

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



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Committee II

Disposal of illegally traded and confiscated specimens
of Appendix-I, -II and -III species

This document has been prepared by the Secretariat, on the basis of document CoP17 Doc. 34, as discussed and agreed in the seventh session of Committee II (see document CoP17 Com. II Rec. 7).

**DRAFT RESOLUTION CONF. 17.XX
DISPOSAL OF ILLEGALLY TRADED AND CONFISCATED SPECIMENS OF CITES LISTED SPECIES**

RECALLING that according to Article VIII

- a) paragraph 1 (b), Parties shall take appropriate measures to provide for the confiscation or return to the State of export of specimens traded in violation of the Convention;
- b) paragraph 4 (b), confiscated live specimens shall, after consultation with the State of export, be returned to that State at the expense of that State, or to a rescue center or such other place as the Management Authority deems appropriate and consistent with the purposes of the Convention; and
- c) And paragraph 4 (c), leaves open the possibility for the Management Authority to obtain the advice of a Scientific Authority or of the Secretariat;

NOTING, however, that Article VIII does not preclude the Management Authority allowing the importer to refuse acceptance of a shipment, thus forcing the transporter to carry the shipment back to the (re-) exporter;

ALSO RECALLING that Article III, paragraph 4 (a), and Article IV, paragraph 5 (a), of the Convention, require that, as a pre-condition for the issuance of a re-export certificate, the Management Authority of the State of re-export be "satisfied that the specimen was imported into that State in accordance with the provisions of the present Convention";

FURTHER RECALLING Resolution Conf. 9.10 (Rev. CoP15), adopted at its ninth meeting and amended at its 10th, 13th, 14th and 15th meetings (Harare, 1997; Bangkok 2004; The Hague, 2007; Doha, 2010), on the Disposal of confiscated and accumulated specimens, which recommends inter alia to the Parties not having done so yet, to adopt legislation in order to charge to the importer who violated the convention and/or carrier the costs of returning confiscated live specimens to the country of origin or re-export;

RECALLING AS WELL Resolution Conf. 10.7 (Rev. CoP15), on Disposal of confiscated live specimens of species included in the Appendices, adopted by the Conference of the Parties at its 10th meeting (Harare, 1997) and amended at its 15th meeting (Doha, 2010);

RECOGNIZING the importance of measures to ensure that the return by the importing Party to the State of export or re-export of specimens that have been traded in violation of the Convention does not result in such specimens being entered into illegal trade;

ALSO RECOGNIZING that Parties have experienced problems with the disposal of specimens of Appendix-I species that have been obtained as a result of confiscation, accidental death or otherwise;

NOTING that shipments of Appendix-II or -III live specimens can include large quantities of specimens for which no adequate housing can be made available, and that there may be inadequate data about country of origin and site of capture for these specimens;

CONSIDERING that a Party may also provide for the internal reimbursement of expenses that result from the confiscation of a specimen traded in violation of the Convention;

ALSO CONSIDERING that the successful recovery of the costs of confiscation and disposal from the party that violated the convention may be a disincentive for illegal trade;

FURTHER CONSIDERING that specimens once in trade may no longer form part of the reproducing wild population of the species concerned;

CONSIDERING AS WELL that release to the wild may not always be in the best interest of the conservation of a species, especially one not in danger of extinction;

CONCERNED about the risks of releasing confiscated specimens into the wild, such as the introduction of pathogens and parasites, genetic pollution and negative effects on the local fauna and flora;

AWARE that, when specimens are exported or re-exported in violation of the Convention, often the only enforcement action taken against the exporter is the confiscation of such specimens by the importing Party;

ALSO AWARE that some Parties do not allow the sale of confiscated specimens because of the message this transmits to the public and in order to exclude illegally traded specimens from entering commercial trade;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

Regarding specimens that are exported or re-exported in violation of the Convention

RECOMMENDS that:

- a) when specimens are exported or re-exported in violation of the convention, importing Parties:
 - i) consider that the seizure and confiscation of such specimens are generally preferable to the definitive refusal of the import of the specimen;
 - ii) notify as soon as possible the Management Authority of the State from which the specimens were consigned of the violation and of any enforcement actions taken concerning these specimens; and
 - ii) are encouraged to take enforcement actions against the party which violated the Convention in addition to seizure and confiscation of the specimens; and
- b) when the import of specimens that have been exported or re-exported in violation of the Convention is refused by the country to which the specimens are consigned, the exporting or re-exporting Party take the measures necessary to ensure that such specimens are not re-entered into illegal trade, including monitoring their return to the country and providing for their confiscation;

Regarding the disposal of confiscated and accumulated dead specimens

RECOMMENDS that:

- a) Parties dispose of confiscated and accumulated dead specimens of Appendix-I species, including parts and derivatives, only for bona fide scientific, educational, enforcement or identification purposes, and save in storage or destroy specimens whose disposal for these purposes is not practicable; and
- b) as a general rule, confiscated dead specimens, including parts and derivatives, of Appendix-II and Appendix-III species be disposed of in the best manner possible to achieve the purposes of the Convention, and steps be taken to ensure that the person responsible for the offence does not receive financial or other gain from the disposal and that such disposal does not stimulate further illegal trade;

Regarding the disposal of confiscated live specimens

RECOMMENDS that:

- a) a Management Authority before making a decision on the disposal of confiscated live specimens of species in the Appendices consult with and obtain the advice of its own Scientific Authority and, if possible, of that of the State of export or origin of the confiscated specimens, and other relevant experts;
- b) each Scientific Authority in preparing its advice take note of the guidelines in Annexes 1 and 2;
- c) the Secretariat be informed about any decision taken on the disposal of confiscated live specimens of species that are either in Appendix I or, if in Appendix II or III, involve commercial quantities;
- d) in the case where live specimens arrive in an importing country without the proper export permits or re-export certificates, and where an importer refuses to accept a shipment of live specimens, the shipment be confiscated and the specimens disposed of in accordance with the guidelines set out in Annex 1 or 2; and
- e) priority be given to the care of seized or confiscated wild-collected specimens of Appendix-I species and of Appendix-II species; and

URGES Management Authorities, in consultation with Scientific Authorities and other bodies concerned, to develop action plans to deal with seized and confiscated live specimens consistent with the guidelines set out in Annex 3;

Regarding costs associated with confiscated specimens

RECOMMENDS that:

- a) Parties make legislative provision to require the importer or the carrier who violated the Convention, or both, to meet the costs of confiscation, custody, storage, destruction or other disposal, including returning specimens to the country of origin or re-export (as appropriate) where the Scientific Authority of the confiscating State deems it in the interest of the specimens to do so, and the country of origin or last re-export so wishes; and
- b) where such legislation does not exist and the country of origin or last re-export wishes a confiscated live specimen to be returned, that country shall cover the cost of return or shall seek financial assistance to facilitate the return;

CONFIRMS that Parties have the right to allow, or should they choose to do so, not to allow the sale of confiscated dead specimens, including parts and derivatives, of Appendix-II and -III species, taking into account the need for measures necessary to ensure such specimens are not re-entered into illegal trade;

Regarding publicity

RECOMMENDS that Parties publicize information on seizures and confiscations and related enforcement actions, including prosecutions when appropriate as a deterrent to illegal trade, and informs the public as well as other Management Authorities about their procedures for dealing with seized and confiscated specimens or related prosecutions and about rescue centers;

Regarding the export or re-export of confiscated specimens

RECOMMENDS that:

- a) except in the circumstances specified in paragraphs b) and c) below, Parties not authorize any re-export of specimens for which there is evidence that they were imported in violation of the Convention;
- b) when applying Article III, paragraph 4 (a), and Article IV, paragraph 5 (a), of the Convention to specimens that were imported not in accordance with the provisions of the Convention and that are being re-exported by a Management Authority for purposes of implementing the provisions of Article VIII or of this Resolution, or for investigatory or judicial purposes, the specimens be deemed to have been imported in accordance with the provisions of the Convention;

- c) when applying Article IV, paragraphs 2 (b) and 5 (a), of the Convention to specimens of species in Appendix II that have been confiscated as a result of attempts to import or export them illegally and that have subsequently been sold by the Management Authority, having satisfied itself that this would not be detrimental to the survival of the species, the specimens be deemed to have been obtained in accordance with the provisions of the Convention and with the laws of the State for the protection of fauna and flora for the purposes of issuing export permits or re-export certificates; and
- d) permits and certificates granted in accordance with paragraph b) or c) above clearly indicate that the specimens are confiscated specimens; and

REPEALS the Resolutions, or parts thereof, listed hereunder:

- a) Resolution Conf.9.9. Confiscation of specimens exported or re-exported in violation of the Convention;
- b) Resolution Conf.9.10 Disposal of confiscated and accumulated specimens; and
- c) Resolution Conf.10.7 Disposal of confiscated live specimens of species included in the Appendices.

Annex 1

CITES guidelines for the disposal of confiscated live animals

Statement of principle

When live animals are confiscated by government authorities, these authorities have a responsibility to dispose of them appropriately. Within the confines of the law, the ultimate decision on disposal of confiscated animals must achieve three goals: 1) to maximize conservation value of the specimens without in any way endangering the health, behavioural repertoire, or conservation status of wild or captive populations of the species¹; 2) to discourage further illegal or irregular trade in the species; and 3) to provide a humane solution, whether this involves maintaining the animals in captivity, returning them to the wild, or employing euthanasia to destroy them.

Statement of need

Increased regulation of trade in wild plants and animals and enforcement of these regulations has resulted in an increase in the number of wildlife shipments intercepted by government authorities as a result of non-compliance with these regulations. In some instances, the interception is a result of patently illegal trade; in others, it is in response to other irregularities, such as insufficient or incomplete paperwork from the exporting country or poor packing that has compromised the welfare of the live animals in the shipment. While in some cases the number of animals in a confiscated shipment is small, in many others the number is in the hundreds. Although, in many countries, confiscated animals have usually been donated to zoos or aquaria, this option is proving less viable with large numbers of animals and, increasingly, common species. The international zoo community has recognized that placing animals of low conservation priority in limited cage space may benefit those individuals but may also detract from conservation efforts as a whole. They are, therefore, setting conservation priorities for cage space.

In light of these trends, there is an increasing demand – and urgent need – for information and advice to guide confiscating authorities in the disposal of live animals. Although specific guidelines have been formulated for certain groups of organisms, such as parrots and primates, no general guidelines exist.

When disposing of confiscated animals, authorities must adhere to national, regional and international law. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) requires that confiscated individuals of species listed in the treaty's Appendices be returned to the "State of export... or to a rescue centre or such other place as the Management Authority deems appropriate and consistent with the purpose of the Convention" (Article VIII). However, the treaty does not elaborate on this requirement, and CITES Management Authorities must act according to their own interpretation, not only with respect to repatriation but

¹ Although this document refers to species, in the case of species with well-defined subspecies and races, the issues addressed will apply to lower taxonomic units.

also as regards what constitutes disposal that is “appropriate and consistent” with the treaty. Although the present guidelines are intended to assist CITES Management Authorities in making this assessment, they are designed to be of general applicability to all confiscated live animals.

The lack of specific guidelines has resulted in confiscated animals being disposed of in a variety of ways, many inconsistent with conservation objectives. In some cases, release of confiscated animals into existing wild populations has been done after careful evaluation and with due regard for existing guidelines. In other cases, such releases have not been well planned. Poorly planned releases of confiscated animals may doom these animals to a slow, painful death. Such releases may also have strong negative conservation value by threatening existing wild populations. Threats to existing populations can take several forms: 1) diseases and parasites acquired by the released animals while held in captivity may spread into existing wild populations; 2) individuals released into existing populations, or in areas near to existing populations, may not be of the same race or subspecies as those in the wild population, resulting in mixing of distinct genetic lineages; 3) animals held in captivity, particularly juveniles and immatures, may acquire an inappropriate behavioural repertoire from individuals of other related species. Release of these animals could result in inter-specific hybridization.

Disposal of confiscated animals is not a simple process. Only on rare occasions will such disposal be straightforward or result in an action with conservation value. Options for disposal of confiscated animals have thus far been influenced by the perception that returning animals to the wild is the optimal solution in terms of both animal welfare and conservation. A growing body of scientific study of reintroduction of captive animals suggests that such actions may be among the least appropriate options for many reasons. This recognition requires that the options available to confiscating authorities for disposal of the animals be carefully reviewed.

Management options

In deciding on the disposal of confiscated animals, managers must ensure both the humane treatment of the animals and the conservation and welfare of existing wild populations of the species involved. Options for disposal fall into three principal categories: 1) maintenance of the individuals in captivity; 2) returning the individuals in question to some form of life in the wild; and 3) euthanasia. The last option may often prove the most appropriate and most humane.

Within a conservation perspective, by far the most important consideration in reviewing the options for disposal is the conservation status of the species concerned. For confiscated animals of endangered or threatened species, particular effort should be directed towards evaluating whether and how these animals might contribute to a conservation programme for the species. The decision as to which option to employ in the disposal of confiscated animals will depend on various legal, social, economic and biological factors. The “Decision Tree” provided in the present guidelines is intended to facilitate consideration of these options. The tree has been written so that it may be used for both threatened and common species, although it is recognized that the conservation status of the species will be the primary consideration affecting whether or not confiscated animals might be valuable to an active conservation breeding/reintroduction programme, and whether or not local or international agencies will be willing to make an investment in expensive and difficult tasks such as genetic determination of country of origin and site of capture or the establishment of reintroduction, benign introductions, or reinforcement of extant wild populations. International networks of experts, such as the IUCN-Species Survival Commission Specialist Groups, should be able to assist confiscating authorities, and CITES Scientific and Management Authorities, in their deliberations as to the appropriate disposal of confiscated specimens.

OPTION 1 – CAPTIVITY

Confiscated animals are already in captivity; there are numerous options for maintaining them in captivity. Depending on the circumstances, animals can be donated, loaned or sold. Placement may be in zoos or other facilities, or with private individuals. Finally, placement may be in the country of origin, the country of export (if different), the country of confiscation, or a country with adequate and/or specialized facilities for the species in question. If animals are maintained in captivity, in preference to either being returned to the wild or destroyed, they must be afforded humane conditions and ensured proper care for their natural lives.

Zoological gardens, aquaria and safari parks are the captive facilities most commonly considered for disposal of animals, but a variety of other captive situations exist. These include the following:

- a) Rescue centres, established specifically to treat injured or confiscated animals, are sponsored by a number of humane organizations in many countries.
- b) Lifetime-care facilities devoted to the care of confiscated animals have been built in a few countries.

- c) Specialist societies or clubs devoted to the study and care of single taxa or species (e.g. reptiles, amphibians, birds) have, in some instances, provided an avenue for the disposal of confiscated animals without involving sale through intermediaries.
- d) Humane societies may be willing to ensure placement of confiscated specimens with private individuals who can provide humane lifetime care.
- e) Universities and research laboratories maintain collections of exotic animals for many kinds of research (e.g. behavioural, ecological, physiological, psychological, medical). Attitudes towards vivisection, or even towards the non-invasive use of animals in research laboratories as captive study populations, vary widely from country to country. Whether transfer of confiscated animals to research institutions is appropriate will therefore engender some debate, although transfer to an establishment that conducts research under humane conditions may offer an alternative, and one which may eventually contribute information relevant to the species' conservation. In many cases, the lack of known provenance, and the potential that the animal in question has been exposed to unknown pathogens will make transfer to a research institution an option unlikely to be exercised or desired.
- f) Sale of confiscated specimens to traders, commercial captive breeders, or others involved in commercial activities can provide a means of disposal that helps offset the costs of confiscation. However, sale should only be considered in certain circumstances, such as where the animals in question are not threatened and not subject to a legal prohibition on trade (e.g. CITES Appendix II) and there is no risk of stimulating further illegal or irregular trade. Sale to commercial captive breeders may contribute to reducing the demand for wild-caught individuals. At the same time, however, it may prove to be a poor option owing to the risk of creating a public perception of the State's perpetuating or benefiting from illegal or irregular trade. Finally, confiscating authorities should be aware that, unless specific legal provisions apply, it is impossible to assure the welfare of the animals following placement.

Where animals are transferred by the confiscating authority but not sold, ownership should be specified as one of the terms and conditions of the transfer. Where the country of origin desires return of the animals, this desire should be respected. The custodian (zoo, welfare organization) of confiscated animals should only move the animals to another facility for legitimate humane and propagation purposes with the authorization of the administrative authority.

Captivity – Benefits and disadvantages

The *benefits* of placing confiscated animals in a facility that will provide lifetime care under humane conditions include:

- a) educational value;
- b) potential for captive breeding for eventual reintroduction; and
- c) possibility for the confiscating authority to recover, from sale, the costs of confiscation.

The *disadvantages* of placing animals in a facility not involved in an established programme for captive breeding and reintroduction include the following:

- a) Potential to encourage undesired trade. Some authors have maintained that any transfer – whether commercial or non-commercial – of confiscated animals risks promoting a market for these species and creating a perception of the State's being involved in illegal or irregular trade.

BirdLife International suggests that in certain circumstances sale of confiscated animals does not necessarily promote undesired trade. They offer the following requirements that must be met in order for sale by the confiscating authority to be permitted: 1) the species to be sold is already available in the confiscating country in commercial quantities; and 2) wildlife traders under indictment for, or convicted of, crimes related to import of wildlife are prevented from purchasing the animals in question. Experience in selling confiscated animals in the United States suggests that it is virtually impossible to ensure that commercial dealers implicated or suspected of being implicated in illegal or irregular trade are not involved, directly or indirectly, in purchasing confiscated animals. This suggests that confiscation results in increased costs but is not necessarily a disincentive as regards the practices or problems that gave rise to confiscation.

Placing threatened species into commercial trade should not be considered because of the risks of stimulating unwanted trade. Appendix-I species may be sold to a registered commercial breeding facility for Appendix-I species, but these specimens should not be resold or enter commercial trade. As captive-bred offspring of Appendix-I species are deemed to be specimens of species included in Appendix II, there is the potential for commercial breeders to breed animals in captivity to replace wild-caught animals as a source for trade. Hence sale, in certain circumstances (e.g. to commercial captive breeders), may have a clearer potential for the conservation of the species than non-commercial disposal or euthanasia. Such breeding programmes must be carefully assessed and approached with caution. It may be difficult to monitor these programmes and such programmes may unintentionally, or intentionally, stimulate trade in wild animals.

It is essential that confiscating authorities recognize that there are many threatened species that are not included in the CITES Appendices but may require the same treatment as CITES Appendix-I species.

- b) Cost of placement. While any payment will place a value on an animal, there is no evidence that trade would be encouraged if the institution receiving a donation of confiscated animals were to reimburse the confiscating authority for costs of care and transport. However, payments should be kept to a minimum and, where possible, the facility receiving the animals should bear all costs directly.
- c) Disease. Confiscated animals may serve as vectors for disease and, therefore, must be subject to extremely stringent quarantine. The potential consequences of the introduction of alien disease to a captive facility are as serious as those of introducing disease to wild populations.
- d) Captive animals can escape from captivity and become pests. Accidental introduction of exotic species can cause tremendous damage and in certain cases, such as the escape of mink *Mustela vison* from fur farms in the United Kingdom, the introduction of exotics can result from importation of animals for captive breeding.

OPTION 2 – RETURN TO THE WILD

Although CITES requires that repatriation of confiscated CITES-listed animals to the country of export be considered as an option for disposal by a confiscating authority, the treaty in no way requires that animals be returned to the wild in that country. These guidelines suggest that return to the wild would be a desirable option in a very small number of instances and under very specific circumstances. Repatriation to avoid addressing the question of disposal of confiscated animals is irresponsible. When considering repatriation, the confiscating authority must ensure that the recipients of the animals are fully cognizant of the ramifications of repatriation and the options for disposal, as set forth in these guidelines. Furthermore, the country returning an animal to its country of origin for release must ensure that the Management Authority in the country of origin is aware of the return.

The rationale behind many of the decision options in this section is discussed in greater detail in the IUCN Guidelines for Reintroduction. It is important to note that these Guidelines make a clear distinction between the different options for returning animals to the wild. These are elaborated on the next page.

- a) Reintroduction: an attempt to establish a population in an area that was once part of the range of the species but where it has become extinct.

Some of the best known reintroductions have been of species that were extinct in the wild. Examples include: Père David's deer *Elaphurus davidianus* and the Arabian oryx *Oryx leucoryx*. Other reintroduction programmes have involved species that existed in some parts of their historical range but that had been eliminated from other areas; the aim of these programmes is to re-establish a population in an area, or region, from which the species has disappeared. An example of this type of reintroduction is the recent reintroduction of the swift fox *Vulpes velox* in Canada.

- b) Reinforcement of an existing population: the addition of individuals to an existing population of the same taxon.

Reinforcement can be a powerful conservation tool when natural populations are diminished by a process which, at least in theory, can be reversed. An example of a successful reinforcement project is that involving the golden lion tamarin *Leontopithecus rosalia* in Brazil. Habitat loss, coupled with capture of live animals for pets, resulted in a rapid decline of the golden lion tamarin. When reserves were expanded, and capture for the pet trade curbed, captive golden lion tamarins were then used to supplement depleted wild populations.

Reinforcement has been most commonly pursued when individual animals injured by human activity have been provided with veterinary care and released. Such activities are common in many western countries, and specific programmes exist for species as diverse as hedgehogs, Erinaceinae, and birds of prey. However common an activity, reinforcement carries with it the very grave risk that individuals held in captivity, even temporarily, are potential vectors for disease back into a wild population.

Because of inherent disease risks, reinforcement should only be employed in instances where there is a direct and measurable conservation benefit (demographically or genetically), as when reinforcement is critical for the viability of the wild population into which an individual is being placed.

“Return to the wild” – Concerns and benefits

Before “Return to the wild” of confiscated animals is considered, several issues of concern must be considered in general terms: welfare, conservation value, cost and disease.

- a) Welfare. While return to the wild may appear to be humane, it may be nothing more than a sentence to a slow death. Humane considerations require that each effort to return confiscated animals to nature be thoroughly researched and carefully planned. Such returns also require long-term commitment in terms of monitoring the fate of released individuals. Some authors have advocated that the survival prospects for released animals must at least approximate those for wild animals of the same sex and age class in order for return to the wild to be seriously considered. While such demographic data on wild populations are, unfortunately, rarely available, the spirit of this suggestion should be respected; there must be humane treatment of confiscated animals when attempting to return them to the wild.
- b) Conservation value and cost. In cases where returning confiscated animals to the wild appears to be the most humane option, such action can only be undertaken if it does not threaten existing populations of wild plants and animals or the ecological integrity of the area in which they live. The conservation of the species as a whole, and of other animals already living free, must take precedence over the welfare of individual animals that are already in captivity.

Before animals are used in programmes in which existing populations are reinforced, or new populations are established, it must be determined that returning these individuals to the wild will make a significant contribution to the conservation of the species. Larger populations are less likely to become extinct, hence reinforcing existing very small wild populations may reduce the probability of extinction. In very small populations a lack of males or females may result in reduced population growth or in population decline. Reinforcing a very small population lacking animals of a particular sex may also improve prospects for survival of that population.

It should be noted that where confiscated individuals are used for reintroduction (as defined above) they will form the nucleus of a new population. If such a programme is to be successful, a relatively large number of individuals will be required. Hence, small groups of confiscated animals may be inappropriate for reintroduction programmes.

The cost of returning animals to the wild in an appropriate manner can be prohibitive for all but the most endangered species. The species for which the conservation benefits clearly outweigh these costs represent a tiny proportion of the species listed in the CITES Appendices, although it includes numerous species not regulated under CITES. In the majority of cases, the costs of appropriate, responsible reintroduction will preclude return to the wild. Poorly planned or executed reintroduction programmes are the equivalent of dumping animals in the wild and should be vigorously opposed on both conservation and humane grounds.

- c) Source of individuals. If the country of origin and site of capture of the animals is not known, or if there is any question of the source of the animals, supplementation may lead to inadvertent pollution of distinct genetic races or subspecies. If particular local races or subspecies show specific adaptation to the local environment, mixing in animals from other races or subspecies may be damaging to the local population. Introducing an animal into the wrong habitat type may also doom it to death.
- d) Disease. Animals held in captivity and/or transported, even for a very short time, may be exposed to a variety of pathogens. Release of these animals into the wild may result in introduction of disease to conspecifics or unrelated species with potentially catastrophic effects. Even if there is a very small risk that confiscated animals have been infected by exotic pathogens, the potential effects of introduced diseases on wild populations are so great that this will often preclude returning confiscated animals to the wild.

Where confiscated animals are found to be unsuitable for return to the wild, disease screening and appropriate quarantine are, nevertheless, essential in order to ensure that they are free of disease, or that diseases and parasites harboured by these animals are found in the captive population to which the animals may be transferred. Introduced diseases can be dangerous to captive facilities, particularly in zoos where infection across different species in a collection is a serious threat. Where such quarantine can not ensure that an individual is healthy, isolation for an indefinite period or euthanasia must be carried out.

There are clearly instances where return to the wild of confiscated animals must be considered an option for disposal. First and foremost, the question to be addressed is: will returning the animals to the wild make a significant contribution to the conservation of the species in question? Release into the wild of any animal that has been held in captivity is risky. While some diseases can be tested for, tests do not exist for many animal diseases. Furthermore, animals held in captivity are frequently exposed to diseases not usually encountered in their natural habitat. Veterinarians and quarantine officers, thinking that the species in question is only susceptible to certain diseases, may not test for these diseases picked up in captivity.

Given that any release incurs some risk, we must adopt the following 'precautionary principle': if there is no conservation value in releasing confiscated specimens, the possibility of accidentally introducing into the environment a disease that is not already present, however unlikely, will rule out returning confiscated specimens to the wild.

There are several *benefits* of returning animals to the wild, either through reintroduction or reinforcement of an existing population.

- a) In situations where the existing population is severely threatened, such an action might improve the long-term conservation potential of the species as a whole, or of a local population of the species (e.g. golden lion tamarins).
- b) Returning animals to the wild makes a strong political/educational statement concerning the fate of the animals (e.g. orangutans *Pongo pygmaeus* and chimpanzees *Pan troglodytes*) and may serve to promote local conservation values. However, as part of any education or public awareness programme, the costs and difficulties associated with return to the wild must be emphasized.

OPTION 3 – EUTHANASIA

Euthanasia – the killing of animals carried out according to humane guidelines – is unlikely to be a popular option amongst confiscating authorities for disposal of confiscated animals. However, it can not be overstressed that euthanasia may frequently be the simplest and most humane option available. In many cases, authorities confiscating live animals will encounter the following situations.

- a) return to the wild in some manner is either unnecessary (e.g. in the case of a very common species), impossible, or prohibitively expensive as a result of the need to conform to biological and animal welfare guidelines.
- b) Placement in a captive facility is impossible, or there are serious concerns that sale will be problematic or controversial.
- c) During transport, or while held in captivity, the animals have contracted a chronic disease that is incurable and, therefore, a risk to any captive or wild population.

Euthanasia has several clear advantages.

- a) From the point of view of conservation of the species involved, and of protection of existing captive and wild populations of animals, euthanasia carries far fewer risks when compared to returning animals to the wild.
- b) Euthanasia will also act to discourage the activities that gave rise to confiscation, be it smuggling or other patently illegal trade, inadequate paperwork, poor packing, or other problems, as the animals in question are removed entirely from trade.
- c) Euthanasia may be in the best interest of the welfare of the confiscated animals. Unless adequate finances are available for reinforcement of existing populations or reintroduction, release to the wild will carry enormous risks for existing wild populations and severely jeopardize the survival prospects of the individual animals, which may, as a result, die of starvation, disease or predation.

- d) When animals are destroyed, or when they die a natural death while in captivity, the dead specimens should be placed in the collection of a natural history museum, or another reference collection in a university or research institute. Such reference collections are of great importance for studies of biodiversity. If such placement is impossible, carcasses should be incinerated to avoid illegal trade in animal parts or derivatives.

DECISION TREE ANALYSIS

For decision trees dealing with “Return to the wild” and “Captive” options, the confiscating Party must first ask the question:

Question 1: Will returning the animal to the wild make a significant contribution to the conservation of the species, including through education and other means?

The most important consideration in deciding on disposal of confiscated specimens is the conservation of the species in question. Because there can never be absolute certainty that a confiscated animal is free of diseases and parasites, returning to the wild an individual that has been held in captivity will always involve some level of risk to existing populations of the same or other species in the ecosystem to which the animal is returned.

Where releasing confiscated animals to the wild appears to be the most humane action, it must improve the prospects for survival of the existing wild population. Humanitarian and conservation interests are best served by ensuring the survival of as many individuals as possible, not just the short-term comfort of a few individuals. The benefits of the return in terms of conservation value must clearly outweigh the potential risks.

In most instances, the benefits of return to the wild will be outweighed by the costs and risks of such an action. If returning animals to the wild is not of conservation value, “Captive” options pose fewer risks and may offer more humane alternatives.

Answer: Yes: Investigate “Return to the wild” options.

No: Investigate “Captive” options.

DECISION TREE ANALYSIS – CAPTIVITY

The decision to maintain confiscated animals in captivity involves a simpler set of considerations than does the decision to return them to the wild. It should be noted that the order in which options are placed in the present decision tree is not necessarily the most appropriate for all authorities in all countries: it is expected that each confiscating authority will determine which option is most appropriate based on the particular case and its particular situation.

Question 2: Have animals been found to be disease-free by comprehensive veterinary screening and quarantine?

Because of the risk of introducing disease to captive populations, animals that may be transferred to certified captive facilities must have a clean bill of health. If confiscated animals are not found to be healthy they must be placed in quarantine before being transferred or the facility to which they are transferred must have adequate quarantine facilities. If, during quarantine, the animals are found to harbour diseases that can not be cured, they must be destroyed to prevent infection of other animals.

Answer: Yes: Proceed to Question 3.

No: Quarantine; re-assess question 2 after quarantine.

If chronic and incurable infection, first offer animals to research institutions. If impossible to place in such institutions, destroy.

Question 3: Is space available in non-commercial captive facility (e.g. lifetime-care facility, zoo or rescue centre)?

Transfer of animals to either zoological gardens or lifetime-care facilities should generally provide a safe and acceptable means of disposal of confiscated animals. When a choice must be made between several such institutions, the paramount consideration should be which facility can provide the most consistent care and ensure the welfare of the animals. The terms and conditions of the transfer should be agreed between the confiscating authority and the recipient institution. Terms and conditions for such agreements should include:

- a) a clear commitment to ensure lifetime care or, in the event that this becomes impossible, transfer to another facility that can ensure lifetime care, or euthanasia;
- b) exclusion from resale of the animals involved; and
- c) clear specification of ownership of the specimens concerned and, where breeding may occur, the offspring. Depending on the circumstances, ownership may be vested with the confiscating authority, the country of origin, or the recipient facility.

In the majority of instances, there will be no facilities or zoo or aquarium space available in the country in which animals are confiscated. Where this is the case: 1) other captive options should be investigated; 2) transfer to a captive facility outside the country of confiscation should be explored; or 3) the animals should be destroyed.

Answer: Yes: Execute agreement and transfer.

No: Proceed to Question 4.

Question 4: Are private individuals able and willing to provide humane lifetime care on a non-commercial basis?

In many countries, there are active specialist societies or clubs of individuals with considerable expertise in the husbandry and breeding of individual species or groups of species. Such societies can assist in finding homes for confiscated animals without involving sale through intermediaries. In this case, individuals receiving confiscated animals must have demonstrated expertise in the husbandry of the species concerned and must be provided with adequate information and advice by the club or society concerned. Transfer to specialist societies or individual members must be made according to terms and conditions agreed with the confiscating authority. Such agreements may be the same or similar to those executed with lifetime-care facilities or zoos.

Answer: Yes: Execute agreement and transfer.

No: Proceed to Question 5.

Question 5: Are institutions interested in animals for research conducted under humane conditions?

Many universities and research laboratories maintain collections of exotic animals for research conducted under humane conditions. If these animals are kept in conditions that ensure their welfare, transfer to such institutions may provide an acceptable alternative to other options, such as sale or euthanasia. As in the preceding instances, such transfer should be subject to terms and conditions agreed with the confiscating authority; in addition to those already suggested, it may be advisable to include terms that stipulate the types of research the authority considers permissible.

Answer: Yes: Execute agreement and transfer.

No: Proceed to Question 6.

Question 6: Is the species listed in Appendix I or regarded as endangered or critical?

Commercial sale of specimens of Appendix-I species should not be permitted as it is undesirable to stimulate trade in these species. Species not listed in any CITES Appendix, but which are nonetheless seriously threatened with extinction, should be afforded the same caution.

Answer: Yes: Proceed to Question 7.

No: Proceed to Question 8.

Question 7: Is there a commercial facility breeding this Appendix-I species and is that facility interested in the specimens?

As discussed above, captive-bred offspring of Appendix-I species offer the potential for commercial breeders to breed animals in captivity to replace wild-caught animals as a source for trade. These breeding programmes must be carefully assessed and approached with caution. It may be difficult to monitor such programmes and they may unintentionally, or intentionally, stimulate trade in wild animals. The conservation potential of this transfer, or breeding loan, must be carefully weighed against even the smallest risk in stimulating trade which would further endanger the wild population of the species.

Answer: Yes: Execute agreement and transfer.

No: Destroy, and dispose of carcass as described above.

Question 8: Are there grounds for concern that sale will stimulate further illegal or irregular trade?

Sale of confiscated animals, where legally permitted, is a difficult option to consider. While the benefits of sale – income and quick disposal – are clear, there are many problems that may arise as a result of further commercial transactions in the specimens involved. Equally, it should be noted that there may be circumstances where such problems arise as a result of a non-commercial transaction and that, conversely, sale to commercial captive breeders may contribute to production offsetting capture from the wild.

More often than not, sale should be considered only for species that are neither threatened with extinction nor legally protected from commercial trade (i.e. CITES Appendix-II species). There may be rare cases where a commercial captive-breeding operation may receive individuals for breeding, which may reduce pressure on wild populations subject to trade. In all circumstances, the confiscating authority should be satisfied that: 1) those involved in the illegal or irregular transaction that gave rise to confiscation can not obtain the animals; 2) the sale does not compromise the objective of confiscation; and, finally, 3) the sale will not increase illegal, irregular or otherwise undesired trade in the species. Previous experience with sale in some countries (e.g. the United States) has indicated that selling confiscated animals is rife with both logistical and political problems and that, in addition to being controversial, it may also be counter-productive.

Answer: Yes: Destroy, and dispose of carcass as described above.

No: Sell to qualified buyers.

DECISION TREE ANALYSIS – RETURN TO THE WILD

Question 2: Have animals been found to be disease-free by comprehensive veterinary screening and quarantine?

Because of the risk of introducing disease to wild populations, animals that may be released must have a clean bill of health. If such animals are not found to be healthy they must be placed in quarantine before being considered for return to the wild. If, during quarantine, the animals are found to harbour diseases that can not be cured, they must be destroyed to prevent infection of other animals.

Answer: Yes: Proceed to Question 3.

No: Quarantine; re-assess question 2 after quarantine.

If chronic and incurable infection, first offer animals to research institutions. If impossible to place in such institutions, destroy.

Question 3: Can country of origin and site of capture be determined?

The geographical location from which confiscated individuals have been removed from the wild must be determined if they are to be reintroduced or used to supplement existing populations. In most cases, animals should only be returned to populations that are of a similar genetic constitution to those from which they were taken.

If the country of origin and site of capture of the animals are not known, release for reinforcement may lead to inadvertent hybridization of distinct genetic races or subspecies resulting in outbreeding depression. Related species of animals that may live in sympatry in the wild and never hybridize have been known to hybridize when held in captivity or shipped in multi-species groups. This type of ‘mis-imprinting’ can result in behavioural problems compromising the success of any future release and can also pose a threat to wild populations by artificially destroying reproductive isolation that is behaviourally controlled.

Answer: Yes: Proceed to Question 4.

No: Pursue “Captive” options.

Question 4: Can animals be expeditiously replaced to origin and do benefits of such action outweigh the risks?

Answer: Yes: Repatriate and reinforce at origin (specific location) following IUCN Guidelines.

No: Proceed to Question 5.

Question 5: Does a generally recognized captive-breeding or reintroduction programme exist for the species in question?

If the species in question is part of a coordinated captive-breeding and/or reintroduction programme, the animals should be offered to this programme.

Answer: Yes: Proceed to Question 6.

No: Proceed to Question 7.

Question 6: Are the animals from an appropriate population for an existing breeding/ reintroduction programme?

In the case of species for which active captive-breeding and/or reintroduction programmes exist, and for which further breeding stock/founders are required, confiscated animals should be transferred to such programmes after consultation with the appropriate scientific authorities. If the species in question is part of a captive-breeding programme, but the animals are of a subspecies or race that is not part of this programme, other methods of disposal must be considered. Particular attention should be paid to genetic screening to avoid jeopardizing captive-breeding programmes through inadvertent hybridization.

Answer: Yes: Transfer to existing programme.

No: Proceed to Question 7.

Question 7: Is there a commitment to establish a new reintroduction programme following IUCN guidelines?

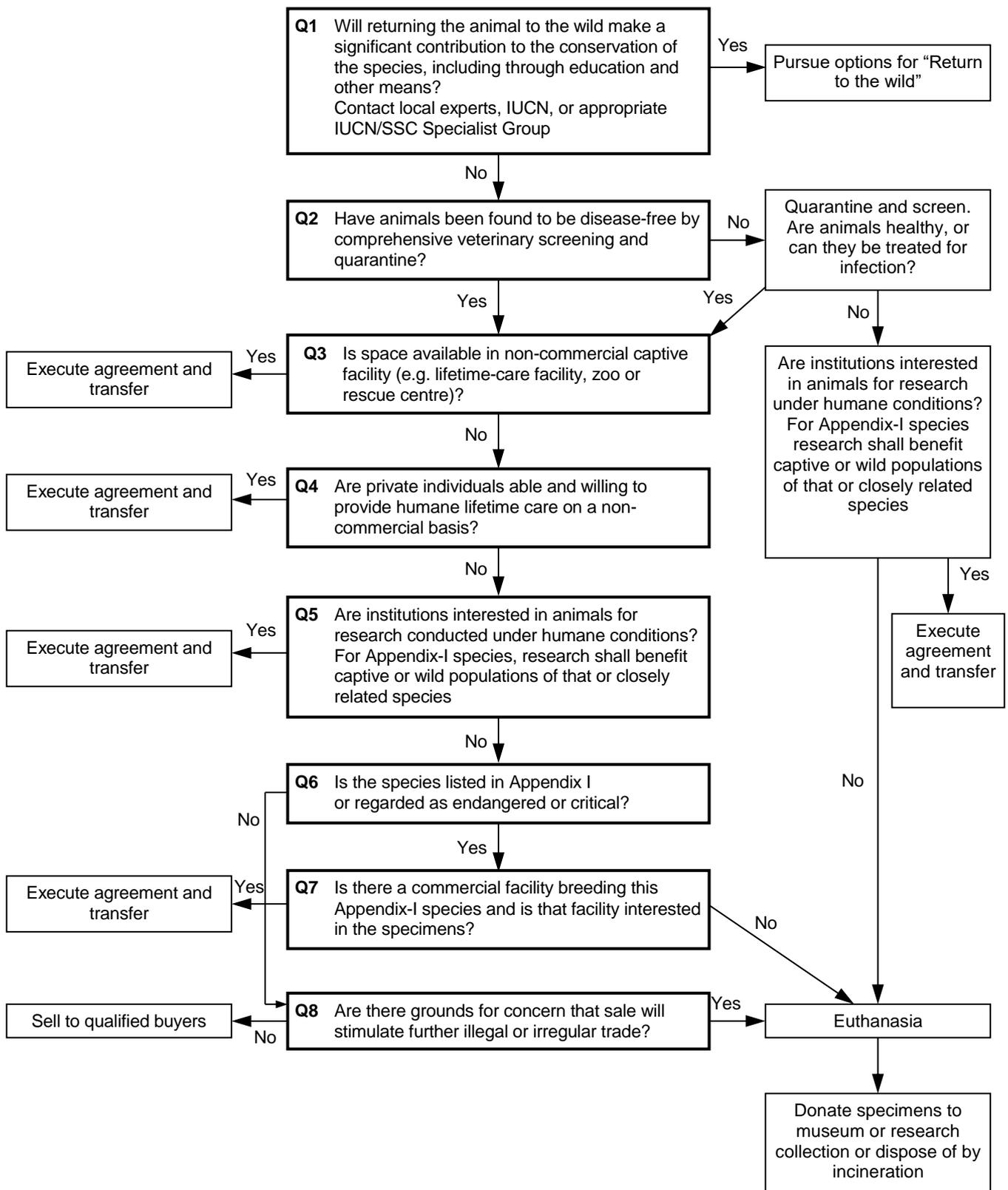
In cases where the animals can not be transferred to existing programmes, their return to the wild, following appropriate guidelines, will only be possible under the following circumstances: 1) appropriate habitat exists for such an operation; 2) sufficient funds are available, or can be made available, to support a programme over the many years that reintroduction will require; and 3) either sufficient numbers of animals are available so that reintroduction efforts are potentially viable, or only reinforcement of existing populations is considered. In the majority of cases, at least one, if not all, of these requirements will fail to be met. In such cases, other options for disposal of the animals must be considered.

It should be emphasized that, if animals of a particular species or taxon are confiscated with some frequency, consideration should be given to whether to establish a reintroduction or reinforcement programme. Animals should not be held by the confiscating authority indefinitely while such programmes are planned, but should be transferred to a holding facility after consultation with the organization that is establishing the new programme.

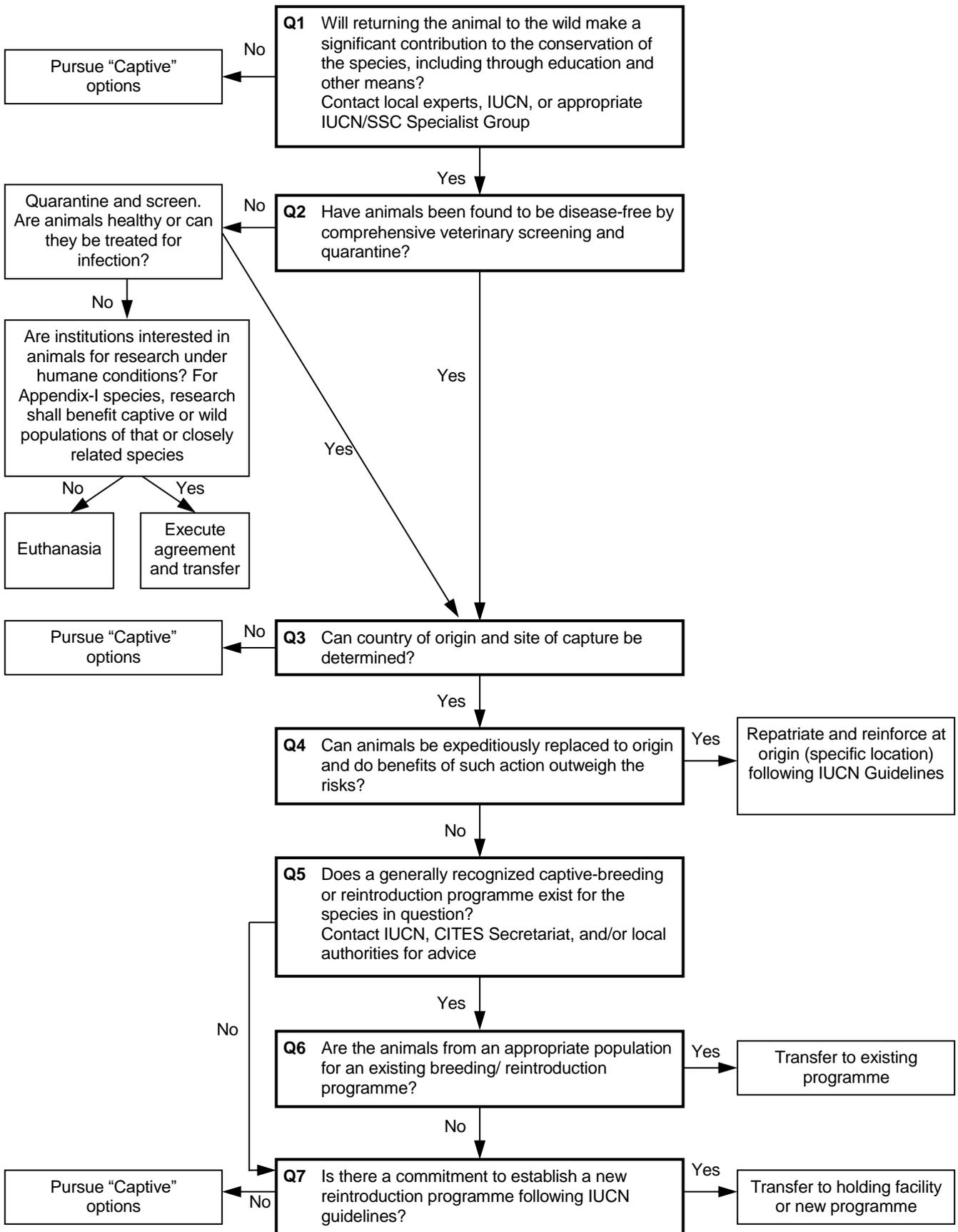
Answer: Yes: Transfer to holding facility or new programme.

No: Pursue "Captive" options.

Decision tree for “Captive” options



Decision tree for “Return to the wild” options



Annex 2

CITES guidelines for the disposal of confiscated live plants

These Guidelines are addressed to authorities in countries of origin and countries of import. When government authorities seize and subsequently confiscate live plants, these authorities have a responsibility to dispose of them appropriately. In the case of importing countries, the country of origin and/or export of the plants will normally first be contacted and notified of the seizure. Within the confines of the law, the ultimate decision on disposal of confiscated plants must achieve three goals:

- a) to maximize conservation value of the specimens without in any way endangering the genetic integrity or conservation status of wild or cultivated populations of the taxon (species, subspecies, etc.);
- b) to discourage further illegal or irregular trade in the taxon; and
- c) to avoid the resources used by organizations involved in their care or disposal being diverted away from other equally important conservation activities.

Statement of need

Increased regulation of trade in wild plants and animals and enforcement of these regulations have resulted in an increase in the number of wildlife shipments intercepted by government authorities as a result of non-compliance with these regulations. In some instances, the interception is a result of patently illegal trade; in others, it is in response to other irregularities, such as insufficient or incomplete paperwork from the exporting country or poor packing of the shipment. Whilst in some cases the number of plants in a seized shipment is small, in many others the number is in the hundreds or thousands. Although, in many countries, confiscated plants have been donated to botanic gardens or other publicly managed living plant collections, this option is proving less viable with large numbers of poorly documented plants and common species of artificially propagated horticultural origin.

In light of these trends, there is an increasing demand – and urgent need – for information and advice to guide CITES authorities in the disposal of live plants. Although the options available have been discussed for certain groups of plants, such as cycads, no general guidelines exist.

When disposing of confiscated plants, authorities must adhere to national, regional and international law. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) requires that confiscated live specimens of taxa listed in the treaty's Appendices be returned to the "State of export ... or to a rescue centre or such other place as the Management Authority deems appropriate and consistent with the purpose of the Convention" (Article VIII). However, the treaty does not elaborate on this requirement, and CITES Management Authorities must act according to their own interpretation, not only with respect to repatriation but also as regards what constitutes disposal that is 'appropriate and consistent' with the treaty. Although the present guidelines are intended to assist CITES Management Authorities in making this assessment, they are designed to be of general applicability to all confiscated live plants.

The lack of specific guidelines has resulted in confiscated plants being disposed of in a variety of ways, many inconsistent with conservation objectives. While, in some cases, replanting of confiscated plants into existing wild populations has been done after careful evaluation and with due regard for existing guidelines, in others, such releases have not been well planned. Such releases may have a strong negative conservation value by threatening existing wild populations. Threats to existing populations can take different forms:

- a) diseases and parasites acquired by the released plants while held on horticultural premises may spread into existing wild populations; and
- b) specimens planted amongst existing populations, or in areas near to existing populations, may not be of the same race or subspecies as those in the wild population, resulting in mixing of distinct genetic lineages.

Until recently disposal of confiscated plants has meant either long term care in a botanic garden or transfer to a secure nursery for the purpose of artificial propagation in an attempt to lessen the demand for the species from wild sources.

Management options

Within a conservation perspective, by far the most important consideration in reviewing the options for disposal is the conservation status of the species concerned. For confiscated plants of endangered or threatened taxa, particular effort should be directed towards evaluating whether and how these plants might contribute to a conservation programme for the taxon concerned. The decision as to which option to employ in the disposal of confiscated plants will depend on various legal, economic and biological factors. The 'Decision Tree Analysis' provided in the present guidelines is intended to facilitate consideration of these options. The tree has been written so that it may be used for both threatened and common taxa, although it is recognized that the conservation status of the taxa will be the primary consideration affecting whether or not confiscated plants might be of value to an active conservation propagation / reintroduction programme, and whether or not local or international agencies will be willing to make an investment in expensive and difficult tasks such as genetic determination of country of origin and site of collection, the establishment of reintroduction programmes, or reinforcement of extant wild populations. International networks of experts, such as the IUCN/Species Survival Commission's Specialist Groups, Botanic Gardens Conservation International (BGCI) and the International Association of Botanic Gardens (IABG), should be able to assist confiscating authorities and CITES Scientific and Management Authorities in their deliberations as to the appropriate disposal of confiscated specimens. Confiscated plants, whether destined for long term maintenance at horticultural premises or eventual reintroduction into the wild, should first be made available to propagation centres in the country of origin, if these exist and are willing to accept the consignment.

OPTION 1 – MAINTENANCE IN CULTIVATION

Seized plants are usually maintained in publicly managed horticultural establishments pending a decision on confiscation; subsequently there are numerous options for their maintenance. Placement may be in the country of origin, the country of export (if different), the country of confiscation, or a country with adequate and/or specialized facilities for the taxa in question. Depending on the circumstances and national laws, plants can be donated, loaned or sold. Final placement may be in botanic gardens or other publicly managed facilities, or with private organizations/individuals.

Placement options include:

- a) Botanic gardens and other publicly managed facilities, which are those that have mostly been used to date (and which in some cases are reaching the limit of capacity, placing in jeopardy their ability to carry out other *ex situ* conservation activities).
- b) Universities and research laboratories, which maintain living botanical collections for many kinds of research and teaching purposes (e.g. molecular systematics, anatomy, cytogenetics, reproductive biology, etc). Whether transfer of confiscated plants to research institutions is appropriate will depend on the likelihood that research carried out may eventually contribute information relevant to the species' conservation. In some cases, the lack of known provenance will make transfer to a research institution an option unlikely to be exercised or desired. Depending on the nature of the research being carried out it may also be important to establish written agreements protecting the rights of the country of origin of the plants concerned in line with the Convention on Biological Diversity.
- c) Specialist societies or clubs devoted to the study and care of particular plant groups (e.g. succulent plants), which could, in some instances, provide an avenue for the disposal of confiscated plants without involving sale through intermediaries. However, care must be taken to ensure that such organizations do not include persons trading in wild-collected specimens.
- d) Sale of confiscated specimens to traders, commercial propagators or others involved in commercial activities, which can provide a means of disposal that helps offset the costs of confiscation, especially in the case of large consignments of artificially propagated material. However, sale should not be considered unless the plants in question have been legally collected in the country of origin, are not going to be exploited in contravention of the Convention on Biological Diversity, are not subject to a legal prohibition on trade and there is no risk of stimulating further illegal or irregular trade. Sale to commercial propagators may contribute to reducing the demand for wild-collected specimens. At the same time, however, it may prove to be a poor option owing to the risk of creating a public perception of the State's perpetuating or benefiting from illegal (unlicensed) or irregular trade.

Where plants are transferred by the confiscating authority but not sold, ownership by the Management Authority should be specified as one of the terms and conditions of the transfer. Where the country of origin may desire

return of the plants, this desire should be respected, so long as the condition of the plants is such that they will survive the return voyage. The custodian (botanic garden or other organization) of confiscated plants should only move confiscated stocks to another facility for legitimate propagation purposes with the authorization of the administrative authority.

“Maintain in cultivation” – Benefits and disadvantages

The *benefits* of placing confiscated plants in a facility that will provide a satisfactory standard of horticultural care include:

- a) educational value;
- b) potential for propagation for eventual reintroduction and/or to satisfy consumer demand for artificially propagated specimens; and
- c) potential to carry out genetic fingerprinting and other molecular studies contributing to a better understanding of the population genetics and therefore conservation status of the taxa concerned.

The *disadvantages* of placing plants in a facility not involved in an established programme for artificial propagation and reintroduction include the following:

- a) The risk of encouraging illegal trade unless:
 - i) the species to be sold is already available in the confiscating country in commercial quantities or as legally traded wild-collected specimens; and
 - ii) wildlife traders under indictment for, or convicted of, crimes related to import of wildlife are prevented from obtaining the specimens in question.

Placing threatened taxa into commercial trade should not be considered because of the risks of stimulating unwanted trade. Appendix-I taxa may be sold to a nursery registered under CITES for the propagation of Appendix-I taxa, but the confiscated specimens themselves should not be resold or enter commercial trade. Since artificially propagated offspring of Appendix-I taxa are deemed to be specimens of species included in Appendix-II, there is the potential for commercial growers to propagate specimens to replace wild-collected plants as a source for trade. Hence the loan or sale, in certain circumstances (e.g. to commercial nurseries) may have a higher potential for the conservation of the species than non-commercial disposal or destruction. Such propagation activities must be carefully assessed and approached with caution, since they may be difficult to monitor.

It is essential that confiscating authorities recognize that there may be threatened plant taxa that are not currently included in CITES Appendix I but may, nevertheless, warrant the same treatment.

- b) Cost of placement. While seized plants are being maintained pending a decision on confiscation, the facility providing care for the plants may have its expenses reimbursed by the importer, airline carrier and/or the confiscating authority. Upon confiscation, if the plants are sold to a commercial organization, any payment received by the CITES authorities will place a value on such specimens. However, there is no evidence that trade would be encouraged if a commercial trader were to reimburse costs of care and transport.
- c) Disease. Confiscated plants may serve as vectors for disease and, therefore, must be subject to proper quarantine inspection. The potential consequences of the introduction of alien disease to a horticultural establishment are as serious as those of introducing disease to wild populations.
- d) Risk of escape. Plants can escape from horticultural control and become deleterious weeds. Accidental introduction of exotic species can cause tremendous damage and certain countries have strict legislation aimed at limiting the risks of this happening.

OPTION 2 – RETURN TO THE WILD

Although CITES requires that repatriation of confiscated CITES-listed plants to the country of export be considered as an option for disposal by a confiscating authority, the treaty in no way requires that plants be returned to the wild in that country. These guidelines suggest that return to the wild would be a desirable option only in certain circumstances. Repatriation to avoid addressing the question of disposal of confiscated plants is

irresponsible. When considering repatriation, the confiscating authority must ensure that the recipients of the plants are fully cognizant of the ramifications of repatriation and the options for disposal, as set forth in these Guidelines. Furthermore, the country returning a plant to its country of origin must ensure that the Management Authority in the country of origin is aware of the return and welcomes it.

The rationale behind many of the decision options in this section is discussed in greater detail in the IUCN Guidelines for Reintroduction (IUCN/SSC Reintroduction Specialist Group, IUCN, 1995). It is important to note that these Guidelines make a clear distinction between the different options for returning organisms to the wild. These are elaborated below.

- a) Reintroduction: an attempt to establish a population in an area that was once part of the range of the species but where it has become extinct.

Some of the best known reintroductions involving plants have been of taxa that were extinct in the wild. Other reintroduction programmes have involved taxa that existed in some parts of their historical range but that had been eliminated from other areas; the aim of such programmes being to re-establish a population in an area, or region, from which the species has disappeared.

- b) Reinforcement of an existing population: the addition of specimens to an existing population of the same taxon.

Reinforcement can be a powerful conservation tool when natural populations are diminished by a process which, at least in theory, can be reversed.

Because of inherent disease risks, reinforcement should only be employed in instances where there is a direct and measurable conservation benefit (demographically or genetically), as when reinforcement is critical for the viability of the wild population into which a specimen is being placed.

“Return to the wild” – Concerns and benefits

Before “Return to the wild” of confiscated plants is contemplated, several issues of concern must be considered in general terms: conservation value, cost, source of specimens and disease.

- a) Conservation value and cost. In cases where returning confiscated plants to the wild appears to be feasible, such action can only be undertaken if it does not threaten existing populations of wild plants and animals or the ecological integrity of the area in which they live. The conservation of the taxon as a whole, and of other organisms already living free, must take precedence over the welfare of specimens that are already in cultivation.
- b) Source of specimens. If the country of origin and site of collection of plants is not known, or if there is any question of their source, supplementation may lead to inadvertent pollution of distinct genetic races or subspecies.
- c) Disease. Plants maintained in cultivation and/or transported, even for a very short time, may be exposed to a variety of pathogens. Release of these plants into the wild may result in introduction of disease to conspecific or unrelated species with potentially catastrophic effects. Even if there is a very small risk that confiscated plants have been infected by exotic or common horticultural pathogens, the potential effects of introduced diseases on wild populations are so great that this will often preclude returning confiscated plants to the wild.

Where confiscated plants are judged unsuitable for return to the wild, disease screening and appropriate quarantine are, nevertheless, essential (and are frequently a legal requirement) in order to ensure that they are free of disease, or that diseases and parasites harboured by these plants are already present in the cultivated population to which the specimens may be transferred. Introduced diseases can be a serious threat to horticultural establishments. Where such quarantine can not provide a reasonable level of certainty that a specimen is healthy, isolation for an indefinite period or destruction of the confiscated specimens must be carried out.

Clearly, there are instances where return to the wild of confiscated plants must be considered an option for disposal. First and foremost, the question to be addressed is: will returning the plants to the wild make a significant contribution to the conservation of the taxon in question? Release into the wild of any plant that has been held in horticultural premises is risky. While some diseases can be tested for, tests do not exist for

all plant diseases. Furthermore, plants held in horticultural premises are frequently exposed to diseases not usually encountered in their natural habitat.

Given that any release incurs some risk, we must adopt the following 'precautionary principle': if there is no conservation value in releasing confiscated specimens, the possibility of accidentally introducing into the environment a disease that is not already present, however unlikely, will rule out returning confiscated specimens to the wild.

There are certain benefits of returning plants to the wild, either through reintroduction or reinforcement of an existing population.

- a) In situations where the existing population is severely threatened, such an action might improve the long-term conservation potential of the taxon as a whole, or of a local population of the taxon.
- b) Returning plants to the wild makes a strong political/educational statement concerning their fate and may serve to promote local conservation values. However, as part of any education or public awareness programme, the costs and difficulties associated with return to the wild must be emphasized.

OPTION 3 – DESTRUCTION

Destruction of plant material of common taxa, poorly documented specimens and/or those of horticultural origin, or of diseased material that will require expensive techniques to rid it of the diseases or pests involved, is clearly a justifiable action, especially when to keep the material in horticultural premises will cause the use of resources better directed to other conservation activities. Destruction of such material, if publicized, will also act to discourage the activities that led to confiscation, e.g. illegal collection (although the plants may be needed in the country of origin as evidence), failure to obtain correct import/export documents, poor packing, etc. In some cases, while it may be impractical to maintain plants in a living state in cultivation, their preservation as herbarium specimens may be desirable, especially if their country and site of origin is adequately documented and technical help for their preparation is available from the recipient herbarium or museum. This applies both to the country where the confiscation took place and to the country of origin, whose institutions may have been denied the right to receive material through illegal collecting. Destruction of material that is well-documented as to its wild provenance should be done only as a last resort when all other options for its disposal have been exhausted.

DECISION TREE ANALYSIS

For decision trees dealing with "Return to the wild" and "Maintain in cultivation" options, the confiscating Party, in discussion with the CITES authorities in the country of origin (if appropriate), must first ask the question:

Question 1: Will returning the plant to the wild make a significant contribution to the conservation of the taxon, including through education and other means?

The most important consideration in deciding on disposal of confiscated specimens is the conservation of the taxon in question. Because there can never be absolute certainty that a confiscated plant is free of pests and diseases, returning to the wild a specimen that has been held on horticultural premises will always involve some level of risk to existing populations of the same or other taxa in the ecosystem to which the plant is returned.

Where returning confiscated plants, or their propagations, to the wild appears to be an achievable action, it must improve the prospects for survival of the existing wild population(s). Conservation interests are best served by ensuring the survival of as many specimens as possible, not just the short-term survival of a few specimens. The benefits of the reintroduction in terms of conservation value must clearly outweigh the potential risks.

In most instances, the benefits of return to the wild will be outweighed by the costs and risks of such an action. If returning plants to the wild is not of conservation value, maintenance in cultivation in a propagation centre may pose fewer risks and may offer more conservation benefits.

Answer: Yes: Investigate "Return to the wild" options.

No: Investigate "Maintain in cultivation" options.

DECISION TREE ANALYSIS – MAINTAIN IN CULTIVATION

The decision to maintain confiscated plants in cultivation, whether in the country of origin or elsewhere, involves a simpler set of considerations than does the decision to return them to the wild.

Question 2: Have plants been subjected to comprehensive plant health screening and quarantine?

Plants that may be transferred to horticultural premises must have a clean bill of health because of the risk of introducing disease to cultivated populations.

These plants must be placed in quarantine to determine if they are disease-free before being transferred to a propagation centre.

Answer: Yes: Proceed to Question 3.

No: Quarantine and screen and move to Question 3.

Question 3: Have plants been found to be disease-free by comprehensive plant health screening and quarantine or can they be treated for any pests and diseases discovered?

If, during quarantine, the plants are found to harbour pests that can not be eliminated or diseases that can not reasonably be expected to be cured, they must be destroyed to prevent infection of other plants. If the plants are suspected to have come into contact with diseases for which screening is impossible, extended quarantine, donation to a research facility or destruction must be considered.

Answer: Yes: Proceed to Question 4.

No: If with chronic and incurable infection, first offer plants to research institutions or to herbaria/museums for preservation. If impossible to place in or not required by such institutions, destroy.

Question 4: Are there grounds for concern that sale or donation will stimulate further illegal or irregular trade?

Commercial sale of Appendix-I taxa might stimulate trade in these species. Taxa that are not listed in any CITES Appendix but that are nonetheless seriously threatened with extinction should be afforded the same caution.

Sale or donation of confiscated plants, where legally permitted, is a difficult option to consider. While the benefits of sale – income and quick disposal – are clear, there are many problems that may arise as a result of further commercial transactions of the specimens involved. Equally, it should be noted that there may be circumstances where problems arise as a result of non-commercial transactions. It should also be noted that sale or donation to commercial nurseries may increase the availability of propagated material, thereby reducing the threats from wild-collection.

More often than not, sale of threatened taxa should not take place. Sale of or trade in threatened species may be legally proscribed in some countries, or by CITES. There may be instances where a commercial nursery may purchase or receive specimens for propagation, which may reduce pressure on wild populations subject to trade. In all circumstances, the confiscating authority should be satisfied that:

- a) those involved in the illegal or irregular transaction that gave rise to confiscation can not obtain the plants;
- b) the sale or donation does not compromise the objective of confiscation; and
- c) the sale or donation will not increase illegal, irregular or otherwise undesired trade in the taxon.

Answer: Yes: Proceed to Question 5a.

No: Proceed to Question 5b.

Question 5a: Is space available in a botanic garden/non-commercial propagation centre, whether publicly managed or privately owned?

Question 5b: Is space available in a botanic garden/non-commercial propagation centre, whether publicly managed or privately owned, or is there a commercial facility propagating this taxon, and is it interested in the plants?

Transfer of plants to non-commercial propagation facilities, if their sale, donation or loan may stimulate further illegal or irregular trade, or to commercial propagation facilities, an option only if sale/donation/loan will not stimulate further illegal or irregular trade, should generally provide a safe and acceptable means of disposal of confiscated plants. When a choice must be made between several such institutions, the paramount consideration should be which facility can:

- a) offer the opportunity for the plants to be used in a programme of propagation; and
- b) provide the most consistent care without compromising the resources available for other equally valuable conservation activities in which it is engaged.

The terms and conditions of the transfer should be agreed between the confiscating authority and the recipient institution. Terms and conditions for such agreements should include:

- a) a clear commitment to ensure indefinite care to an acceptable standard or, in the event that this becomes impossible, transfer to another facility that can ensure such care;
- b) a clear specification of ownership of the specimens concerned (as determined by national law) and, where propagation may occur, the offspring. Depending on the circumstances, ownership may be vested with the confiscating authority, the country of origin or export, or with the recipient facility; and
- c) a clear specification of conditions under which the plants, or any plants propagated from them, may be sold.

In the majority of instances, there will be limited facilities available in the country in which plants are confiscated. Where this is the case other horticultural options should be investigated. This could include transfer to a propagation centre outside the country of confiscation and ideally in the country of origin, or, if it will not stimulate further illegal trade, placement in a commercial propagation facility. However, such propagation programmes must be carefully assessed and approached with caution, bearing in mind the restraints implied by the Convention on Biological Diversity. It may be difficult to monitor these programmes and such programmes may unintentionally stimulate trade in wild-collected plants. The conservation potential of transfer to a commercial propagation facility, or loan for propagation, must be carefully weighed against even the smallest risk of stimulating trade that would further endanger the wild population of the taxon.

In many countries, there are active specialist societies or clubs of individuals with considerable expertise in the care and propagation of particular plant groups in trade. Such organizations can assist in finding homes for confiscated plants without involving sale through intermediaries. In this case, individuals receiving confiscated plants must have demonstrated expertise in the cultivation of the taxa concerned and must be provided with adequate information and advice by the relevant club or society. Transfer to specialist societies or individual members must be made according to terms and conditions agreed with the confiscating authority. Placement with these societies or members is an option if sale or donation of the confiscated plants may or may not stimulate trade.

Answer: Yes: Execute agreement and sell/donate/loan.

No: Proceed to Question 6.

Question 6: Are institutions interested in plants for research as museums specimens?

Answer: Yes: Execute agreement and transfer.

No: Destroy.

DECISION TREE ANALYSIS – RETURN TO THE WILD

Question 2: Have plants been subjected to comprehensive plant health screening and quarantine?

Because of the risk of introducing disease to wild populations, plants that may be reintroduced must have a clean bill of health. These plants must be placed in quarantine to determine if they are disease-free before being considered for return.

Answer: Yes: Proceed to Question 3.

No: Quarantine and screen and move to Question 3.

Question 3: Have plants been found to be disease-free by comprehensive plant health screening and quarantine or can they be treated for any pests and diseases discovered?

If, during quarantine, the plants are found to harbour pests that can not be eliminated or diseases that can not be expected reasonably to be cured, unless any institutions are interested in the plants, whether alive or preserved, they must be destroyed to prevent spread of disease. If the plants are suspected to have come into contact with

diseases for which screening is impossible, extended quarantine, donation to a research facility or destruction must be considered.

Answer: Yes: Proceed to Question 4.

No: If with chronic and incurable infection, first offer plants to research institutions or to herbaria/museums for preservation. If impossible to place in such institutions, destroy.

Question 4: Can country of origin and site of collection be confirmed?

The geographical location from which confiscated specimens have been removed from the wild must be determined if these specimens are to be reintroduced or used to supplement existing populations. In most cases, plants should only be returned to the population from which they were taken or to populations that are known to have gene exchange with this population.

If the provenance of the plants is not precisely known, their use for reinforcement may lead to inadvertent hybridization of distinct genetic races or subspecies. Related plant taxa that live in sympatry in the wild and never hybridize may do so when held in cultivation and this problem is in no way restricted either to naturally sympatric taxa or even to closely related taxa in the plant kingdom.

Answer: Yes: Proceed to Question 5.

No: Pursue "Maintain in cultivation" options.

Question 5: Can specimens be returned expeditiously to origin (specific location), and will benefits to conservation of the taxon outweigh any risks of such action?

Reintroduction of the specimens and reinforcement of the population will only be options under certain conditions and following the IUCN/SSC Reintroduction Specialist Group's 1995 Guidelines. An appropriate habitat for such an operation should still exist in the specific location from which the specimens were removed.

Answer: Yes: Repatriate and reinforce at origin (specific location) following IUCN Guidelines.

No: Proceed to Question 6.

Question 6: For the taxon/taxa in question, does a generally recognized programme exist whose aim is conservation of that/those taxon/taxa and eventual return to the wild of confiscated specimens and/or their progeny? (Contact relevant IUCN/SSC Specialist Group, BGCI and/or IABG).

In the case of species for which active propagation and/or reintroduction programmes exist, and for which further propagation material / mother plants are required, confiscated plants should be transferred to such programmes after consultation with the appropriate scientific authorities. If there is such a programme for the taxon in question, but the actual subspecies or race confiscated is not part of this programme, other methods of disposal must be considered. Particular attention should be paid to genetic screening to avoid jeopardizing reintroduction programmes through inadvertent hybridization.

Answer: Yes: Execute agreement and transfer to existing programme.

No: Proceed to Question 7.

Question 7: Is there a need and is it feasible to establish a new reintroduction programme following IUCN Guidelines?

In cases where specimens can not be transferred to existing reintroduction programmes, return to the wild, following appropriate guidelines, will only be possible under the following circumstances:

- a) appropriate habitat exists for such an operation;
- b) sufficient funds are available, or can be made available, to support a programme over the many years that (re)introduction will require; and
- c) either sufficient numbers of specimens are available so that reintroduction efforts are potentially viable or only reinforcement of existing populations is considered.

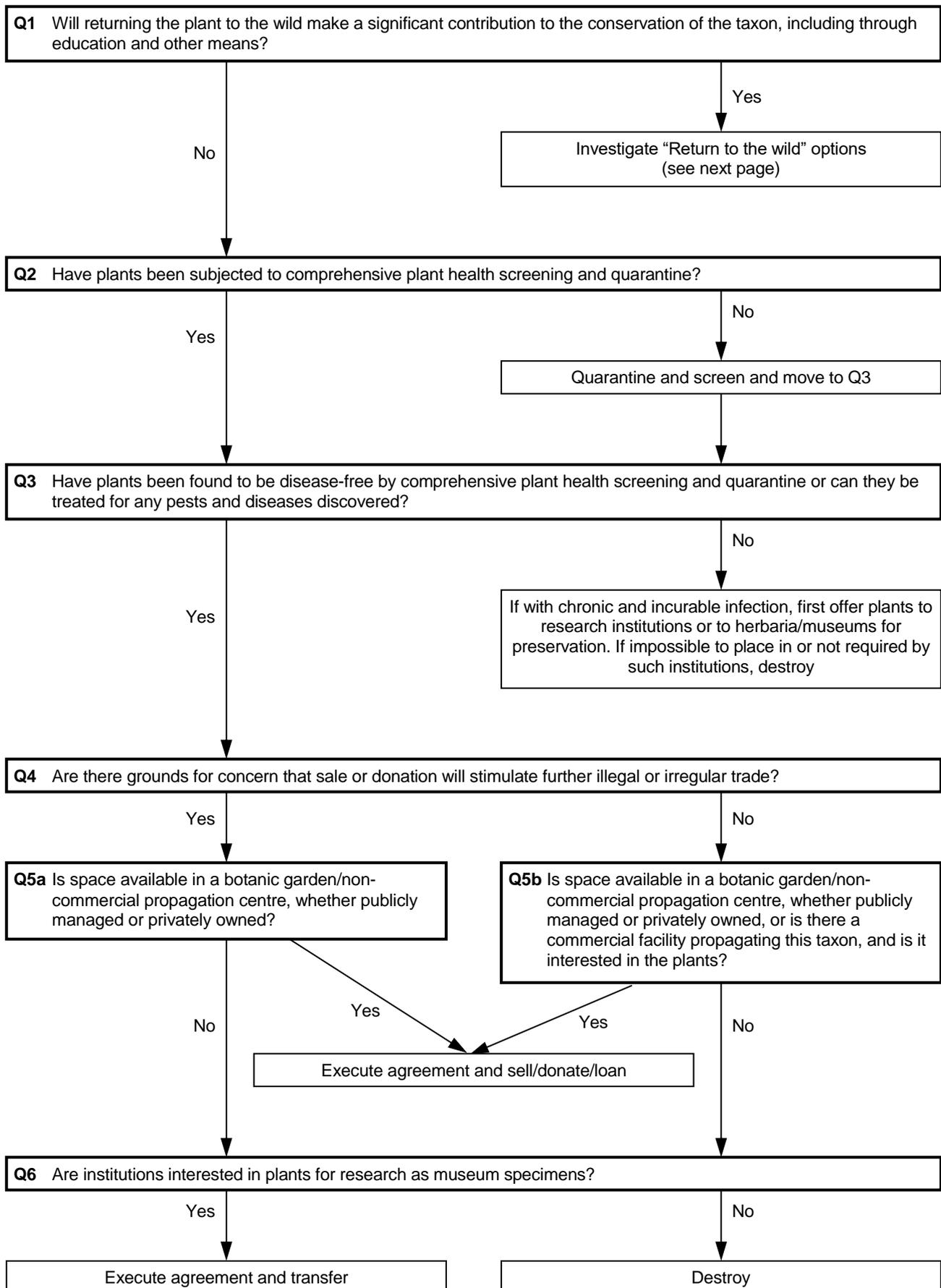
In the majority of cases, at least one, if not all, of these requirements will fail to be met. In this instance, either conservation introductions outside the historical range of these species or other options for disposal of the plants must be considered.

It should be emphasized that, if a particular taxon is confiscated with some frequency, consideration should be given as to whether to establish a reintroduction, reinforcement or introduction programme. Plants should not be held by the confiscating authority indefinitely while such programmes are planned, but should be transferred to a holding facility after consultation with the organization that is establishing the new programme.

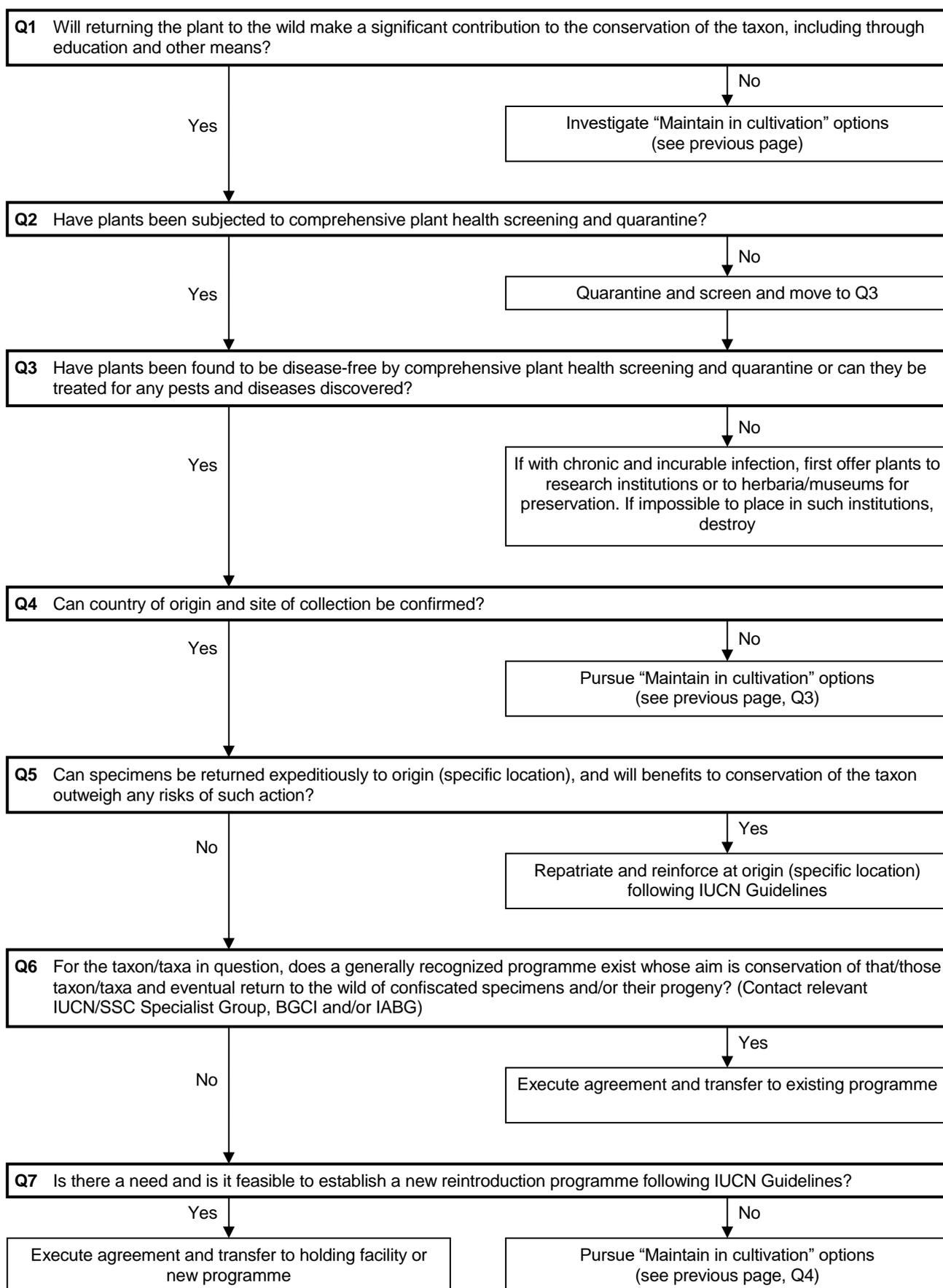
Answer: Yes: Execute agreement and transfer to holding facility or new programme.

No: Pursue "Maintain in cultivation" options.

Decision tree for “Maintain in cultivation” options



Decision tree for “Return to the wild” options



Annex 3

Guidelines to develop an action plan on seized and/or confiscated live specimens

Each Party should develop a plan of action that can be executed without delay in the event that live specimens are seized. This action plan should be developed in accordance with the *CITES guidelines for the disposal of confiscated live animals* in Annex 1 and the *CITES guidelines for the disposal of confiscated live plants* in Annex 2. The plan should:

1. identify means for procuring funds to provide care, quarantine, and transport and other costs incurred for seized and confiscated live specimens. Funding might be secured through levying of fines, obtaining reimbursement from importers, licensing and bonding importers and exporters, requiring import duties or permit fees, seeking donations from private or government sources, obtaining government allocations, or selling confiscated live specimens, where appropriate;
2. establish a procedure for implementing the Guidelines in accordance with the Party's domestic law and policy;
3. identify government agencies and personnel with authority to make decisions regarding the seizure and disposal of live specimens and clarify their roles and jurisdiction in this process. Such agencies and personnel may include Customs, agricultural inspection services, law enforcement agencies, veterinary agencies, public health services, and the Management and Scientific Authorities;
4. identify which authority in the country of origin listed in the CITES Directory should be contacted in the event that live specimens are seized. This authority should be annotated in the CITES Directory;
5. provide for training of personnel involved in the seizure and disposal of live specimens to ensure both the immediate and long-term welfare of the specimens;
6. include a list of experts who or institutions which can assist in species identification, care and/or other technical aspects of the seizure, confiscation and disposal process;
7. identify and/or develop facilities to provide for the care of live specimens immediately after seizure;
8. identify temporary holding facilities that have agreed to provide adequate care for seized live specimens of particular taxa until the confiscation process is completed;
9. identify approved facilities and programmes located within the country that have agreed to provide adequate care, including veterinary or phytosanitary care, and that are willing to accept confiscated live specimens of particular taxa. Parties should prepare a list of such facilities and programmes, which should be submitted to the Secretariat which will make it available to the Parties on request; and
10. ensure that the Party begins evaluating options for disposal of seized live specimens immediately after seizure.

**DRAFT DECISIONS ON THE APPLICATION OF RESOLUTION 17.XX ON
ILLEGALLY TRADED AND CONFISCATED SPECIMENS OF CITES-LISTED SPECIES**

Directed to the Secretariat

- 17.A The Secretariat is requested to:
- a) subject to the availability of external funding, develop a questionnaire to be distributed to Parties or gather information by other means, such as a workshop or oral interviews, which would review the use and usefulness of the guidelines contained in three annexes to the Resolution 17.XX for Parties in disposal of confiscated live animals and plants as well as evaluate current practice;
 - b) subject to the availability of external funding, conduct an analysis of available data on the disposal of confiscated live animals and plants collected through *inter alia* the biennial reports or other special reports; and
 - c) submit this information to the Standing Committee for its consideration.

Directed to the Standing Committee

- 17.B The Standing Committee should consider how and to which extent the content of the new, merged Resolution should be adapted at its 69th meeting. It should also evaluate the results of the activities conducted by the Secretariat under decision 17.XX above and consider how to incorporate these results into the guidelines (included in the Annexes of the revised resolution). The Standing Committee should propose amendments to Resolution 17.B, including the annexes, accordingly, and report on its work to the 18th meeting of the Conference of the Parties.