

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

Twelfth meeting of the Conference of the Parties
Santiago (Chile), 3-15 November 2002

Interpretation and implementation of the Convention

Trade control and marking issues

Movements of collections of samples

USE OF CERTIFICATES FOR MOVEMENTS OF SAMPLE COLLECTIONS,
COVERED BY AN ATA OR TIR CARNET AND MADE OF PARTS OR DERIVATIVES
OF SPECIES INCLUDED IN APPENDICES II AND III

1. This document has been submitted by Italy, on behalf of the Member States of the European Community, and is co-sponsored by Switzerland.

Introduction

2. At the 11th meeting of the Conference of the Parties (Gigiri, April 2000), the United States of America presented document Doc. 11.52 on the Movement of sample reptile skins. Document 11.52 led to the adoption of Decision 11.164 on the movement of sample reptile skins and other related products.
3. Decision 11.164 says:

The Secretariat shall, in consultation with the Animals Committee, the IUCN/SSC Crocodile Specialist Group and the World Customs Organization:

- a) *review the ways in which Parties could streamline procedures for issuing export or re-export documents for samples and product samples made of crocodilian or other reptile skins; and*
 - b) *prepare a proposal for consideration at the 12th meeting of the Conference of the Parties regarding the amendment of relevant resolutions in effect and/or draft a new resolution.*
4. Italy and Switzerland believe that this issue could be resolved through the adoption of procedures linking the issuance of certificates to the issuance of an ATA or TIR carnet and are hereby presenting the rationale for this proposal.
 5. Many products used in sample collections for trade shows or to be shown by traders to prospective clients, made from species included in Appendices II and III, and not only from reptile skins, enter the international markets every day and come from legitimate sources.
 6. Many traders around the world participate every year in numerous trade shows to exhibit their products as samples or to show them to prospective clients. To bring the samples with them they need an export permit or a re-export certificate. The export being temporary, they use also an ATA carnet.
 7. The ATA carnet is an international Customs document, valid for 12 months, that allows the temporary introduction of goods destined for fairs, shows, exhibitions and other events, foreseen in the Annexes

of the Convention on Temporary Admission of Goods, adopted in Brussels on 6 December 1961 and in force in 57 countries. The TIR carnet has the same functions as the ATA carnet but is limited to road transport.

8. The specimens covered by an ATA or TIR carnet and remaining under Customs control can be considered as in transit or transshipment and therefore, according to Article VII, paragraph 1, of the Convention, the provisions of Articles III, IV and V do not apply. Although this provision could allow for a derogation from the issuance of permits or certificates, the Parties can use the provisions of Article XIV of the Convention, as suggested also in Resolution Conf. 11.18, especially in relation to the control of transit and transshipment, as remarked also in Resolution Conf. 9.7. Therefore the creation of a certificate of regular detention and acquisition in accordance with CITES has been considered, to accompany these specimens in their cross-border movements. It is important to note that the specimens are under a particular Customs regime, requiring a bond and that they remain in this Custom regime until their return to the country that first issued the documents.
9. The actual procedure for issuance of CITES documents has proved to be time-consuming and cumbersome for many Management Authorities and traders because, when a sample collection is accompanied by an ATA carnet and a CITES document, the latter is often taken by the first country of import and having another re-export certificate issued to cover again the specimens included in the ATA carnet may take several days, while the owner is engaged in a tour of different trade shows, exhibitions or clients. This procedure is repeated in all the other countries that the trader or exhibitor is visiting. Furthermore, in an attempt to satisfy both CITES and Customs provisions, each country proceeds differently.
10. Therefore Italy and Switzerland propose the following solution:
 - a) A CITES certificate becomes an integral part of the ATA or TIR carnet provided that certain conditions are met: e.g. that the document is valid only if attached to a valid ATA or TIR carnet; that the specimens are not destined for sale; that the specimens that form part of a sample collection be marked in accordance with the ATA Regulations; and that the documents remain attached and valid during all the movements of the sample collection.
 - b) Having noted the process in progress, as outlined in document SC46 Doc. 10 presented at the 46th meeting of the Standing Committee (Geneva, 12 to 15 March 2002) and in Notification to the Parties No. 2002/24, on the Revision of existing Resolutions, Italy and Switzerland propose that Resolution Conf. 10.5 be consolidated with Resolution Conf. 10.2 (Rev.) and that a new section no. X under ESTABLISHES should be added in the latter, entitled: "Regarding the use of certificates for movements of sample collections, covered by an ATA or TIR carnet and made of parts or derivatives from species included in Appendices II and III". This section would contain the procedures included in the Annex to this document.
11. As a result Decision 11.164 would become redundant.
12. In light of the above explanations and as explained in page 6 of Notification to the Parties No. 2002/006 of 6 March 2002 on Guidelines for the submission of draft resolutions and decisions, Italy and Switzerland are proposing a revision of Resolution Conf. 10.2 (Rev.) and to consolidate it with Resolution Conf. 10.5. Consequently they are presenting only an introductory text (this document) and an annex that specifies the amendments to the existing Resolutions.

COMMENTS FROM THE SECRETARIAT

- A. The Secretariat supports the idea of revising Resolution Conf. 10.2 (Rev.) to facilitate the movement of sample collections containing specimens of Appendix-II and Appendix-III species. However, it believes additional thought is needed, however, in relation to the following issues.
1. The suggested use and reuse of a certificate that would remain attached to an ATA or TIR carnet for the period of the carnet's validity (12 months) needs to be reconciled with the language in paragraphs 4, 5 and 6 of Article VI of the Convention, which do not envisage the reuse of CITES permits and certificates.
 2. Resolution Conf. 9.7, paragraph a), recommends that:

for the purpose of Article VII, paragraph 1, of the Convention, the phrase 'transit or transshipment of specimens' be interpreted to refer only to specimens that remain in Customs control and are in the process of shipment to a named consignee when any interruption in the movement arises only from the arrangements necessitated by this form of traffic

This text would need to be amended so as to extend the definition to cover temporary import under ATA or TIR carnets.
 3. It would be useful to evaluate whether specimens other than those in sample collections could also benefit from any provision for facilitated movements that is agreed by the Parties.
 4. If possible, consideration should be given to simplifying and shortening the text of any agreed amendments to Resolution Conf. 10.2 (Rev.) in view of its current length.
- B. Recognizing that this document reflects the initiative of several interested Parties and effectively responds to Decision 11.164, the Secretariat has not prepared a different and competing proposal in document CoP12 Doc. 52.1.

DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES

Use of certificates for movements of sample collections, covered by an ATA or TIR carnet
and made of parts or derivatives from species included in Appendices II and III

Amendments to Resolution Conf. 10.2 (Rev.) with Consolidation of Resolution 10.5

The following paragraphs are to be inserted in the preamble of Resolution Conf. 10.2 (Rev.):

CONSCIOUS that many shipments of specimens of CITES species travelling with an ATA or TIR carnet without appropriate CITES documentation have been refused entry into either the country of import or the country of (re-)export upon return;

NOTING that the repeated granting of permits and certificates under Articles III, IV, V or VII of the Convention for parts and derivatives that form part of a sample collection that undergoes frequent movements across international borders poses a burden on Management Authorities and problems of a technical and administrative nature, and that such movements need to be monitored closely to prevent illegal activities;

CONSIDERING that parts and derivatives from species listed in the Appendices and that form part of a sample collection are often involved in frequent movements across international borders for a variety of legitimate purposes, and that there is a need to have clear procedures for control of such trade;

AWARE of the provisions of Article VII, paragraph 1, of the Convention which allow the transit and transshipment of specimens through or in the territory of a Party without the issuance of permits or certificates by a Party while remaining under Customs control as in the case of trade with an ATA or TIR carnet;

RECALLING the provisions of Article XIV of the Convention on the right of the Parties to apply stricter domestic measures regarding the conditions for trade of species included in the Appendices, stressed also in Resolution Conf 11.18;

RECOGNIZING the need to regulate through the issuance of a certificate these particular cross-border movements of sample collections of parts and derivatives from species included in Appendices II and III;

Add a new section No. X. under the first ESTABLISHES in the operative part of Resolution Conf. 10.2 (Rev.):

X. Regarding the use of certificates for movements of sample collections, covered by an ATA or TIR carnet and made of parts and derivatives from species included in Appendices II and III

After section IX, in the operative part of Resolution Conf. 10.2 (Rev.), add the following section X:

X. Regarding the use of certificates for movements of sample collections, covered by an ATA or TIR carnet and made of parts and derivatives from species included in Appendices II and III

RECOMMENDS that all Parties issue the appropriate documents for shipments travelling with an ATA or TIR carnet;

URGES all Management Authorities to communicate with their Customs and other CITES enforcement officials to ensure that all CITES shipments travelling with these carnets are in compliance with the applicable provisions of CITES;

AGREES that Parties should use the following procedures for issuing certificates for parts and derivatives that form part of a sample collection accompanied by an ATA or TIR carnet:

- a) the term 'parts and derivatives that form part of a sample collection' for the purpose of the application of this Resolution, includes all parts or derivatives from animals or plants of species listed in Appendices II and III, destined to be shown at trade exhibitions or clients, not to be sold and accompanied by an ATA or TIR carnet;
- b) the certificate attached to the ATA or TIR carnet should include in block 5, or in another block if the standard form referred to in Resolution Conf. 10.2 (Rev.) is not used, the following language: "This certificate is valid only if attached to a valid ATA or TIR carnet. It shall remain attached to the carnet for its period of validity. The specimen(s) is (are) not destined for sale. If the holder sells the specimen(s) while outside the country of usual residence the certificate shall be considered null and void and the specimen(s) treated as if traded illegally, the certificate must be immediately returned to the issuing Management Authority";
- c) the certificate issued for parts and derivatives that form part of a sample collection shall be valid for a period not exceeding 12 months, i.e. the same validity of the ATA or TIR carnet; after the certificate has expired the ATA or TIR carnet shall be considered null and void and the certificate shall be returned to the issuing Management Authority;
- d) the Parties concerned should check carefully the ATA or TIR carnet and the attached certificate during Customs and border controls by:
 - i) inspecting the originals and validating them with an ink stamp bearing also the following phrase "This (These) specimen(s) remain(s) in Customs bond during its (their) stay in this country", a signature and a date to show the history of movements from State to State; and
 - ii) not collecting the original at the border, but allowing it to remain attached to the ATA or TIR carnet and to follow the specimen(s) during its (their) movements;

(Certificates intended for these purposes should be designed to meet these requirements.)

- e) parts and derivatives that form part of a sample collection and are accompanied by a certificate shall be marked, as requested by the ATA and TIR Regulations. The markings in the form of a tag, a seal or stamp shall be put individually on each sample and reported both on the ATA carnet in column 7 or in the relevant section of the TIR Carnet and in the certificate;
- f) when, during a stay in another State, a specimen to which a certificate issued in accordance with this Resolution relates is lost, stolen or accidentally destroyed, the holder shall notify the issuing Management Authority and the Management Authority in the State where such loss occurs (and, where appropriate, the police in that State) accordingly. When an ATA or TIR carnet, including the certificate of parts and derivatives that form part of a sample collection, is lost, stolen or accidentally destroyed, the holder may apply to the Management Authority in the State where such loss occurs for a replacement;
- g) Parties maintain records of the number of certificates issued under this Resolution and if possible include the certificates numbers and the scientific names of the species concerned in their annual reports; and
- h) the issuing Management Authority of a certificate attached to an ATA or TIR carnet in accordance with this Resolution is responsible for the authenticity and validity of the information contained in the same and is the final authority to perform, in conjunction with the relevant enforcement and Customs authorities, the necessary checks to ascertain the correspondence of the specimens returned to the country of departure. In the event of mismatches in any of the countries visited, the

Management Authority of the country where the mismatches are found shall take the necessary legal steps and shall inform promptly the issuing Management Authority;

URGES all Parties to include the procedures outlined in this Resolution in their national legislation, in order to harmonize them, if necessary, with the collaboration of their Customs authorities and relevant international organizations, such as the World Customs Organization and the CITES Secretariat;

At the end of the operative part add the following sentence:

REPEALS Resolution Conf. 10.5 – Shipments covered by ATA and TIR carnets.