

RESOLUTION CONF. 13.6

*IMPLEMENTATION OF ARTICLE VII, PARAGRAPH 2,  
CONCERNING 'PRE-CONVENTION' SPECIMENS*

1. Article VII, paragraph 2, of the Convention states that:

*Where a Management Authority of the State of export or re-export is satisfied that a specimen was acquired before the provisions of the present Convention applied to that specimen, the provisions of Articles III, IV and V shall not apply to that specimen where the Management Authority issues a certificate to that effect.*

2. In Resolution Conf. 13.6, for the purpose of clarifying the interpretation of the above paragraph, the Conference of Parties recommends that:

- a) *the date from which the provisions of the Convention apply to a specimen be the date on which the species concerned was first included in the Appendices; and*
- b) *the date on which a specimen is acquired be considered as the date the specimen was known to be either:*
  - i) *removed from the wild; or*
  - ii) *born in captivity or artificially propagated in a controlled environment; or*
  - iii) *if such date is unknown or cannot be proved, any subsequent and provable date on which it was first possessed by a person.*

3. In correspondence from Parties, it has been noted that this recommendation does not help in the interpretation of Article VII, paragraph 2, of the Convention in relation to derivatives (in particular manufactured products), which are not explicitly mentioned and which are neither “removed from the wild” nor “born in captivity or artificially propagated”. It might therefore be preferable to provide a specific reference to derivatives (or parts and derivatives) in Resolution Conf. 13.6.

4. A specific question received by the Secretariat is: if a pre-Convention reptile skin is used to make a handbag, is the handbag also pre-Convention? The intuitive response is that any part or derivative of an animal or plant that was acquired before the species was included in the Appendices is also a pre-Convention specimen. But if a derivative also contains specimens acquired after the species concerned was included in the Convention, then it is not pre-Convention. If there is any doubt, it might be preferable to clarify this in the Resolution.

Recommendation

5. The Secretariat recommends that the Conference of the Parties adopt the amendments to Resolution Conf. 13.6, indicated in Annex 10.2 to the present document.

PROPOSED AMENDMENTS TO RESOLUTION CONF. 13.6

*IMPLEMENTATION OF ARTICLE VII, PARAGRAPH 2,  
CONCERNING 'PRE-CONVENTION' SPECIMENS*

*NB: Text proposed to be deleted is ~~crossed out~~. Proposed new text is underlined.*

RECALLING that Article VII, paragraph 2, of the Convention provides an exemption from the provisions of Articles III, IV and V where a Management Authority of the State of export or re-export is satisfied that a specimen was acquired before the provisions of the Convention applied to that specimen and issues a certificate to that effect;

NOTING that the implementation of this provision has given rise to a series of difficulties, both of a technical and of a more fundamental nature;

NOTING further that Resolution Conf. 5.11, on Definition of the term 'pre-Convention specimen' adopted by the Conference of the Parties at its fifth meeting (Buenos Aires, 1985), has been found to solve only partly the problems related to the implementation of Article VII, paragraph 2;

RECOGNIZING the crucial role of importing Parties in implementing Article VII, paragraph 2, and the right of Parties, under Article XIV, paragraph 1, of the Convention to apply stricter domestic measures to the import of specimens covered by pre-Convention certificates;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

RECOMMENDS that, for the purposes of Article VII, paragraph 2:

- a) the date from which the provisions of the Convention apply to a specimen be the date on which the species concerned was first included in the Appendices; ~~and~~
- b) the date on which a specimen is acquired be considered as the date on which the specimen animal or plant or, in the case of parts or derivatives, the animal or plant from which they were taken or derived, was known to be either:
  - i) removed from the wild; or
  - ii) born in captivity or artificially propagated in a controlled environment; ~~or~~ and
  - iii) ~~—~~
- c) if such date is unknown or cannot be proved, the date on which the specimen was acquired shall be any subsequent and provable date on which it was first possessed by a person;

RECOMMENDS further that:

- a) Parties include on all pre-Convention certificates issued either the precise date of acquisition of the specimens concerned or a certification that the specimens were acquired before a specific date, in accordance with paragraph b) above, and advise the holder of such a certificate to check with potential importers or with the Management Authority of the intended country of destination whether the latter will accept the certificate for import; and
- b) Parties accept pre-Convention certificates only if they have been issued in compliance with this Resolution;

CALLS on Parties to take any necessary measures in order to prevent excessive acquisition of specimens of a species between the date on which the Conference of the Parties approves the inclusion of that species in Appendix I and the date on which the inclusion takes effect; and

REPEALS Resolution Conf. 5.11 (Buenos Aires, 1985) – Definition of the term ‘pre-Convention specimen’.