

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



Eighteenth meeting of the Conference of the Parties
Colombo (Sri Lanka), 23 May – 3 June 2019

Interpretation and implementation matters

General compliance and enforcement

DISPOSAL OF CONFISCATED SPECIMENS

1. This document has been submitted by the Standing Committee.*
2. At its 17th meeting (CoP17, Johannesburg, 2016), the Conference of the Parties adopted a new Resolution, Conf. 17.8 on *Disposal of illegally traded and confiscated specimens of CITES-listed species* merging and repealing Resolutions Conf. 9.9, Conf. 9.10 (Rev. CoP15) and Conf. 10.7 (Rev. CoP15).
3. At the same meeting, the Conference of the Parties adopted the following Decisions:

Decision 17.118 directed to the Secretariat

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 Conf. 17.8 on Disposal of illegally traded and confiscated specimens of CITES-listed species 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.*

and

Decision 17.119 directed to the Standing Committee

The Standing Committee should consider how and to which extent the content of the new, merged Resolution Conf. 17.8 should be adapted at its 69th meeting. It should also evaluate the results of the activities conducted by the Secretariat under Decision 17.118 and consider how to incorporate these results into the guidelines (included in the Annexes of Resolution Conf. 17.8). The Standing Committee should propose amendments to Resolution Conf. 17.8, including the annexes, accordingly, and report on its work to the 18th meeting of the Conference of the Parties.

* *The geographical designations employed in this document do not imply the expression of any opinion whatsoever on the part of the CITES Secretariat (or the United Nations Environment Programme) concerning the legal status of any country, territory, or area, or concerning the delimitation of its frontiers or boundaries. The responsibility for the contents of the document rests exclusively with its author.*

4. At its 69th meeting, the Standing Committee established a working group with the following membership: Israel and Switzerland (co-Chairs), Argentina, Brazil, Canada, China, Ethiopia, European Union, France, Guatemala, Italy, Japan, Kenya, Liberia, Malaysia, Netherlands, Peru, Portugal, Singapore, Spain, Sweden, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, and the United States of America; as well as Animal Welfare Institute, Association of Zoos and Aquariums, Born Free Foundation, Eurogroup for Animals, European Alliance of Rescue Centres & Sanctuaries, European Association of Zoos and Aquaria, Humane Society International, International Fund for Animal Welfare, International Union for Conservation of Nature, International Wood Products Association, San Diego Zoo Global, Species Survival Network, Stichting Animal Advocacy, and Protection, Wildlife Impact, World Association of Zoos and Aquariums, World Parrot Trust, World Resources Institute, and World Wildlife Fund.
5. The Standing Committee agreed on the following terms of reference for the working group as set out in the summary record of SC69:

The Working group shall:
 - a) analyse the results of the questionnaire and other activities undertaken by the CITES Secretariat under Decision 17.118; and
 - b) prepare a report to the 70th meeting of the Standing Committee, containing recommendations on the following topics, as appropriate and necessary:
 - i) possible amendments to Resolution Conf. 17.8 on *Disposal of illegally traded and confiscated specimens of CITES-listed species* and its Annexes;
 - ii) the possibility of the creation of a list of rescue centres for the disposal of live specimens which might be published on the CITES Secretariat website;
 - iii) the different options for disposal of confiscated specimens under the Convention and the legal questions related to these options; and
 - iv) (review) the use of the term “disposal” and considerations of possible alternative terms that might be more appropriate.
6. The working group worked intersessionally by electronic means and prepared document [SC70 Doc. 32](#) containing the considerations, conclusions and recommendations of the working group which are summarized in the following.

Analysis of the results of the activities undertaken by the Secretariat

7. In fulfilment of Decision 17.118, the Secretariat reported to the 69th meeting of the Standing Committee the results of the survey on current practices, challenges and issues related to the disposal of live specimens ([SC69 Doc. 34.1](#)). The Standing Committee working group considered the report and agreed that the biggest challenge faced by Parties related to the recovery of costs of seizure, confiscation and disposal of live specimens and that there is a lack of public funding. In addition, a number of responding Parties expressed the view that there seemed to be a lack of (appropriate) facilities to place seized and confiscated live specimens. Only a few Parties indicated that the return of seized specimens to the country of origin is a frequently applied option for them. Some Parties indicated that they experienced problems with record keeping of data related to the confiscation of live specimens; however, the nature of these problems is not clear from the questionnaire. Some Parties noted that the safe and appropriate custody of live animals until final disposition and related expertise is a challenge.
8. Less than half of the Parties that responded to the questionnaire had established decision-making procedures/plans of action.
9. Members of the working group suggested that guidance and training for humane handling and rescue facilities (including permanent facilities) would be valuable as discussed below. Further, it was suggested that collection of best practices identified in Annex 3 of Resolution Conf. 17.8, including those Action Plans submitted by four Parties, could be included on the CITES webpage. Finally, regarding the recovery of costs, it was recalled that in paragraph 5 of Resolution Conf. 17.8, the Conference of the Parties 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;*

The Standing Committee therefore invited the Secretariat to include consideration of this paragraph in existing legislative initiatives, such as the National Legislation Project to support Parties' efforts in developing and implementing effective mechanisms to recover the costs of confiscation, custody and disposal.

Possible amendments to Resolution Conf. 17.8

10. Based on this analysis, the working group considered possible amendments to the newly merged Resolution Conf. 17.8 but did not reach consensus on any amendments to propose.
11. The working group further considered the possibility of developing guidelines on how to determine what constitutes a suitable designated rescue centre. While acknowledging the usefulness of such guidelines, the working group members considered that this usefulness would be limited since the determination of the suitability of rescue centres is governed by national legislation.
12. Another suggestion was to develop a definition and some minimum standards for "designated rescue centres" and a list of rescue centres, meeting such minimum standards and approved by CITES. However, it was questioned whether this would be within the mandate of CITES. It was further noted that the requirements might differ depending on the nature of the facility in question i.e. designated sanctuaries vs. centres for short-term emergency placement.
13. Some members of the working group argued that certain provisions of Resolution Conf. 17.8 were inconsistent with the text of the Convention, for example the possibility of disposing live animals to vivisection laboratories. A few members suggested that more user user-friendly and modern decision-trees in annexes 1 and 2 would be desirable.
14. Finally, it was suggested to develop and add guidelines on the humane handling of seized and confiscated specimens, for humane euthanasia methods as well as for the process of selling confiscated live and dead and accumulated specimens.

Creation of a list of existing rescue centres for publication on the website of the CITES Secretariat

15. A majority of the non-Party members of the working group supported the creation of a list of rescue centres to be made available on the CITES website. However, Parties expressed concerns regarding such a list. Some Parties indicated that a publicly available list would raise security concerns associated with the custody of seized/confiscated CITES-listed species, as well as with the safeguarding of the rescue centres. A majority of members therefore supported the creation of a list that only Parties have access to, which might be placed on an access-restricted section of the CITES website.
16. It was unclear what purpose such a list could serve and how, and by whom, such the list would be maintained. Finally, it was not clear what kind of mechanisms might be used to ensure an appropriate level of operational and care standards for listed rescue centres, and through which mechanisms, a centre could potentially be removed if it was no longer up to standard. A draft set of criteria for such facilities was put forward by one member and received some support. Some members also suggested to create a list of taxon or species-specific experts that could be contacted if needed for support for the immediate care of seized/confiscated live specimens,
17. At SC70, the Standing Committee agreed that a list of existing rescue centres would not solve the identified problems and that such a list should not be developed at this stage. Instead, the Standing Committee proposed that the Secretariat collect and make available information on existing networks and resources on the management of seized and confiscated live animals.

Options for the disposal of confiscated specimens under the Convention and related legal questions

18. The working group considered whether the options for the disposal of confiscated specimens set out in the Resolution are in conformity with the Convention and whether revision of the Resolution would be required. Some members of the working group considered euthanasia as a controversial option for disposal, others

saw it as a valid and humane option depending on the case and the circumstances, whereas others considered it an option of last resort only.

19. Many members of the working group stressed that it was often not feasible or realistic to return live animals to the wild; often animals had been in captivity for too long to be reintroduced or it would be too resource-demanding on the authorities to engage in a reintroduction process. Some Parties pointed out that there are further factors to be considered such as veterinary or administrative requirements, which are all regulated at the national level by Parties.
20. Some members objected to selling confiscated specimens as they considered it to be inconsistent with the provisions of Article VIII of the Convention, as well as inconsistent with recent trends in international law (e.g. the Nagoya Protocol of the Convention on Biological Diversity). It was also noted that there would be a real risk that sold confiscated specimens could re-enter illegal trade flows. Finally, others noted that sale must be carried out under controlled conditions and suggested that guidelines on how to ensure the sale of confiscated specimens does not stimulate further illegal trade and to prevent laundering of previously confiscated specimens might be useful.
21. There was no consensus on the various options for disposal recommended in the Resolution and therefore no suggestion for amending them at this stage.

Use of the term “disposal” and consideration of possible alternative terms

22. The working group considered whether the term disposal was suitable in the context of live animals. Some members found that the term was appropriate and wished to maintain it noting that the Resolution also covers non-live specimens. Other members preferred a different term and suggested the following alternative terms:
 - Management of confiscated specimens;
 - Treatment of confiscated specimens;
 - Placement of confiscated specimens;
 - Disposition of confiscated specimens;
 - Custody of confiscated specimens; and
 - Guardianship/supervision of confiscated specimens.
23. However, the working group did not reach a consensus on this and did not therefore propose an alternative term for the Resolution.

Conclusions and recommendations

24. Based on the above work and considerations, there were mixed views in the working group on whether or not to propose to the Standing Committee and the Conference of the Parties that the work should be continued. At its 70th meeting, the Standing Committee agreed that the mandate had been fulfilled and that the decisions therefore should not be renewed. Instead, the Standing Committee suggested to collect existing information and possibly at a later stage decide whether this information presented any gaps that would need to be filled.
25. The Conference of the Parties is invited to:
 - a) agree that Decisions 17.118 and 17.119 have been implemented and can be deleted; and
 - b) consider and adopt the new draft decisions directed to the Secretariat and the Parties contained in Annex 1 of the present document.

COMMENTS OF THE SECRETARIAT

DRAFT DECISIONS

Directed to the Secretariat

- 18.AA The Secretariat shall collect information on existing networks and resources on the management of seized and confiscated live animals and make it available to Parties.

Directed to Parties

- 18.BB Parties are encouraged to make use of the information collected by the Secretariat under Decision AA, including in capacity-building activities.

TENTATIVE BUDGET AND SOURCE OF FUNDING
FOR THE IMPLEMENTATION OF DRAFT RESOLUTIONS OR DECISIONS

According to Resolution Conf. 4.6 (Rev. CoP16) on *Submission of draft resolutions, draft decisions and other documents for meetings of the Conference of the Parties*, the Conference of the Parties decided that any draft resolutions or decisions submitted for consideration at a meeting of the Conference of the Parties that have budgetary and workload implications for the Secretariat or permanent committees must contain or be accompanied by a budget for the work involved and an indication of the source of funding.

The Secretariat considers that the proposed activities in the draft decisions can be undertaken within its core budget.