposal be straightforward or result in an action with conservation value. Options for disposal of confiscated animals have thus far been influenced by the perception that returning animals to the wild is the optimal solution in terms of both animal welfare and conservation. A growing body of scientific study of reintroduction of captive animals suggests that such actions may be among the least appropriate options for many reasons. This recognition requires that the options available to confiscating authorities for disposal of the animals be carefully reviewed.

[1] *Although this document refers to species, in the case of species with well-defined subspecies and races, the issues addressed will apply to lower taxonomic units.*

Management Options

In deciding on the disposal of confiscated animals, managers must ensure both the humane treatment of the animals and the conservation and welfare of existing wild populations of the species involved. Options for disposal fall into three principal categories: 1) maintenance of the individuals in captivity; 2) returning the individuals in question to some form of life in the wild; and 3) euthanasia. The last option may often prove the most appropriate –– and most humane.

Within a conservation perspective, by far the most important consideration in reviewing the options for disposal is the conservation status of the species concerned. For confiscated animals of endangered or threatened species, particular effort should be directed towards evaluating whether and how these animals might contribute to a conservation programme for the species. The decision as to which option to employ in the disposal of confiscated animals will depend on various legal, social, economic and biological factors. The "Decision Tree" provided in the present guidelines is intended to facilitate consideration of these options. The tree has been written so that it may be used for both threatened and common species, although it is recognized that the conservation status of the species will be the primary consideration affecting whether or not confiscated animals might be valuable to an active conservation breeding/reintroduction programme, and whether or not local or international agencies will be willing to make an investment in expensive and difficult tasks such as genetic determination of provenance or the establishment of reintroduction, benign introductions, or reinforcement of extant wild populations. International networks of experts, such as the IUCN–Species Survival Commission Specialist Groups, should be able to assist confiscating authorities, and CITES Scientific and Management Authorities, in their deliberations as to the appropriate disposal of confiscated specimens.

Option 1 – Captivity

Confiscated animals are already in captivity; there are numerous options for maintaining them in captivity. Depending on the circumstances, animals can be donated, loaned or sold. Placement may be in zoos or other facilities, or with private individuals. Finally, placement may be either in the country of origin, the country of export (if different), the country of confiscation, or in a country with adequate and/or specialized facilities for the species in question. If animals are maintained in captivity, in preference to either being returned to the wild or destroyed, they must be afforded humane conditions and ensured proper care for their natural lives.

Zoological gardens and aquaria and safari parks are the captive facilities most commonly considered for disposal of animals, but a variety of other captive situations exist. These include the following.

a) Rescue centres, established specifically to treat injured or confiscated animals, are sponsored by a number of humane organizations in many countries.

b) Lifetime care facilities devoted to the care of confiscated animals have been built in a few countries.

c) Specialist societies or clubs devoted to the study and care of single taxa or species (e.g. reptiles, amphibians, birds) have, in some instances, provided an avenue for the disposal of confiscated animals without involving sale through intermediaries.

d) Humane societies may be willing to ensure placement of confiscated specimens with private individuals who can provide humane lifetime care.

e) Universities and research laboratories maintain collections of exotic animals for many kinds of research (e.g. behavioural, ecological, physiological, psychological, medical). Attitudes towards vivisection, or even towards the non–invasive use of animals in research laboratories as captive study populations, vary widely from country to country. Whether transfer of confiscated animals to research institutions is appropriate will therefore engender some debate, although transfer to an establishment that conducts research under humane conditions may offer an alternative, and one which may eventually contribute information relevant to the species' conservation. In many cases, the lack of known provenance, and the potential that the animal in question has been exposed to unknown pathogens will make transfer to a research institution an option unlikely to be exercised or desired.

f) Sale of confiscated specimens to traders, commercial captive breeders, or others involved in commercial activities can provide a means of disposal that helps offset the costs of confiscation. However, sale should only be considered in certain circumstances, such as where the animals in question are not threatened and not subject to a legal prohibition on trade (e.g. CITES Appendix II) and there is no risk of stimulating further illegal or irregular trade. Sale to commercial captive breeders may contribute to reducing the demand for wild–caught individuals. At the same time, however, it may prove to be a poor option due to the risk of creating a public perception of the State's perpetuating or benefiting from illegal or irregular trade. Finally, confiscating authorities should be aware that, unless specific legal provisions apply, it is impossible to assure the welfare of the animals following placement.

Where animals are transferred by the confiscating authority but not sold, ownership should be specified as one of the terms and conditions of the transfer. Where the country of origin desires to retain ownership, this desire should be respected. The custodian (zoo, welfare organization) of confiscated animals should only move the animals to another facility for legitimate humane and propagation purposes.

Captivity – Benefits And Disadvantages

The *benefits* of placing confiscated animals in a facility that will provide lifetime care under humane conditions include:

a) educational value;

b) potential for captive breeding for eventual reintroduction; and

c) possibility for the confiscating authority to recoup, from sale, the costs of confiscation.

The *disadvantages* of placing animals in a facility other than one involved in an established programme for captive breeding and reintroduction include the following.

a) Potential to Encourage Undesired Trade. Some (e.g. Harcourt 1987) have maintained that any transfer – whether commercial or non–commercial – of confiscated animals risks promoting a market for these species and creating a perception of the State's being involved in illegal or irregular trade.

BirdLife International (in prep.) suggests that in certain circumstances sale of confiscated animals does not necessarily promote undesired trade. They offer the following requirements that must be met in order for sale by the confiscating authority to be permitted: 1) the species to be sold is already available in the confiscating country in commercial quantities; and 2) wildlife traders under indictment for, or convicted of, crimes related to import of wildlife are prevented from purchasing the animals in question. Experience in selling confiscated animals in the USA suggests that it is virtually impossible to ensure that commercial dealers

implicated or suspected of being implicated in illegal or irregular trade are not involved, directly or indirectly, in purchasing confiscated animals. This suggests that confiscation results in increased costs but is not necessarily a disincentive as regards the practices or problems that gave rise to confiscation.

Placing threatened species into commercial trade should not be considered because of the risks of stimulating unwanted trade. Appendix–I species can be sold to a registered commercial Appendix–I breeding facility, but these specimens can not be resold or enter commercial trade. As captive–bred offspring of Appendix–I species are deemed to be specimens of species included in Appendix II, there is the potential for commercial breeders to breed animals in captivity to replace wild–caught animals as a source for trade. Hence sale, in certain circumstances (e.g. to commercial captive breeders) may have a clearer potential for the conservation of the species than non–commercial disposal or euthanasia. Such breeding programmes must be carefully assessed and approached with caution. It may be difficult to monitor these programmes and such programmes may unintentionally, or intentionally, stimulate trade in wild animals.

It is essential that confiscating authorities recognize that there are many threatened species that are not included in the CITES appendices but may require the same treatment as CITES Appendix–I species.

b) Cost of placement. While any payment will place a value on an animal, there is no evidence that trade would be encouraged if the institution receiving a donation of confiscated animals were to reimburse the confiscating authority for costs of care and transport. However, payments should be kept to a minimum and, where possible, the facility receiving the animals should bear all costs directly.

c) Disease. Confiscated animals may serve as vectors for disease and, therefore, must be subject to extremely stringent quarantine. The potential consequences of the introduction of alien disease to a captive facility are as serious as those of introducing disease to wild populations.

d) Captive animals can escape from captivity and become pests. Accidental introduction of exotic species can cause tremendous damage and in certain cases, such as the escape of mink *Mustela vison* from fur farms in the United Kingdom, the introduction of exotics can result from importation of animals for captive breeding.

Option 2 – Return To The Wild

Although CITES requires that repatriation of confiscated CITES–listed animals to the country of export be considered as an option for disposal by a confiscating authority, the treaty in no way requires that animals be returned to the wild in that country. These guidelines suggest that return to the wild would be a desirable option in a very small number of instances and under very specific circumstances. Repatriation to avoid addressing the question of disposal of confiscated animals is irresponsible. When considering repatriation, the confiscating authority must ensure that the recipients of the animals are fully cognizant of the ramifications of repatriation and the options for disposal, as set forth in these guidelines. Furthermore, the country returning an animal to its country of origin for release must ensure that the Management Authority in the country of origin is aware of the return.

The rationale behind many of the decision options in this section is discussed in greater detail in the IUCN Reintroduction Guidelines (IUCN/SSC RSG in prep.). It is important to note that these Guidelines make a clear distinction between the different options for returning animals to the wild. These are elaborated below.

a) Reintroduction: an attempt to establish a population in an area that was once part of the range of the species but from which it has become extinct.

Some of the best known reintroductions have been of species that were extinct in the wild. Examples include: Père David's deer *Elaphurus davidianus* and the Arabian oryx *Oryx leucoryx*. Other reintroduction programmes have involved species that existed in some parts of their historical range but had been eliminated from other areas; the aim of these programmes is to re–establish a population in an area, or region, from which the species has disappeared. An example of this type of reintroduction is the recent reintroduction of the swift fox *Vulpes velox* in Canada.

b) Reinforcement of an existing population: the addition of individuals to an existing population of the same taxon.

Reinforcement can be a powerful conservation tool when natural populations are diminished by a process which, at least in theory, can be reversed. An example of a successful reinforcement project is that involving the golden lion tamarin *Leontopithecus rosalia* in Brazil. Habitat loss, coupled with capture of live animals for pets, resulted in a rapid decline of the golden lion tamarin. When reserves were expanded, and capture for the pet trade curbed, captive golden lion tamarins were then used to supplement depleted wild populations.

Reinforcement has been most commonly pursued when individual animals injured by human activity have been provided with veterinary care and released. Such activities are common in many western countries, and specific programmes exist for species as diverse as hedgehogs, Erinaceinae and birds of prey. However common an activity, reinforcement carries with it the very grave risk that individuals held in captivity, even temporarily, are potential vectors for disease back into a wild population.

Because of inherent disease risks, reinforcement should only be employed in instances where there is a direct and measurable conservation benefit (demographically or genetically), as when reinforcement is critical for the viability of the wild population into which an individual is being placed.

c) Introductions (also referred to as Conservation, Beneficial or Benign Introductions – IUCN 1987): an attempt to establish a species, for the purpose of conservation, outside its recorded distribution but within a habitat in which a population can be established.

Extensive use of conservation introductions has been made in New Zealand, where endangered birds have been transferred to off–shore islands that were adjacent to, but not part of, the animals' original range. Conservation introductions can also be a component of a larger programme of reintroduction, an example being the breeding of red wolves *Canis rufus* on islands outside their natural range and subsequent transfer to mainland range areas (Smith 1990).

Return To The Wild – Concerns And Benefits

Before return to the wild of confiscated animals is considered, several issues of concern must be considered in general terms: welfare, conservation value, cost, and disease.

a) Welfare. While return to the wild may appear to be humane, it may be nothing more than a sentence to a slow death. Humane considerations require that each effort to return confiscated animals to nature be

thoroughly researched and carefully planned. Such returns also require long–term commitment in terms of monitoring the fate of released individuals. Some (e.g. International Academy of Animal Welfare Sciences 1992) have advocated that the survival prospects for released animals must at least approximate those for wild animals of the same sex and age class in order for return to the wild to be seriously considered. While such demographic data on wild populations are, unfortunately, rarely available, the spirit of this suggestion should be respected; there must be humane treatment of confiscated animals when attempting to return them to the wild.

b) Conservation Value and Cost. In cases where returning confiscated animals to the wild appears to be the most humane option, such action can only be undertaken if it does not threaten existing populations of wild plants and animals or the ecological integrity of the area in which they live. The conservation of the species as a whole, and of other animals already living free, must take precedence over the welfare of individual animals that are already in captivity.

   Before animals are used in programmes in which existing populations are reinforced, or new populations are established, it must be determined that returning these individuals to the wild will make a significant contribution to the conservation of the species. Larger populations are less likely to become extinct, hence reinforcing existing very small wild populations may reduce the probability of extinction. In very small populations a lack of males or females may result in reduced population growth or in population decline. Reinforcing a very small population lacking animals of a particular sex may also improve prospects for survival of that population.

   It should be noted that where confiscated individuals are used for reintroduction (as defined above) they will form the nucleus of a new population. If such a programme is to be successful, a relatively large number of individuals will be required for success. Hence, small groups of confiscated animals may be inappropriate for reintroduction programmes.

   The cost of returning animals to the wild in an appropriate manner can be prohibitive for all but the most endangered species (Stanley Price 1989; Seal *et al.* 1989; IUCN/SSC RSG in prep.). The species for which the conservation benefits clearly outweigh these costs represent a tiny proportion of the species listed in the CITES appendices, although it includes numerous species not regulated under CITES. In the majority of cases, the costs of appropriate, responsible (re)introduction will preclude return to the wild. Poorly planned or executed (re)introduction programmes are the equivalent of dumping animals in the wild and should be vigorously opposed on both conservation and humane grounds.

c) Source of individuals. If the provenance of the animals is not known, or if there is any question of the source of the animals, supplementation may lead to inadvertent pollution of distinct genetic races or subspecies. If particular local races or subspecies show specific adaptation to the local environment, mixing in animals from other races or subspecies may be damaging to the local population. Introducing an animal into the wrong habitat type may also doom it to death.

d) Disease. Animals held in captivity and/or transported, even for a very short time, may be exposed to a variety of pathogens. Release of these animals to the wild may result in introduction of disease to conspecifics or unrelated species with potentially catastrophic effects. Even if there is a very small risk that confiscated animals have been infected by exotic pathogens, the potential effects of introduced diseases on wild populations are so great that this will often preclude returning confiscated animals to the wild [Woodford and Rossiter 1993, papers in *J. Zoo and Wildlife Medicine* 24(3) 1993].

   Where confiscated animals are found to be unsuitable for return to the wild, disease screening and appropriate quarantine are, nevertheless, essential in order to ensure that they are free of disease, or that diseases and parasites harboured by these animals are found in the captive population to which the animals may be transferred. Introduced diseases can be dangerous to captive facilities, particularly in zoos where infection across different species in a collection is a serious threat. Where such quarantine can not ensure that an individual is healthy, isolation for an indefinite period or euthanasia must be carried out.

   There are clearly instances where return to the wild of confiscated animals must be considered an option for disposal. First and foremost, the question to be addressed is: will returning the animals to the wild make a significant contribution to the conservation of the species in question? Release of any animal into the wild which has been held in captivity is risky. While some of these diseases can be tested for, tests do not exist for many animal diseases. Furthermore, animals held in captivity are frequently exposed to diseases not usually encountered in their natural habitat. Veterinarians and quarantine officers, thinking that the species in question is only susceptible to certain diseases, may not test for these diseases picked up in captivity.

   Given that any release incurs some risk, we must adopt the following "precautionary principle": if there is no conservation value in releasing confiscated specimens, the possibility of accidentally introducing into the environment a disease that is not already present, however unlikely, will rule out returning confiscated specimens to the wild.

There are several benefits of returning animals to the wild, either through reintroduction or reinforcement of an existing population.

a) In situations where the existing population is severely threatened, such an action might improve the long–term conservation potential of the species as a whole, or of a local population of the species (e.g. golden lion tamarins).

b) Returning animals to the wild makes a strong political/educational statement concerning the fate of the animals (e.g. orangutans *Pongo pygmaeus* and chimpanzees *Pan troglodytes* – Aveling & Mitchell 1982, but see Rijksen & Rijksen–Graatsma 1979) and may serve to promote local conservation values. However, as part of any education or public awareness programmes, the costs and difficulties associated with the return to the wild must be emphasized.

Option 3 – Euthanasia

Euthanasia – the killing of animals carried out according to humane guidelines – is unlikely to be a popular option amongst confiscating authorities for disposal of confiscated animals. However, it can not be overstressed that euthanasia may frequently be the simplest – and most humane – option available. In many cases, authorities confiscating live animals will encounter the following situations.

a) Return to the wild in some manner is either unnecessary (e.g. in the case of a very common species), impossible, or prohibitively expensive as a result of the need to conform to biological (IUCN/SSC RSG in prep.) and

animal welfare guidelines (International Academy of Welfare Sciences 1992).

b) Placement in a captive facility is impossible, or there are serious concerns that sale will be problematic or controversial.

c) During transport, or while held in captivity, the animals have contracted a chronic disease that is incurable and, therefore, a risk to any captive or wild population.

Euthanasia has several clear advantages.

a) From the point of view of conservation of the species involved, and of protection of existing captive and wild populations of animals, euthanasia carries far fewer risks when compared to returning animals to the wild.

b) Euthanasia will also act to discourage the activities that gave rise to confiscation, be it smuggling or other patently illegal trade, inadequate paperwork, poor packing, or other problems, as the animals in question are removed entirely from trade.

c) Euthanasia may be in the best interest of the welfare of the confiscated animals. Unless adequate finances are available for reinforcement of existing populations or (re)introduction, release to the wild will carry enormous risks for existing wild populations and severely jeopardize the survival prospects of the individual animals, which may, as a result, die of starvation, disease or predation.

d) When animals are destroyed, or when they die a natural death while in captivity, the dead specimens should be placed in the collection of a natural history museum, or another reference collection in a university or research institute. Such reference collections are of great importance for studies of biodiversity. If such placement is impossible, carcasses should be incinerated to avoid illegal trade in animal parts or derivatives.

Decision Tree Analysis

For decision trees dealing with "Return to the Wild" and "Captive Options", the confiscating Party must first ask the question:

Question 1: Will returning the animal to the wild make a significant contribution to the conservation of the species?

The most important consideration in deciding on disposal of confiscated specimens is the conservation of the species in question. Because there can never be absolute certainty that a confiscated animal is free of diseases and parasites, returning to the wild an individual that has been held in captivity will always involve some level of risk to existing populations of the same or other species in the ecosystem to which the animal is returned.

Where releasing confiscated animals to the wild appears to be the most humane action, it must improve the prospects for survival of the existing wild population. Humanitarian and conservation interests are best served by ensuring the survival of as many individuals as possible, not just the short–term comfort of a few individuals. The benefits of the return in terms of conservation value must clearly outweigh the potential risks.

In most instances, the benefits of return to the wild will be outweighed by the costs and risks of such an action. If returning animals to the wild is not of conservation value, captive options pose fewer risks and may offer more humane alternatives.

Answer**:** Yes: Investigate "Return to the Wild" options.

No: Investigate "Captive" options.

Decision Tree Analysis – Captivity

The decision to maintain confiscated animals in captivity involves a simpler set of considerations than does the decision to return confiscated animals to the wild. It should be noted that the order in which options are placed in the present decision tree is not necessarily the most appropriate for all authorities in all countries: it is expected that the confiscating authority will determine which option is most appropriate based on the particular case and its particular situation.

Question 2: Have animals been proven to be disease–free by comprehensive veterinary screening and quarantine?

Because of the risk of introducing disease to captive populations, animals that may be transferred to captive facilities must have a clean bill of health. If confiscated animals are not proven to be healthy they must be placed in quarantine before being transferred or the facility to which they are transferred must have adequate quarantine facilities. If, during quarantine, the animals are found to harbour diseases that can not be cured, they must be destroyed to prevent infection of other animals.

Answer**:** Yes: Proceed to Question 3.

No: Quarantine; re–assess question 2 after quarantine.

If chronic and incurable infection, first offer animals to research institutions. If impossible to place in such institutions, destroy.

Question 3: Is space available in non–commercial captive facility (e.g. lifetime–care facility or zoo)?

Transfer of animals to either zoological gardens or lifetime–care facilities should generally provide a safe and acceptable means of disposal of confiscated animals. When a choice must be made between several such institutions, the paramount consideration should be which facility can provide the most consistent care and ensure the welfare of the animals. The terms and conditions of the transfer should be agreed between the confiscating authority and the recipient institution. Terms and conditions for such agreements should include:

a) a clear commitment to ensure lifetime care or, in the event that this becomes impossible, transfer to another facility that can ensure lifetime care, or euthanasia;

b) exclusion from resale of the animals involved; and

c) clear specification of ownership of the specimens concerned and, where breeding may occur, the offspring. Depending on the circumstances, ownership may be vested with the confiscating authority, the country of origin, or the recipient facility.

In the majority of instances, there will be no facilities or zoo or aquarium space available in the country in which animals are confiscated. Where this is the case: 1) other captive options should be investigated; 2) transfer to a captive facility outside the country of confiscation should be explored; or 3) the animals should be destroyed.

Answer: Yes: Execute agreement and transfer.

No: Proceed to Question 4.

Question 4: Are private individuals willing to provide lifetime–care on a non–commercial basis?

In many countries, there are active specialist societies or clubs of individuals with considerable expertise in the husbandry and breeding of individual species or groups of species. Such societies can assist in finding homes for confiscated animals without involving sale through intermediaries. In this case, individuals receiving

confiscated animals must have demonstrated expertise in the husbandry of the species concerned and must be provided with adequate information and advice by the club or society concerned. Transfer to specialist societies or individual members must be made according to terms and conditions agreed with the confiscating authority. Such agreements may be the same or similar to those executed with lifetime–care facilities or zoos.

Answer: Yes: Execute agreement and transfer.

No: Proceed to Question 5.

Question 5: Are institutions interested in animals for research conducted under humane conditions?

Many universities and research laboratories maintain collections of exotic animals for research conducted under humane conditions. If these animals are kept in conditions that ensure their welfare, transfer to such institutions may provide an acceptable alternative to other options, such as sale or euthanasia. As in the preceding instances, such transfer should be subject to terms and conditions agreed with the confiscating authority; in addition to those already suggested, it may be advisable to include terms that stipulate the types of research the authority considers permissible.

Answer: Yes: Execute agreement and transfer.

No: Proceed to Question 6.

Question 6: Is the animal listed in Appendix I or regarded as endangered or critical?

Commercial sale of Appendix–I species should not be permitted as it is undesirable to stimulate trade in these species. Species not listed in any CITES appendix, but which are nonetheless seriously threatened with extinction, should be afforded the same caution.

Answer: Yes: Proceed to Question 7.

No: Proceed to Question 8.

Question 7: Is there a commercial facility breeding this Appendix–I species and is that facility interested in the specimens?

As discussed above, captive–bred offspring of Appendix–I species offer the potential for commercial breeders to breed animals in captivity to replace wild–caught animals as a source for trade. These breeding programmes must be carefully assessed and approached with caution. It may be difficult to monitor these programmes and such programmes may unintentionally, or intentionally, stimulate trade in wild animals. The conservation potential of this transfer, or breeding loan, must be carefully weighed against even the smallest risk in stimulating trade which would further endanger the wild population of the species.

Answer: Yes: Execute agreement and transfer.

No: Destroy, and dispose of carcass as described above.

Question 8: Are there grounds for concern that sale will stimulate further illegal or irregular trade?

Sale of confiscated animals, where legally permitted, is a difficult option to consider. While the benefits of sale –– income and quick disposal –– are clear, there are many problems that may arise as a result of further commercial transactions in the specimens involved. Equally, it should be noted that there may be circumstances where such problems arise as a result of a non–commercial transaction and that, conversely, sale to commercial captive breeders may contribute to production offsetting capture from the wild.

More often than not, sale should be considered only for species that are neither threatened with extinction nor legally protected from commercial trade (i.e. CITES Appendix–II species). There may be rare cases where a commercial captive–breeding operation may receive individuals for breeding, which may reduce pressure on wild populations subject to trade. In all circumstances, the confiscating authority should be satisfied that: 1) those involved in the illegal or irregular transaction that gave rise to confiscation can not obtain the animals; 2) the sale does not compromise the objective of confiscation; and, finally, 3) the sale will not increase illegal, irregular or otherwise undesired trade in the species. Previous experience with sale in some countries (e.g. the USA) has indicated that selling confiscated animals is rife with both logistical and political problems and that, in addition to being controversial, it may also be counter–productive.

Answer: Yes: Destroy, and dispose of carcass as described above.

No: Sell to qualified buyers.

Decision Tree Analysis – Return To The Wild

Question 2: Can provenance be determined?

The geographical location from which confiscated individuals have been removed from the wild must be determined if these individuals are to be reintroduced or used to supplement existing populations. In most cases, animals should only be returned to populations that are of a similar genetic constitution to those from which they were taken.

If the provenance of the animals is not known, release for reinforcement may lead to inadvertent hybridization of distinct genetic races or subspecies resulting in outbreeding depression. Related species of animals that may live in sympatry in the wild and never hybridize have been known to hybridize when held in captivity or shipped in multi–species groups. This type of "mis–imprinting" can result in behavioural problems compromising the success of any future release and can also pose a threat to wild populations by artificially destroying reproductive isolation that is behaviourally controlled.

Answer: Yes: Proceed to Question 3.

No: Proceed to Question 6.

Question 3: Have animals been proven to be free of diseases by comprehensive veterinary screening and quarantine?

Because of the risk of introducing disease to wild populations, animals that may be released must have a clean bill of health. If such animals are not proven to be healthy they must be placed in quarantine before being considered for return to the wild. If, during quarantine, the animals are found to harbour diseases that can not be cured, they must be destroyed to prevent infection of other animals.

Answer: Yes: Proceed to Question 4.

No: Quarantine; re–assess question 2 after quarantine.

If chronic and incurable infection, first offer animals to research institutions. If impossible to place in such institutions, destroy.

Question 4: Does a captive–breeding or reintroduction programme exist for the species in question?

If the species in question is part of a co–ordinated captive–breeding and reintroduction programme (see IUCN/SSC RSG in prep.), the animals should be offered to this programme.

Answer: Yes: Proceed to Question 5.

No: Proceed to Question 7.

Question 5: Are the animals from an appropriate population for an existing breeding/(re)introduction programme?

In the case of species for which active captive–breeding and/or reintroduction programmes exist, and for which further breeding stock/founders are required, confiscated animals should be transferred to such programmes after consultation with the appropriate scientific authorities. If the species in question is part of a captive–breeding programme, but the animals are of a subspecies or race that is not part of this programme (e.g. Maguire & Lacy 1990), other methods of disposal must be considered. Particular attention should be paid to genetic screening to avoid jeopardizing captive–breeding programmes through inadvertent hybridization.

Answer: Yes: Transfer to existing programme.

No: Proceed to Question 6.

Question 6: Do funds and suitable habitat exist to initiate a (re)introduction programme?

In cases where the animals can not be transferred to existing programmes, return to the wild, following appropriate guidelines, will only be possible under the following circumstances: 1) appropriate habitat exists for such an operation; 2) sufficient funds are available, or can be made available, to support a programme over the many years that (re)introduction will require; and 3) either sufficient numbers of animals are available so that reintroduction efforts are potentially viable, or only reinforcement of existing populations is considered. In the majority of cases, at least one, if not all, of these requirements will fail to be met. In such cases, either conservation introductions outside the historical range of the species or other options for disposal of the animals must be considered.

It should be emphasized that if animals of a particular species or taxon are confiscated with some frequency, consideration should be given to whether to establish a reintroduction or reinforcement programme. Animals should not be held by the confiscating authority indefinitely while such programmes are planned, but should be transferred to a holding facility after consultation with the organization that is establishing the new programme.

Answer: Yes: Transfer to holding facility or new programme.

No: Investigate "Captive" options.

Question 7: Is habitat available, and do funds exist, to initiate a captive–breeding/conservation introduction programme?

Conservation introductions offer the advantage of allowing animals to live in a natural, or near–natural environment. In addition, in some instances, establishing a population outside the historical range of the species will be important for the conservation of the species. Such introductions must only be made, however, where it can be ensured that release does not disrupt existing natural communities of plants and animals. In practice, such programmes will only be established where habitat in the historical range has disappeared or been altered by human activities (including the introduction of exotic species), such that reintroduction is impossible.

Answer: Yes: Transfer to new programme.

No: Investigate "Captive" options.

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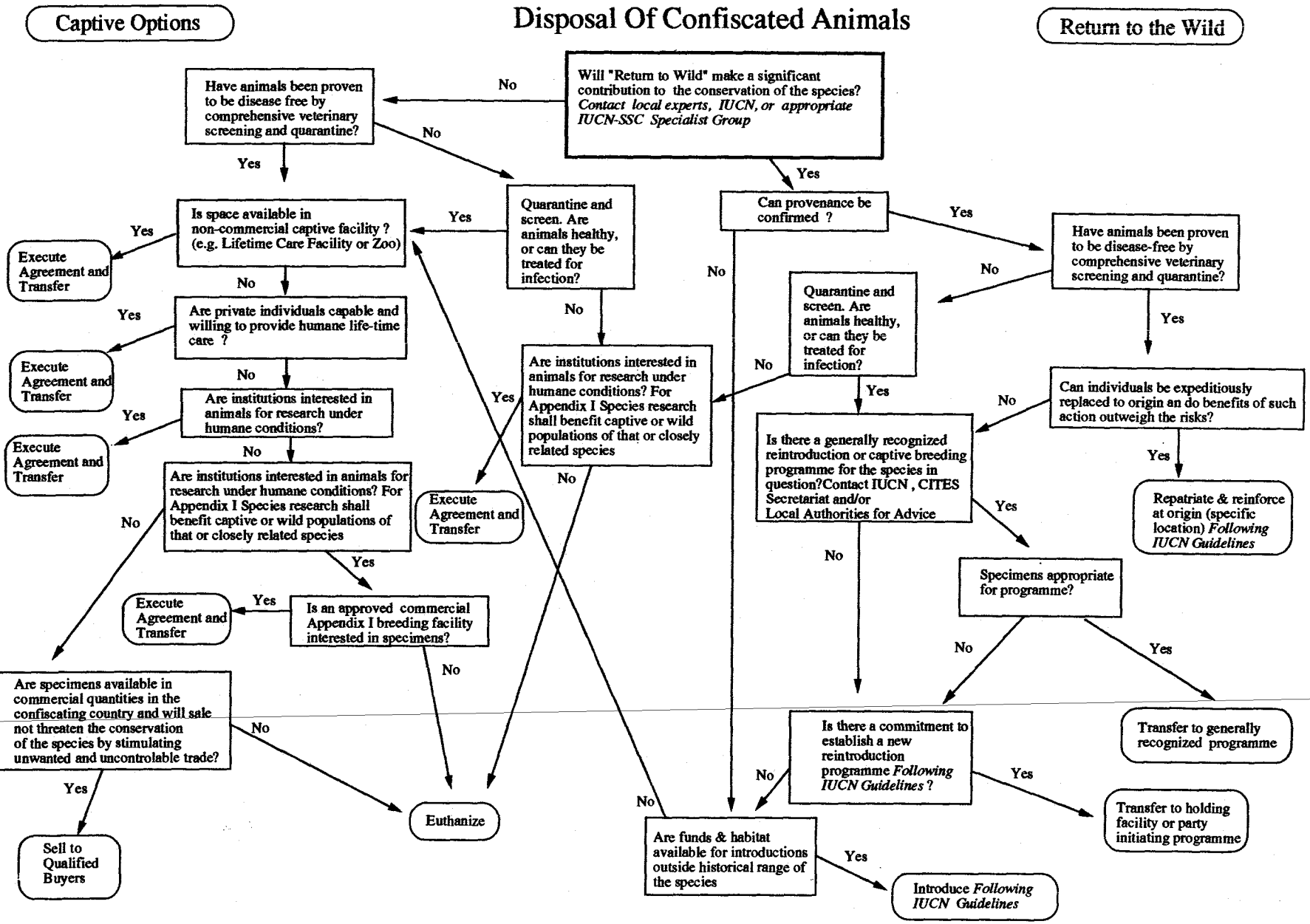
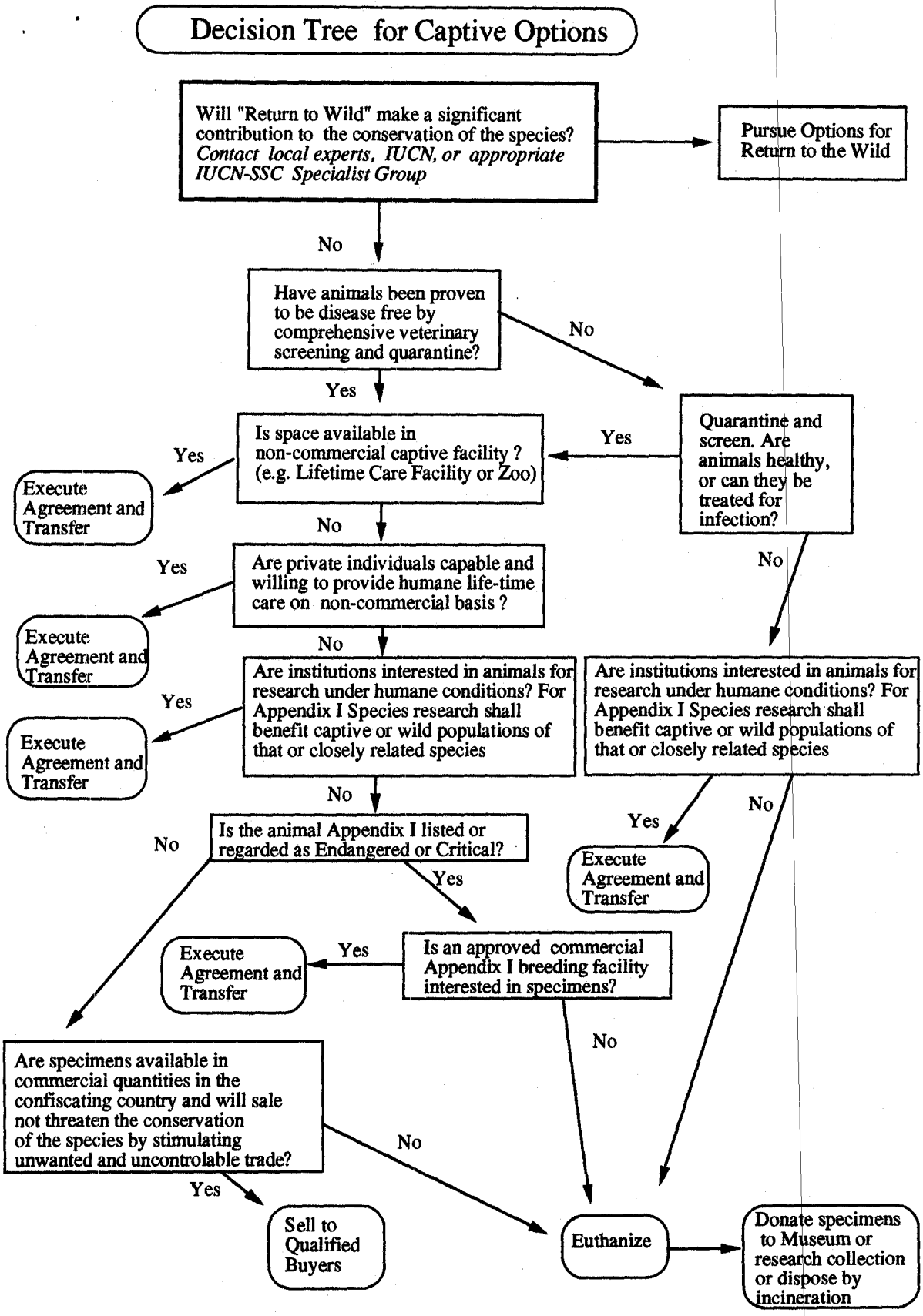
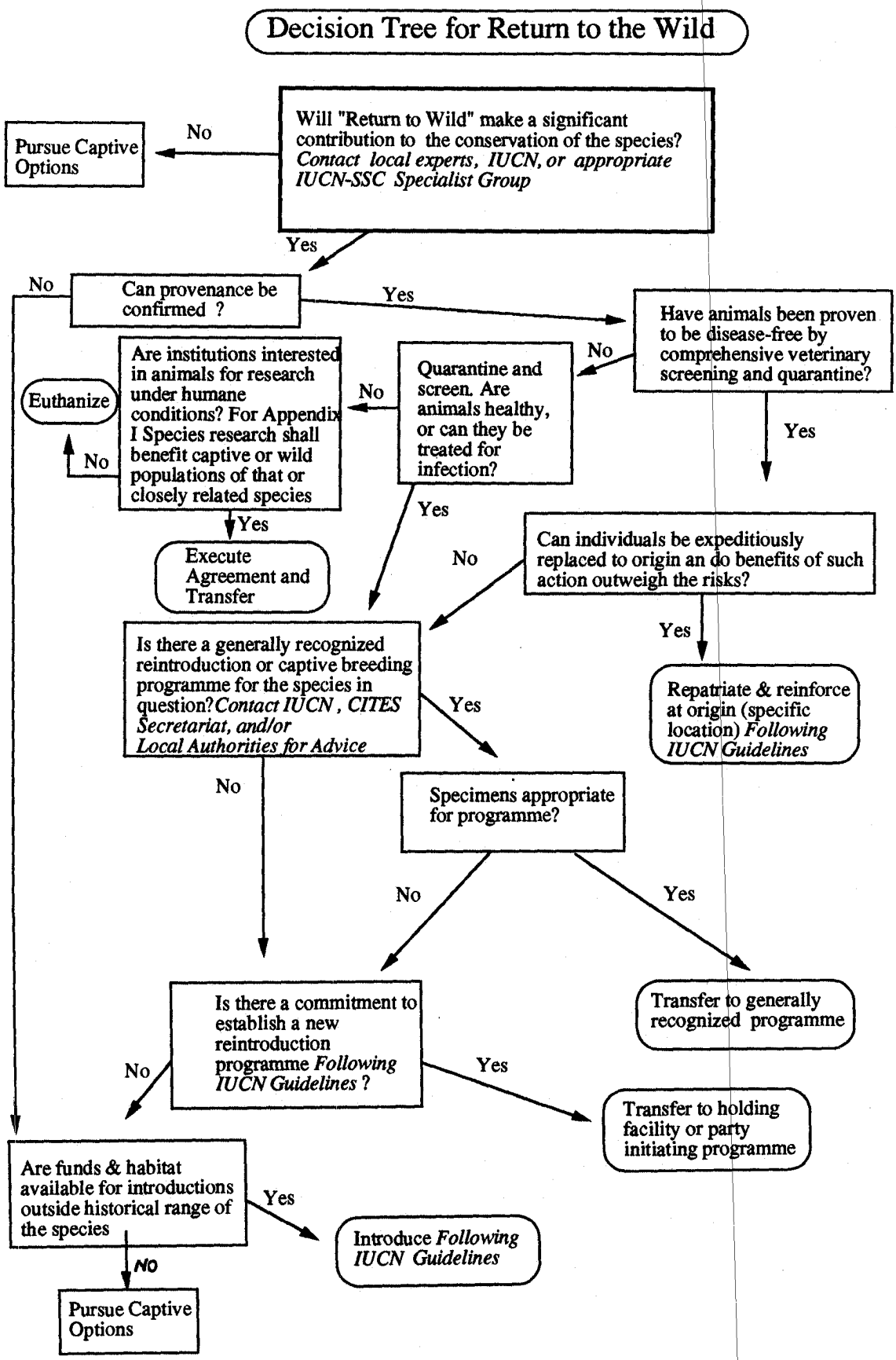
Decision Tree for the Disposal Of Confiscated Animals




Decision Tree for Captive Options
Will "Return to Wild" make a significant contribution to the conservation of the species? Contact local experts, IUCN, or appropriate IUCN-SSC Specialist Group
Pursue Options for Return to the Wild
No
Have animals been proven to be disease free by comprehensive veterinary screening and quarantine?
No
Yes
Quarantine and screen. Are animals healthy, or can they be treated for infection?
Yes
Is space available in non-commercial captive facility ? (e.g. Lifetime Care Facility or Zoo)
Yes
Execute Agreement and Transfer
No
Are private individuals capable and willing to provide humane life-time care on non-commercial basis ?
Yes
Execute Agreement and Transfer
No
Are institutions interested in animals for research under humane conditions? For Appendix I Species research shall benefit captive or wild populations of that or closely related species
Yes
Execute Agreement and Transfer
No
Are institutions interested in animals for research under humane conditions? For Appendix I Species research shall benefit captive or wild populations of that or closely related species
Yes
Execute Agreement and Transfer
No
Is the animal Appendix I listed or regarded as Endangered or Critical?
No
Yes
Is an approved commercial Appendix I breeding facility interested in specimens?
Yes
Execute Agreement and Transfer
No
Are specimens available in commercial quantities in the confiscating country and will sale not threaten the conservation of the species by stimulating unwanted and uncontrolable trade?
Yes
Sell to Qualified Buyers
No
Euthanize
Donate specimens to Museum or research collection or dispose by incineration


Decision Tree for Return to the Wild
Will "Return to Wild" make a significant contribution to the conservation of the species? *Contact local experts, IUCN, or appropriate IUCN-SSC Specialist Group*
No
Pursue Captive Options
Yes
Can provenance be confirmed ?
No
Yes
Have animals been proven to be disease-free by comprehensive veterinary screening and quarantine?
No
Yes
Quarantine and screen. Are animals healthy, or can they be treated for infection?
No
Are institutions interested in animals for research under humane conditions? For Appendix I Species research shall benefit captive or wild populations of that or closely related species
Euthanize
No
Yes
Execute Agreement and Transfer
Yes
Can individuals be expeditiously replaced to origin an do benefits of such action outweigh the risks?
No
Yes
Repatriate & reinforce at origin (specific location) *Following IUCN Guidelines*
Is there a generally recognized reintroduction or captive breeding programme for the species in question? *Contact IUCN , CITES Secretariat, and/or Local Authorities for Advice*
Yes
No
Specimens appropriate for programme?
No
Yes
Transfer to generally recognized programme
Is there a commitment to establish a new reintroduction programme *Following IUCN Guidelines* ?
No
Yes
Transfer to holding facility or party initiating programme
Are funds & habitat available for introductions outside historical range of the species
Yes
Introduce *Following IUCN Guidelines*
NO
Pursue Captive Options

Guidelines to Develop an Action Plan on Seized and/or Confiscated Live Animals

Each Party should develop a plan of action that can be executed without delay in the event that live animals are seized. This action plan should be developed in accordance with the CITES Guidelines for the Disposal of Confiscated Live Animals in Annex 1. The plan should:

1. Identify means for procuring funds to provide care, quarantine, and transport and other costs incurred for seized and confiscated live animals. Funding might be secured through levying of fines, obtaining reimbursement from importers, licensing and bonding importers and exporters, requiring import duties or permit fees, seeking donations from private or government sources, obtaining government allocations, or selling confiscated live animals, where appropriate.
2. Establish a procedure for implementing the Guidelines in accordance with the Party's domestic law and policy.
3. Identify government agencies and personnel with authority to make decisions regarding the seizure and disposal of live animals and clarify their roles and jurisdiction in this process. Such agencies and personnel may include Customs, agricultural inspection services, law enforcement agencies, veterinary agencies, public health services, and the Management and Scientific Authorities.
4. Identify which authority in the country of origin listed in the CITES Directory should be contacted in the event that live animals are seized. This authority should be annotated in the CITES Directory.
5. Provide for training of personnel involved in the seizure and disposal of live animals to ensure both the immediate and long–term welfare of the animals.
6. Include a list of experts or institutions who can assist in species identification, care and/or other technical aspects of the seizure, confiscation and disposal process.
7. Identify and/or develop facilities to provide for the care of live animals immediately after seizure.
8. Identify temporary holding facilities that have agreed to provide adequate care for seized live animals of particular taxa until the confiscation process is completed.
9. Identify approved facilities and programmes located within the country that have agreed to provide adequate care, including veterinary care, and that are willing to accept confiscated animals of particular taxa. Parties should prepare a list of such facilities and programmes, which should be submitted to the Secretariat which will make it available to the Parties on request.
10. Ensure that the Party begins evaluating options for disposal of seized live animals immediately after seizure.