

RESOLUTION CONF. 9.7 (REV. COP13)

TRANSIT AND TRANSHIPMENT

1. The table presented in Annex 4 b) to the present document contains, in the left-hand column, the current text of Resolution Conf. 9.7 (Rev. CoP13), with proposed amendments. The explanation of each proposal is presented in the right-hand column.
2. During the process of consultation for the preparation of the present document, one Party noted a perceived problem that shipments have been noted to remain in transit for long periods, sometimes several months. They noted that, in extreme cases, shipments have remained in transit beyond the six-month period of validity of the export permit (or re-export certificate), necessitating the issuance of a replacement document by the country of origin while the shipment remained in transit. It is not clear whether an amendment to Resolution Conf. 9.7 (Rev. CoP13) is needed to deal with this issue, but none is proposed in the present document.

Recommendation

3. The Secretariat recommends that the Conference of the Parties:
 - a) consider whether an amendment to Resolution Conf. 9.7 (Rev. CoP13) is needed to deal with the issue raised in paragraph 2 above; and
 - b) adopt the amendments to Resolution Conf. 9.7 (Rev. CoP13) presented in Annex 4 b).

PROPOSED AMENDMENTS TO RESOLUTION CONF. 9.7 (REV. COP13)

TRANSIT AND TRANSHIPMENT

NB: Words proposed to be deleted are ~~crossed out~~. Words proposed to be inserted are underlined.

Proposed amendments	Explanation
<p>RECALLING Resolutions Conf. 4.10, Conf. 7.4 and Conf. 10.5, adopted by the Conference of the Parties at its fourth, seventh and 10th meetings (Gaborone, 1983; Lausanne, 1989; Harare, 1997), and Resolution Conf. 9.5 (Rev. CoP14)¹, adopted at its ninth meeting (Fort Lauderdale, 1994) and revised at its 13th and 14th meetings (Bangkok, 2004; The Hague, 2007);</p>	
<p>RECOGNIZING that Article VII, paragraph 1, of the Convention allows the transit or transshipment of specimens through or in the territory of a Party without the need for <u>application of Articles III, IV and V</u> regulation by the Party;</p>	<p>The current text is not strictly correct. Article VII, paragraph 1, of the Convention does not say that specimens in transit or transshipment are not subject to regulation, only Articles III, IV and V shall not apply to them. An amendment is proposed to correct this.</p>
<p>RECOGNIZING also that there is potential for the abuse of this provision by the keeping of specimens in the territory of a Party while seeking a buyer in another country;</p>	
<p>RECOGNIZING the need for Parties to take measures to fight illegal trade;</p>	
<p>RECOGNIZING also, however, the need for Parties to facilitate the frequent cross-border movement of sample collections covered by ATA carnets;</p>	
<p>NOTING that control of <u>specimens in transit or being transhipped</u> shipments for to verify the existence of a valid export permit or re-export certificate documentation is an important way to discover illegal trade in CITES specimens;</p>	<p>Amendment to refer to transshipment as well as transit and to provide clarification.</p>
<p>AWARE that shipments not covered by the exemptions specified in Article VII of the Convention and travelling on an ATA carnet still require appropriate CITES documentation;</p>	
<p>THE CONFERENCE OF THE PARTIES TO THE CONVENTION</p>	
<p>RECOMMENDS that:</p> <p>a) for the purpose of Article VII, paragraph 1, of the Convention, the phrase 'transit or transshipment of specimens' be interpreted to refer only to:</p>	
<p>i) 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; and</p>	

¹ Corrected by the Secretariat following the 14th meeting of the Conference of the Parties: originally referred to Resolution Conf. 9.5 (Rev. CoP13).

Proposed amendments	Explanation
ii) cross-border movements of sample collections of specimens that comply with the provisions of section XV of Resolution Conf. 12.3 (Rev. CoP14) ² and are accompanied by an ATA carnet;	
b) Parties inspect, to the extent possible under their national legislation, specimens in transit or being transhipped, to verify the presence of <u>a valid CITES permit or certificate documentation</u> as required under the Convention or to obtain satisfactory proof of its existence;	An amendment is proposed to specify the kind of documentation that is required.
c) to be considered as such <u>valid any such permit or certificate must documentation</u> clearly show the ultimate destination of the shipment, which, in the case of a sample collection, must be the country of issuance;	An amendment is proposed to specify the kind of documentation that is required and that, without the information indicated, it should be considered invalid.
d) any change of ultimate destination be investigated by the country of transit or transshipment to verify that the transaction complies with the purposes of the Convention;	
e) Parties adopt legislation allowing them to seize and confiscate specimens in transit or being transhipped without <u>a valid permit or certificate documentation</u> or proof of the existence thereof;	An amendment is proposed to specify the kind of documentation that is required.
f) when an illegal shipment in transit <u>or being transhipped</u> is discovered by a Party that can not seize it, the Party provide to the country of final destination and to the Secretariat all relevant information on the shipment as soon as possible and, if applicable, to other countries through which the shipment will pass in transit; <u>and</u>	Amendment to refer to transshipment as well as transit.
g) the above recommendations be applied also to specimens in transit or being transhipped that are destined for or coming from States not party to the Convention, including specimens in transit between such States; and	
<p>h) Parties note that the Convention does not make special provision for airport lounges (including duty-free shops), free ports or non-Customs zones, because each Party is deemed to have sovereignty over the whole of its territory, and to apply the Convention accordingly;</p> <p><u>AGREES that the Convention must be applied over the whole territory of each Party and does not make any provision for the exclusion of areas or zones under special regimes, such as duty-free shops, free ports or non-Customs zones;</u></p>	The recommendation that Parties "note" that the Convention applies over the whole of their territory is a rather weak expression of a clear interpretation by the Conference of the Parties. It is also odd to say that Parties are 'deemed to have sovereignty' rather than that they do have sovereignty over their territory. A new text is proposed as a strong indication that, even if other laws or regulations are waived in the areas specified, the application of CITES may not be waived.
URGES all Management Authorities to communicate with the Customs and other competent CITES enforcement <u>authorities officials</u> to ensure that all CITES shipments travelling on ATA or TIR carnets comply with the applicable provisions of CITES; and	An amendment is proposed to recognize that Customs is an authority and that there are others. 'Enforcement authorities' is now a term regularly used in CITES documents.

² Corrected by the Secretariat following the 14th meeting of the Conference of the Parties: originally referred to Resolution Conf. 12.3 (Rev. CoP13).

Proposed amendments	Explanation
<p>REPEALS the Resolutions listed hereunder:</p> <p>a) Resolution Conf. 4.10 (Gaborone, 1983) – <i>Definition of "In Transit"</i>;</p> <p>b) Resolution Conf. 7.4 (Lausanne, 1989) – <i>Control of Transit</i>, and</p> <p>c) Resolution Conf. 10.5 (Harare, 1997) – <i>Shipments covered by ATA and TIR carnets</i>.</p>	<p>Titles of Resolutions changed to italics, in line with current editorial practice.</p>