

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

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

Interpretation and implementation of the Convention

Exemptions and special trade provisions

Personal effects

TRADE IN PERSONAL EFFECTS

1. This document has been prepared by the Secretariat and incorporates input received from a number of Parties. Reference also has been made to document CoP12 Doc. 54.2 on Personal effects made of crocodilian leather submitted by Venezuela.

Background

2. Article VII, paragraph 3, exempts specimens that are personal or household effects from the provisions of Articles III, IV and V of the Convention unless certain circumstances apply. However, no comprehensive definition of 'personal or household effects' is provided in the Convention.
3. In the absence of a definition and because of the complex structure and wording of Article VII, paragraph 3, Parties have implemented the Convention's personal or household effects exemption in differing ways. Others do not implement it at all. A number of Parties have developed their own legislative definitions of the term and some Parties have made personal or household effects subject to stricter domestic measures as allowed by Article XIV. Attempts to obtain comprehensive information on these various national approaches have been unsuccessful to date and the corresponding lack of awareness has further contributed to implementation problems.
4. The current control of personal or household effects and tourist souvenirs, especially under stricter domestic measures, can require a significant allocation of enforcement resources. A clarification of the exemption for such specimens should reduce the burden on these resources and allow them to be deployed in a targeted manner on activities that present more significant risk of illegal trade. In this connection, specimens of CITES-listed species that can clearly be categorized as legally acquired personal or household effects should fall outside the scope of the Convention.
5. The need for a common and pragmatic approach to personal or household effects was discussed by the Conference of the Parties at its sixth meeting (Ottawa, 1987). Parties were not able to agree on such an approach at that meeting and the time seems ripe to try again – not least because many Parties that are now in the process of developing or strengthening CITES-related legislation have specifically asked for guidance on how best to address the exemption.

Current context

6. Member States of the European Union have agreed on a common definition of 'personal or household effects'. Otherwise, Parties' national legislation defines the term in a variety of ways and no 'best practice' examples have been identified. It should be pointed out that a definition for purposes of CITES

may differ from the definition used in Customs legislation. The latter makes a clear distinction between 'new' and 'old' or 'used' effects in order to assess the duty applicable on items purchased outside the State of usual residence.

7. Any attempt to provide a definition of the term should take into consideration Resolution Conf. 2.10 (Rev.), Resolution Conf. 2.11 (Rev.), Resolution Conf. 5.10, Resolution Conf. 10.6, Resolution Conf. 10.14, Resolution Conf. 10.15 and Resolution Conf. 10.20.
8. Resolution Conf. 2.10 (Rev.) recommends that Parties use stricter domestic measures to eliminate problems in administering or enforcing the exemptions contained in Article VII of the Convention. As mentioned above, the enforcement of such stricter domestic measures is resource-intensive. Moreover, the absence of clear and widespread information about such measures has caused obstacles to legal trade. Once consensus is reached on a definition of 'personal or household effects', however, Parties should no longer need stricter domestic measures and could instead adjust their legislation to be consistent with the agreed definition.
9. Resolution Conf. 2.11 (Rev.) recommends that:

*with the exception of the rare case of exemptions granted under paragraph 3 of Article VII of the Convention, trade in hunting trophies of animals of species listed in Appendix I be permitted only in accordance with Article III, i.e. accompanied by import and export permits.*

As this Resolution effectively restates what is in the text of the Convention, it does not seem useful and might be deleted.

10. Resolution Conf. 5.10 provides guidance on how to determine whether trade is commercial in nature. In the Annex, the first example of trade that should not be considered to be 'for primarily commercial purposes' concerns specimens imported for purely private use, e.g. 'personal or household effects'. It is explained, however, that these exceptions

*do not apply when specimens of Appendix-I species are acquired by the new owner outside of his or her country of usual residence and are imported into that country.*

11. Resolution Conf. 10.6 recommends that:

*the term 'tourist souvenir specimen' apply only to personal and household effects acquired outside the owner's State of usual residence and not be applied to live specimens.*

Although the emphasis on strictly regulating trade in tourist souvenir specimens of Appendix-I species is warranted and consistent with Article VII, paragraph 3 (a), experience has shown that many countries are unable to control the significant volume and variety of trade in tourist souvenir specimens of Appendix-II listed species that are exported and imported.

12. Resolution Conf. 10.14 and Resolution Conf. 10.15 recommend that leopard and markhor hunting trophies respectively: be acquired by the owner in the country of export; be imported as personal items that will not be sold in the country of import; be limited to one or two trophies per year; and be authorized for export by the legislation of the country of origin. Such specimens should be tagged and accompanied by appropriate CITES permits. Hunting trophies might not accompany the owner as personal baggage but rather might be shipped later to the owner's State of usual residence.
13. Resolution Conf. 10.20 recommends that the term 'personal or household effects' include personally owned live animals that are based and registered in the owner's State of usual residence. Multiple cross-border movements of such animals may only occur if they are legally acquired, accompanied by their owner, marked, and covered by a 'certificate of ownership' that meets certain requirements.

### Clarification of Article VII, paragraph 3

14. The general rule is that the Convention does not apply to specimens that are personal or household effects. Such specimens could be live, dead or parts or derivatives of any species listed in Appendix I, II or III of CITES.
15. Specimens of Appendix-I species that were acquired outside and are being imported into the owner's State of usual residence do not qualify for the personal or household effects exemption unless they are pre-Convention. It would seem though that CITES documentation should be required only for the initial import of such specimens and not for their subsequent re-export and import.
16. Specimens of Appendix-II species can qualify for the personal or household effects exemption unless the country of origin requires the prior grant of an export permit [Article VII, paragraph 3(b)(iii)]. Paragraphs 3 (b) (i), (b) (ii) and (b) (iii) are meant to apply together. If exporting countries did away with permit requirements, then paragraphs (b) (i) and (b) (ii) would not apply. Moreover, there would be no need for control of such specimens by importing countries. This practice would allow Parties to focus more attention on the import and export of specimens for which the trade might carry a significant risk of negative conservation effects.
17. Artificially produced specimens of Appendix-I or Appendix-II species, which are traded individually as Appendix-II specimens, also would qualify for the personal or household effects exemption.
18. Specimens of Appendix-III species can be treated as personal or household effects without any exceptions.

### Recommendations

19. It is recommended that:
  - a) Resolutions Conf. 2.11 (Rev.) and Conf. 10.6 be repealed; and
  - b) the draft resolution contained in the Annex be adopted.



DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES

Personal or household effects

CONSIDERING that Article VII, paragraph 3, of the Convention lays down the conditions under which specimens that are personal or household effects are exempt from the provisions of Articles III, IV and V;

FURTHER CONSIDERING that the Convention does not define the term 'personal or household effects';

NOTING that Resolution Conf. 10.6 addresses trade in tourist souvenirs in isolation from personal or household effects despite the clear relationship between the two concepts;

RECOGNIZING that Parties currently implement Article VII, paragraph 3, and Resolution Conf. 10.6 in varying ways and that there should be uniform application of the exemption for personal or household effects;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

DECIDES that the term 'personal or household effects' contained in Article VII, paragraph 3, of the Convention means specimens that are:

- a) personally owned or possessed for non-commercial purposes;
- b) legally-acquired; and
- c) at the time of import, export or re-export either:
  - i) worn or carried or included in checked baggage; or
  - ii) part of a household move;

RECOMMENDS that Parties:

- a) regulate the cross-border movements of legally acquired, personally owned live animals of species listed in the Appendices of CITES in accordance with Resolution Conf. 10.20;
- b) not apply the personal or household effects exemption to hunting trophies of species listed in the Appendices of CITES which were acquired by the owner outside his State of usual residence, and in a State where removal from the wild occurred, and are being imported into the owner's State of usual residence;
- c) not require export or import permits, or re-export certificates, for personal or household effects that are specimens of Appendix-II species except where the quantity exceeds specific limits agreed by the Conference of the Parties (250 grams of caviar, three rainsticks) or the requirement for permits has been specially agreed by the Conference of the Parties;
- d) not require export permits, re-export certificates or certificates of origin for personal or household effects that are specimens of Appendix-III species;
- e) advise their Customs administrations of the treatment of personal or household effects under CITES;

- f) in collaboration with national and international tourist agencies, carriers, hotels and other relevant bodies, take all possible steps to ensure that tourists and persons with diplomatic privileges travelling abroad are made aware of the import and export controls that are or may be in force with respect to items derived from CITES species; and
- g) if necessary, amend their legislation to ensure that it is consistent with this Resolution; and

REPEALS the Resolutions listed hereunder:

- a) Resolution Conf. 2.11 (Rev.) (San José, 1979, as amended at Fort Lauderdale, 1994) – Trade in hunting trophies of species listed in Appendix I; and
- b) Resolution Conf. 10.6 (Harare, 1997) – Control of trade in tourist souvenir specimens.