

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



Seventeenth meeting of the Conference of the Parties
Johannesburg (South Africa), 24 September - 5 October 2016

Interpretation and implementation matters

Trade control and traceability

DRAFT REVISION OF RESOLUTION CONF. 16.8 ON FREQUENT
CROSS-BORDER NON-COMMERCIAL MOVEMENTS OF MUSICAL INSTRUMENTS

1. This document has been submitted by the European Union.*

Background

2. Resolution Conf. 16.8 was agreed at the 16th Conference of the Parties to CITES (Bangkok, 2013) and sets out procedures for Musical Instrument Certificates that enable individuals traveling with musical instruments containing specimens of species listed by the Convention to avoid the need to obtain permits for every cross-border movement.
3. The aim of Resolution Conf. 16.8 was to facilitate the frequent cross-border movement of musical instruments in a more practical and reasonable way. In this context, the regulation should be proportionate to the potential conservation benefits gained and should provide a simplified procedure for individuals travelling with musical instruments for non-commercial purposes.
4. It should be noted that many musical instruments contain only very small amounts of CITES-listed specimens (e.g. less than 1g of ivory in a violin bow head) and, thus, should not require sophisticated control procedures at each border. Furthermore, it seems reasonable to suggest that there are no conservation concerns when using these instruments, travelling and crossing international border.
5. Based on experience gained since the introduction of Musical Instrument Certificates several organizations that represent musicians, musical instrument manufacturers and musicians themselves have identified a number of problems with the procedures introduced by Resolution Conf. 16.8. Whilst supportive of the principles introduced by Resolution Conf. 16.8 relating to the simplification of the procedures for frequent cross-border movement, many musicians and manufacturers would appreciate consideration of whether this mechanism could be adjusted to better facilitate the non-commercial cross-border movement of musical instruments, while retaining appropriate CITES controls.
6. Musical instruments containing specimens of CITES-listed species are often very old and in some cases are considered national cultural treasures due to their historical importance, very high standards of workmanship, and their value. As a consequence, instruments are often owned by institutions or museums and loaned out to individual professional musicians playing with orchestras, music ensembles and groups taking part in overseas tours for the purpose of live concerts and other performances.
7. In recognition of the fact that many musicians travel with loaned instruments, the intention was to remove reference to "personally-owned" in the draft Resolution considered at CoP16. This was agreed by CoP16

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working group members and should have been reflected in the 'In-session document Com. II 25' at CoP16. This, however, was not achieved owing to technical problems and requires correction by amending paragraph a) of the Resolution (see Annex).

8. Musicians also face problems with the obligatory validation of Musical Instrument Certificates by customs or inspecting officers at each border they cross. In some cases musicians need to wait for a considerable period of time for their certificate to be endorsed or for a relevant customs official to arrive. However, public performance time schedules often do not allow for such delays.
9. To address this it is proposed to remove the obligation for a Musical Instrument Certificate to be endorsed at every border, only requiring it to be shown to customs officials on request. Amendments are proposed to paragraph g) to address this (see Annex).
10. Also of concern to musicians is:
 - inspecting officers are often unaware of the travelling exemption;
 - Inspecting officers have problems identifying potential CITES-listed materials contained in instruments;
 - some Parties have not yet implemented the exemption;
 - some Parties apply 'stricter domestic measures' without taking account of this exemption.
11. As a result, in isolated cases, valuable old musical instruments have been confiscated, not only resulting in significant financial loss to the individual musician, but creating great uncertainty for the music industry as a whole. Proposals to address these points are proposed in Annex A.
12. These complications have led to minimal acceptance of Musical Instrument certificates by musicians. Also, many old musical instruments have been significantly damaged/destroyed (and their commercial values greatly reduced) by replacing CITES-listed materials with non-CITES products (e.g. mammoth ivory). The intent of Resolution Conf. 16.8 was not that it should result in damaging old cultural treasures, or force musicians to travel and perform with low quality instruments. Hence, we are recommending amendments to Resolution Conf. 16.8.

Recommendation

13. The Conference of the Parties is invited to adopt the changes to Resolution Conf. 16.8 on frequent cross-border non-commercial movements of musical instruments.

COMMENTS FROM THE SECRETARIAT

- A. The objective of the proposal is to further facilitate the cross-border non-commercial movements of musical instruments by deleting the requirement that such movements should be controlled and endorsed at the border by inspecting officers. The proposal further extends the scope of the musical instrument certificates to apply to non-personally owned musical instruments as these are often high value that individual musicians are unlikely to be in a position to own and insure.
- B. It would appear that Resolution 16.8 was carefully crafted to fit within existing exemptions to the general rules of the Convention by requiring that the musical instruments to which the exemption would apply should be either 'pre-convention specimen' [Art. VII (2)] or personal effects [Art VIII (3)]. The proposal suggests that the exemption should apply to musical instruments that are not personal effects as they are owned by museums or other institutions because of their value. As the proposal implies that the operational part of the Resolution will no longer make reference to personally-owned musical instruments, it could be considered as a logical consequence to delete the references to personal and household effects in the preambular part of the Resolution as well.

- C. The Secretariat notes that further facilitation of the frequent cross-border movement of musical instrument and the deletion of the requirement of inspection officers to endorse the certificate could potentially lead to efficiency gains.
- D. A second part of the proposal urges Parties with stricter domestic measures in place to consider exemptions for musical instruments containing specimen of such species. In this context, the Secretariat draws attention to the right of each Party to establish stricter domestic measures, according to the provisions of the Convention Article XIV (1). The Secretariat considers that it would be more correct to refer to “special provisions” rather than “exemptions” in the paragraph.
- E. The Secretariat considers that the proposal would not have any resource implications for the Secretariat. It could potentially lead to efficiency gains by the Parties applying the proposed exemption.

PROPOSED AMENDMENTS TO RESOLUTION CONF. 16.8
ON FREQUENT CROSS-BORDER NON-COMMERCIAL MOVEMENTS OF MUSICAL INSTRUMENTS

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

Resolution Conf. 16.8 (Rev. CoP17) Frequent cross-border non-commercial movements of musical instruments

[enter two new paragraphs as second last in the preamble part of the resolution]

RECOGNIZING that old musical instruments containing specimens of CITES-listed species often are national cultural treasures due to their age, artistic quality and economic value, measures to regulate their cross-border movement for non-commercial purposes should be proportionate to their conservation benefit and provide a simple procedure for travel;

ACKNOWLEDGING that musical instruments with very small amounts of CITES-listed specimens (e.g. less than 1g of ivory in a violin bow head) do not require sophisticated control procedures at each border;

RECOGNIZING that musical instruments are often owned by institutions or museums and loaned out to individual professional musicians playing with orchestras, music ensembles and groups taking part in overseas tours for the purpose of live concerts and other performances;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

1. RECOMMENDS that for non-commercial cross-border movement of musical instruments derived from CITES species, other than Appendix-I specimens acquired after the species was included in the Appendices:
 - a) Parties issue a musical instrument certificate for a pre-Convention Appendix-I, -II or -III ~~personally-owned~~ musical instrument or for a ~~personally-owned~~ musical instrument containing specimens of Appendix-II or -III species acquired after the effective listing date (“personal effects”), to facilitate the frequent non-commercial cross-border movement of musical instruments for purposes including, but not limited to, personal use, performance, display or competition;
 - g) the Parties concerned treat each musical instrument certificate as a type of passport that allows the non-commercial movement of the identified musical instrument across their borders upon request presentation-of the original certificate shall be presented to the appropriate border control officer who:
 - i) ~~inspects the original and validates it with an ink stamp, signature and date to show the history of movement from State to State; and~~
 - i) does not collect the original at the border, but allows it to remain with the specimen;
1. RECOMMENDS that where the current holder travelling with the instrument is different from the legal owner, the full name and address of the legal owner should be included in the certificate, and the instrument is accompanied by a copy of a loan agreement between legal owner and current holder;
2. URGES all Parties to implement the procedures in Resolution Conf. 16.8 and to ensure that their customs officials are aware of them;
3. URGES Parties that have introduced stricter domestic measures for CITES listed species to consider exemptions for musical instruments containing specimens of those species.