

Interpretation and Implementation of the Convention

SHIPMENTS COVERED BY CUSTOMS CARNETS

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

Background

2. A carnet is defined as an international Customs document that serves as a Customs entry document. Many CITES Parties have acceded to the Customs Convention on the A.T.A. (Admission Temporaire-Temporary Admission) Carnet for the Temporary Admission of Goods and to the Customs Convention on the Inter-

national Transport of Goods Under Cover of TIR (Transport International Routier) Carnets. Both of these Conventions created the ability to temporarily enter certain goods without being subject to the normal rates of duty. Because of the temporary nature of these transactions, Customs globally views these imports as different from non-carnet imports. Infractions to CITES routinely include shipments of CITES species travelling on a Customs carnet that have been allowed entry without meeting the applicable CITES requirements.

COMMENTS OF THE SECRETARIAT

3. To prepare these comments, the Secretariat has consulted with the Secretariat of the World Customs Organization.
4. The first paragraph in the operative part of the attached draft resolution recommends that Parties ensure that appropriate documents are issued for shipments travelling on a Customs carnet.
5. In the preambular paragraph that begins "FURTHER RECOGNIZING", it is indicated that no permits or certificates are required for "certain personal and household effects" or for transshipments. This is not correct, however. Presumably it is intended to draw attention to the cases where no document is required. For the cases where Article VII, paragraph 3, applies [as for the cases where Article VII, paragraph 7, applies (but NB Resolution Conf. 8.16 on travelling live-animal exhibitions) no document is required. However, there is no exemption from the requirement for documents for specimens being transhipped; rather, the provisions of Articles III, IV and V do not apply to specimens in transshipment (as for those in transit). Moreover, Resolution Conf. 9.7 records a recommendation to Parties "to verify the presence of valid export documentation as required under the Convention" for specimens in transit or being transhipped.
6. The term "Customs carnet" has no meaning by itself. Therefore the term that should be used is "ATA carnet and TIR carnet". Another carnet, the CPD carnet, may

be used to cover temporary admission of means of transport and therefore is not related to CITES matters.

7. The ATA carnet may be used under two conventions: the ATA Convention (adopted on 6 December 1961; entered into force on 30 July 1963); and the Istanbul Convention on temporary admission (adopted on 26 June 1990; entered into force on 27 November 1993).
8. The Secretariat recommends that the two last paragraphs of the preamble and the operative part of the draft resolution be included in Resolution Conf. 9.7 on transit and transshipment (with the above-mentioned amendment relating to the Customs carnet).
9. It should be noted that Decision No. 23 directed to the Secretariat, adopted at the ninth meeting of the Conference of the Parties, instructs the Secretariat to explore with the World Customs Organization a way to require on ATA carnets the inclusion of numbers of any CITES permits and certificates covering live animals of species included in the CITES appendices that are part of travelling exhibitions. The Secretariat has had several discussions with the World Customs Organization on this subject and formally raised the point at the first meeting of the CITES Working Group of WCO. The Secretariat reminded the Working Group that the Technical Committee of WCO, in May 1990, decided that a comment should be added to Article 6 of Annex A of the Istanbul Convention. WCO has given its assurance that a comment will be drafted in the very near future (Document TE7-80107, 40.662 E of WCO).

Doc. 10.72 Annex

DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES

Shipments Covered by Customs Carnets

RECOGNIZING that Articles III, IV, and V lay out the need for permits and certificates for specimens of species included in Appendices I, II, and III;

FURTHER RECOGNIZING that Article VII allows an exemption from the requirement for permits and certificates for transshipments and for certain personal or household effects;

AWARE that shipments not covered by the exemptions specified in Article VII and travelling on a Customs carnet still require applicable CITES documentation; and

CONSCIOUS that many shipments of CITES species travelling on a Customs carnet without CITES documentation

have been refused entry into either the importing country or the country of origin upon return;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

RECOMMENDS that all Parties ensure that their Management Authorities issue the appropriate documents for shipments travelling on Customs carnets; and

STRONGLY URGES all Parties to communicate with their Customs and other CITES enforcement officials to ensure that all CITES shipments travelling on Customs carnets comply with the applicable requirements of CITES.

**Interpretation and Implementation of the Convention**

**FREQUENT TRANSBORDER MOVEMENTS OF PERSONALLY OWNED LIVE ANIMALS**

1. This document has been submitted by Germany and Switzerland.

**COMMENTS OF THE SECRETARIAT**

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| <ol style="list-style-type: none"> <li>2. The attached draft resolution was presented during the 13th meeting of the Animals Committee, (Pruhonice, Czech Republic, 23 to 27 September 1996).</li> <li>3. The Secretariat recognizes that the proponents wish to address a serious problem: the generation of lots of paperwork and difficulties with transborder movements of privately owned animals (for falconry, holidays, visits to specialized veterinary surgeons, etc.) where the complexity of obtaining the appropriate documents does not contribute in any way to the conservation of the wild populations.</li> <li>4. The Secretariat is, however, concerned about the possibility of facilitating illegal trade by establishing a lenient system of controls for privately owned specimens.</li> <li>5. Paragraph a) of the draft resolution states that the term "personal and household effects" in Article VII, paragraph 3, of the Convention includes live animals. Many Parties (including the member States of the European Union through the recently adopted Council Regulation on wildlife trade) have implemented stricter domestic measures, as foreseen in Article XIV, to exclude live animals from consideration as personal or household effects. Therefore, the attached draft resolution, if adopted, would be in contrast with the national legislations of many countries. Moreover the differences in the procedures between the Parties that have adopted stricter domestic measures and those that have not,</li> </ol> | <p>would make this draft resolution very difficult to implement.</p> <ol style="list-style-type: none"> <li>6. Therefore the Secretariat believes that the approach of defining "personal and household effects" does not seem the appropriate one and would not solve the problem that has been identified. The Secretariat suggests that, as was done for circus animals, the Parties could consider introducing a special certificate for specimens to which the provisions of Article VII, paragraphs 2 and 5, of the Convention apply.</li> <li>7. If the Parties can agree to this approach, the current draft resolution needs to be amended accordingly. In this case, the Secretariat would recommend the following approach:             <ul style="list-style-type: none"> <li>– limit the validity of the special certificates to one year only. If this is agreeable, the Secretariat would be able to evaluate the implementation of the new Resolution during the period until the next meeting of the Conference of the Parties and to report on its implementation at the same meeting;</li> <li>– limit the issuance of such certificates to two specimens per person only;</li> <li>– make Customs validation of the certificate on export and import obligatory;</li> <li>– put more emphasis on marking requirements so that the certificates can be regarded as 'passports' for the animals concerned.</li> </ul> </li> </ol> |
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**Doc. 10.73 (Rev. 2) Annex**

**DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES**

**Frequent Transborder Movements of Personally Owned Live Animals**

RECALLING that Article VII, paragraph 3, of the Convention provides that, other than in certain circumstances, the provisions of Articles III, IV and V shall not apply to specimens that are personal or household effects;

RECOGNIZING that, because the Convention does not define the term "personal or household effects", in Article VII, paragraph 3, this term may be interpreted by the Parties in different ways;

NOTING that Resolution Conf. 8.13, adopted at the eighth meeting of the Conference of the Parties (Kyoto, 1992) recognizes the use of coded microchip implants for marking live animals of Appendix-I species in trade, without excluding the use of other appropriate methods;

AWARE that live animals of species listed in the appendices to the Convention are often involved in frequent movement across international borders for a variety of legitimate purposes, including but not limited to companion or competition animals, and animals moved as household effects or for falconry purposes;

NOTING that the repeated granting of permits and certificates under the Articles III, IV, V, or VII of the Convention to live animals that undergo frequent movement across international borders poses problems of a technical and admin-

istrative nature and that such movement needs to be monitored closely to prevent illegal activities;

DESIRING that exemptions provided by the Convention not be used to avoid the necessary measures for the control of international trade in live animals of species listed in the appendices to the Convention;

RECOGNIZING that Article XIV, sub-paragraph 1(a), of the Convention provides that the provision of the present Convention shall in no way affect the right of Parties to adopt stricter domestic measures regarding the conditions of trade, taking, possession or transport of specimens of species included in Appendix I, II or III, or the complete prohibition thereof;

**THE CONFERENCE OF THE PARTIES TO THE CONVENTION**

**RECOMMENDS:**

- a) that the term "personal or household effects" in Article VII, paragraph 3, include personally owned live animals that are based and registered in the owner's State of usual residence;
- b) that any Party may issue to an owner of a legally acquired personally owned live animal residing in its

State and registered with the Management Authority of the State of residence and wishing to travel to other States, a separate certificate of ownership for each live animal in his possession travelling to another State as personal or household effects;

- c) that a Management Authority shall not issue a certificate of ownership for a live animal of a species listed in the appendices that is a personal or household effect unless it is satisfied that the live animal is legally possessed by the applicant and that the animal has not been acquired in contravention of the provisions of the Convention;
- d) that the Management Authority shall require the applicant for a certificate of ownership to provide pertinent data regarding the live animal, including the species, sex, marker number or other identification, and the name and address of the applicant and the owner;
- e) that the certificate issued in accordance with paragraph b) above should include in box 5, or in another box if the standard permit form referred to in Resolution Conf. 9.3 is not used, the following language: "The specimen covered by this certificate, which permits multiple transborder movements, is owned for personal non-commercial use and may not be transported for commercial purposes. If the certificate holder is no longer in the possession of the live animal, the certificate must be immediately returned to the issuing Management Authority.";
- f) that when a live animal that is the subject of a certificate of ownership issued pursuant to this Resolution is no longer in the possession of the owner (escape, death, sale, theft, etc.), the original certificate of ownership shall be immediately returned to the issuing Management Authority;
- g) that certificates of ownership issued for live animals as personal or household effects be valid for a maximum period of three years to allow multiple imports, exports and re-exports of the individual live animal;
- h) that the Parties treat certificates of ownership as a type of "passport" which allows the movement of live animals across their borders upon presentation of the original certificate to the appropriate border control officer who:

- i) inspects and validates the original with an ink stamp, signature and date to show the history of movement from State to State; and

- ii) does not collect the original at the border, but allow it to remain with the specimen;

- i) that Parties inspect such live animal specimens to ensure that the live animals are transported and cared for in a manner that minimizes the risk of injury, damage to health or cruel treatment;
- j) that Parties require that live animals that are personal or household effects be securely marked or otherwise appropriately identified and that this mark is included on the certificate so that the authorities of the State into which a live animal enters can verify that the certificate of ownership corresponds to the live animal in question;
- k) that when, during a stay in another State, a live animal travelling under a certificate of ownership produces progeny, the holder of the certificate of ownership must comply with the requirements of Articles III, IV or V to export and import such progeny from the State where the progeny was produced to his usual State of residence. For progeny produced from specimens travelling under a certificate of ownership, a certificate of ownership may be issued for such progeny when such progeny assumes the parent's State of residence;
- l) that when, during a stay in another State, a certificate of ownership for a live animal is lost, stolen, or accidentally destroyed, only the Management Authority that issued the document may issue a duplicate. This duplicate will bear the same number, if possible, the same date of validity as the original document, a new date of issuance, and contain the following statement: "This certificate is a true copy of the original";
- m) that the owner shall not sell or otherwise transfer a live animal that is a personal or household effect when travelling outside of his usual State of residence, under the conditions of the certificate of ownership; and
- n) that Parties maintain records on the number of certificates issued and if possible include the certificate number and the scientific name of the specimen in their annual reports.

## Interpretation and Implementation of the Convention

## LIVE ANIMALS IN TRAVELLING CIRCUSES

1. This document has been submitted by the Russian Federation.

Introduction

2. In Article I of the Convention, export, re-export and import are defined by the term "trade". For the issuance of documents for export of circus animals for the purposes of touring in another State, or States, and eventual return to the State of origin, a Management Authority may use only Article VII, paragraph 7, of the Convention. Resolution Conf. 8.16 (adopted in Kyoto, 1992) provides a possibility not to use this exemption, and recommends the issuance of pre-Convention certificates and certificates of captive breeding in accordance with Article VII, paragraphs 2 and 5, taking into account the recommendations in Resolution Conf. 2.12 (Rev.) (adopted in San José, 1979; revised in Fort Lauderdale, 1994) and Resolution Conf. 5.11 (adopted in Buenos Aires, 1985). There are certain difficulties in the interpretation and definition of Resolution Conf. 5.10, on the Definition of "Primarily Commercial Purposes". This raises some problems and creates complications in the issuance of the documents, resulting in cases of violation and fraud. Why?

Some Information about Circuses and Animals in Circuses

3. Let us discuss what a contemporary circus is. First of all, a contemporary circus is acknowledged as a kind of art. As with every art, the circus is an inalienable part of the national culture. The circus is a visual art and is for every age and every audience. Its language is understood by everyone without interpretation. That is why the history of the world's circuses has always been the history of relationships between nations and of the travelling of various circus troupes around the world. Mutual enrichment of national traditions in the circus has always been, and remains, stronger than in any other kind of art. Many types of circus have a purely national character. The training of animals belongs here.
4. Training in the circus has its own particular history, which spans more than 200 years. This should be taken into account. Among the species included in the CITES appendices, it is necessary first to mention the elephants (mainly Asian), which have been used by the contemporary circus for more than 150 years, and the large cats (mainly tigers and lions), attractions that have been obligatory for all big circuses for more than 100 years. Apes, parrots and pythons are also in this group. In the Russian circus, the traditional animal is the brown bear; one finds records of the training of brown bears even in very early literary sources.
5. Circuses do not trade in animals. Circus animals are the artist's partners, for which he endeavours to create better conditions. In the Russian circus, and in the best foreign circuses, optimum living conditions are created for the animals, the proof of which is the breeding of significant numbers of species and the prolonged lifespans of circus animals, often exceeding those in nature.
6. The maintenance of the animals and their permanent travelling quarters, and the creation of good living conditions and conditions for breeding require significant financial commitment from the owners of the animals. Only the circuses receiving financial support from the State or from patrons can afford to maintain circuses

with large numbers of animals. Income from box-office returns does not cover the costs of running a large circus. For these reasons, one should not consider such circuses as organizations using animals for primarily commercial purposes.

7. On the other hand there are cases where people have animals as private possessions and carry on purely commercial activities, associating with the foreign tours of separate circuses.
8. Let us consider the Russian Circus, for example. It is part of the State structure of cultural institutions, and is financially supported from the State budget. In 1996, the Government of the Russian Federation issued a Resolution on the Federal Programme entitled "The Development and Preservation of Culture and Arts in the Russian Federation (1997-1999)", an important part of which relates to the provision of means for the Russian Circus and the improvement of the living conditions of its animals.
9. The Russian Circus Company, an important State organization, as well as some other circuses in the Russian Federation, have a significant number of acts with animals, and a large number of animals, which distinguishes them from the circuses of other countries, most of which are not State circuses. The Russian Circus also has travelling "zoo-circuses" which are practically travelling zoos. Some circuses in other countries own stationary zoos and safari parks, where animals are received for training or in small numbers in exchanges with other zoos to prevent inbreeding, or to increase the parental stock.
10. A great number of veterinary specialists work for the Russian Circus. They inspect living and transport conditions, and check the animals and the training, and offer professional veterinary assistance. Important circuses of other countries with large groups of animals are served by full-time veterinary specialists.
11. We should consider now the special situation of circus animals. As a rule, animals in the circus do not change owners. Whenever they are transported to other countries it is with the intention that they will eventually return to their country of origin. They constantly cross borders but they are not traded.

Regarding controls

12. It is impossible to stop the movement of the animals concerned, whose addresses are changing constantly as they follow the tour route of the circus troupe.
13. It is very complicated to effect controls within the framework of the requirements and recommendations that exist today.
14. Circuses have in their possession a large number of specimens belonging to species included in Appendices II and III of the Convention. This means that, in accordance with Resolution Conf. 8.16, it is necessary to issue either a pre-Convention certificate, or a certificate of captive breeding or a standard permit for a normal trade transaction. Many specimens are legally obtained having originated in the wild, which is not contrary the provisions of the Convention but requires that the Management Authority issue documents in accordance with Article IV or V of the Convention; that is to say they issue permits referring to circus use. Consequently, for the group of animals in a circus

there are different documents, which can create an opportunity for fraud.

15. On the other hand, if a national Management Authority issues only standard permits for circus animals, with a reference to the fact that the animals are to be returned to the country of origin, it is not clear what attitude to the permits will be taken by the Management Authorities of the countries where a tour of a circus troupe takes place. Either the import and (re-)export permits should be given up or notes should be written on the permits from the country to which a given travelling circus belongs. There is a certain complication where there is a change of circus companies; there may be a 'receiving' circus in the country of importation, but the owner of the animals remains the same; only the first circus company, carrying out the tour, is named on the permit from the country of export. Thus it happens that there are several permits issued for each animal in a travelling circus because new permits are issued in the countries where the tour takes place.
16. A problem arises also in relation to the issuance of permits for animals born in circuses. If the recommendations of Resolution Conf. 2.12 (Rev.) are followed strictly, these animals can not be considered as captive-bred. Although it is evident that the circus environment is isolated from the wild, this addition of animals to circuses is not taken into account in the breeding programmes for species. This raises the question of the appropriate way to treat animals added to circus stock by breeding? Article VII, paragraph 4, of the Convention can not be applied here in accordance with Resolutions Conf. 2.12 (Rev.) and Conf. 8.15. In practice, the parents of many captive-born circus animals are greater than second-generation captive-born. This fact influences the possible approaches for the issuance of documents for circus animals.
17. As a lot of animals have significant lifespans, and as a rule they are obtained by circuses as young animals, this raises another problem. This relates to the treatment of animals that, at the time of their acquisition by a circus, were of legal origin, with no restrictions on their use, but later the status of the species changes. For example, a number of African elephants originating in the wild were obtained by circuses several years before the transfer of this species from Appendix II to Appendix I. The acquisition was legal. There is no reason to question the circus use. Until now, the owner has remained the same. Paragraph h) of Resolution Conf. 5.11, in relation to trade transactions recommends that these specimens be treated in accordance with the provisions valid at the time of export, re-export and import. But the animal was bought earlier, its return to the wild is impossible, and crossing the border with a circus troupe by no means affects the survival of the species in the wild. This means that there is a pre-Convention situation in the period when CITES has entered into effect.
18. If a permit is issued for circus animals, which in practice happens rather often, the 'receiving' circus troupe in a country should be named in the permit form in the "Recipient" box, which is not fully correct legally, as the owner of the animals remains the same when the animals cross the border. This is especially important in the cases of animals in Appendix I, as Article III, paragraph 3(b) draws attention to the special responsibility of the "recipient".

#### Analysis of the history of the problem

19. The problems mentioned above are not new. Considering the list of alleged infractions, presented at the eighth and ninth meetings of the Conference of Parties

(Doc. 8.19 and Doc. 9.22) by the Secretariat, it is evident that the violations associated with circus activities are continuing, although there is an increasing trend in the number cases. But there is also an increase in the number of cases of infraction related to the issuance of documents and document fraud.

20. Analysing the discussions at the ninth meeting of the Conference of the Parties (Fort Lauderdale, 1994) it is necessary to say that, during the discussion of document Doc. 9.22, part I, point 10, in Committee II, the opinion was expressed that it is necessary to examine the implementation of Resolution Conf. 8.16 in relation to circuses and travelling exhibitions (see Com.II 9.2).
21. An article has been published, entitled 'European Circuses and Illegal Trade', written by Elizabeth Fleming (TRAFFIC Europe), in the magazine 'CITES' (1994), in which the violations of the provisions of CITES by European circuses are described. It notes in particular that Resolution Conf. 8.16 was adopted because fraud takes place as a result of various interpretations of Article VII, paragraph 7, of the Convention. However, the CITES Secretariat does not have any information from the Parties on the application of this Resolution.
22. The problem of circuses was also touched on in the discussion of document Doc. 9.23, on "The Implementation of the Convention within European Union" (see Com.II 9.4 and Com.II 9.5).
23. The discussion on captive-bred specimens is closely associated with that on the problems of circus animals. The problem of implementation of Article VII, paragraphs 4 and 5, of the Convention results from different understandings of the term "commercial purposes" and the criteria in Resolution Conf. 2.12 (Rev.).
24. As a result of these discussions, and on the basis of the suggestions in document Doc. 9.22, in Part I, section 22, presented at the ninth meeting of the Conference of the Parties, the CITES Secretariat has been asked to investigate, in collaboration with the Customs Co-operation Council, the problem of the treatment of circuses and other travelling exhibitions and to prepare a draft resolution based on its consultations with the Animals Committee, to solve the problem of implementation of the exemptions in Article VII, paragraphs 4 and 5 [see Com. 9.7 (Rev.)].

#### Conclusion

25. In order to solve the problems examined above, to achieve improvement of the system for control of the movement of the circus animals, the Russian Federation proposes to the Conference of the Parties to adopt the attached draft resolution on Live Animals in Travelling Circuses, to determine and establish the following:
26. – the non-commercial status of circuses that receive financial support from the State or patrons with the objective of preservation of national culture;
27. – the status of live circus animals as a special case in regard to the implementation of the provisions of the Convention, considering that these provisions are valid from the date of the legal purchase of an animal until the time of change of ownership;
28. – the system of registration of animals born in circuses and the attitude of the Parties to such animals;
29. – the system for issuing the required documents for animals that belong to travelling circuses and are being transferred across borders with no commercial purpose;

30. – the form of the required document used for the registration of circus animals and to cover their transport across the borders of States; and

31. – the applicability of the provisions of this Resolution to animals that are already in the possession of a circus.

#### COMMENTS OF THE SECRETARIAT

32. The draft resolution proposed by the Russian Federation consists mainly of the text of Resolution Conf. 8.16 on travelling live animal exhibitions. Nevertheless, the wording appears less suitable than that in the current Resolution. In addition:

33. – it limits the use of certificates for circuses and travelling exhibitions to circuses "which benefit from financial support for the preservation and development of the circus as part of their national culture". There is no such limit in Article VII, paragraph 7, of the Convention; more importantly, many circuses do not receive state support, and are private commercial operations.

34. – it proposes that, for such circuses, the purpose of the import be considered as not commercial. This is contrary to Resolution Conf. 5.10, which defines an activity as commercial "if its purpose is to obtain economic benefit including profit (whether in cash or in kind) and is directed towards re-sale, exchange, provision of a service or any other form of economic use or benefit." It should be noted that the Resolution indicates that "economic benefit" does not automatically imply a "profit". In nearly all circuses, the public pays to see the performance. When this is not the case, it is the organizers who pay the circus to perform. Therefore there is, in both cases, an economic benefit (even if there is no profit);

35. – paragraph e) of the attached draft resolution recommends that animals of species that have been transferred from Appendix II to Appendix I should be considered as "legal". Such animals, if imported in accordance with the Convention before the transfer, may be of legal origin. However, the real problem is that animals acquired and imported legally when the species was in Appendix II, should not be re-exported after the species has been transferred to Appendix I where the purpose of the import is commercial (in practice this is the case for several African elephants). If this is the issue to be addressed, it would be appropriate to propose an amendment to Resolution Conf. 5.11;

36. – the annex requires that certificates used for travelling exhibitions be stamped by Customs at the time of each import and re-export. If the Parties agree to this, it would be appropriate to amend Resolution Conf. 8.16 to this effect.

37. It should be noted that Resolution Conf. 8.16 is difficult to implement because several Parties (in particular in the European Union) have stricter domestic measures that prohibit the use of the exemption of Article VII, paragraph 7. The proposed draft resolution would not solve this problem.

38. In conclusion, the Secretariat does not see any purpose in adopting a new resolution on this subject.

#### Doc. 10.74 (Rev.) Annex

#### DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES

##### Moving Live Animals, Circuses and Exhibitions

RECOGNIZING that paragraph 7 under Article VII of the Convention and the Resolution Conf. 8.16 do not propose a mechanism of realization of the recommendations on simplification of the procedure of transborder movements of live animals travelling to other States (Live Exhibition Specimens) belonging to moving circuses, zoos, zoological exhibitions and collections (Travelling Owners);

AWARE that lack of one and the same principle of simplification of the procedure of transborder movements of Live Exhibition Specimens travelling to other States promotes illegal trade and fraud;

TAKING INTO CONSIDERATION that essential principle of a part of Travelling Owners' activities is educational and cultural purposes and they contribute to propagation of nature protection knowledge and also to preservation and development of circus art;

CONSIDERING that a part of Travelling Owners has financial supports of governments, funds and patrons and are not profitable organizations;

NOTING that many of Live Exhibition Specimens apply to species included in the appendices to the Convention;

TAKING INTO CONSIDERATION the necessity of simplification of the procedure of transborder movements for Live

Exhibition Specimens travelling to other States in order to make the process of transportation more humane and minimize periods of stay of Live Exhibition Specimens in uncomfortable transport conditions;

CONSIDERING the necessity to provide effective control measures for transborder movements of Live Exhibition Specimens and minimize possibilities of violations;

#### THE CONFERENCE OF THE PARTIES TO THE CONVENTION

DIRECTS the Secretariat to prepare recommendations on the basis of proposals submitted by interested Parties for consideration by the Standing Committee in 1998 in order to establish:

- a) a single simplified procedure for transborder movements of Live Exhibition Specimens travelling to other States;
- b) an effective and rational system of registration and identification of Live Exhibition Specimens; and
- c) principles and methods for certification of Travelling Owners supposed to travel to other States under the simplified procedure for transborder movements of Live Exhibition Specimens.

## Interpretation and Implementation of the Convention

## TRANSPORT OF LIVE ANIMALS

1. This document is submitted by the United States of America on behalf of the Animals Committee.

Background

2. The Animals Committee has requested that the United States of America, whose representative is the Chairman of the Animals Committee Working Group on the Transport of Live Animals, submit amendments to Resolution Conf. 9.23.
3. The proposed amendments were adopted at the thirteenth meeting of the Animals Committee, held from 23 to 27 September 1996 in Pruhonice, Czech Republic.
4. The Animals Committee agreed that it would be useful to conduct a systematic review of the scope and causes of mortality of animals during shipment, preparation for shipment and transport. The goal of such a review would be to work co-operatively with governments and the industry (including wildlife trade and transport companies), to reduce mortalities. Rather than place undue focus on obtaining data on transport mortalities for all species, it was agreed that it would be more useful to focus on those species or groups of species or particular countries of import, export or re-export, with recognized problems. The goal, in addition to compliance with the treaty, is to reduce mortalities in order to allow trade to be more sustainable<sup>1</sup> and to allow for greater benefits of trade in Appendix-II species to accrue to range States and the people in them who depend economically and culturally on this trade.
5. Resolution Conf. 9.23 is attached as Annex 1 to this document and, as Annex 2, the revised version of this Resolution as it would appear if the proposed amendments were accepted.

Proposed amendments

6. To add in the preamble the following paragraph after the last RECOGNIZING:
7. *AGREEING that the effective implementation of Article IV, paragraph 2 (c), of the Convention necessitates further specific evaluation of the problem, analysis of information, and recommendations to the Parties for remedial or corrective action;*
8. To delete in the operative part paragraphs j), k) and l), under RECOMMENDS and all paragraphs under REPEALS.
9. To add the following paragraphs in the operative part after paragraph i), under RECOMMENDS:
10. *URGES all Parties that permit imports of live animals: to maintain records of the number of live specimens per shipment and of mortalities in transport of species listed in the appendices; to note obvious causes of mortality; and to provide these data relating to the previous calendar year along with their annual reports;*

11. *DECIDES that non-submission of these data will be noted in a report from the Secretariat to the Standing Committee;*
12. *DIRECTS further the Animals Committee, in consultation with the Secretariat:*
13. *a) to establish the format for the presentation of data on mortality and morbidity in transport; and*
14. *b) to conduct a systematic review of the scope and causes of the mortality and morbidity of animals during the shipment and transport process and of means of reducing such mortality and morbidity.*
15. *i) The review should include a process for making recommendations to the Parties designed to minimize mortality, on the basis of consultation with exporting, importing, re-exporting and transit countries, and additional information from scientists, veterinarians, zoological institutions, trade representatives, carriers, freight forwarders and other experts.*
16. *ii) The recommendations should be focused on individual species and countries of export, import, re-export or transit where appropriate, particularly those that have significant high mortality rates in transport, and should be designed to provide positive solutions to identified problems.*
17. *DIRECTS the Secretariat:*
18. *a) to convey these recommendations to the exporting, importing or re-exporting Parties concerned after they have been approved by the Standing Committee; and*
19. *b) in consultation with the Animals and Standing Committees, to monitor the implementation of these recommendations and other aspects of this Resolution and report its findings and recommendations at each meeting of the Conference of the Parties; and*
20. *REQUESTS non-governmental organizations, particularly veterinary, scientific, conservation, welfare and trade organizations with expertise in the shipment, preparation for shipment, transport, care or husbandry of live animals, to provide the necessary financial, technical and other assistance to Parties in need of and requesting such assistance to ensure the effective implementation of the treaty's provisions for the transport and preparation for shipment of live animals subject to international trade.*

<sup>1</sup> **Note from the Secretariat:** *This is the original text although it is recognized that there are not degrees of sustainability.*

COMMENTS OF THE SECRETARIAT

21. The draft resolution in Annex 2 is proposed as a replacement for Resolution Conf. 9.23.
22. One of the problems of Resolution Conf. 9.23 is the lack of attention given to it by the Parties. In fact, only a few Parties (to the knowledge of the Secretariat, Austria, Belgium, Italy, France, the United Kingdom and the United States of America) have collected, during the period in which Resolution Conf. 9.23 has been in force, data on mortality during transport of species listed in the appendices (mainly birds) and it is not evident that the proposed amendments will change this poor response by the Parties.
23. The proposed amendments to the Resolution ask the Animals Committee to establish the format for reporting data. The Secretariat believes that the format suggested in Notification to the Parties No. 848 dated 18 April 1995 (based on a format prepared by the Management Authority of Belgium) already provides a good basis for collecting data. It should be noted that no reply from any country has been received following the issuance of this Notification.
24. A relationship between the Secretariat and the Live Animals and Perishables Board of the International Air Transport Association already exists but the relationship with the Animals Transportation Association (ATA) is almost non-existent. The Secretariat agrees that the contact with the ATA should be increased. Therefore, the Secretariat recommends that paragraph c) under "RECOMMENDS" of Resolution Conf. 9.23 be amended to read as follows:
25. c) the regular communication of the CITES Secretariat and the Standing Committee with the Live Animals and Perishables Board of the International Air Transport Association be continued and that the relationship with the Animals Transportation Association be developed.
26. On several occasions, the Working Group on Transport of Live Animals has discussed the fact that the CITES Guidelines for Transport need to be revised, but such a revision requires resources that are not currently available. The Group has always recommended that, whenever appropriate, the IATA Live Animals Regulations be implemented for transport by means other than air. Consequently, the Secretariat recommends the addition of the following new paragraph after d) under "RECOMMENDS" in Resolution Conf. 9.23:
27. – except where it is inappropriate, the IATA Live Animals Regulations should be used as a reference to indicate suitable conditions for carriage by means other than air.
28. In order to make paragraph f) under "RECOMMENDS" consistent with paragraph a), the Secretariat proposes that the words "for marine or terrestrial shipments" in paragraph f) be replaced by the words carriage by means other than air.
29. The text of the Convention requires that "any living specimen will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment". However, live specimens can be transported in inadequate conditions without causing their death. To be consistent with the Convention, the Secretariat recommends the addition, in the new paragraph proposed by the United States under "URGES", of the words injury or damage to health immediately after "causes of mortality".
30. The Secretariat also recommends that, under "DIRECTS further" in the draft resolution:
31. – in paragraphs a) and b) the word "morbidity" be replaced by the words injury or damage to health; and
32. – in sub-paragraph b) ii) the words "injury or damage to health" be inserted after the words "mortality rates".
33. Sub-paragraph b) ii), under "DIRECTS further" in the draft resolution, states that "these recommendations should be focused on individual species and countries". It should be noted that some countries among the few that responded to Resolution Conf. 9.23 have already collected and analyzed data and that it would be logical to use this analysis as a starting point for the review foreseen in the draft resolution.
34. It should be noted that if the draft resolution in Annex 2 (or another) is adopted to replace Resolution Conf. 9.23, the latter Resolution should be simultaneously repealed.
35. Finally, the draft resolution in Annex 2 foresees the involvement of the Secretariat in many tasks. If the draft is adopted the Parties will need to take account of this involvement when discussing the budget of the Secretariat.

Doc. 10.75 (Rev.) Annex 1

RESOLUTION OF THE CONFERENCE OF THE PARTIES – CONF. 9.23

Transport of Live Specimens

RECALLING Resolutions Conf. 3.16, Conf. 3.17, Conf. 4.20, Conf. 5.18, Conf. 7.13 and Conf. 8.12, adopted by the Conference of the Parties at its third, fourth, fifth, seventh and eighth meetings (New Delhi, 1981; Gaborone, 1983; Buenos Aires, 1985; Lausanne, 1989; Kyoto, 1992), relating to the transport of live specimens;

CONSIDERING that the Convention, in Articles III, IV and V, requires Management Authorities to be satisfied, before granting export permits or re-export certificates, that specimens will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment;

NOTING that the revised version of the Guidelines for Transport and Preparation for Shipment of Live Wild Animals and Plants adopted at the second meeting of the

Conference of the Parties (San José, 1979) has been communicated to all Parties;

MINDFUL of the fact that implementation of these Guidelines depends on action to be taken at the national level, and within international organizations and conferences competent to regulate conditions of carriage;

CONSIDERING that air transport is the preferred method for transporting many live wild animals and that there are special requirements necessitated by air transport;

NOTING the extent to which the IATA Live Animals Regulations correspond to the CITES Guidelines and that the IATA Regulations are amended annually and are therefore more quickly responsive to changing needs;



WHEREAS Article XIV, paragraph 1, permits any Party to adopt stricter domestic measures for the regulation of trade in all species, whether or not listed in the appendices;

CONCERNED that the official figures of mortalities due to the trade have not been reduced significantly, despite recurring efforts by the Parties to improve transport conditions, and that mortality in transport undermines the concept of sustainable trade;

NOTING that transport of live birds for the pet trade is a problem of particular concern because mortality remains high for many species and that many export permits have been issued for live birds that are not prepared and shipped so as to minimize the risk of injury, damage to health or cruel treatment;

MINDFUL that, because of a number of biological and other factors, some species are far more difficult to prepare and ship without risk of injury, damage to health or cruel treatment than others;

RECOGNIZING the important work of the Working Group on the Transport of Live Specimens in advising the Parties and providing technical assistance in conjunction with the Secretariat;

RECOGNIZING the lack of regional representation of the Parties at meetings of the Working Group on the Transport of Live Specimens;

#### THE CONFERENCE OF THE PARTIES TO THE CONVENTION

DIRECTS the Animals Committee to deal with matters related to the transport of live animals;

RECOMMENDS that:

- a) suitable measures be taken by the Parties to promote the full and effective use by Management Authorities of the Guidelines for Transport and Preparation for Shipment of Live Wild Animals and Plants and that they be brought to the attention of carriers, freight forwarders and international organizations and conferences competent to regulate conditions of carriage by air, land and sea or inland waterways;
- b) Parties invite the above organizations and institutions to comment on and amplify these Guidelines, so as to promote their effectiveness;
- c) the regular communication of the CITES Secretariat and the Standing Committee with the Live Animals Board of the International Air Transport Association and the Animal Air Transport Association be continued;
- d) for as long as the CITES Secretariat and the Standing Committee agree, the IATA Live Animals Regulations be deemed to meet the CITES Guidelines in respect of air transport;
- e) the IATA Live Animals Regulations be incorporated into the domestic legislation of the Parties;
- f) applicants for export permits or re-export certificates be notified that, as a condition of issuance, they are required to prepare and ship live specimens in accordance with the IATA Live Animals Regulations for

transport by air and the CITES Guidelines for Transport of Live Specimens for marine or terrestrial shipments;

- g) to the extent possible, shipments of live animals be examined and necessary action taken to determine the well-being of the animals by CITES-designated persons or airline personnel during extended holding periods at transfer points;
- h) where Parties to the Convention have designated ports of entry and exit, animal-holding facilities be provided;
- i) to the extent possible, Parties ensure that animal-holding facilities are open for inspection of shipments, with the concurrence of the transport company, by CITES-designated enforcement personnel or designated observers; and that any documented information be made available to the appropriate authorities and transport companies;
- j) all Parties maintain records of the number of live specimens per shipment and of mortalities in transport of species listed in the appendices, particularly birds, and note obvious causes of mortality, and that they publish these data annually, providing a copy to the Chairman of the Animals Committee;
- k) Parties take appropriate measures, including temporary suspension of trade for commercial purposes with specific countries when appropriate, regarding trade in species of birds that have significant high mortality rates in transport, based on their own data or data supplied by the Animals Committee; and
- l) on the basis of the information referred to in paragraph j), and information from scientists, veterinarians, zoological institutions and other experts, the Animals Committee, in co-operation with the Secretariat, make recommendations to the Parties designed to minimize mortality;

NOTES that in order to improve implementation of the IATA Live Animals Regulations through the Parties there is a need for greatly increased awareness of the Regulations through:

- a) more effective methods of training of personnel of airlines and enforcement agencies; and
- b) improved methods of liaison and information; and

REPEALS the Resolutions listed hereunder:

- a) Resolution Conf. 3.16 (New Delhi, 1981) – Implementation of the Guidelines on Transport of Live Specimens;
- b) Resolution Conf. 4.20 (Gaborone, 1983) – Implementation of the Guidelines for Transport of Live Animals;
- c) Resolution Conf. 5.18 (Buenos Aires, 1985) – Air Transport of Live Wild Animals;
- d) Resolution Conf. 7.13 (Lausanne, 1989) – Shipment of Live Animals; and
- e) Resolution Conf. 8.12 (Kyoto, 1992) – Trade in Live Birds Experiencing High Mortalities in Transport.

## PROPOSED REVISION OF RESOLUTION CONF. 9.23

Transport of Live Animals

RECALLING Resolution Conf. 9.23 (Fort Lauderdale, 1994), relating to the transport of live specimens;

CONSIDERING that the Convention, in Articles III, IV and V, requires Management Authorities to be satisfied, before granting export permits or re-export certificates, that specimens will be so prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment;

NOTING that the revised version of the Guidelines for Transport and Preparation for Shipment of Live Wild Animals and Plants, adopted at the second meeting of the Conference of the Parties (San José, 1979), has been communicated to all Parties;

MINDFUL of the fact that implementation of these Guidelines depends on action to be taken at the national level, and within international organizations and conferences competent to regulate conditions of carriage;

CONSIDERING that air transport is the preferred method for transporting many live wild animals and that there are special requirements necessitated by air transport;

NOTING the extent to which the IATA Live Animals Regulations correspond to the CITES Guidelines and that the IATA Regulations are amended annually and are therefore more quickly responsive to changing needs;

WHEREAS Article XIV, paragraph 1, permits any Party to adopt stricter domestic measures for the regulation of trade in all species, whether or not listed in the appendices;

CONCERNED that the official figures of mortalities due to the trade have not been reduced significantly, despite recurring efforts by the Parties to improve transport conditions, and that mortality in transport undermines the concept of sustainable trade;

NOTING that transport of live birds for the pet trade is a problem of particular concern because mortality remains high for many species and that many export permits have been issued for live birds that are not prepared and shipped so as to minimize the risk of injury, damage to health or cruel treatment;

MINDFUL that, because of a number of biological and other factors, some species are far more difficult to prepare and ship without risk of injury, damage to health or cruel treatment than others;

RECOGNIZING the important work of the Working Group on the Transport of Live Animals in advising the Parties and providing technical assistance in conjunction with the Secretariat;

RECOGNIZING the lack of regional representation of the Parties at meetings of the Working Group on the Transport of Live Animals; and

AGREEING that the effective implementation of Article IV, paragraph 2(c), of the Convention necessitates further specific evaluation of the problem, analysis of information, and recommendations to the Parties for remedial or corrective action;

THE CONFERENCE OF THE PARTIES TO THE  
CONVENTION

DIRECTS the Animals Committee to deal with matters related to the transport of live animals;

RECOMMENDS that:

- a) suitable measures be taken by the Parties to promote the full and effective use by Management Authorities of

the Guidelines for Transport and Preparation for Shipment of Live Wild Animals and Plants and that they be brought to the attention of carriers, freight forwarders and international organizations and conferences competent to regulate conditions of carriage by air, land and sea or inland waterways;

- b) Parties invite the above organizations and institutions to comment on and amplify these Guidelines, so as to promote their effectiveness;
- c) the regular communication of the CITES Secretariat and the Standing Committee with the Live Animals and Perishables Board of the International Air Transport Association and the Animals Transportation Association be continued;
- d) for as long as the CITES Secretariat and the Standing Committee agree, the IATA Live Animals Regulations be deemed to meet the CITES Guidelines in respect of air transport;
- e) the IATA Live Animals Regulations be incorporated into the domestic legislation of the Parties;
- f) applicants for export permits or re-export certificates be notified that, as a condition of issuance, they are required to prepare and ship live specimens in accordance with the IATA Live Animals Regulations for transport by air and the CITES Guidelines for Transport of Live Specimens for marine or terrestrial shipments;
- g) to the extent possible, shipments of live animals be examined and necessary action taken to determine the well-being of the animals by CITES-designated persons or airline personnel during extended holding periods at transfer points;
- h) where Parties to the Convention have designated ports of entry and exit, animal-holding facilities be provided; and
- i) to the extent possible, Parties ensure that animal-holding facilities are open for inspection of shipments, with the concurrence of the transport company, by CITES-designated enforcement personnel or designated observers; and that any documented information be made available to the appropriate authorities and transport companies;

URGES all Parties that permit imports of live animals: to maintain records of the number of live specimens per shipment and of mortalities in transport of species listed in the appendices; to note obvious causes of mortality and to provide these data relating to the previous calendar year along with their annual reports;

DECIDES that non-submission of these data will be noted in a report from the Secretariat to the Standing Committee;

DIRECTS further the Animals Committee, in consultation with the Secretariat:

- a) to establish the format for the presentation of data on mortality and morbidity in transport; and
- b) to conduct a systematic review of the scope and causes of the mortality and morbidity of animals during the shipment and transport process and of means of reducing such mortality and morbidity;
- i) the review should include a process for making recommendations to the Parties designed to minimize mortality, on the basis of consultation with

exporting, importing, re-exporting and transit countries, and additional information from scientists, veterinarians, zoological institutions, trade representatives, carriers, freight forwarders and other experts; and

- ii) these recommendations should be focused on individual species and countries of export, import, re-export or transit where appropriate, particularly those that have significant high mortality rates in transport, and should be designed to provide positive solutions to identified problems;

DIRECTS the Secretariat:

- a) to convey these recommendations to the exporting, importing or re-exporting Parties concerned after they have been approved by the Standing Committee; and
- b) in consultation with the Animals and Standing Committees, to monitor the implementation of those recommendations and other aspects of this resolution

and report its findings and recommendations at each meeting of the Conference of the Parties;

REQUESTS non-governmental organizations, particularly veterinary, scientific, conservation, welfare and trade organizations with expertise in the shipment, preparation for shipment, transport, care or husbandry of live animals, to provide the necessary financial, technical and other assistance to those Parties in need of and requesting such assistance to ensure the effective implementation of the treaty's provisions for the transport and preparation for shipment of live animals subject to international trade; and

NOTES that in order to improve implementation of the IATA Live Animals Regulations by the Parties there is a need for greatly increased awareness of the Regulations through:

- a) more effective methods of training of personnel of airlines and enforcement agencies; and
- b) improved methods of liaison and information.