CONVENCIÓN SOBRE EL COMERCIO INTERNACIONAL DE ESPECIES AMENAZADAS DE FAUNA Y FLORA SILVESTRES

_____

Sesiones conjuntas de la 31ª reunión del Comité de Fauna y de la 25ª reunión del Comité de Flora
Ginebra (Suiza), 17 de julio de 2020

Cuestiones de interpretación y aplicación

Reglamentación del comercio

Especímenes criados en cautividad y en granjas

Examen de las disposiciones de la CITES relacionadas con el comercio de especímenes de animales y plantas de origen no silvestre

1. El presente documento ha sido presentado por las presidencias de los Comités de Fauna y de Flora*.

2. En su 18ª reunión (CoP18, Ginebra, 2019), la Conferencia de las Partes renovó las Decisiones 18.172 y 18.173 sobre *Examen de las disposiciones de la CITES relacionadas con el comercio de especímenes de animales y plantas de origen no silvestre*, como sigue:

18.172 Dirigida a los Comités de Fauna y de Flora

El Comité de Fauna, en su 31ª reunión, y el Comité de Flora, en su 25ª reunión, deberán considerar la actualización de la Secretaría del examen de las disposiciones de la CITES relacionadas con el comercio de especímenes de animales y plantas de origen no silvestre enunciado en el Anexo 7 del documento SC70 Doc. 31.1, [que se encuentra en el documento CoP18 Inf. 28] así como las observaciones y recomendaciones de las Partes que figuran en el Anexo 8 del documento SC70 Doc. 31.1, identificar las cuestiones científicas y desafíos clave en la aplicación de la Convención a los especímenes de origen no silvestre, y formular sus recomendaciones para abordar esas cuestiones y desafíos al Comité Permanente con anterioridad a la SC73.

18.173 Dirigida al Comité Permanente

El Comité Permanente deberá:

a) considerar, en su 73ª reunión, la actualización de la Secretaría del examen de las disposiciones de la CITES relacionadas con el comercio de especímenes de animales y plantas de origen no silvestre enunciado en el Anexo 7 del documento SC70 Doc. 31.1, así como las observaciones y recomendaciones de las Partes que figuran en el Anexo 8 del documento SC70 Doc. 31.1; los supuestos políticos CITES subyacentes que pueden haber contribuido a una aplicación desigual de los párrafos 4 y 5 del Artículo VII; las recomendaciones de la Secretaría formuladas en los Anexos del documento SC70

* *Las denominaciones geográficas empleadas en este documento no implican juicio alguno por parte de la Secretaría CITES (o del Programa de las Naciones Unidas para el Medio Ambiente) sobre la condición jurídica de ninguno de los países, zonas o territorios citados, ni respecto de la delimitación de sus fronteras o límites. La responsabilidad sobre el contenido del documento incumbe exclusivamente a su autor.*

Doc. 31.1; y las recomendaciones de los Comités de Fauna y de Flora con arreglo a la Decisión 18.172; y

b) examinar las cuestiones y desafíos clave en la aplicación de la Convención a los especímenes de origen no silvestre y formular las recomendaciones apropiadas, inclusive enmiendas a las resoluciones en vigor o la redacción de una nueva resolución o de decisiones, para abordar esas cuestiones y desafíos a fin de someterlas a la consideración de la 19ª reunión de la Conferencia de las Partes.

Progresos en la aplicación de las Decisiones 18.172 y 18.173

3. En relación con la Decisión 18.172, y para facilitar la consulta, la Secretaría ha incluido en el Anexo 1 del documento la actualización del examen de las disposiciones de la CITES relacionadas con el comercio de especímenes de animales y plantas de origen no silvestre (documento informativo CoP18 Inf. 28), y en el Anexo 2 del presente documento las observaciones y las recomendaciones de las Partes (documento SC70 Doc. 31.1 Anexo 8).

4. Si bien en la Decisión 18.172 se pide a los Comités de Fauna y de Flora que informen sobre los resultados de su labor al Comité Permanente antes de su 73ª reunión (SC73), el plazo entre la presente reunión y la fecha límite para presentar la documentación para la SC73 no sería suficiente para facilitar un asesoramiento riguroso sobre un asunto complejo. Consideramos que informar al Comité Permanente en su 74ª reunión (SC74) proporcionaría un plazo más realista para aplicar plenamente la Decisión 18.172 y solicitaremos el acuerdo del Comité para que asesore a la presidencia del Comité Permanente en este sentido.

5. En cuanto a la Decisión 18.173, en su 72ª reunión (SC72, Ginebra, agosto de 2019), el Comité Permanente estableció un Grupo de trabajo entre reuniones sobre especímenes criados en cautividad y en granjas[1] con el mandato de:

   a) considerar, en su 73ª reunión, la actualización de la Secretaría del examen de las disposiciones de la CITES relacionadas con el comercio de especímenes de animales y plantas de origen no silvestre enunciado en el Anexo 7 del documento SC70 Doc. 31.1, así como las observaciones y recomendaciones de las Partes que figuran en el Anexo 8 del documento SC70 Doc. 31.1; los supuestos políticos CITES subyacentes que pueden haber contribuido a una aplicación desigual de los párrafos 4 y 5 del Artículo VII; las recomendaciones de la Secretaría formuladas en los Anexos del documento SC70 Doc. 31.1; y las recomendaciones de los Comités de Fauna y de Flora con arreglo a la Decisión 18.AA del documento CoP18 Doc. 57; y

   b) examinar las cuestiones y desafíos clave en la aplicación de la Convención a los especímenes de origen no silvestre y formular las recomendaciones apropiadas, inclusive enmiendas a las resoluciones en vigor o la redacción de una nueva resolución o de decisiones, para abordar esas cuestiones y desafíos a fin de someterlas a la consideración de la 19ª reunión de la Conferencia de las Partes.

   El grupo de trabajo entre reuniones está presidido por España, y su composición completa puede consultarse en: https://cites.org/sites/default/files/eng/com/sc/72/SC72-WGs-members-2304.pdf

6. En abril de 2020, la presidencia del grupo de trabajo distribuyó dos documentos para iniciar las discusiones, de conformidad con lo enunciado en su mandato: en lo que concierne al párrafo a) del mandato, el primer documento consta de una compilación de las observaciones contenidas en el documento SC70 Doc. 31.1, Anexo 8; en cuanto al párrafo b) del mandato, el segundo documento consta de una selección de siete cuestiones seleccionadas para su discusión. A efectos informativos, ambos documentos están disponibles respectivamente en los Anexos 3 y 4 del presente documento.

7. En el momento de redactar este documento, el grupo de trabajo estaba examinando ambos documentos y la Secretaría informaría acerca de cualquier actualización relevante para las cuestiones y desafíos científicos relacionados con la Decisión 18.172 en la presente reunión.

---

[1] *La Presidencia del Comité de Flora señala que el título del grupo de trabajo entre reuniones debería revisarse de acuerdo con el alcance de su mandato (es decir, especímenes de animales y plantas de origen no silvestre).*

Recomendaciones

8. Se invita a los Comités de Fauna y de Flora a establecer un Grupo de trabajo conjunto entre reuniones sobre el comercio de especímenes de animales y plantas de origen no silvestre para:

   a) examinar el informe actualizado por la Secretaría contenido en el Anexo 1 del documento AC31 Doc. 19.3/PC25 Doc. 21, y las observaciones y recomendaciones de las Partes que figuran en el Anexo 2 de ese documento;

   b) teniendo en cuenta lo anterior, identificar las cuestiones y desafíos científicos esenciales en la aplicación de la Convención a los especímenes de origen no silvestre;

   c) formular recomendaciones para abordar esas cuestiones y desafíos; e

   d) informar sobre los resultados de esa labor a las reuniones 32ª y 26ª de los Comités de Fauna y de Flora, y solicitar a las Presidencias de los Comités de Fauna y de Flora que comuniquen los progresos y acuerdos pertinentes a la presidencia del Grupo de trabajo entre reuniones del Comité Permanente sobre los especímenes criados en cautividad y en granjas, a tiempo para que los incorporen en su informe a la 74ª reunión del Comité Permanente, con arreglo a lo previsto en la Decisión 18.173.

Examen de las disposiciones de la CITES relativas al comercio de especímenes de fauna y flora de origen no silvestre

Este examen ha sido preparado por la Secretaría y expresa sus propios puntos de vista, teniendo en cuenta el asesoramiento de un grupo de trabajo sobre el tema establecido por el Comité Permanente.

La Secretaría reconoce que algunas Partes e interesados directos interpretan de diferentes maneras determinadas disposiciones de la Convención y las resoluciones de la Conferencia de las Partes. Uno de los motivos por los que se solicitó que se realizara este examen es reconciliar estas diferentes interpretaciones.

Índice

Glosario utilizado en este examen

Introducción

Antecedentes

Examen de las disposiciones, ambigüedades e incoherencias y cuestiones que pueden requerir atención.

1. Aplicación de los párrafos 4 y 5 del Artículo VII
   1.1 Panorama general
   1.2 Ambigüedades e incoherencias

2. Resolución Conf. 12.3 (Rev. CoP17) sobre *Permisos y certificados*
   2.1 Panorama general
   2.2 Ambigüedades e incoherencias

3. Resolución Conf. 5.10 (Rev. CoP15) sobre *Definición de la expresión "con fines primordialmente comerciales"*
   3.1 Panorama general
   3.2 Ambigüedades e incoherencias

4. Resolución Conf. 10.16 (Rev.) sobre *Especímenes de especies animales criados en cautividad*
   4.1 Panorama general
   4.2 Ambigüedades e incoherencias

5. Resolución Conf. 11.11 (Rev. CoP15) sobre *Reglamentación del comercio de plantas*
   5.1 Panorama general
   5.2 Ambigüedades e incoherencias

6. Resolución Conf. 12.10 (Rev. CoP15) sobre *Registro de establecimientos que crían en cautividad especies de fauna incluidas en el Apéndice I con fines comerciales*
   6.1 Panorama general
   6.2 Ambigüedades e incoherencias

7. Resolución Conf. 9.19 (Rev. CoP15) sobre *Registro de viveros que reproducen artificialmente especímenes de especies de flora incluidas en el Apéndice I con fines de exportación*
   7.1 Panorama general
   7.2 Ambigüedades e incoherencias

Anexo: Breve historia de las resoluciones de la Conferencia de las Partes sobre la regulación del comercio de especímenes no extraídos del medio silvestre.

Glosario utilizado en este examen

"Reproducido artificialmente" o "ra"	Especímenes de especies de plantas que cumplen los criterios establecidos por la Conferencia de las Partes y comercializados utilizando el código de origen A o D.
"Criado en cautividad", o "cc"	Especímenes de especies de animales que cumplen los criterios establecidos por la Conferencia de las Partes y comercializados utilizando el código de origen C o D.
"De origen no silvestre"	Especímenes comercializados utilizando los códigos de origen A, C, F, R o D, en vez de W.
Códigos de origen [Resolución Conf. 12.3 (Rev. CoP17)]	W Especímenes extraídos del medio silvestre; R Especímenes criados en granjas: especímenes de animales criados en un medio controlado, recolectados como huevos o juveniles en el medio silvestre, donde habrían tenido una muy baja probabilidad de sobrevivir hasta la edad adulta; D Animales del Apéndice I criados en cautividad con fines comerciales en establecimientos incluidos en el Registro de la Secretaría, de conformidad con la Resolución Conf. 12.10 (Rev. CoP15), y plantas del Apéndice I reproducidas artificialmente con fines comerciales, así como sus partes y derivados, exportados con arreglo a las disposiciones del párrafo 4 del Artículo VII de la Convención; A Plantas reproducidas artificialmente en consonancia con la Resolución Conf. 11.11 (Rev. CoP17), así como sus partes y derivados, exportadas con arreglo a las disposiciones del párrafo 5 del Artículo VII (especímenes de especies incluidas en el Apéndice I que hayan sido reproducidas artificialmente con fines no comerciales y especímenes de especies incluidas en los Apéndices II y III); C Animales criados en cautividad en consonancia con la Resolución Conf. 10.16 (Rev.), así como sus partes y derivados, exportados con arreglo a las disposiciones del párrafo 5 del Artículo VII; F Animales nacidos en cautividad (F1 o generaciones posteriores), que no se ajusten a la definición de "criados en cautividad" contenida en la Resolución Conf. 10.16 (Rev.), así como sus partes y derivados

Introducción

Basándose en la labor realizada entre 2013 y 2016 de conformidad con las Decisiones 16.63 a 16.66, el Comité Permanente señaló que era necesario prestar más atención al control del comercio de especímenes declarados como criados en cautividad o en granjas. Señaló que se habían expresado preocupaciones acerca de la redacción confusa y difícil de comprender de las resoluciones en vigor de la CITES sobre el tema, acerca de la insuficiencia de las verificaciones del origen legal del plantel reproductor utilizado en los establecimientos de cría en cautividad y acerca de la creación de establecimientos de cría en cautividad fuera del país de origen de los especímenes y las especies en cuestión (véase el documento CoP17 Doc. 32).

En consecuencia, en la 17ª reunión de la Conferencia de las Partes, el Comité propuso y la Conferencia de las Partes acordó adoptar la Decisión 17.101, cuyo texto es el siguiente:

> *Sujeto a la disponibilidad de recursos, la Secretaría deberá examinar las ambigüedades e incoherencias en la aplicación de los párrafos 4 y 5 del Artículo VII, la Resolución Conf. 10.16 (Rev.), sobre* Especímenes de especies animales criados en cautividad*; la Resolución Conf. 12.10 (Rev. CoP15), sobre* Registro de establecimientos que crían en cautividad especies de fauna incluidas en el Apéndice I con fines comerciales*; la Resolución Conf. 11.11 (Rev. CoP17), sobre* Reglamentación del comercio de plantas*; la Resolución Conf. 9.19 (Rev. CoP15), sobre* Registro de viveros que reproducen artificialmente especímenes de especies de flora incluidas en el Apéndice I con fines de exportación*; la Resolución Conf. 5.10 (Rev. CoP15), sobre* Definición de la expresión "con fines primordialmente comerciales"*; y la Resolución Conf. 12.3 (Rev. CoP17), sobre* Permisos y certificados*, en lo que se refiere a la utilización de los códigos de origen R, F, D, A y C, incluyendo los supuestos políticos CITES subyacentes y las interpretaciones nacionales divergentes que pueden haber contribuido a una aplicación desigual de esas disposiciones, así como las cuestiones de cría en cautividad presentadas en el documento SC66 Doc. 17 y cuestiones relacionadas con la adquisición legal, incluido el plantel fundador, como se describe en el documento SC66*

Doc. 32.4, presentar el examen a las Partes y los interesados a través de una notificación para que formulen observaciones y presentar sus conclusiones y recomendaciones junto con las observaciones de las Partes y los interesados al Comité Permanente.

La Secretaría presentó el examen, junto con las observaciones de las Partes y los interesados directos al respecto, al Comité Permanente en su 70ª reunión (Rosa Khutor, Sochi, octubre de 2018). En esa reunión, el Comité Permanente decidió que era preciso examinar con mayor detenimiento los diferentes enfoques y suposiciones adoptadas por las Partes sobre las resoluciones en vigor relacionadas con la cría en cautividad y la reproducción artificial, a fin de progresar en la labor reflejada en el documento SC70 Doc. 31.1. El Comité acordó proponer la adopción de una serie de decisiones en la CoP18 para poder llevar a cabo ese examen.

Antecedentes

Cuando se redactó la Convención, la cría en cautividad y la reproducción artificial de especies de fauna y flora silvestres eran relativamente limitadas y, sin duda, en el caso de muchas especies, rara vez se llevaba a cabo una producción intensiva con fines comerciales. Como lo demostró un reciente trabajo encargado por la Secretaría[2] por petición de la Conferencia de las Partes, ya no es el caso. Las cifras más recientes muestran por ejemplo que, durante el período de 2007 a 2016, el 62% de todo el intercambio comercial de especies de animales CITES vivos incluía especímenes declarados como de origen no silvestre. En el caso de los mamíferos, el 95% del comercio de animales vivos correspondió a especímenes de estos orígenes. El porcentaje del comercio de animales que se declara que no son de origen silvestre está aumentando cada año. Esta tendencia también se observa en relación con los recursos naturales de manera más general. En el Estado Mundial de la Pesca y la Acuicultura 2016 preparado por la Organización de las Naciones Unidas para la Alimentación y la Agricultura (FAO) se indica que en lo referido al suministro de alimentos, la acuicultura proporcionó más peces que la pesca de captura por primera vez en 2014. En el Estado Mundial de la Pesca y la Acuicultura 2018 se muestra que el porcentaje de peces producidos en la acuicultura para todos los fines sigue aumentando. De manera similar, las áreas de bosques plantados están aumentando, mientras que las de bosques naturales están disminuyendo. En consecuencia, la situación que prevalecía en el momento de redactarse el texto de la Convención ya no se aplica en la actualidad.

Las opiniones de las Partes sobre los méritos o no de la cría en cautividad y de la reproducción artificial han variado a lo largo de los años y no siempre han sido coherentes de un taxón a otro. La Resolución Conf. 1.6 sobre *Resoluciones Adoptadas por la Sesión Plenaria* (revocada en 2002) instaba a todas las Partes Contratantes a fomentar la cría de animales para el comercio de animales de compañía y el preámbulo de la Resolución Conf. 9.19, sobre *Directrices para el registro de viveros que exportan especímenes de especies incluidas en el Apéndice I reproducidos artificialmente*, acordado en 1994, pero que es aún válido, reconoce que la reproducción artificial de especímenes de especies de flora incluidas en el Apéndice I puede constituir una alternativa económica a la agricultura tradicional en los países de origen y puede también hacer que aumente el interés por su conservación en las áreas de distribución natural. Esta resolución reconoce además que, al hacer que los especímenes estén fácilmente disponibles, la reproducción artificial de especímenes de especies de flora incluidas en el Apéndice I reduce la presión que supone la recolección en el medio silvestre y, por ende, tiene un efecto positivo sobre su estado de conservación. Por el contrario, la Decisión 14.69 de 2007 encarga a las Partes, particularmente a los Estados del área de distribución de los grandes felinos asiáticos *(Panthera tigris)* incluidos en el Apéndice I, con establecimientos intensivo de cría de tigres a escala comercial, que apliquen medidas a fin de restringir la población en cautividad a un nivel que redunde en pro de la conservación de los tigres silvestres, estableciendo así que no deberían criarse tigres para comercializar sus partes y derivados.

Si bien pueden aliviar la presión sobre las poblaciones silvestres, la reproducción artificial y la cría en cautividad pueden tener efectos perversos en la conservación de las especies en el medio silvestre. Cuando las especies de flora CITES se cultivan en plantaciones (mixtas o de monocultivos), vale la pena tener en cuenta que el hábitat natural puede haber sido eliminado a fin de proporcionar espacio para dichas plantaciones. En esos casos, la especie CITES en cuestión ha sido "salvada", pero la conservación de la naturaleza en su conjunto puede haber sufrido. La historia reciente del comercio de caviar de esturión también debe ser considerada. Las poblaciones silvestres fueron disminuyendo cada vez más en el Mar Caspio, pero cuando se sustituyó el caviar silvestre por caviar procedente de peces en cautividad, la cría en cautividad no se desarrolló generalmente *in situ* en los Estados ribereños del Mar Caspio, sino en otros países fuera del área de distribución natural de la especie en cuestión. Los esfuerzos para restaurar las poblaciones de esturión en el Mar Caspio no están siendo fructíferos y esto puede deberse a la falta de incentivos para emprender esta actividad, ya que la demanda de caviar en el mercado está siendo satisfecha por otros países. La cuestión de quién se beneficia financieramente con el comercio de fauna y flora producida fuera de los Estados del área de distribución es también pertinente a

[2] *Véase el Anexo 2 en AC27 Doc. 17 (Rev.1) - https://cites.org/sites/default/files/esp/com/ac/27/S-AC27-17.pdf.*

la luz del preámbulo de la Resolución Conf. 8.3 (Rev. CoP13), sobre *Reconocimiento de las ventajas del comercio de fauna y flora silvestres*, que reconoce que los ingresos procedentes de la utilización lícita pueden generar fondos y servir de incentivo para apoyar la gestión de la vida silvestre con el propósito de reducir el tráfico ilícito.

Las ventajas y desventajas para la conservación de las especies del comercio de especímenes de especies incluidas en los Apéndices de la CITES criadas en cautividad o reproducidas artificialmente pueden variar de una especie a otra y quizás depender de si la actividad se lleva a cabo *in situ* o *ex situ*. En el caso de que se produzcan estos efectos variados, las Partes deberían preferentemente acordar claramente los distintos enfoques que se han de adoptar para que las políticas que rigen la aplicación de la Convención sean más específicas y contribuyan más adecuadamente a la conservación de esas especies. En cierto grado, esto es lo que se ha hecho en el caso de los tigres, mediante la Decisión 14.69.

A medida que la oferta de algunas especies silvestres se ha vuelto más limitada y la demanda ha aumentado, ha surgido una nueva tendencia, que puede denominarse "producción silvestre asistida". Para la fauna, esto ya se ha establecido desde hace cierto tiempo en la forma de la cría en granjas, ya que en la Resolución Conf. 11.16 (Rev. CoP15) sobre *Cría en granjas y comercio de especímenes criados en granjas de especies transferidas del Apéndice I al Apéndice II*, las Partes han reconocido que, como sistema de gestión, la cría en granjas para algunas especies ha demostrado ser una forma segura y sólida de utilización sostenible en lo que concierne a la captura de adultos en el medio silvestre. Este enfoque se ha ampliado para abarcar varios otros tipos de sistemas de producción; se presentó una síntesis de estos en el documento AC20 Inf. 15. Estos sistemas evolucionan y se desarrollan constantemente. Algunos ejemplos recientes incluyen la fragmentación y los brotes de corales para aumentar la producción. En el caso de la flora, la tendencia se manifiesta a menudo a través de plantaciones mixtas o de monocultivos sometidas solamente a un manejo poco estricto. La recolección de especímenes de dichas plantaciones generalmente puede tener un impacto menor en la conservación de la especie que la recolección directa en el medio silvestre, aun cuando los especímenes no cumplan con la definición de "reproducidos artificialmente". A lo largo de los años, se han hecho varios esfuerzos para lograr una mejor comprensión y el reconocimiento de estas formas de producción y recolección; puede consultarse un examen inicial para las especies de fauna en el documento AC17 Doc. 14 (Rev. 1). En el caso de las plantas, esto se ha materializado en intentos de ampliar la definición del término "reproducido artificialmente" de forma que cubra un mayor número de especímenes. En los intercambios con la Secretaría, varias Partes han expresado su frustración por el hecho de que el comercio de especímenes derivados de esas formas de producción y recolección se siga tratando de manera demasiado estricta bajo la normativa actual de la CITES.

La cuestión del vínculo entre las poblaciones de la especie en el medio silvestre por un lado y los establecimientos de cría en cautividad y de reproducción artificial por el otro es fundamental. El comercio de especímenes criados en cautividad o reproducidos artificialmente puede tener un impacto negativo si los especímenes de origen silvestre son declarados como criados en cautividad o reproducidos artificialmente. Este tipo de comercio tal vez podría también aumentar la demanda, que podría satisfacerse posteriormente mediante la extracción ilegal o no sostenible de especímenes del medio silvestre. Por otra parte, es posible que la disponibilidad de especímenes criados en cautividad o reproducidos artificialmente ayude a satisfacer la demanda, que de otro modo se vería satisfecha con especímenes extraídos del medio silvestre. Parece haber pocos datos empíricos para apoyar cualquiera de estas hipótesis.

El aumento del comercio de especímenes criados en cautividad o reproducidos artificialmente también puede influir en los incentivos para la conservación de especies en el medio silvestre, pero estos incentivos pueden variar dependiendo de si la cría en cautividad o la reproducción artificial se está llevando a cabo dentro o fuera del área de distribución natural de la especie. En este sentido, aunque no se mencionan en el mandato para este examen, son relevantes las disposiciones de la Resolución Conf. 13.9, sobre *Fomento de la cooperación entre las Partes con establecimientos de cría* ex situ *y las Partes con programas de conservación* in situ.

Estos efectos a veces en conflicto y contradictorios generan confusión en la búsqueda de un enfoque coherente para controlar el comercio de especímenes criados en cautividad y reproducidos artificialmente.

Cabe señalar que este no es de ninguna manera el primer intento de aportar claridad para la aplicación de los párrafos 4 y 5 del Artículo VII y las disposiciones y resoluciones relacionadas –véase por ejemplo el documento CoP10 Doc. 10.67.

En el Anexo al presente documento figura una breve historia de las resoluciones de la Conferencia de las Partes sobre la regulación del comercio de especímenes no extraídos del medio silvestre.

Examen de las disposiciones, ambigüedades e incoherencias y cuestiones que pueden requerir atención.

1. Aplicación de los párrafos 4 y 5 del Artículo VII

1.1 Panorama general

Los párrafos 4 y 5 del Artículo VII permiten el comercio de especímenes que son "criados en cautividad" o "reproducidos artificialmente", que se ha de llevar a cabo con controles que no son tan estrictos como los que se aplican al comercio de especímenes extraídos del medio silvestre. Los términos "criados en cautividad" y "reproducidos artificialmente" se han definido en dos resoluciones, véanse las secciones 4 y 5 *infra.* El párrafo 4 del Artículo VII se ocupa de los especímenes de especies incluidas en el Apéndice I que han sido criados en cautividad/reproducidos artificialmente con fines comerciales y el párrafo 5 del Artículo VII de especímenes de especies incluidas en el Apéndice I que han sido criados en cautividad/reproducidos artificialmente sin fines comerciales y con especímenes de especies incluidas en los Apéndices II o III criados con cualquier fin (comercial o no comercial).

El párrafo 4 del Artículo VII establece que los especímenes incluidos en el Apéndice I y criados en cautividad o reproducidos artificialmente con fines comerciales serán considerados especímenes de especies incluidas en el Apéndice II y, por lo tanto, se comercializan de conformidad con el Artículo IV. Esto significa, por ejemplo, que pueden ser importados con fines primordialmente comerciales, aunque estando sujetos a un dictamen de extracción no perjudicial. La aplicación de esta disposición se detalla todavía más en dos resoluciones; véanse las secciones 6 y 7 del presente documento.

El párrafo 5 del Artículo VII establece que, para los especímenes criados en cautividad o reproducidos artificialmente, se aceptará un certificado a ese efecto en sustitución de los permisos o certificados exigidos en virtud de las disposiciones de los Artículos III, IV o V (es decir, esta disposición se aplica a los especímenes de las especies incluidas en los Apéndices I, II o III). Las repercusiones prácticas del uso de certificados de cría en cautividad o reproducción artificial se detallan en el cuadro que figura en la sección 2 del presente documento.

A fin de prestar asistencia para distinguir entre los especímenes de origen silvestre y aquellos que han sido criados en cautividad o reproducidos artificialmente (y que, por lo tanto, cumplen las condiciones de las excepciones establecidas en los párrafos 4 y 5 del Artículo VII), en la Resolución Conf. 3.6, sobre *Normalización de los permisos y certificados emitidos por las Partes* se introdujeron los códigos de origen que se habrían de incluir en los permisos y certificados. En ese momento, los códigos eran "W", "C" y "A", con un código de origen "O" para los especímenes que no se ajustaban a esas categorías.

Hoy en día, los códigos de origen figuran en la Resolución Conf. 12.3 (Rev. CoP17), que se describe más detalladamente en el párrafo 2 del presente documento.

El término "fines comerciales" que se menciona en el párrafo 4 del Artículo VII se aborda en la Resolución Conf. 5.10 (Rev. CoP15), la Resolución Conf. 12.10 (Rev. CoP15) y la Resolución Conf. 9.19 (Rev. CoP15), que se examinan en los párrafos 3, 6 y 7 del presente documento.

1.2 Ambigüedades e incoherencias

La Secretaría observó algunas diferencias de opinión entre las Partes con relación a la utilización de los párrafos 4 y 5 del Artículo VII de la Convención y los permisos o certificados requeridos. El párrafo 3 i) de la Resolución Conf. 12.3 (Rev. CoP17) indica que los códigos de origen D, A y C, es decir, los especímenes criados en cautividad/reproducidos artificialmente, sólo deben utilizarse cuando se aplican los párrafos 4 y 5 del Artículo VII. La Secretaría ha constatado que algunas Partes opinan que los especímenes criados en cautividad o reproducidos artificialmente (con códigos de origen D, A y C) también pueden comercializarse con arreglo a los Artículos III y IV. Sin embargo, como se explica en el Anexo al documento CoP10 Doc. 10.67, cuando se aprobó la Resolución Conf. 10.16, los párrafos tercero y cuarto del preámbulo se diseñaron para aclarar que los procedimientos del Artículo IV deberían aplicarse a las exportaciones bajo el párrafo 4 del Artículo VII y los certificados de cría en cautividad deberían utilizarse en el caso del párrafo 5 del Artículo VII.

Muchas Partes utilizan el modelo normalizado CITES que figura en el Anexo 2 de la Resolución Conf. 12.3 (Rev. CoP17) para la documentación CITES. Debido a la forma en que se ha diseñado el modelo, es importante indicar claramente en él si un documento emitido es un permiso de exportación expedido con arreglo a los Artículos II, IV o V, o un certificado de cría en cautividad/reproducción

artificial expedido con arreglo al párrafo 5 del Artículo VII. Hasta la CoP12, la Resolución Conf. 10.2 (Rev.) sobre *Permisos y certificados*, especificaba que todos los modelos expedidos debían indicar si se expedía como un certificado de cría en cautividad o reproducción artificial o no, pero esta instrucción específica fue suprimida posteriormente por motivos que no se explican en las actas de la reunión.

No está claro si los párrafos 4 y 5 del Artículo VII puede aplicarse secuencialmente, es decir, cualquier espécimen que cumpla las condiciones del Apéndice I puede considerarse como del Apéndice II con arreglo al párrafo 4 del Artículo VII y entonces puede concedérsele un certificado de cría en cautividad/reproducción artificial en virtud del párrafo 5 del Artículo VII. La orientación en cuanto a que las disposiciones de los párrafos 4 y 5 del Artículo VII han de aplicarse separadamente, estaba contenida previamente en la Resolución Conf. 2.12, pero se ha perdido cuando esta resolución se reemplazó por la Resolución Conf. 10.16. No resulta claro si esto ha ocasionado malentendidos para las Partes.

Los controles del comercio en virtud del párrafo 4 del Artículo VII son rigurosos, ya que los especímenes son considerados como si estuvieran incluidos en el Apéndice II; sin embargo, puede sostenerse que los controles del comercio en virtud del párrafo 5 del Artículo VII son más débiles, ya que una vez que se ha determinado que un espécimen ha sido criado en cautividad o reproducido artificialmente, sólo se requiere un certificado en ese sentido. Esto pone de manifiesto la importancia de tener definiciones claras de los términos cría en cautividad y reproducción artificial y una aplicación cuidadosa y precisa. Las definiciones actuales pueden no ser suficientemente claras, como se explica más adelante en las secciones 4 y 5.

En general, parecería que actualmente no se dispone de orientación clara sobre qué documentos deberían expedirse en qué circunstancias cuando se realiza comercio de conformidad con los párrafos 4 y 5 del Artículo VII.

2. Resolución Conf. 12.3 (Rev. CoP17), sobre *Permisos y certificados*

2.1 Panorama general

Esta resolución enumera los códigos de origen que deben ser utilizados en los permisos y certificados para especímenes de origen no silvestre. Estos se exponen en el inciso i) del párrafo 3 de la resolución e incluyen los códigos R, D, A, C y F que son pertinentes para la cuestión que nos ocupa. La mayoría de las definiciones de los términos utilizados en las descripciones de los códigos de origen no se encuentran, no obstante, en la Resolución Conf. 12.3 (Rev. CoP17), sino que están distribuidos en otras cinco resoluciones.

El uso de los códigos de origen C y A parece ser relativamente sencillo, y estos se aplican en relación con el párrafo 5 del Artículo VII. Cuando los especímenes de especies incluidas en el Apéndice I que se crían en cautividad o se reproducen artificialmente se originan en un establecimiento o vivero registrado (véanse las secciones 6 y 7), estos pueden comercializarse con arreglo al párrafo 4 del Artículo VII y se les asigna el código D en lugar de C o A.

Con respecto al código de origen R, las obligaciones de las Partes son diferentes dependiendo de si el espécimen en cuestión procede o no de una población transferida del Apéndice I al Apéndice II de conformidad con las disposiciones del párrafo A. 2. b) del Anexo 4 de la Resolución Conf. 9.24 (Rev. CoP17), sobre *Criterios para la enmienda de los Apéndices I y II* (la llamada "transferencia a un Apéndice de protección menor en caso de cría en granjas"). En ambos casos, las disposiciones de los Artículos III y IV se aplican a cualquier permiso expedido, pero en el caso de especímenes de especies transferidas del Apéndice I al Apéndice II cuando se trata de cría en granjas, se aplican también las obligaciones adicionales de supervisión y presentación de información descritas en la Resolución Conf. 11.16 (Rev. CoP15), sobre *Cría en granjas y comercio de especímenes criados en granjas de especies transferidas del Apéndice I al Apéndice II*.

Como se explica en la Resolución Conf. 12.3 (Rev. CoP17), el código de origen F se aplica a los especímenes nacidos en cautividad, pero no así a las normas requeridas para que se les considere criados en cautividad (código de origen C) de conformidad con la Resolución Conf. 10.16 (Rev.).

Los requisitos de los permisos para los especímenes con códigos de origen R y F son idénticos a aquellos para los especímenes de origen silvestre.

En el cuadro siguiente se presenta una síntesis de los permisos o certificados exigidos para los especímenes a los que se asigna cada código de origen y algunas de las obligaciones consiguientes que se exigen antes de expedir dichos permisos o certificados.

Código de origen	Apéndice	Documento(s) requerido(s)	¿Se necesita un dictamen de extracción no perjudicial?	¿Se necesita un dictamen de adquisición legal?	¿Se permite la importación con fines primordialmente comerciales?	Disposiciones de la Convención
C/A	I	Certificado de cc/ra	NO*	NO*	SÍ	Art. VII.5
	II	Certificado de cc/ra	NO*	NO*	SÍ	Art. VII.5
D	I = II	Permiso de exportación	SÍ	SÍ	SÍ	Art. VII.4
R	I	Permiso de exportación y de importación	SÍ	SÍ	NO	Art. III
	II	Permiso de exportación	SÍ	SÍ	SÍ	Art. IV
F	I	Permiso de exportación y de importación	SÍ	SÍ	NO	Art. III
	II	Permiso de exportación	SÍ	SÍ	SÍ	Art. IV
W	I	Permiso de exportación y de importación	SÍ	SÍ	NO	Art. III
	II	Permiso de exportación	SÍ	SÍ	SÍ	Art. IV

* Si bien no se requiere para los especímenes reales en el comercio, estos deben expedirse para el plantel reproductor con arreglo a la Resolución Conf. 10.16 (Rev.) para los animales y la Resolución Conf. 11.11 (Rev. CoP17) para las plantas.

La Resolución Conf. 12.3 (Rev. CoP17) establece qué información debe incluirse en los permisos y certificados CITES, incluidos los certificados de cría en cautividad y de reproducción artificial. En su Anexo 2 figura también un modelo normalizado para los permisos y certificados CITES, así como el contenido y (en la medida de lo posible) el formato que se recomienda que utilicen las Partes.

2.2 Ambigüedades e incoherencias

En lo que respecta al uso de los códigos de origen, el apartado i) del párrafo 3 de la resolución recomienda que se empleen los códigos de origen D, C y A únicamente en el contexto de la aplicación de los párrafos 4 y 5 del Artículo VII, pero no todas las Partes aplican este criterio, ya que algunas usan los códigos de origen C y A en los permisos de exportación expedidos con arreglo a los Artículos III y IV, como se indica *supra*. Esto puede deberse a que están aplicando medidas nacionales más estrictas o a que interpretan de diferente manera qué tipo de permiso y certificado ha de expedirse en diferentes circunstancias. No es muy útil el hecho de que algunos códigos de origen estén definidos en la resolución y otros no. El código de origen F es uno de los que están definidos en la resolución, pero únicamente haciendo referencia a las cualidades que no tienen los especímenes en cuestión, en lugar de una indicación con un sentido positivo. Esto parece haber dado lugar a que se utilice el código de origen F cuando no se sabe qué otro código utilizar. Los requisitos de los permisos para especímenes con códigos de origen F y R son idénticos a los del código de origen W, lo cual nos hace cuestionar la finalidad de estos códigos, ya que complican la aplicación de la Convención sin que se aprecien beneficios. Se han presentado algunos argumentos para esos códigos de origen “intermedios”, véase por ejemplo el párrafo 12 del documento PC24 Doc. 16.1.

Cabe señalar que, en relación con el código de origen D, la resolución no menciona la Resolución Conf. 9.19 (Rev. CoP15) respecto a la reproducción artificial de plantas, de forma similar a la mención de la Resolución Conf. 12.10 (Rev. CoP15) para los animales. Pese a que hay una falta de claridad en la Resolución Conf. 9.19 (Rev. CoP15) (véase la sección 7.2) esto parece deberse a que el registro de establecimientos que reproducen artificialmente especímenes de especies del Apéndice I con fines comerciales es optativo.

Otra incoherencia palpable es que cuando se utiliza en relación con párrafo 5 del Artículo VII, el código de origen A se aplica a especímenes de especies de plantas incluidas en el Apéndice I únicamente cuando han sido reproducidas artificialmente con fines no comerciales. Pese a que podría asumirse que la misma cualificación (criado con fines no comerciales) se aplicaría en relación con los animales, no se especifica en la definición del código de origen C en el párrafo 3 i) de la Resolución Conf. 12.3 (Rev. CoP17).

El modelo normalizado CITES del Anexo 2 de la Resolución Conf. 12.3 (Rev. CoP17) no distingue con claridad entre los casos en los que se utiliza como permiso de exportación con arreglo a los Artículos III o IV, o como certificado de cría en cautividad o reproducción artificial con arreglo al párrafo 5 del Artículo VII. Se podría marcar la casilla “Otro” en la parte superior del modelo, donde se indica el tipo de permiso o certificado, pero no se indica claramente el propósito para el que se expide el documento.

3. Resolución Conf. 5.10 (Rev. CoP15), sobre *Definición de la expresión “con fines primordialmente comerciales”*

3.1 Panorama general

Esta resolución ofrece recomendaciones a las Partes para determinar si la importación de un espécimen de una especie incluida en el Apéndice I daría lugar a su utilización con fines primordialmente comerciales [Artículo III, párrafos 3 c) y 5 c)] y no tiene la intención primeramente de usarse en el marco del párrafo 4 del Artículo VII. No obstante, algunos de los principios y ejemplos generales de este anexo hacen referencia a exenciones con arreglo a los párrafos 4 y 5 del Artículo VII. No resulta muy claro, sin embargo, si la orientación ha de utilizarse en relación con la aplicación del Artículo III o los párrafos 4 y 5 del Artículo VII.

Por ejemplo, la sección e) del anexo se relaciona con los programas de cría en cautividad, en especial en relación con la índole comercial de las importaciones de especímenes de especies incluidas en el Apéndice I. Se podría entender que el texto confirma que la importación de especímenes criados en cautividad (y, por extensión de los especímenes de plantas que se han reproducido artificialmente) debería tener lugar con arreglo a los párrafos 4 y 5 del Artículo VII, utilizando los códigos de origen D, C y A, y no los Artículos III y IV. La resolución también proporciona algunos principios generales y ejemplos de “fines primordialmente comerciales” que deben ser utilizados en el contexto de las importaciones de especímenes de especies del Apéndice I con arreglo al Artículo III.

3.2 Ambigüedades e incoherencias

Los ejemplos que figuran en el Anexo de la resolución plantean importantes interrogantes.

Cuando se refieren a las importaciones de especímenes de especies del Apéndice I con fines de cría en cautividad, es difícil determinar si se trata de especímenes criados ellos mismos en cautividad o de especímenes silvestres que se utilizarán en la cría en cautividad. El texto hace referencia a la Resolución Conf. 10.16 (Rev.), en la que se define el término “criado en cautividad” lo cual podría implicar que se trata del primer caso. Sin embargo, la Resolución Conf. 5.10 (Rev. CoP15) se refiere a continuación a la importación de especímenes de especies del Apéndice I criados en cautividad que podrían ser autorizadas para fines comerciales, siempre y cuando se reinvierta cualquier ganancia en la continuación del programa de cría en cautividad en beneficio de la especie, y en este caso debe suponerse que se refiere al comercio de especímenes de origen W comercializados en virtud del Artículo III porque, como se explica en el texto, el comercio de especímenes con los códigos de origen D y C no se lleva a cabo con arreglo al Artículo III.

Además, el texto atribuye exigencias a la Resolución Conf. 10.16 (Rev.) que no se encuentran en esa resolución, por ejemplo, las importaciones deben tener como objetivo prioritario la protección a largo plazo de las especies afectadas.

La resolución se refiere al uso del término “fines primordialmente comerciales” en relación con la importación de especímenes de conformidad con el Artículo III. Sin embargo, el término similar “criado en cautividad con fines comerciales” se utiliza en el párrafo 4 del Artículo VII y se define en la Resolución Conf. 12.10 (Rev. CoP15) de una manera ligeramente diferente. En este último caso, algunas de las Partes consideran que la cuestión radica en la índole comercial de la cría y no la índole del comercio internacional que se realiza posteriormente con el espécimen. Por lo tanto, permiten que establecimientos donde la cría en cautividad de especímenes del Apéndice I no tiene el propósito primordial de obtener un beneficio económico (a los que se denomina “criadores aficionados”) exporten esos especímenes con fines comerciales utilizando el código de propósito T. Muchas Partes importadoras de esos especímenes, considerando que los especímenes se crían en cautividad y, por lo tanto, se comercializan con arreglo al párrafo 5 del Artículo VII, luego permiten la importación aun cuando los especímenes vayan a utilizarse con fines primordialmente comerciales. Esta serie de sucesos elude la necesidad de registrar los establecimientos de cría con arreglo a la Resolución Conf. 12.10 (Rev. CoP15) (véase la sección 6 del presente documento).

La Resolución Conf. 9.19 (Rev. CoP15) no hace ninguna referencia a la definición de fines comerciales en relación con la reproducción artificial de plantas de especies incluidas en el Apéndice I.

4. Resolución Conf. 10.16 (Rev.), sobre *Especímenes de especies animales criados en cautividad*

4.1 Panorama general

En la resolución, se define el término “criado en cautividad” como se utiliza en los párrafos 4 y 5 del Artículo VII (códigos de origen C y D) y se aplica a los especímenes de especies incluidas en los Apéndices I, II o III, e independientemente de si la cría o el comercio tienen fines comerciales o no. Las principales características son el grado en que el medio en que se han producido las especies es controlado por el criador y las cualidades del plantel reproductor utilizado para producir las crías: este plantel se debe haber establecido de conformidad con las disposiciones de la CITES y la legislación nacional y sin perjudicar la supervivencia de la especie. Con algunas excepciones, el establecimiento debe ser autosostenible; es decir, debe mantenerse sin introducir especímenes silvestres. Por último, el establecimiento debe haber producido progenie de segunda generación (F2) o subsiguientes, o gestionarse de tal manera que se haya demostrado que es capaz de producir progenie de esas generaciones.

En respuesta a las preocupaciones acerca de la veracidad de algunas declaraciones que indicaban que los especímenes habían sido criados en cautividad con arreglo a esta resolución y la consiguiente expedición de permisos y certificados CITES basados en esas declaraciones, las Partes acordaron la Resolución Conf. 17.7 sobre *Examen del comercio de especímenes animales notificados como producidos en cautividad.*

4.2 Ambigüedades e incoherencias

Las Partes han tenido dificultades para probar el origen legal del plantel reproductor utilizado para producir los especímenes criados en cautividad. Esto es válido en particular si el plantel reproductor original fue adquirido hace muchos años, cuando puede no haber habido ninguna razón para creer que la documentación que confirmaba el origen legal de los especímenes podría ser importante muchos años más tarde. En sentido contrario, y como se destaca en el documento SC66 Doc. 32.4, se han detectado varios casos en los que especímenes obtenidos casi con toda seguridad ilegalmente se han incorporado a planteles reproductores que producen especímenes criados en cautividad y que posteriormente han sido objeto de comercio internacional. La falta de un enfoque normalizado en este ámbito constituye una dificultad. Esta cuestión fue abordada por el Comité Permanente en relación con el párrafo c) de la Decisión 17.66 y en un taller celebrado en junio de 2018. En un proyecto de resolución, el Comité Permanente propone orientación para utilizar al verificar la adquisición legal del plantel fundador de especímenes comercializados bajo los párrafos 4 y 5 del Artículo VII en el documento CoP18 Doc. 39.

El párrafo 2 b) ii) B de la resolución permite que se añadan especímenes silvestres al plantel reproductor, y proporciona orientación sobre las circunstancias en que esto puede estar justificado, lo que se presta a diversas interpretaciones. Si bien podría ser más claro limitar la definición de “criado en cautividad” a los especímenes producidos en cautividad en establecimientos que ya no estén recolectando otros especímenes en el medio silvestre, preocupa a algunas Partes que una restricción de ese tipo podría obstaculizar los intentos de criar especies en cautividad. Tal vez sea necesario lograr

un equilibrio entre la necesidad de contar con procedimientos claros y simples y la viabilidad económica y biológica de algunos establecimientos.

El párrafo 2 b) ii) C 2 permite una excepción al principio general de que los especímenes criados en cautividad deben limitarse a los de la generación F2 y subsiguientes. También en este caso se han experimentado dificultades para determinar cuándo se aplican esas excepciones. Puede ser más fácil aplicar una obligación de que todos los especímenes sean F2 o posteriores de manera demostrable. Una vez más, algunas Partes sostienen que esto podría obstaculizar determinados establecimientos de cría en cautividad con fines comerciales, pero este podría ser un precio que vale la pena pagar si una simplificación de las reglas mejorase la aplicación de la Convención en beneficio de la conservación de la especie en cuestión.

Las disposiciones de este tipo, que están abiertas a diferentes interpretaciones, dificultan más aún la aplicación armoniosa de la Convención. Independientemente de la claridad o simplicidad de las instrucciones, es probable que las Partes continúen siendo víctimas de declaraciones de cría en cautividad fraudulentas. Al respecto, la Resolución Conf. 17.7 podría resultar útil para identificar los casos de semejante fraude que las autoridades nacionales pueden haber pasado por alto.

5. Resolución Conf. 11.11 (Rev. CoP15), sobre *Reglamentación del comercio de plantas*

5.1 Panorama general

En esta resolución se presenta la definición del término “reproducido artificialmente” que se ha de utilizar en la aplicación de las disposiciones especiales de los párrafos 4 y 5 del Artículo VII y se aplica a los especímenes de las especies incluidas en los Apéndices I, II y III, e independientemente de si la reproducción o el comercio tienen fines comerciales o no. Originalmente, era la única resolución en la que podía encontrarse orientación sobre este punto; no obstante, posteriormente fue complementada con más orientación, en la Resolución Conf. 16.10, sobre *Aplicación de la Convención a los taxa que producen madera de agar* y la Resolución Conf. 10.13 (Rev. CoP15), sobre *Aplicación de la Convención a las especies maderables*.

Las características principales son el grado en que el reproductor controla el medio en el que se han producido las especies y las cualidades del plantel parental cultivado utilizado para producir las plantas reproducidas. Este plantel se debe haber establecido de conformidad con las disposiciones de la CITES y la legislación nacional y sin perjudicar la supervivencia de la especie. El grado en que el establecimiento reproductor debería ser autosostenible (es decir, se mantiene sin introducir especímenes silvestres) es menos restringido que para los animales. A lo largo de los años, se han añadido a la definición disposiciones especiales sobre las plantas injertadas, cultivares, híbridos, plántulas en frasco, especímenes vegetales recuperados, plantaciones de taxa que producen madera de agar y para otros árboles cultivados en plantaciones monoespecíficas. Esto ha dado lugar a un conjunto muy complejo de reglas que resultan difíciles de observar para aquellos que no son especialistas.

La fecundidad de las plantas y la facilidad con la que muchas especies pueden reproducirse artificialmente hacen que las preocupaciones sobre el impacto de las declaraciones fraudulentas pueden ser a menudo menores que en el caso de los taxa animales. Aun así, subsisten preocupaciones, en particular para especies como las especies raras de orquídeas y cactus. Éstas pueden también ser significativas si, por ejemplo, se considera que ciertos grandes bosques seminaturales se encuentran “en un medio controlado” y los especímenes procedentes de ellos son tratados por consiguiente como si se hubieran reproducido artificialmente.

5.2 Ambigüedades e incoherencias

El examen del diagrama de flujo de la página 7 del documento SC69 Inf. 3 - *Guía para la aplicación de los códigos de origen CITES*, muestra que la definición del término “reproducido artificialmente” es muy complicada, lo que hace que su aplicación sea un desafío para las Partes. El hecho de que se aborde en tres resoluciones diferentes, como se indica *supra*, tampoco es propicio para una aplicación correcta. Parece bastante incongruente que el párrafo 4 de la resolución permita que se describan especímenes extraídos del medio silvestre como reproducidos artificialmente en determinadas circunstancias. Al igual que en el caso de la definición de “criado en cautividad”, sería beneficioso disponer de orientaciones sobre la adquisición legal y puede ser prudente estudiar la posibilidad de simplificar la definición, en particular suprimiendo las excepciones a las disposiciones generales.

La Conferencia de las Partes no ha establecido un procedimiento de cumplimiento para las alegaciones de reproducción artificial.

Cabe señalar que, en virtud de la Decisión 17.175, el Comité de Flora también está examinando la aplicabilidad y utilidad de las definiciones actuales de "reproducción artificial" y "en un medio controlado" de la Resolución Conf. 11.11 (Rev. CoP17) a fin de formular recomendaciones al Comité Permanente. Además, de conformidad con la Decisión 16.156 (Rev. CoP17), el Comité de Flora, tras considerar los sistemas de producción de especies arbóreas actuales, incluidas las plantaciones mixtas y monoespecíficas, está evaluando la aplicabilidad de las definiciones en vigor de reproducción artificial que figuran en la Resolución Conf. 10.13 (Rev. CoP15), sobre *Aplicación de la Convención a las especies maderables* y la Resolución Conf. 11.11 (Rev. CoP17), sobre *Reglamentación del comercio de plantas*. Esta labor ha resultado en que el Comité Permanente proponga un nuevo código de origen (Y) para las plantas para su adopción en la CoP18 (véase el documento CoP18 Doc. 59.2). Este código de origen sería intermediario entre los códigos de origen W y A.

6. Resolución Conf. 12.10 (Rev. CoP15), sobre *Registro de establecimientos que crían en cautividad especies de fauna incluidas en el Apéndice I con fines comerciales*

6.1 Panorama general

Con el paso del tiempo, las disposiciones que ofrecen orientación en relación con la aplicación del párrafo 4 del Artículo VII, en referencia los especímenes de especies animales incluidas en el Apéndice I que se ha determinado que fueron criados en cautividad con arreglo a la Resolución Conf. 10.16 (Rev.), han evolucionado y cambiado considerablemente.

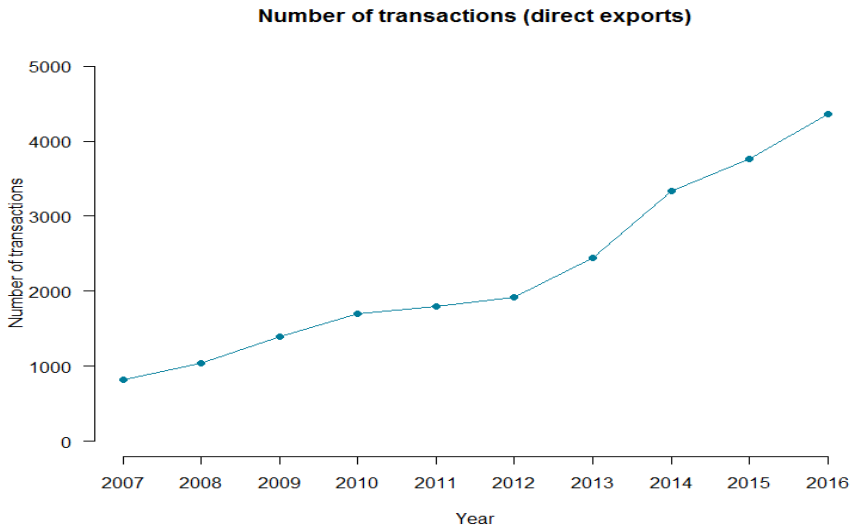
La versión actual de la resolución limita el uso de las disposiciones especiales del párrafo 4 del Artículo VII a los especímenes que proceden de establecimientos de cría que están incluidos en el *Registro de establecimientos que crían en cautividad especies de fauna incluidas en el Apéndice I con fines comerciales* publicado por la Secretaría en el sitio web de CITES. La inscripción requiere una documentación probatoria sustancial y puede ser objeto de objeciones de otras Partes. Los casos de inscripciones impugnadas que no se pueden resolver, incluso a través del asesoramiento del Comité de Fauna, son arbitrados por el Comité Permanente.

Los especímenes de especies de fauna del Apéndice I procedentes de establecimientos debidamente inscritos en el registro pueden ser comercializados como si fueran especímenes de especies incluidas en el Apéndice II, es decir, pueden importarse con fines principalmente comerciales.

6.2 Ambigüedades e incoherencias

Los procedimientos para la inscripción de los establecimientos de manera que puedan acogerse a las disposiciones especiales del párrafo 4 del Artículo VII son rigurosos. No obstante, muchas Partes no aplican esta resolución. Algunas de estas Partes tienen en su territorio un gran número de establecimientos comerciales de cría en cautividad de especies del Apéndice I. Esto conduce a un enfoque incoherente, ya que muchos especímenes de animales incluidos en el Apéndice I y criados en cautividad se exportan de establecimientos no registrados que utilizan el código de propósito "T" para las transacciones comerciales. Durante el período de 2007 a 2016, se realizaron 22.650 exportaciones de este tipo, que afectan a 110 taxa incluidos en el Apéndice I. Las principales especies afectadas fueron las aves rapaces y los loros. La tendencia de este tipo de comercio está aumentando.

Figura 1: Exportación de especies incluidas en el Apéndice I y criadas en cautividad con fines comerciales de establecimientos no registrados (Base de datos sobre el comercio CITES).



La principal forma de que se lleve a cabo el comercio de establecimientos no registrados es que las Partes exportadoras determinan que aunque la exportación y la importación subsiguiente pueden ser de naturaleza comercial (realizada con el código de propósito T), el propósito de la cría, definido en el párrafo 1 de la resolución, se considera no comercial y. por ende, los especímenes no han sido criados en cautividad con fines comerciales y pueden ser exportados al amparo del párrafo 5 del Artículo VII en lugar del párrafo 4 del Artículo VII. Esto parece ser contrario al párrafo 5 k) de la Resolución Conf. 12.3 (Rev. CoP17), en la que se recomienda que las Partes eviten expedir permisos de exportación para especímenes de especies incluidas en el Apéndice I cuando el uso sea con fines primordialmente comerciales y los especímenes no procedan de un establecimiento de cría registrado ante la Secretaría. Adicionalmente, aunque es contrario a la Resolución Conf. 12.3 (Rev. CoP17), a veces estos especímenes también se comercializan en virtud del Artículo III de la Convención y el código de origen C, y la Parte exportadora afirma que, si bien la exportación puede ser comercial, la importación subsiguiente no lo es y, por lo tanto, se permite ese comercio.

En cambio, las Partes que aplican la Resolución Conf. 12.10 (Rev. CoP15) deben cumplir con un proceso complejo y burocrático antes de que sus establecimientos puedan ser incluidos en el *Registro de establecimientos que crían en cautividad especies de fauna incluidas en el Apéndice I con fines comerciales*. Resulta difícil conciliar los rigurosos controles que se aplican al registro de los establecimientos y la facilidad con que las Partes que no desean someterse a ellos pueden eludir dichos controles. Esta yuxtaposición es sorprendente y la Secretaría considera desde hace mucho tiempo que el proceso de registro es largo, costoso e ineficaz (véanse los documentos CoP10 Doc. 10.67, CoP12 Doc. 55.1 y CoP15 Doc. 18 Anexo 2. a). En la CoP15 se hicieron cambios menores en la Resolución Conf. 12.10, pero desde entonces la escala de la exportación de especímenes de especies del Apéndice I provenientes de establecimientos no registrados ha continuado aumentando, como se muestra en la Figura 1. Además, recientemente se han añadido nuevas especies al Apéndice I, como el loro yaco, *Psittacus erithacus*, que se cría en cautividad con fines comerciales en grandes cantidades.

La aplicación de esta resolución se complica con los sistemas de cría que utilizan establecimientos secundarios, como para determinadas especies de cocodrílidos en Asia sudoriental. En esos casos, la cría de los especímenes se realiza en una gran cantidad de establecimientos de pequeña escala, que luego pasan los especímenes dentro del mismo Estado a una pequeña cantidad de establecimientos registrados que realizan la exportación de los especímenes. Esta situación parece funcionar sin que se notifique un detrimento de las poblaciones en el medio silvestre, pero no está adecuadamente contemplada en la resolución.

Los nuevos controles del cumplimiento establecidos en la Resolución Conf. 17.7 parecen haber mitigado algunas de las preocupaciones expresadas por las Partes cuando se han propuesto modificaciones significativas de la Resolución Conf. 12.10 en el pasado. La Secretaría no tiene los recursos para visitar ninguno de los establecimientos que desean ser registrados y, por lo tanto,

depende casi por completo de las Autoridades Administrativas de las Partes donde se encuentran los establecimientos para obtener información acerca de estos.

7. Resolución Conf. 9.19 (Rev. CoP15), sobre *Registro de viveros que reproducen artificialmente especímenes de especies de flora incluidas en el Apéndice I con fines de exportación*

7.1 Panorama general

Esta resolución ofrece orientación sobre la aplicación del párrafo 4 del Artículo VII, ya que se relaciona con los especímenes de las especies de flora incluidas en el Apéndice I que se ha determinado que fueron reproducidas artificialmente con arreglo a las Resoluciones Conf. 11.11 (Rev. CoP17), Conf. 16.10 y Conf. 10.13 (Rev. CoP15).

Al igual que para los animales, la resolución prevé el registro de los viveros que reproducen artificialmente especímenes de especies incluidas en el Apéndice I con fines comerciales; no obstante, a diferencia de lo que ocurre con los animales, se asigna la responsabilidad del registro a las Autoridades Administrativas de la Parte en la que se encuentra el vivero. Otras Partes pueden impugnar el registro del establecimiento si consiguen demostrar que no cumple con los requisitos para el mismo y, en esos casos, corresponde a la Secretaría eliminar el establecimiento del registro después de consultar con la Autoridad Administrativa de la Parte en la que se encuentra el vivero.

7.2 Ambigüedades e incoherencias

En el último párrafo del preámbulo de esta resolución se indica:

> *RECONOCIENDO que los viveros no registrados podrán seguir exportando especímenes de especies del Apéndice I reproducidos artificialmente utilizando los procedimientos normales para obtener permisos de exportación.*

es bastante ambiguo y no está claro a qué tipos de “procedimientos normales” se hace referencia. Si los viveros no registrados pueden exportar especímenes de especies del Apéndice I reproducidos artificialmente de conformidad con el párrafo 5 del Artículo VII y utilizando el código de origen A, la finalidad el registro puede parecer irrelevante.

Si bien, según recuerda la Secretaría, ésta no ha eliminado ningún vivero del registro a solicitud de otra Parte, parecería más apropiado que las inscripciones impugnadas fueran juzgadas por los pares de otras Partes a través del Comité Permanente en lugar de por la propia Secretaría.

Anexo: Breve historia de las resoluciones de la Conferencia de las Partes relativas al comercio de especímenes no extraídos del medio silvestre (otros que los criados en granjas)

Definición de "criado en cautividad"

Año	CoP	Resolución	Características notables/cambios efectuados a partir de una versión anterior
1979	CoP2	2.12, sobre *Especímenes criados en cautividad o reproducidos artificialmente*	Se recordaba que el tratamiento especial de los animales criados en cautividad [párrafos 4 y 5 del Artículo VII] tenía intención de que se aplicara únicamente a las poblaciones cautivas mantenidas sin aumentos del medio silvestre. Se recomendaba que las disposiciones del párrafo 4 del Artículo VII de la Convención se aplicase separadamente a las del párrafo 5 del Artículo VII, es decir, que los especímenes de especies animales del Apéndice I criados en cautividad con finales comerciales deberán tratarse como si estuviesen incluidos en el Apéndice II y no deberían estar exentos de las disposiciones del Artículo IV mediante la concesión de certificados para determinar que se trataba de especímenes criados en cautividad. [ambos párrafos del preámbulo suprimidos en la Resolución Conf. 10.16] En cuanto a la definición de "criado en cautividad", recomienda que a satisfacción de las autoridades gubernamentales competentes del país en cuestión: - Los especímenes deben producirse en un "medio controlado" - El plantel reproductor debe establecerse de forma que no sea perjudicial para la supervivencia de la especie en el medio silvestre; mantenerse en gran parte sin aumentar especímenes del medio silvestre y gestionarse en una forma encaminada a mantener el plantel reproductor indefinidamente. "Medio controlado" definido. "Gestionada de forma que se mantiene el plantel reproductor indefinidamente" definida en el sentido que se ha demostrado que puede producir de forma fiable crías de segunda generación.
1992	CoP8	2.12 (Rev.) [Derogada por la 10.16]	Se han suprimido los elementos relacionados con las plantas y la reproducción artificial
1997	CoP10	10.16, sobre *Especímenes de especies animales criados en cautividad*	Así como "de forma que no sea perjudicial para la supervivencia de la especie en el medio silvestre", el plantel reproductor debe establecerse de conformidad con las disposiciones de la CITES y la legislación nacional pertinente. Las adiciones eventuales al plantel reproductor se efectuarán de la misma forma. "Plantel reproductor" definido como: Naturaleza autosostenida de la cría en el establecimiento definida como que ha producido progenie de segunda generación (F2) o generaciones subsiguientes, o ser una especie en una lista de esas especies normalmente criadas en cautividad establecida por el Comité Permanente, o se gestiona de tal manera que se ha demostrado fehacientemente que es capaz de producir progenie de segunda generación en un medio controlado

			Todos los especímenes de especies del Apéndice I deben marcarse de conformidad con las normas de la CITES sobre esta cuestión.
2000	CoP11	10.16 (Rev.)	La referencia a la lista de especies normalmente criadas en cautividad establecida por el Comité Permanente se ha suprimido – nunca se acordó.

Registro de establecimientos que crían especímenes de especies incluidas en el Apéndice I en cautividad con fines comerciales

Año	CoP	Resolución	Características notables/cambios efectuados a partir de una versión anterior
1983	CoP4	4.15, sobre *Control de las operaciones de cría en cautividad de especies del Apéndice I* [reemplazada por la 6.21, luego por la 7.10, la 8.15, la 11.14, y la 12.10]	La Secretaría solicitó establecer un Registro de los establecimientos que criaban en cautividad especímenes de especies incluidas en el Apéndice I con fines comerciales sobre la base de "información apropiada" de las Partes. Las Partes recomendaron rechazar cualquier documento concedido en virtud del párrafo 4 del Artículo VII si los especímenes concernidos no procedían del establecimiento registrado.
1987	CoP6	6.21, sobre *Procedimientos de control para las operaciones de cría en cautividad con fines comerciales* [complementada con la 7.10 y luego reemplazada por la 8.15, la 11.14, y la 12.10]	Se recomendaba que las Partes se asegurasen de que los productos de los establecimientos de cría en cautividad con fines comerciales se marcaban y que las aves vivas de esos establecimientos se anillasen – se añadirían datos a los documentos del párrafo 4 del Artículo VII. Se recomendaba que el registro del primer establecimiento de especies que no estaban en el registro, se aprobase solamente después de que fuese acordado por la CoP. Se preveía que las Partes propusiesen a la CoP, la supresión de un establecimiento del registro si estimaban que no cumplía con los "requisitos".
1989	CoP7	7.10, sobre *Formato y criterios par alas propuestas de inscripción en el Registro de la primera operación comercial de cría en cautividad de especies animales incluidas en el Apéndice I* [revocada por la 8.15]	Complementa la 6.21 y ofrece orientación para el primer establecimiento de cría en cautividad para una especie del Apéndice I. Normalmente no deberían considerarse los establecimientos de cría en cautividad comercial para especies que están tan críticamente en peligro que su supervivencia depende de un programa de cría en cautividad, a menos que hagan uso de especímenes que son excedentarios a los necesarios para preservar la especie en el medio silvestre y en cautividad. Se proporcionaba formato para las propuestas a la CoP para el registro del primer establecimiento para una especie no incluida en el registro.
1992	CoP8	8.15, sobre *Directrices relativas a un procedimiento de registro y control de los establecimientos de cría en cautividad de especies animales del Apéndice I con fines comerciales* [8.15 revocó la 7.10, y luego fue reemplazada por la 11.14, y luego por la 12.10]	Se señaló que en marzo de 1992, se registraron 60 establecimientos para 14 especies*. Se reconocía que la cría de una especie en cautividad con fines comerciales puede ser una alternativa económica a la producción ganadera nacional en sus lugares de origen y, por ende, proporciona un incentivo para las poblaciones rurales en esos lugares para fomentar un interés en su conservación. Se instaba a la Secretaría a alentar a las Partes a establecer, según proceda, establecimientos de cría en cautividad con fines comerciales para especies indígenas de animales incluidos en el Apéndice I. Se establecía un proceso exhaustivo para registrar cualquier establecimiento (no sólo el primero para una especie concernida), incluyendo Anexos sobre las funciones del establecimiento, las Autoridades Administrativas en las Partes anfitrionas, la Secretaría, las Partes y la CoP. Los registros propuestos deberían notificarse a todas las Partes, que podían objetar/oponerse al registro propuesto, en cuyo caso la cuestión se remitía a la CoP. Se resolvió que cuando la puesta en marcha de un establecimiento de cría en cautividad exigía capturar especímenes en el medio silvestre (lo que solo está permitido en circunstancias excepcionales), el establecimiento deberá demostrar a satisfacción de la Autoridad Administrativa y de la Secretaría que la

			captura de tales especímenes no perjudica la conservación de la especie, y que, si se trata de especies exóticas, su captura requerirá el asentimiento del Estado de origen, como se estipula en el Artículo III de la Convención. Se resolvió que si las necesidades de conservación así lo exigen, la Autoridad Administrativa deberá cerciorarse de que el establecimiento de cría en cautividad hará una contribución perdurable y significativa a la conservación de la especie.
2000	CoP11	11.14, sobre *Directrices relativas a un procedimiento de registro y control de los establecimientos que crían en cautividad con fines comerciales, especímenes de especies incluidas en el Apéndice I* [reemplazada por la 12.10]	Se definió “criado en cautividad con fines comerciales”. Se suprimió el reconocimiento de que la cría de especies en cautividad con fines comerciales puede ser una alternativa a la ganadería tradicional en sus lugares de origen y que por ende proporciona un incentivo para las poblaciones rurales en esos lugares para fomentar un interés en la conservación y el requisito a la Secretaría para que aliente a las Partes, cuando proceda, a organizar establecimientos de cría en cautividad con fines comerciales de especies animales nativas incluidas en el Apéndice I Simplificar los procedimientos de registro con los Anexos reducidos para abordar la “Información que ha de suministrar la Autoridad Administrativa (anfitriona) a la Secretaría y el Procedimiento para registrar nuevos establecimientos. La Autoridad Administrativa anfitriona, en colaboración con su Autoridad Científica, supervisará la gestión de cada establecimiento de cría en cautividad registrado bajo su jurisdicción y comunicará a la Secretaría cualquier cambio importante en la naturaleza del establecimiento o en los tipos de productos producidos para la exportación, en cuyo caso, el Comité de Fauna deberá examinar el establecimiento para determinar si debe seguir registrado Toda Parte que crea que un establecimiento registrado no cumple las disposiciones de la Resolución Conf. 10.16 (Rev.) puede, tras consultar con la Secretaría y la Parte concernida, proponer que la CoP suprima el establecimiento del Registro. Se acordó que las Partes deben restringir las importaciones para fines primordialmente comerciales, como se define en la Resolución Conf. 5.10, de especímenes criados en cautividad de especies del Apéndice I que figuran en la lista en el Anexo 3 de la resolución a aquellos producidos por los establecimientos incluidos en el Registro de la Secretaría y deben rechazar cualquier documento concedido en virtud del párrafo 4 del Artículo VII de la Convención, si los especímenes concernidos no proceden de ese establecimiento y si el documento no describe la marca de identificación específica aplicada a cada espécimen. Los procedimientos anteriores en la Resolución Conf. 8.15 se revocaron cuando la lista en el Anexo 3 ha sido aprobada por el Comité Permanente y distribuida por la Secretaría. La tarea de compilar la lista se encomendó al Comité de Fauna, pero no se acordó dicha lista.
2002	CoP12	12.10, sobre *Directrices relativas a un procedimiento de registro y control de los establecimientos de cría en cautividad de especies*	Mismo texto que la 11.14, con pequeños cambios, inclusive suprimir la referencia al Anexo 3 y los siguientes cambios: Sustitución de la remisión de todas las solicitudes sobre especies que aún no figuran en el Registro al Comité de Fauna, con el requisito de que así suceda si una Parte se opone, o expresa preocupación acerca de una propuesta de registro. Se encarga al Comité de Fauna que “responda a esas objeciones

		animales del Apéndice I con fines comerciales	dentro de los 60 días", tras lo cual la Secretaría facilitará el diálogo entre la Autoridad Administrativa de la Parte que somete la solicitud y las Partes que se oponen al registro, antes de remitir el caso al Comité de Fauna para que resuelva los problemas identificados. Si no se retira la objeción o no se resuelven los problemas, la solicitud se remitirá a la CoP para que adopte una decisión. (8.15 y 11.14 ambas revocadas.)
2004	CoP13	12.10 (Rev. CoP13)	Supresión de la solicitud a las Partes de que proporcionen incentivos a sus establecimientos de cría en cautividad para que se registren y a los países de importación para que faciliten la importación de especies del Apéndice I de establecimientos de cría en cautividad registrados. En relación con aportar la prueba del origen legal del plantel reproductor, disposición que, hasta la CoP14, era difícil obtener la verdadera documentación, la Autoridad Administrativa puede aceptar declaraciones juradas firmadas apoyadas con otros documentos (por ejemplo, recibos fechados).
2007	CoP14	12.10 (Rev. CoP14)	Supresión de la disposición de aceptar declaraciones juradas firmadas apoyadas con otros documentos (por ejemplo, recibos fechados) a fin de aportar la prueba del origen legal del plantel reproductor.
2010	CoP15	12.10 (Rev. CoP15), sobre *Registro de establecimientos que crían en cautividad especies de fauna incluidas en el Apéndice con fines comerciales*	En el caso de objeciones a los registros por las Partes, la cuestión debe ser dirimida por el Comité Permanente, no por la CoP. Considerables cambios editoriales en los Anexos. Cualquier objeción debe relacionarse directamente con la solicitud o la especie objeto de consideración, y debidamente documentadas, incluyendo pruebas de apoyo que han dado lugar a las preocupaciones. Inclusión de un Anexo con una muestra de formulario de solicitud (Anexo 3) para las solicitudes que deseen registrarse
			*En 2018, el Registro contenía más de 350 establecimientos de 24 diferentes Partes sobre 26 de las 707 especies animales incluidas en el Apéndice I.

Definición de “reproducido artificialmente”

Año	CoP	Resolución	Características notables/cambios efectuados a partir de una versión anterior
1979	CoP2	2.12, sobre *Especímenes criados en cautividad o reproducidos artificialmente* Elementos relacionados con las plantas revocados por la 8.17	Se recordaba que el tratamiento especial de las plantas reproducidas artificialmente [párrafos 4 y 5 del Artículo VII] tenía intención de que se aplicara únicamente a los viveros mantenidos sin aumentos del medio silvestre. Se recomendaba que las disposiciones del párrafo 4 del Artículo VII de la Convención se aplicase separadamente a las del párrafo 5 del Artículo VII, es decir, que los especímenes de especies vegetales del Apéndice I reproducidos artificialmente con fines comerciales deberán tratarse como si estuviesen incluidos en el Apéndice II y no deberían estar exentos de las disposiciones del Artículo IV mediante la concesión de certificados para determinar que se trataba de especímenes reproducidos artificialmente. [ambos párrafos del preámbulo suprimidos en la Resolución Conf. 8.17] Define la expresión "reproducido artificialmente" como plantas cultivadas por el hombre empleando semillas, estacas, tejidos callosos, esporas u otros propágulos en un medio controlado (que se define). El plantel [parental] reproducido artificialmente debe establecerse y mantenerse sin perjudicar la supervivencia de la especie en el medio silvestres, y administrarse de manera de garantizar su pervivencia indefinida
1992	CoP8	8.17, sobre *Mejoramiento de la reglamentación del comercio de plantas* [8.17 revocó la 2.12 y fue reemplazada por la 9.18, y luego por la 11.11]]	Se tomó nota de que en la 2.12 no se mencionan todas las formas de reproducción artificial, que algunos grupos de plantas se hibridan sin dificultad, lo que se hace frecuentemente, y que a veces los híbridos y su progenie son objeto de un extendido comercio y que no se considera que el control del comercio de plántulas de orquídeas en frasco tenga significación alguna en lo que atañe a la protección de las poblaciones naturales de las especies de orquídeas. Pequeños cambios en la definición de “medio controlado” “Administrado de manera de garantizar su pervivencia indefinida” sustituido por “gestionado de tal manera que se garantice el mantenimiento a largo plazo de este plantel cultivado Aplicación calificada en relación con las plantas injertadas, híbridos del Apéndice I y plántulas en frascos de especies de orquídeas incluidas en el Apéndice I.
1994	CoP9	9.18, sobre *Reglamentación del comercio de plantas* [9.18 revocó la 8.17 y fue reemplazada por la 11.11]	Se observa que algunas Partes que exportan grandes cantidades de plantas reproducidas artificialmente han de buscar el modo de reducir los trámites administrativos, manteniendo al mismo tiempo la protección de las plantas silvestres y ayudar a los exportadores de plantas reproducidas artificialmente a comprender y acatar la Convención; Pequeños cambios en las disposiciones relacionadas con la reproducción artificial. Se han añadido otros cambios no relacionados con la reproducción artificial.

1997	CoP10	9.18 (Rev. CoP10)	Toda determinación de que un espécimen es artificialmente reproducido debe hacerse a satisfacción de las autoridades gubernamentales competentes del país exportador Así como de “forma que no sea perjudicial para la supervivencia de la especie en el medio silvestre”, el plantel reproductor cultivado debe establecerse con arreglo a las disposiciones de la CITES y de la legislación nacional correspondiente. Aplicación calificada en relación con las semillas y partes y derivados
		10.13, sobre *Aplicación de la Convención a las especies maderables* [revisada por la 10.13 (Rev. CoP14)]	La madera recolectada a partir de árboles cultivados en plantaciones monoespecíficas se considere como reproducida artificialmente.
2000	CoP11	11.11, sobre *Reglamentación del comercio de plantas* [11.11 revocó la 9.18]	Pequeños cambios en la 11.11
2004	CoP13	11.11 (Rev. CoP13)	Reconoció que las disposiciones del Artículo III de la Convención siguen siendo la base para autorizar el comercio de especimenes de especies de plantas del Apéndice I que no reúnen las condiciones para las exenciones previstas en los párrafos 4 y 5 del Artículo VII. Tomó nota de que las importaciones de especies de plantas del Apéndice I recolectadas en el medio silvestre para la creación en un establecimiento comercial dedicado a la reproducción artificial están prohibidas. Pequeños cambios en las definiciones “bajo un medio controlado” y “plantel parental cultivado”. “Gestionarse de tal manera que se garantice el mantenimiento a largo plazo de este plantel cultivado” cambiado por “mantenerse en cantidades suficientes para la reproducción, de manera que se reduzca al mínimo o se elimine la necesidad de aumentarlo con especimenes del medio silvestre, y que se recurra a ese aumento únicamente como excepción, y limitado a la cantidad necesaria para mantener el vigor y la productividad del plantel parental cultivado”. Aplicación ligeramente modificada para las plantas cultivadas a partir de esquejes o divisiones o a las plantas injertadas. Recomienda que las semillas o esporas recolectadas en el medio silvestre se consideren reproducidas artificialmente bajo ciertas circunstancias específicas, inclusive la inclusión en el *Registro de establecimientos que reproducen artificialmente especímenes de especies del Apéndice I con fines comerciales* de la Secretaría, si se trata de especies del Apéndice I.
2007	CoP14	11.11 (Rev. CoP14)	Pequeños cambios.
		10.13 (Rev. CoP14)	Se considere que los productos de madera y distintos de la madera derivados de árboles cultivados en plantaciones monoespecíficas cumplen la definición de reproducido artificialmente.

2010	CoP15	11.11 (Rev. CoP15)	Pequeños cambios.
		10.13 (Rev. CoP15)	Se considere que la madera y otras partes y derivados de árboles cultivados en plantaciones monoespecíficas son reproducidos artificialmente
2013	CoP16	16.10, sobre *Aplicación de la Convención a los taxa que producen madera de agar*	Nueva definición de “un medio controlado” y normas menos estrictas relacionadas con el aumento del plantel parental cultivado respecto a los taxa que producen madera de agar *Aquilaria* spp. y *Gyrinops* spp.) Acuerda que los árboles cultivados en jardines, plantaciones para la producción (tanto monoespecíficas como mixtas) deberán considerarse como reproducidos artificialmente
2016	CoP17	11.11 (Rev. CoP17)	Sin cambios en las disposiciones relevantes.

Registro de viveros que reproducen artificialmente especímenes de especies de flora del Apéndice I con fines de exportación

Año	CoP	Resolución	Características notables/cambios efectuados a partir de una versión anterior
1985	CoP5	5.15, sobre *Mejorar y simplificar la reglamentación del comercio de plantas reproducidas artificialmente* [revocada por la 9.19]	*Entre otras cosas,* recomendó que las Partes considerasen, cuando se ajustase a sus circunstancias, registrar a los comerciantes individuales de especímenes de flora del Apéndice II reproducidos artificialmente e informase a la Secretaría en consecuencia proporcionando copia de los documentos, estampillas, sellos etc. utilizados. Las Partes deberían también tomar medidas para garantizar que esos comerciantes no venden plantas recolectadas en el medio silvestre, inclusive mediante inspecciones de los viveros, catálogos comerciales, anuncios, etc.
1994	CoP9	9.19, sobre *Directrices para el registro de viveros que exportan especímenes de especies incluidas en el Apéndice I reproducidos artificialmente* [9.19 revocó la 5.15]	Reconoció que la reproducción artificial de especímenes de especies incluidas en el Apéndice I puede constituir una alternativa económica para la agricultura tradicional en los países de origen y puede también hacer que aumente el interés por su conservación en las áreas de distribución natural y al hacer que los especímenes estén fácilmente disponibles para todos los interesados tiene un efecto positivo sobre el estado de conservación de las poblaciones silvestres pues reduce la presión de la recolección. Resolvió que la Autoridad Administrativa de cada Partes debe ser responsable de registrar los establecimientos que reproducen artificialmente especímenes de especies de flora del Apéndice I con fines de exportación, enviando datos a la Secretaría, que debe estar satisfecha de que se cumplen todos los requisitos antes de la publicación. Funciones asignadas al vivero comercial, Autoridad Administrativa y la Secretaría en los Anexos. Las exportaciones estén empaquetadas y etiquetadas de forma tal que puedan identificarse claramente de los especímenes de especies de flora incluidas en el Apéndice II y/o del Apéndice III reproducidos artificialmente o recolectados en el medio silvestre y que figuren en el mismo envío. Conste claramente en el permiso de exportación CITES el número de registro atribuido por la Secretaría y el nombre del vivero de origen, caso que no sea éste el exportador. Las Partes pueden suprimir del Registro un vivero situado en su jurisdicción. La Parte que tenga conocimiento de que un vivero exportador registrado no ha cumplido los requisitos establecidos para el Registro, y pueda demostrarlo, podrá proponer a la Secretaría que suprima ese vivero del Registro, pero la Secretaría sólo procederá a esa supresión tras haber mantenido consultas con la Autoridad Administrativa de la Parte en que esté localizado el vivero
2004	CoP13	9.19 (Rev. CoP13)	Pequeños cambios

2010	CoP15	9.19 (Rev. CoP15), sobre *Registro de viveros que reproducen artificialmente especímenes de especies de flora incluidas en el Apéndice I con fines comerciales*	Pequeños cambios
			En 2018, el Registro contenía 111 establecimientos de 11 diferentes Partes y afectaba a 252 de las 338 especies de flora incluidas en el Apéndice I (91 de los establecimientos están relacionados con *Saussurea costus* en India).

SC70 Doc. 31.1
Annex 8
(in the original language / dans la langue d'origine / en el idioma original)

---- Forwarded by Pascal PERRAUD/UNEP/GVA/UNO on 26-06-18 07:59 ----

From: cites.sede@ibama.gov.br
To: info@cites.org
Cc: claudia.melio@ibama.gov.br
Date: 25-06-18 21:16
Subject: Fwd: Response to Notification to the Parties No. 2018/048

Dear colleagues,

The comments on the Notification to the Parties No. 2018/048 are bellow. I sent a message in 22 june 2018, but I realize today that, by mistake, it was without the text. Thank you very much.

- Comments on the table under line 236, page 6.

The table considers that specimens of the appendix I and souce D are considered specimens of appendix II not bred in captivity. Then, a non-detriment findig (NDF) and a legal acquisition finding are required, despite of the exported specimens are F2 bred in captivity. In this case, is the NDF needed, in addition to the inclusion of the facility in the Secretariat's Register? Or is the Register, itself, a NDF? Why not consider specimens of the appendix I and souce D as specimens of appendix II bred in captivity (ID = IIC)?

Best regards,

Octávio Valente
Brazilian Institute of Environment and Renewable Natural Resources/Instituto Brasileiro do Meio Ambiente e dos Recursos Naturais Renováveis - IBAMA
Departement of Sustainable Use of Biodiversity and Forests/Diretoria de Uso Sustentável da Biodiversidade e Florestas – DBFLO/IBAMA
Management Authority - Brazil
SCEN, Trecho 2
Ed. sede do IBAMA
70.818-900, BRASÍLIA/DF

CANADA'S COMPILATION

of

AMBIGUITIES AND INCONSISTENCIES

IN CITES PROVISIONS RELATING TO THE TRADE IN
SPECIMENS OF ANIMALS AND PLANTS NOT OF WILD SOURCE

Introduction to Canada's compilation of ambiguities and inconsistencies

Canada is aware of many ambiguities and inconsistencies that exist within Resolutions, between Resolutions, and between the implementing Resolutions and the text of the Convention. We have identified these in our response below, if they have not been mentioned already by the Secretariat. We have also included some recommendations for relatively easy amendments to address some of the issues. We have no additional comments relation to sections 5 and 7.

Canada has concerns that simple amendments will not address some more fundamental issues, and that further discussion is warranted, as elaborated in sections 1.2, 2.2, 3.2 and 6.2 ("Recommendation for continued discussion"). For example, at a basic level, the purpose of Articles VII.4 and VII.5, their relationship to Article III, and their relationship to one another, are not clear in the text of the Convention and are not clearly explained in Resolutions. Contradictory and ambiguous information exists among Resolutions for those seeking understanding of these Articles. There is significantly more guidance for implementation of Article VII.4 compared with Article VII.5, and the implementation of each could bear a careful review in light of today's captive breeding landscape. Addressing such issues will require a longer and more fundamental discussion about how CITES implements the Convention for captive bred and artificially propagated specimens. In our view, such a discussion extends beyond the scope of Decision 17.101. Discussions could consider the intent of the exemptions at the inception of the Convention including the inherent assumptions, and a discussion of how best to reflect those intentions in today's world. Continued discussions would allow for more coherent, relevant and consistent modifications to implementing Resolutions for trade in captive bred and artificially propagated specimens. As such, Canada suggests the Standing Committee consider proposing a suite of Decisions to continue discussion, for consideration by the 18th CoP.

Contents

Glossary used in this Review: no comments

Introduction: no comments

Background
Lines 87-153: Although the information provided is relevant to the pros and cons of captive breeding and artificial propagation within the context of conservation of wild species, it does not provide context to the overall objective of Decision 17.101, which is to review ambiguities and inconsistencies of how Articles VII paragraphs 4 and 5 are currently implemented in CITES Resolutions.

Brief history of the CITES regulation of trade in specimens not taken from the wild

Line 155: Canada considers this section to be very important, as it will document the evolution of the Resolutions currently under review and the issues that needed to be addressed. This history can ensure that discussions and amendments are informed by past experience.

This section should provide a general understanding of the global "landscape" of captive breeding and artificial propagation within the context of the 1960s and 1970s, and changes since that time. This information is important for an informed understanding of why Articles VII.4 and VII.5 were drafted using the language they use, and in particular, why there was an early interpretation that had special provisions for commercial breeding operations. The Secretariat has a small amount of this type of information in lines 76-78 but the information should be provided in greater detail. For example, our understanding is that at the time the Convention was drafted, a few species that were endangered in the wild were being intensively produced for commercial purpose in "farms" (for meat and skins) and nurseries (house plants). This commercial activity was satisfying the demand that could no longer be supplied by wild specimens. These breeding operations were already well established and operating without any take from wild populations. There was little other captive bred trade, and that which existed was easily categorized as "non-commercial", such as trade by zoos, small-scale hobbyists and for recovery efforts. As the intent of the Convention was to protect species in the wild, it made sense to regulate trade in these known instances of captive breeding with less rigour than trade in wild specimens. The early distinction between commercial and non-commercial breeding operations made sense and was relevant within this context.

After CITES came into force the captive breeding "landscape" changed quickly, with increasing trade in captive bred specimens from production systems that did not neatly fall into the categories of commercial and non-commercial, and from a wider variety of species. There is indication that there may have been concern with the countries being able to effectively interpret and implement the "relaxed" controls for captive bred specimens envisaged in Articles VII.4 and VII.5. This led to increased guidance and increasingly strict controls for this trade.

This section should specifically document the history of interpretation of Article VII.4 and VII.5, including the interpretation that Article VII.4 deals with Appendix I trade for commercial purposes, and that Article VII.5 deals with both Appendix I trade for non-commercial purposes, and all trade for specimens from Appendix II or III (e.g., Res. 2.12 (which is now repealed), as per Notification 913 https://www.cites.org/sites/default/files/eng/notif/1996/913.shtml). This interpretation still applies for plants when using A, which refers to non-commercial purposes. It is no longer applicable for animals because although source code D refers to commercial purposes, source code C does not contain a corresponding clause for non-commercial purposes.

This section should include a history of the development of the Registration process. The first registration process, at CoP4, simply stated that before specimens were traded under Article IV, the names of the operations should be submitted by MAs to the Secretariat to be put on a list. However, there is some indication that trading countries, particularly those that were not yet Parties, were not following this process. Therefore the process got stricter between CoP4 and CoP8 to the point that CoP was required to approve the registration of the first captive breeding operation for a species. By CoP8 Parties could review and object to the registration of new species and by CoP 12, all applications for registration were subject to review and objection by Parties.

This section should review the history and summarize considerations associated with the adoption of a separate definition for bred in captivity for commercial purposes in Res. 12.10 (e.g., CoP11 Doc. 11.48).

Resolution 2.12 *Specimens bred in captivity or artificially propagated* is no longer available on the Secretariat's web site. It may be useful to provide a copy of this Resolution to SC70. It is the first resolution to provide guidance on the implementation of Articles VII.4 and VII.5 even though it has since been repealed it provides useful context for how provisions of the Convention were first implemented for captive bred specimens.

Review of provisions, ambiguities and inconsistencies and issues that may need attention.

1. The application of Article VII paragraphs 4 and 5

1.1 Overview

Comments on the Secretariat's document

-Lines 172-175: Res. 2.12 has been repealed and replaced with Res. 10.16 and Res. 11.11. Information contained in Res. 2.12 that has not been carried over to the replacement Resolutions - should not be stated as a fact, as is done in lines 172-175, as the interpretation is no longer supported by the existing body of CITES policy.

1.2 Ambiguities and inconsistencies

As commonly understood, Article VII.4 and VII.5 are intended to allow for less strict trade for captive bred specimens (e.g., as explained by the Secretariat: https://www.cites.org/eng/prog/captive-breeding). However, in CITES' implementation for Article VII.4, in particular, the requirements that must be met before such trade is allowed are arguably not at all relaxed; trade is allowed only when very strict conditions have been met. There is no rationale provided in the captive breeding Resolutions to explain why commercial captive breeding operations in the country of export are the focus of such "relaxed" trade provisions in the first place, and the strict provisions associated with trade under Article VII.4 is incongruent with the notion that trade in captive bred specimens can be conducted with less risk to the wild species than wild-sourced trade.

The relationship, if any, between "bred in captivity for commercial purposes" in Article VII.4 and "primarily commercial purposes," in Article III is not clear. Certain language in Resolutions adds to confusion. For example, it is not always clear whether the use of the term "commercial" relates to pre-export commercial activities, the actual commercial trade transaction (e.g., sale to someone in another country and subsequent export/import), or post-import commercial activities. See for example, Annex example e) in Res. 5.10 (see also section 3 below); the use of the term "transaction" in Res. 5.10 (see also section 3 below); ambiguity of the term "purpose of transaction" in Res. 12.3 as applied to T Commercial (see also section 2, below); and the existence of different definitions for "bred in captivity for commercial purposes," "bred in captivity," "commercial" and "commercial purposes" in Res. 12.10, 10.16 and 5.10 (see also section 6 below).

There is continued ambiguity regarding the relationship between Article VII.4 and VII.5 because a past interpretation for Appendix I animals has been incompletely removed from existing Resolutions. The past interpretation was that Article VII.4 relates to trade in Appendix I specimens for commercial purposes, and Article VII.5 relates to with Appendix I trade for non-commercial purposes as well as all trade for specimens from Appendix II or III (see Brief History). Despite changes at CoP15 that removed this interpretation for animals, consequential changes were not made in all Resolutions (e.g., paragraph 5k of Res. 12.3; preambles of Res. 10.16 and 12.10 (elaborated in corresponding sections below)). Note, some Parties continue to implement in line with the past interpretation and others do not, creating inconsistency in implementation.

As mentioned by the Secretariat in lines 205-208, Article VII.4 has been implemented in a much more complex and restrictive way than Article VII.5. The difference in implementation is significant. There is no rationale provided for the reason for the strict registration system under Article VII.4 (e.g., implemented through registration using Res. 12.10), and no rationale provided for why the trade under Article VII.5 is of a different nature or less risk as to require very few controls. For example, there has been little guidance for Parties on the requirements for Management Authority to be satisfied before issuing a certificate, or to define a certificate.

Recommendation for continued discussion: There may be need to clarify the meaning of Articles VII.4 and VII.5, especially in terms of their goals, their relationship with trade under Article III, and their relationship to one another. Canada is of the view that there may be need to for review of the current implementation of VII.4 and VII.5 in Resolutions more broadly, to reassess them in the context of the current "captive breeding landscape" to ensure that implementation is coherent and relevant and consistent.

Comments on the Secretariat's document

-lines 191-192: the Secretariat's reference to trade that should or should not take place under Article III and IV is confusing because, for example, when an Appendix I specimen is deemed Appendix II, it is traded under Article IV (as explained by the Secretariat in line 163-164). It might be better to replace such language with reference to the source code that is required under the different Articles of the Convention as per Res. 12.3, instead of referencing the Articles of the Convention. For example, lines 191-192 would be changed as follows: "However, the Secretariat has observed that some Parties are of the view that ~~captive bred/artificially propagated~~ source code D, A and C specimens may also be traded under Articles III and IV." (see also lines 274 and 276).

-lines 195-201: it would be useful to understand the rationale for the deletion of the specific instruction to indicate whether a document issued was as a certificate of captive breeding or artificial propagation, or not, to ensure a well-founded recommendation (see Recommendation below). This information may be available in summary records from the applicable CoP.

2. Resolution Conf. 12.3 (Rev. CoP17) on *Permits and certificates*

2.1 Overview

2.2 Ambiguities and inconsistencies

The source code definitions in Res. 12.3 are inconsistent with one another in the types of information they contain. In some cases there is a basic description of the code. For example, W is described as specimens taken from the wild; O is described as pre-Convention specimens. In other cases there is reference to a more specific definition found in another Resolution (Res. 12.10, Res. 11.11, Res. 10.16). For still other cases, references found in Resolutions are available and appropriate but not referenced. For example, for pre-Convention, the definition found in Res 13.6 could be reference, but it is not. (See also comment below regarding the Secretariat's document, lines 258-260).

Use of source codes D, A and C for Appendix I specimens is particularly complex because their descriptions refer to specific Resolutions as noted above as well as specific Articles of the Convention (Articles VII.4 and VII.5). As summarized in the Table in section 2.1 of the Secretariat's document, for such trade, there is no non-detriment finding or legal acquisition finding at the time of export, and no import permits are to be issued for Appendix I specimens. However, because of the narrow implementation for these source codes for animals in particular (source codes D and C), there is no option among the source codes to designate a specimen as being bred in captivity or artificially propagated according to the Resolutions 10.16 and 11.11 respectively and apply the regular trade provisions of Article III. Notably, Article III requires an import permit, and issuance of the export permit requires a non-detriment finding and legal acquisition finding. This issue has been referred to as a "source code gap." This results in use of source codes that do not reflect accurately the source of the specimen (e.g., that it's captive bred according to Res. 10.16), such as "F" or "W", and therefore a loss of valuable trade tracking data. It also results in use that is inconsistent with the definitions in Res. 12.3, if a Party choses to use source code C or D even when specimens do not meet the export provisions (Article VII.5 or VII.4) described for these source codes (the Secretariat alludes to this in lines 246-251). Source codes are being for two purposes.

Article VII.5 is used in different ways for plants and animals: source code A (for plants) indicates that Article VII.5 should be used for Appendix I artificially propagated plants that have been artificially propagated for non-commercial purposes. Source code C (for animals) makes no reference to "non-commercial purposes." The language associated with "non-commercial" in the source code C definition was removed at CoP15 in an attempt to address a *different* "source code gap" that existed at the time.

Recommendation for continued discussion: The export provisions referencing Article VII.4 and VII.5 in the source code definitions of Res. 12.3 could be removed if there were a different way to indicate on a permit whether a specimen is being traded under Article VII.4 and VII.5 other than through source codes. Source codes would therefore be dedicated to providing data about trade trends from different production systems. Such a measure would also reduce the variable use of source codes that has been cited as a cause of concern in Res. 17.7.

Paragraph 5(k) of Resolution 12.3 requires that "Parties verify the origin of Appendix-I specimens to avoid issuing export permits when the use is for primarily commercial purposes and the specimens did not originate in a CITES registered breeding operation." This statement means that if an Appendix I specimen did not originate in a CITES registered operation, an exporting Party should not issue an export permit if the use in the country of import will be for primarily commercial purposes. The mention of CITES registered breeding operation seems to refer to Res. 12.10 because it is through Res. 12.10 that registration occurs. However, there is no specific reference in the paragraph to Res.12.10, or to indicate that paragraph 5(k) applies only to trade under the provisions of Article VII.4. This creates ambiguity as to its application for trade under the provisions of Article VII.5 (noting that application of the restrictions of paragraph 5(k) to trade that occurs under Article VII.5 would be inconsistent with the current definition of source code C in Res. 12.3).

Comments on the Secretariat's document

-In relation to the Secretariat's comment on lines 258-260, regarding the possible oversight in not mentioning Res. 9.19 in the source code definition of D for plants in the same way as 12.10 is mentioned for animals, this is not an oversight. The use of source code D is tied to obligatory registration for animals and non-obligatory registration for plants. This comment from the Secretariat serves to highlight difficulties stemming from the very complex set of rules spread over several Resolutions.

-Lines 253-257: We disagree with the Secretariat that because the permit requirements for specimens with source codes F and R are identical to those for source code W that these intermediate source codes are of questionable value. Even with the same permitting requirements, intermediate source codes are important to document trade patterns in different types of specimens, which can be useful for a country to track its trade trends (refer also to PC24 Doc. 16.1, paragraph 12 for more detailed reasons why it makes sense to have an "intermediate" source code, as per discussions in the Plants Committee about development of a new source code for plants).

3. Resolution Conf. 5.10 (Rev. CoP15) on *Definition of 'primarily commercial purposes'*

3.1 Overview
3.2 Ambiguities and inconsistencies

Example e) in the Annex is extremely difficult to understand and contains a mix of ideas in relation to captive breeding and commercial purposes. For example, as highlighted by the Secretariat in lines 281-289, it is not clear whether the Resolution is referring to import of wild specimens for captive breeding purposes in the country of import. On one hand all the other examples relate to wild specimens and there is mention of "wild" in the last paragraph of the Annex, which suggests that the paragraph concerns wild specimens. However, the example e) indicates that import of "such specimens should be in accordance with Res. 10.16", suggesting that specimens need to meet the definition of "bred in captivity." If the example is requiring that any import be limited to captive bred specimens then the requirement to have all such specimens meet the definition of bred in captivity is in conflict with Res. 10.16 paragraph 2b)ii)B, which allows introduction of specimens taken from the wild as breeding stock under specified conditions and implicitly allows introduction of specimens of other production systems as breeding stock. As a further difficulty with the example e), the term

"commercial" appears to be applied both for the captive breeding operation in the source country, and the evaluation of "primarily commercial purposes," which is undertaken according to the use in the importing country as per Res. 5.10, and the actual definition that applies is not clear. Recommendation for continued discussion: Example e should be rewritten and streamlined to be consistent with the other examples: to provide guidance on evaluating the commercial aspects associated with the import, in the country of import, for wild Appendix I specimens.

-The term "transaction" is used in two senses in this Resolution: first, to indicate that "primarily commercial purposes" should not be assessed according to the nature of the transaction between the exporter and importer (paragraph 1d); and second, to describe the nature of activities (i.e., in the sense of "the purpose of transaction") that occur in the country of import (1c). The first paragraph of the Annex also uses "transaction" and it's not clear which meaning is meant or if the term could actually be replaced with the word "uses" to avoid confusion. Of note, the Secretariat's use of the term "trade transaction" and "trade purposes" in lines 296 and 299 also is confusing. The Secretariat appears to be erroneously (as described in paragraph 1d of Res. 5.10) using the meaning of "transaction" in the sense of nature of the transaction between exporter and importer. Recommendation: The language in the Resolution should be carefully reviewed and clarified so that "transaction" is always being used in the same sense, given the confusion that currently exists.

Comments on the Secretariat's document

Lines 274-276: the Secretariat's reference to trade that should or should not take place under Article III and IV is confusing because, for example when an Appendix I specimen is deemed Appendix II, it is traded under Article IV (as explained by the Secretariat in line 163-164). It might be better to replace such language with reference to the source code that is required under the different Articles of the Convention as per Res. 12.3, instead of the Articles of the Convention. For example, line 274-276 would be changed as follows: "The text could be read to confirm that import of specimens bred in captivity (and by extension plant specimens that have been artificially propagated) should take place only using source codes D, C and ~~A~~under ~~Article VII, paragraphs 4 and 5 and not Article III and IV~~." (see also lines 191-192).

Lines 290-291: We agree with the Secretariat's observation that the text attributes requirements to Res. 10.16 that are not in that Resolution. We would also add that the requirements of this text, for "imports to be aimed…at the long-term protection of the affected species," are beyond the scope of the Convention to ensure that there is no detriment of trade.

Lines 292-303: This paragraph seems to indicate that the term "bred in captivity for primarily commercial purposes" in VII.4 is problematic because of the ambiguous relationship with the term "primarily commercial purposes" as used in Article III. We agree and have addressed this more fully under Section 1 because we think this is a fundamental issue with interpretation of Articles VII.4 and VII.5.

Line 299: it is not clear what is meant by "trade purposes."

4. Resolution Conf. 10.16 (Rev.) on *Specimens of animal species bred in captivity*

4.1 Overview

4.2 Ambiguities and inconsistencies

The fourth paragraph of the preamble of Res. 10.16 refers "not for commercial purposes" in reference to the text of Article VII.5. However, there is no mention of non-commercial, or any synonym, in Article VII.5. This preambular statement is therefore an inaccurate reflection of the text of Article VII.5. Of note, the *interpretation* of Article VII.5 as relating to non-commercial trade in Appendix I specimens is also outdated (for trade in animals) (as explained in section 1.2, above). Recommendation: The preambular text should be amended to correctly reflect the text of the

Convention and current operative language of Resolutions as they apply to animals (e.g., 12.3 source code definition for C).

There is significant variability in how Parties can use the guidance provided in Res. 10.16 to establish whether a specimen can be considered to be captive bred. This might be reasonable, as Parties are ultimately responsible for allowing exports from their country. However, variability in interpretation of Res. 10.16 becomes problematic when is subject to other Parties' scrutiny in the course of establishment of CITES registration for captive breeding operations, and can result in rejection of an application for registration based on an individual country's interpretation. For example, the wording in Res. 10.16 does not have a time boundary in relation to establishment of breeding stock. Some Parties require proof that the lineage of non-range specimens be documented to the original range state before they will consider the specimen as bred in captivity. For some Parties, when one or more of the parents is of wild origin, the offspring (F1 generation) from those parents are considered source code F, even when the operation itself is in accordance with all requirements of Res. 10.16. Recommendation: Additional guidance regarding of Res. 10.16 should be developed, to provide clarity and consistency in application.

Treatment of the offspring of females that are taken from the wild when gravid/pregnant is not clear. Some Parties consider such offspring as source code F as per Res. 12.3 when they are "born in captivity" and don't meet the rest of the definition of bred in captivity of Res. 10.16. (Other Parties might consider such offspring as source code R when they are "reared in a controlled environment" as described in Resolution Conf. 11.16, although they technically were not taken as eggs or juveniles from the wild as per Res. 11.16 and therefore this application is unambiguously incorrect). In another view (one held by Canada), neither source code F nor R should apply. Offspring of gravid females taken from the wild should always be considered source code W, because the parents mated (or otherwise reproduced) in the wild. Recommendation: Specific guidance for treatment of the offspring of gravid/pregnant individuals taken from the wild should be developed due to the potential significant impact on the wild of such practices.

6. Resolution Conf. 12.10 (Rev. CoP15) on *Registration of operations that breed Appendix-I animal species in captivity for commercial purposes*

6.1 Overview

6.2 Ambiguities and inconsistencies

Article VII.4 allows for relaxed trade conditions for trade in captive bred specimens. The registration process establishes a set of trade conditions for use in implementation of Article VII.4. The trade conditions in 12.10 require a significant level of documentation and scrutiny by other Parties in order to register facilities. Recommendation for continued discussion: There may be value to re-evaluate the functioning of Res. 12.10 in terms of how well it addresses the original aims of the special trade provisions and exemptions of Article VII for captive bred specimens, and how well it addresses today's concerns about the impact of captive breeding operations on wild populations (especially in light of how Article VII.5 is being implemented).

There are several ambiguities associated with the term "bred in captivity for commercial purposes" in Res. 12.10:

- "Bred in captivity for commercial purposes" as used in Article VII.4, is defined in Res. 12.10 with reference to the pre-export activity (e.g., paragraph 2). As such, it's different from the definition of "primarily commercial purposes" as used in Article III (defined Res. 5.10), with reference to the post-import activity. These differences are confusing, not consistently or

accurately referenced in other Resolutions, and the rationale for the difference not well explained. (See section 1.2 for more elaboration of this issue).

- "Bred in captivity for commercial purposes" in Res. 12.10 has been defined as separate term in Res. 12.10 despite the existing definitions for "bred in captivity" in Res. 10.16, and "commercial" and "commercial purposes" in Res. 5.10.
- "Bred in captivity for commercial purposes" in Res. 12.10 is almost identical to the definition of "commercial" in Res. 5.10. Even though "bred in captivity for commercial purposes" uses the word "purposes" it does not match the meaning of "commercial purposes" in Res. 5.10 because the latter relates to activities in the country of import, and Res. 12.10 is focussed on activities in the country of export.
- "Bred in captivity for commercial purposes" in Res. 12.10 is confusing in relation to Res. 10.16 in which it is explained that the term "bred in captivity" (Res. 10.16) is to be applied to specimens whether or not they breed for commercial purposes. Res. 12.10 references Res. 10.16, so clearly they are to be implemented together. Res. 12.10 restricts the application of 10.16, which is confusing.
- The registration process itself does not require confirmation that an operation is breeding for purposes of economic benefit before allowing registration. The definition of "bred in captivity for commercial purposes" does not inform the implementation of Res. 12.10.

-Paragraph 5j) in Res. 12.10 requires that the MA be satisfied that the operation will make a meaningful contribution according to the conservation needs of the species concerned. The need for a meaningful contribution is beyond (inconsistent with) the scope of the Convention, as the Convention only requires that trade be non-detrimental to the species in the wild, i.e. neutral for a species.

- The last paragraph of the preamble of Res. 12.10 refers "not for commercial purposes" in reference to the text of Article VII.5. See section 4.2 for elaboration of the inconsistency. Recommendation: The preambular text should be amended to correctly reflect the text of the Convention and current operative language of Resolutions as they apply to animals (e.g., 12.3 source code definition for C).

-Resolution 12.10, with its allowance for objections to the registration of a captive breeding operation by any other Party, seems inconsistent with its own text stressing the importance of exporting Parties making their own decisions about exports from their country (e.g. paragraphs 4, 5b).

-the Preamble of Res. 12.10 is ambiguous as to why there is a need for the registration process and how the registration process addresses the issues. Recommendation: Additional text could be added to the preamble of Res. 12.10, such as, for example, the text of in the last paragraph of the preamble in Res. 10.16 (CONCERNED...).

Comments on the Secretariat's document

-lines 423-427: the Secretariat's use of the word "bypass" seems to indicate a deliberate attempt to avoid the clearly defined rules (which are not clear). Consideration could be given to avoiding the word bypass and instead describing the process used by some Parties as a different interpretation. Furthermore, it is not clear how the current set of provisions preclude the process described by the Secretariat. Is the Secretariat relying on a past interpretation that Article VII.5 is meant only for animal specimens that are bred in captivity for non-commercial purposes (see Brief History)?

-lines 427-429: It is unclear what is meant by the Secretariat when they write "while the export might be commercial." Is this referring to the trade transaction between exporter and importer, the pre-export activities, or the post-import activities? See also line 424: "the export...may be commercial in

nature…" In our view the example provided in lines 247-429 highlights an issue, and is not necessarily an attempt to avoid the clearly defined rules (because they are not clear).

Lines 427-429: Consideration might be given to also changing "…traded under Article III of the Convention…" to "…traded as source code C…" (see comments for lines 191-192 and lines 274-276 for explanation).

-lines 430-442: We agree with the Secretariat that the registration process is complex and bureaucratic. We also agree that the rigorous controls of Res. 12.10 are inconsistent when Parties can easily decide not to be bound by them. We have addressed this more fully under Section 1 because we think these problems are related to fundamental issues with interpretation of Articles VII.4 and VII.5.

Comments by the EU on CITES Notification 2018 / 048

REVIEW OF CITES PROVISIONS RELATING TO THE TRADE IN SPECIMENS OF ANIMALS AND PLANTS NOT OF WILD SOURCE

22/6/2018

Concerning captive breeding / artificial propagation issues in general, the EU would like to refer to the comments shared on 29/3/2018 with the SC 69 working group on captive breeding (see Annex). The EU also wishes to highlight the fact that source codes are fundamental for the work of the convention. Although improvements could certainly be made, an additional study should look at the potential advantages and disadvantages if the current system were to be changed. This is not something that can be done overnight, based on comments from a limited number of Parties and without careful consideration of the consequences.

In addition, please consider the following comments on the draft circulated under the Notification 2018/048:

45 "not of wild source" is not an appropriate term for specimens traded under source code R.

52 Concerns about the "establishment of captive-breeding facilities outside the country of origin of the specimens and species concerned" are mentioned but not explained in the document CoP17 Doc. 32. There seems to be no immediate connection to the mandate of the working group or reason to cite this concern here.

85/86 The mixing of CITES and non-CITES terms for breeding and artificial propagation in the entire paragraph poses a problem: Planting trees in managed forests can be a common silvicultural measure and does not necessarily result in plantations but could as well develop to semi-natural forests. We therefore believe that this sentence can be interpreted in such a wrong way that any planted tree would qualify as being not from the wild (in terms of CITES source codes). We would therefore request the Secretariat to be more precise as this interpretation is reflected neither in the current resolutions, nor in the reality of today's forestry.

115 "...may vary between species *according to framework conditions*". Whether the activity is conducted in situ or ex situ is only one of many influencing factors. In this context it seems to be overemphasized. The current draft wording seems to oversimplify the situation. The case of caviar can provide an example: even if captive-breeding facilities would have been set up in the Caspian Sea region successfully, this would not necessarily result in more or better efforts to rebuild the wild stock. Also, for sturgeons at least, the wild population does seem to have benefitted from the shift towards captive breeding, as the population in the wild was crashing at the time before the zero export quota for wild-caught caviar.

138 Not "trade in captive-bred/artificially propagated specimens" as such but insufficient enforcement of CITES causes this negative effect.

144ff This paragraph again overemphasizes the importance of in-situ versus ex-situ breeding. Often ex-situ breeding programs of zoos are also engaged in-situ conservation activities. Resolution Conf. 13.9 is a

positive example for desirable mutual benefits which should be highlighted instead of focusing on potential conflicts of interest.

157-185 Articles VII.4 and VII.5 both apply to specimens of species listed in Appendix I CITES. For specimens bred in captivity in registered commercial breeding operations an export permit is required. For other captive-bred specimens of species listed in Appendix I, Article VII.5 applies; the Management Authority of the state of export has to certify source code C or A. That certificate may be issued in the form of a 'certificate of captive breeding/artificial propagation' or instead – as is the practice in many countries - the Standard CITES form for export permits may be used. (see also lines 261-265)

The standard CITES form in Annex 2 of Resolution Conf. 12.3 (Rev. CoP17) does not clearly distinguish between cases when it is used as an export permit or 'certificate of captive breeding/artificial propagation'. That is not needed; what matters is that the CITES MA verifies source code A or C!

219ff: Please be more precise: "When specimens of species listed on Appendix I that are bred in captivity or artificially propagated originate from a registered facility or nursery (see sections 6 and 7), they can be traded under Article VII.4 and are given the code D instead of C or A."

236 As the table indicates the same requirements for R, F, and W, these categories could be fused. This would provide the same information in a more concise way.

If the conditions for "D" are met, plants listed on Appendix I should be treated as plants listed on Appendix II. According to Article VII.5 an NDF is not necessary for plants listed on Appendix II and being artificially propagated. We also wonder whether an NDF is possible for specimens with source code D [apart from the parental stock, see Res. 11.11 (Rev. CoP17)]. What is the content of that examination? It might be more appropriate to indicate "NO*" in box ("D" and "NDF").

For artificially propagated Appendix I plants, the following clarification should be considered:

Source code D is limited to Appendix I plants which are "artificially propagated for commercial purposes".

Comparable to the application of code D for animals, it could be discussed and it would be preferable to limit source code D for Appendix I plants originating from registered commercial nurseries, as long as it would still be possible to issue permits for commercial purposes for Appendix I species with source code A. The term 'commercial nursery' is not defined and difficult to implement.

299-303: Regarding **Article VII.5,** there is no basis in the text to interpret this as applying only to trade in Appendix I specimens traded for non-commercial purposes, and the article should not be interpreted as only applicable for non-commercial purposes. According to the source code D, registration is not necessary for artificially propagated plants.

246-257 While the permit requirements for source codes F, R, and W are identical, these source codes still indicate differences in the production method which can have an important influence on the NDF. It seems unclear whether improving the applicability of the current source codes F and R or their replacement by a more elaborate classification is a more promising way forward, but their simplification or deletion without replacement could create more new problems than it solves and might result in a loss of valuable information.

The information that a specimen is ranched or born in captivity is inter alia important for consideration in the NDF process. With respect to breeding, the use of source code "F" inter alia might aid to determine source codes of offspring from further generations and to distinguish specimens of the first captive generation bred in captivity from source W and C. If such information will be lost in a potential new source code, it might become more challenging to define appropriate source codes of offspring in captivity. We are cautious with regard to the possible development of a new source code, as we expect that with the replacement of the established source codes new implementation problems might arise.

Source codes are also an essential element of selective trade restrictions. Ranching, as defined in Res. Conf. 11.16, can be a useful conservation measure to assist the recovery of a population.

258-260 Please correct the text: "It can be noted that, perhaps by oversight, in relation to the use of source code D, the Resolution does not mention Resolution Conf. 9.19 (Rev. CoP15) ~~regarding artificial propagation of plants~~son 'Registration of nurseries that artificially propagate specimens of Appendix-I plant species for export purposes', in the way that Resolution Conf. 12.10 (Rev. CoP15) is mentioned for animals."

283 The text [in Resolution Conf. 5.10] refers to Resolution Conf. 10.16 (Rev.); the reference is also to ***Regarding the term 'bred in captivity', DECIDES*** b) ii) B):
"is maintained without the introduction of specimens from the wild, except for the occasional addition of animals, eggs or gametes, in accordance with the provisions of CITES and relevant national laws and in a manner not detrimental to the survival of the species in the wild as advised by the Scientific Authority:

1. to prevent or alleviate deleterious inbreeding, with the magnitude of suchaddition determined by the need for new genetic material; or
2. to dispose of confiscated animals in accordance with Resolution Conf. 10.7;or
3. exceptionally, for use as breeding stock"

301-303 "hobby breeders" cannot always fulfil the condition for a registered commercial breeding operation, i.e. that the breeding facility should have produced F2 or subsequent generations and the facility should be self-sustaining – i.e. no longer taking specimens from the wild. If however hobby breeders are self-sustaining and both the NDF and LAF conditions are fulfilled, there should be no objection to trading even the F1-generations.

311 environment ~~is~~ in which

331-337 It would be clearer to limit the definition of "bred in captivity" to specimens produced in facilities that are no longer taking specimens from the wild. However, in some exceptional cases it might be reasonable to introduce external specimens i.e. in order to prevent inbreeding or a genetic bottleneck, if the breeding stock is small and consists of genetically related specimens. In such cases captive-bred specimens from other facilities should be taken, if available. However, if this is not the case an introduction of a few wild specimens could be accepted in exceptional cases, if it would not be detrimental to the wild population and if it contributes to the conservation of the species. Thus, it would be more appropriate to tighten the conditions and requirements and define the amount and temporal scale for occasional introduction of wild specimens to the breeding stock, instead of limiting it per se.

338-344 "A requirement for all specimens to be demonstrably F2 or beyond", without considering paragraph 2 b) ii) C.2. of Res. Conf. 10.16 might become even more difficult in species that are kept in big groups and where it is thus impossible to trace back the parents of each offspring. Such stricter definition

of "bred in captivity" should not lead to less appropriate housing condition (separating specimens that usually live in groups) or the exclusion of wild/ confiscated specimens from the breeding stock.

341 For species which would produce large numbers of F1 over several decades before the first captive bred generation matures, the fate of F1 specimens is more than a small problem. From a genetic point of view, fast progression to the next generation contravenes the purpose to conserve a species ex-situ by reducing artificial selection, genetic drift, and genetic impoverishment as much as possible. Accommodation problems for surplus specimens of the first generation, the difficulty to trace back the parents of each offspring in group-housing (see the paragraph above), and creating a heavy economic burden for startups are additional disadvantages of such a strict regulation. For these reasons, a limited commercial trade in F1 should be allowed, but it could be accompanied by restrictions regarding the inclusion of further wild caught specimens into the breeding stock.

441 in 2102?

369 – 371 *"They may also be significant if, for example, large-scale semi-natural forests are considered to be 'under controlled conditions' and specimens originating therefrom are thus treated as if they were artificially propagated."*: We strongly support the Secretariat's concern on this point.

381-382 At the beginning of the discussion (see SC 61 Doc. 27 and discussions at SC 61) plant issues (the misuse of source codes affects plants as well as animals) were involved, but it was suggested and decided to first address animals and then plants.

396 – 453 The export of captive-bred Appendix I specimens for commercial purposes (sale) should not be restricted to registered facilities; that reflects the implementation within the EU. If a non-registered facility or a private breeder can demonstrably prove that specimens are captive-bred and that the breeding stock was obtained in line with the Convention, the export of such specimens is reasonable and might even contribute to reducing further pressure on wild populations. Especially in cases of up-listings such as for *Psittacus erithacus* there are numerous breeders available, with demonstrable success in breeding the species long-time.

443-448 Breeding systems using satellite facilities as mentioned in lines 443 et seq. are not covered by Resolution Conf. 12.10. The registered breeding operation is recognized for those specimens which were produced in that operation but not for specimens acquired from other facilities.

454 – 477, especially 471-473 The process of registration of nurseries facilitates and simplifies subsequent permitting procedures. In addition, in contrast to the 'standard procedures', Parties shall "design a simple procedure for the issuance of export permits to each registered nursery". Such a procedure could involve the **pre-issuance** of CITES export permits (see Resolution Conf. 9.19 (rev. CoP 15), Annex 2 letter d). The EU has implemented that recommendation by Article 29 EU Regulation No 865/2006.

Annex: EU Comments for the SC 69 Working Group on Captive Breeding sent on 29/03/2018

Draft Review of CITES provisions relating to the trade in specimens of animals and plants not of wild source

Comments by the EU

27/3/2018

General comments

The document seems to favour the approach that **trade in endangered species should not only be non-detrimental, but rather provide a conservation benefit.** A new "assisted wild production" source code could benefit this objective but it would require carefully considered guidelines. Before such details are known, it is impossible to assess concomitant conservation benefits or enforcement problems.

Lumping Source Code R and F together might result in a loss of information which might require compensation by an internal differentiation within a new source code "assisted wild production".

"Assisted wild production" systems can be sustainable but still have a detrimental effect on the wild population, especially if they divert conservation resources and diminish the incentive to keep a large natural population for harvesting. In general, **harvesting from a healthy natural population might be the ecologically most beneficial production system,** as it has a potential to generate the greatest conservation benefit for the wild populations as well as benefit for the local communities. Therefore, **regarding specimens produced under a new source code "assisted wild production" as better alternative to wild harvest could be contra productive for the conservation of endangered species.**

Despite the ambiguities of ranking the conservation benefits of a new source code "assisted wild production" in relation to wild harvest, this concept has **big potential to focus the assessment of trade on its ecological and conservation impacts.** In the second paragraph on page three, the unspecified use of "such trade" makes it seem as if benefits and disadvantages of wildlife laundering are pondered. Instead it could be specified that wildlife laundering can never be beneficial, while total inaccessibility of genetic resources, e.g. species where no legal trade is possible, provides a powerful incentive for illegal activities.

Similarly to the case of captive breeding, the argument that harvesting from **plantations** has less impact on the wild species (is more benign) does not seem to be applicable to all cases and should be carefully considered in the working group on artificial propagation.

1. The application of Article VII paragraphs 4 and 5

In the table, the heading "document(s) required" should specify the associated type of transaction for which the documents are required.

2. Resolution Conf. 12.3 (Rev. CoP 17) on Permits and certificates

We agree that the determination of source codes is complex. However, we fear that a **simplification or replacement of source code R & F might result in a loss of valuable information.** The information that a specimen is ranched or born in captivity is inter alia important for consideration in the NDF process. With respect to breeding, the source code "F" of

a parental stock implies that further offspring will get the source code C, which makes determination of adequate source codes for captive offspring quite simple. If the information "F1 generation, born in captivity" is lost in a potential new source code, it might become more challenging to define appropriate source codes of offspring in captivity. Establishment of a new source code should be very carefully considered. We are worried that with the replacement of the established source codes new problems might arise and these should be evaluated carefully in advance.

Adapting the Standard CITES form in Annex 2 of the Resolution Conf. 12.3 (Rev. CoP 17) to make it applicable as export permit and certificate of captive breeding could remove inconsistences between national implementations and reduce the administrative complexity of CITES without any obvious downsides.

3. Resolution Conf. 5.10 (Rev. CoP15) on Definition of "primarily commercial purposes"

The inherent ambiguity of the term "**primarily commercial purposes**" causes considerable uncertainties and enforcement problems. Before attempting to remove inconsistences of its application within CITES, it might be beneficial to find a definition which is applicable in all currently occurring trade practices.

The reference in Resolution Conf. 5.10 (Rev. CoP15) to requirements such as that "imports must be aimed as a priority at the long-term protection of the affected species" should be carefully discussed before included into Resolution Conf. 10.16 (Rev.).

4 Resolution Conf. 10.16 (Rev) on Specimens of animal species bred in captivity

We agree that it would be clearer to limit the **definition of "bred in captivity"** to those specimens produced in facilities that are no longer taking specimens from the wild. However, **in some exceptional cases it might be reasonable to introduce external specimens i.e. in order to prevent inbreeding or a genetic bottleneck.**

The necessity of genetic blood replacement and long-term ex-situ conservation of captive breeding populations has been highlighted by zoos in the 1980ies but lost most of its importance. Limiting the definition of "bred in captivity" to specimens produced in facilities which no longer include further specimens from the wild into the breeding stock would be possible for species which can be kept in large numbers and which produce high numbers of offspring. For small populations of K-strategists, genetic blood replacement can be beneficial even under best possible management practices. Most commercial breeding facilities might not have a sufficient genetic breeding management to even recognize or demonstrate the necessity of genetic blood replacement. Hence, the application of this exception could be further restricted by demanding a strict case by case permitting process based on a genetic analysis of the current breeding stock.

We are of the view that in such cases captive bred specimens from other facilities should be taken, if available. However, if this is not the case, an introduction of few wild specimens could be considered in exceptional cases, if it would not be detrimental to the wild population and if it contributes to the conservation of the species. Thus, we are of the view that it would be more appropriate to tighten the conditions and requirements and define the amount and temporal scale for occasional introduction of wild specimens to the breeding stock, instead of limiting it per se.

We also think that "a requirement for all **specimens to be demonstrably F2 or beyond**", without considering paragraph 2 b)ii)C.2. of Res. Conf. 10.16 might become contra productive for several reasons:

- Breeding slowly maturing species will produce large numbers of F1 over several decades before the first F2 specimen is born. Considering that this is the typical reproductive profile of species with conservation concerns, special care should be given to the marketing of F1 specimens.
- It would make breeding even more difficult in species that are kept in big groups and where it is thus impossible to trace back the parents of each offspring. Such stricter definition of "bred in captivity" should not lead to less appropriate housing condition (separating specimens that usually live in groups) or the exclusion of wild/ confiscated specimens from the breeding stock.
- Generally restricting commercial trade to F2 specimens would raise a huge economic burden for startups.

For these reasons, a **limited commercial trade in F1 should be allowed**, but it could be restricted to a species specific transition period on the way to complete closed-circle breeding and it could be concomitant with restrictions regarding the inclusion of further wild caught specimens into the breeding stock.

The **necessity to demonstrate the capability of producing a second generation** originated from husbandry problems common in the second half of the previous century. It has outlived its usefulness and could be omitted or reduced to very special cases.

The general application of a new source code "assisted wild production" for all F1 specimens, as proposed in chapter 4.3, might dilute requirements to produce a benefit for the wild population. Inter alia, for this reason, an **internal differentiation of specimens traded under a new source code "assisted wild production" seems to be necessary.**

5. Resolution Conf. 11.11. (Rev. CoP 17) on Regulation of trade in plants

Recommendation to introduce a procedure for claims of artificial propagation, similar to that for animals claimed to have been bred in captivity, seems to be a good way to harmonise the approaches for animals and plants and should be considered.

6. Resolution Conf. 12.10 (Rev. CoP15) on Registration of operations that breed Appendix-I animal species in captivity for commercial purposes

We are of the view that **export of Appendix I specimens with source code "C" for commercial sale should not be restricted to registered facilities.** If a non-registered facility or a private breeder can prove that specimens are captive bred and that the breeding stock was obtained in line with the convention, the export of such specimens is reasonable and might even contribute to reduce further pressure on wild populations. Especially in cases of uplistings, such as the case of *Psittacus erithacus*, there are numerous breeders available, demonstrably successfully breeding the species long-time.

It is worth noting that there is different situation in different regions: In Europe, small-scale private keepers are the main producers of Appendix I specimens whereas many other countries have a relatively small number of large-scale commercial breeding facilities. In the USA, private breeders sell their offspring in a higher degree internally and mainly larger companies produce for the export. Such regional differences require careful consideration if a common monitoring system should apply to all of them.

The paragraphs 2 and 3 at page 8 explain that large numbers of small private facilities are not registered because the Parties claim that the breeding as such is not taking place for commercial purposes. Therefore, **the term "bypasses" does not seem to be appropriate in paragraph 2 at page 8** as long as it is not demonstrated that indeed the main purpose of the breeding is commercial.

What matters for CITES is that **both small-scale private and large-scale commercial trade in captive bred specimens of Appendix I must be controlled properly.** In this respect the **registration of breeding facilities has no additional conservation benefit.** It would only facilitate the mass processing of permit applications and thereby reduce the accuracy of the controlling process. **It seems worthwhile to strengthen the general monitoring of all trade in species listed in Appendix I and remove special regulations and exemptions such as those about registered breeding facilities. Shortening the current approval procedure for captive breeding facilities might further reduce the conservation benefit of this procedure.**

SEMARNAT

SECRETARÍA DE MEDIO AMBIENTE Y RECURSOS NATURALES

SUBSECRETARÍA DE GESTIÓN PARA LA PROTECCIÓN AMBIENTAL
DIRECCIÓN GENERAL DE VIDA SILVESTRE

Oficio N° SGPA/DGVS/ 005878 /2018

Ciudad de México, 21 JUN 2018

DAVID MORGAN
CHIEF OF GOVERNING BODIES
AND MEETING SERVICES
SECRETARY GENERAL CITES
15, CHEMIN DES ANEMONES
CH-1219 CHATELAINE-GENEVE, SWITZERLAND
CORREO ELECTRÓNICO: info@cites.org
P R E S E N T E

Me refiero a la Notificación a las Partes No. 2018/048 "Examen de las disposiciones de la CITES relativas al comercio de especímenes de animales y plantas de origen no silvestre" donde se solicita que las Partes y los interesados directos, envíen observaciones sobre ambigüedades e incoherencias mencionadas en el documento, el enfoque de cada país y los supuestos políticos CITES subyacentes relacionados con la cría en cautividad y reproducción artificial, que se mencionan en el proyecto presentado por la Secretaría en el Anexo a la Notificación 2018-048.

Sobre el particular le informo que, en el caso de México, al atender solicitudes para emitir permisos de importación de animales del Apéndice I con fines comerciales, donde el código de origen asentado en el permiso de exportación es "D" y el código de propósito es "T", siendo que dicho país no tiene registro de establecimientos que crían en cautividad especies del Apéndice I con fines comerciales, en estos casos la solicitud es negada.

Adicionalmente, respecto del cuerpo del texto le hacemos llegar los siguientes comentarios:

Página 5, renglones 183 a 185:
En este párrafo se da una interpretación a los párrafos 4 y 5 sugerimos en lugar de ello reemplazarlo por los párrafos tal cual y sería muy ilustrativo indicar entre corchetes las Resoluciones que dan mayor detalle a los mismos. De esta forma el texto:

Ejército Nacional número 223, Colonia Anáhuac, Delegación Miguel Hidalgo, Ciudad de México, C.P. 11320
Tels: (55) 56 24 33 00 / 01800 0000 247 www.semarnat.gob.mx

~~*que se ajustan a las definiciones establecidas de "criados en cautividad" y "reproducidos artificialmente", que se ha de llevar a cabo con controles que no son tan estrictos como los que se aplican al comercio de especímenes extraídos del medio silvestre*~~

se reemplazaría por:

bajo ciertas excepciones. Mismas que se encuentran detalladas en varias Resoluciones que se indican en corchetes.

4.
Los especímenes de una especie animal incluida en el Apéndice I y criados en cautividad para fines comerciales [Res. Conf. 12.10], o de una especie vegetal incluida en el Apéndice I y reproducidos artificialmente para fines comerciales [Res. Conf. 11.11, Res. Conf. 9.19], serán considerados especímenes de las especies incluidas en el Apéndice II.

5.
Cuando una Autoridad Administrativa del Estado de exportación haya verificado que cualquier espécimen de una especie animal ha sido criado en cautividad [Res. Conf. 10.16] o que cualquier espécimen de una especie vegetal ha sido reproducida artificialmente [Res. Conf. 11.11], o que sea una parte de ese animal o planta o que se ha derivado de uno u otra, un certificado de esa Autoridad Administrativa a ese efecto será aceptado en sustitución de los permisos exigidos en virtud de las disposiciones de los Artículos III, IV o V.

Página 5, renglones 187 a 191:
En línea con la edición sugerida arriba el siguiente texto puede ser eliminado:

~~*El párrafo 4 del Artículo VII establece que los especímenes incluidos en el Apéndice I y criados en cautividad o reproducidos artificialmente para fines comerciales serán considerados especímenes de las especies incluidas en el Apéndice II y, por lo tanto, se comercializan de conformidad con el Artículo IV. Esto significa, por ejemplo, que pueden ser importados con fines primordialmente comerciales, aunque estando sujetos a un dictamen de extracción no perjudicial.*~~

y solamente explicar que ambos párrafos se encuentran respaldados por las Resoluciones xxx,x xx,xx ,xxx.

Página 5, renglones 193 a 195:
Misma situación que en el caso anterior, el siguiente texto puede ser eliminado, pues la interpretación lo que hace es confundir más al lector que el mismo texto de la Convención:

~~*El párrafo 5 del Artículo VII establece que, para los especímenes criados en cautividad o reproducidos artificialmente, se aceptará un certificado a ese efecto en sustitución de los permisos exigidos en virtud de las disposiciones de los Artículos III, IV o V (es decir, esta disposición se aplica a los especímenes de las especies incluidas en los Apéndices I, II o III).*~~

Página 5, renglones 199 a 210:
Favor de eliminar, estas Resoluciones ya no están vigentes y de por sí el análisis es complicado y este ejemplo solamente lo complica más:

~~*No obstante, como se señaló por primera vez en la Resolución Conf. 2.12 sobre Especímenes criados en cautividad o reproducidos artificialmente, las disposiciones de los párrafos 4 y 5 del Artículo VII han de aplicarse por separado; es decir, los especímenes incluidos en el Apéndice I que cumplan las condiciones no pueden considerarse como incluidos en el Apéndice II de conformidad con el párrafo 4 del Artículo VII y luego tener un certificado de cría en cautividad o reproducción artificial con arreglo al párrafo 5 del Artículo VII.*~~

~~*A fin de prestar asistencia para distinguir entre los especímenes de origen silvestre y aquellos que han sido criados en cautividad o reproducidos artificialmente (y que, por lo tanto, cumplen las condiciones de las excepciones establecidas en los párrafos 4 y 5 del Artículo VII), en la Resolución Conf. 3.6 sobre Normalización de los permisos y certificados emitidos por las Partes se introdujeron los códigos de origen que se habrían de incluir en los permisos y certificados. En ese entonces, los códigos eran "W", "C" y "A", con un código de origen "O" para los especímenes que no se ajustaban a esas categorías.*~~

Página 5, renglones 223 a 224:
Quizá es necesario especificar este punto con más detalle en la Res. Conf. 12.3 de Permisos y Certificados:

En lo que respecta al párrafo 5 del Artículo VII, no resulta claro si el uso de certificados de cría en cautividad o reproducción artificial es obligatorio o no.

Página 6, renglones 227 a 229:
Consideramos que no es necesario realizar una definición tan detallada en los permisos CITES. La Autoridad Administrativa de cada país debió evaluar previamente toda la información que respalda la decisión de qué código emplear con base en las Resoluciones y el Texto de la Convención. Además, el incluir ese nivel de detalle no proporciona ningún valor agregado al permiso, pues de una u otra manera se emitió el permiso. Esta información sería sobrante, pues no existe ningún proceso de revisión en el marco de la CITES que pudiera hacer uso de la información:

modelo, es importante indicar claramente en él si un documento emitido es un permiso de exportación expedido con arreglo a los Artículos II, IV o V, o un certificado de cría en cautividad/reproducción artificial expedido con arreglo al párrafo 5 del Artículo VII.

Página 6, renglón 233:
El incluir Resoluciones que ya no están vigentes complica más el análisis, si es un dato histórico colocarlo en antecedentes.

Resolución Conf. 2.12

Página 6, renglón 256:
Como bien sugiere la Secretaría sería necesario editar la Res. 12.3 haciendo mención a la Res. 11.16. Es necesario que se incluya como adjunto una edición a esta Resolución.

Con respecto al código de origen R,

Página 6, renglones 268 a 269:
No es clara la forma a la que llega a esta conclusión la Secretaría, en la Resolución 12.3 es clara la definición de ejemplares con código F y es mutuamente excluyente con la definición contenida en la Resolución 10.16, por tanto, si cumple con la Resolución 10.16, el ejemplar a exportar es C, de lo contrario es F si fue reproducido en condiciones semi-controladas.

Esto se aclararía incluyendo un "no" para que se lea como sigue:

por lo tanto, los especímenes ***no*** *cumplen las condiciones para el uso del código de origen C.*

Página 7 Cuadro:
Se propone los siguientes cambios:

Código de origen	Apéndice	Documento(s) requerido(s)	¿Se necesita un Dictamen de Extracción No Perjudicial?	¿Se necesita un Dictamen de Adquisición Legal?	¿Se permite la importación con fines primordialmente comerciales?	Disposiciones de la Convención
C/A	I	Certificado de cc/ra	NO*	NO*	**1** SÍ *NO*	Art. VII.5
	II	Certificado de cc/ra	NO*	NO*	**2** SÍ *NO*	Art. VII.5
D	I = II	Permiso de exportación	**3** SÍ	SÍ	SÍ	SÍ

Disposiciones de la Convención:
Dado que las disposiciones pueden cambiar dependiendo los propósitos sería conveniente Incluir un cuadro indicando origen y propósito.

Los cambios sugeridos para el cuadro, se identifican con los números **1**, **2** y **3**.

1 y **2**:
Aquí debería de ser NO en ambos casos. Para códigos de origen C, debería de estar dado de alta como D para poder exportar con fines comerciales (de acuerdo a la Res. 12.10). Y para códigos de origen A, también debería de estar registrado con código D de acuerdo a la Res. 12.03. Por lo tanto, sugerimos

eliminar todo el renglón referente a Ap. I para códigos C/A (estaría mal clasificado con ese código).

3:
En teoría no se requiere un NDF para la exportación de todos los ejemplares producidos en este tipo. Solamente se necesita un NDF para demostrar el cumplimiento de la Resolución 10.16 y la 12.10 en el momento del registro de un criadero ante la CITES y para dictaminar las introducciones ocasionales de ejemplares silvestres para mantener al criadero. Es necesario hacer una acotación al respecto.

Página 7, renglones 293 a 296:
Consideramos que el código F es útil para un caso especial de crianza en medio controlado. En caso de que existan inconsistencias en su aplicación, se puede incluir material de fomento de capacidad a las partes que incluya un diagrama conceptual como el del documento informativo del SC69 (https://cites.org/sites/default/files/eng/com/sc/69/inf/E-SC69-Inf-03.pdf).

Los tres códigos (F, R y W) varían en nivel de riesgo en cuanto al impacto a las poblaciones silvestres se refiere. El código W tiene el mayor impacto a las poblaciones silvestres, pues éste es directo, el R sigue en nivel de impacto, pues sí se extraen ejemplares de vida libre, pero éstos no representan la cohorte más sensible de la población. El código F tiene un nivel de riesgo menor que los dos anteriores, pues proviene de la reproducción controlada (F1 al menos) pero no cumpliendo con la definición de "criado en cautiverio" (C) de la Res. 10.16.

Finalmente, los códigos C y D representan niveles de menor riesgo a la exportación. De esta forma, es necesario mantener los códigos como se encuentran a fin de determinar de forma adecuada los niveles de riesgo que representan las exportaciones y es un elemento empleado por las Autoridades Científicas al momento de emitir un NDF.

Esto parece haber dado lugar a que se utilice el código de origen F cuando no se sabe qué otro código utilizar. Los requisitos de los permisos para especímenes con códigos de origen F y R son idénticos a los del código de origen W, lo cual nos

hace cuestionarnos la finalidad de estos códigos, ya que complican la aplicación de la Convención sin que se aprecien beneficios.

Página 7, renglones 297 a 299:
Sería conveniente incluir una versión editada de la Resolución 12.3 que especifique lo siguiente:

Cabe señalar que, quizá por error, en relación con el código de origen D, la resolución no menciona la Resolución Conf. 9.19 (Rev. CoP15) respecto a la reproducción artificial de las plantas, de forma similar a la mención de la Resolución Conf. 12.10 (Rev. CoP15) para los animales.

Página 7, renglones 300 a 304:
Eliminar este párrafo, pues se contradice a sí mismo. Al inicio propone una idea y al final la descarta:

El modelo normalizado CITES** del Anexo 2 de la Resolución Conf. 12.3 (Rev. CoP17) no distingue con claridad entre los casos en los que se utiliza como permiso de exportación con arreglo a los Artículos III o IV, o como certificado de cría en cautividad o reproducción artificial con arreglo al párrafo 5 del Artículo VII. Se podría marcar la casilla "Otro" en la parte superior del modelo, donde se indica el tipo de permiso o certificado, **pero esto no aportaría claridad.

Página 8, renglón 322:
La Res. 5.10 (Rev. CoP15) sobre Definición de la expresión "con fines primordialmente comerciales, contiene varias incongruencias e interpretaciones que deben de ser atendidas, sugerimos se abra un Grupo de Trabajo en el marco de los Comités de Flora y Fauna para su revisión.

3.2 Ambigüedades e incoherencias

Página 8, renglones 335 a 337:
Estamos de acuerdo con este punto, por lo que habría que enmendar la Resolución 5.10 (Rev. CoP15) eliminando esta alusión, así como todo aquello que no se encuentre formalmente descrito en la Resolución 10.16:

Además, el texto atribuye exigencias a la Resolución Conf. 10.16 (Rev.) que no se encuentran en esa Resolución, por ejemplo, las importaciones deben tener como objetivo prioritario la protección a largo plazo de las especies afectadas.

Página 9, renglones 374 a 377:
Esta aseveración por parte de la Secretaría, es tendenciosa a permitir el incumplimiento de la Convención. Eliminar este párrafo, pues el hecho de que el plantel parental haya sido adquirido hace varias generaciones, no lo exime del requisito de haber sido fundado de forma legal:

Esto es válido en particular si el plantel reproductor original fue adquirido hace muchos años, cuando puede no haber habido ninguna razón para creer que la documentación que confirmaba el origen legal de los especímenes podría ser importante muchos años más tarde.

Página 9, renglones 388 a 390:
El procedimiento actual en la Resolución 10.16 contiene un candado que limita la introducción de ejemplares silvestres previo visto bueno de la Autoridad Científica, por tanto, sugerimos no realizar cambio alguno en esta sección:

Tal vez sea necesario lograr un equilibrio entre la necesidad de contar con procedimientos claros y simples y la viabilidad económica y biológica de algunos establecimientos.

Página 9, renglones 395 a 396:
Estamos de acuerdo con esta parte. Lo que se podría hacer es enmendar la Res. Conf. 10.16, en el párrafo 2 b) ii) C 2), para indicar que es responsabilidad de la Autoridad Científica el "avalar" que se está demostrando la capacidad del criadero de reproducir F2:

También, algunas Partes sostienen que esto podría obstaculizar determinadas operaciones de cría en cautividad con fines comerciales,

Página 10, renglón 404:
Realizar un trabajo armonizado con el Grupo de Trabajo que está realizando un análisis a esta Resolución en particular:

5. Resolución Conf. 11.11 (Rev. CoP15) sobre Reglamentación del comercio de plantas

Página 10, renglones 436 a 438:
El párrafo 4 contiene suficientes candados y alusión a legal procedencia y adquisición no detrimental, no obstante, la exportación resultante de esta condición particular sería con código A y existe el vacío de poder identificar estos casos con un código en particular de forma similar al R. Sugerimos el considerar esta posibilidad e integrar el párrafo 4 ya sea dentro de la Res. 12.3 o bien extender el alcance de la Resolución 11.16 sobre Rancheo:

Parece bastante incongruente que el párrafo 4 de la Resolución permita que se describan especímenes extraídos del medio silvestre como reproducidos artificialmente en determinadas circunstancias.

Página 13, renglones 547 a 549:
Estamos de acuerdo con la Secretaría en que no existe una provisión en la Resolución 9.19 que permita a las Partes evaluar que un nuevo registro de vivero en efecto cumple con las disposiciones señaladas en el Anexo 1 de dicha Resolución. Por tanto, a fin de que cualquier Parte pueda impugnar la eliminación de un vivero fraudulento, el procedimiento descrito en esta Resolución debería homologarse, o bien integrarse al que se encuentra en la Resolución 12. 10:

Si bien, según recuerda la Secretaría, ésta no ha eliminado ningún vivero del registro a solicitud de otra Parte, parecería más apropiado que las inscripciones impugnadas fueran juzgadas por los pares de otras Partes a través del Comité Permanente en lugar de por la propia Secretaría.

SEMARNAT

SECRETARÍA DE MEDIO AMBIENTE Y RECURSOS NATURALES

SUBSECRETARÍA DE GESTIÓN PARA LA PROTECCIÓN AMBIENTAL
DIRECCIÓN GENERAL DE VIDA SILVESTRE

Oficio N° SGPA/DGVS/005878 /2018

Sin otro particular aprovecho la ocasión para enviarle un cordial saludo.

A T E N T A M E N T E
EL DIRECTOR GENERAL DE VIDA SILVESTRE
AUTORIDAD ADMINISTRATIVA CITES DE MÉXICO

SEMARNAT

LIC. JOSÉ LUIS PEDRO FUNES IZAGUIRRE

"Por un uso eficiente del papel, las copias de conocimiento de este asunto son remitidas vía electrónica".

C.c.e.p. Q.F.B. Martha Garcíarivas Palmeros. Subsecretaria de Gestión para la Protección Ambiental. - marthagrivas@semarnat.gob.mx
Biol. Amado Ríos Valdez.- Coord. de Asesores de la Subsec. de Gestión para la Prot. Amb.- coordinacion.sgpa@semarnat.gob.mx
Biól. Hesiquio Benítez Díaz.- Dir. Gen. de Coop. Intl. CONABIO.- Aut. Científica de México ante la CITES. hbenitez@conabio.gob.mx
Lic. Karla Acosta Resendi. - Dir. Gen. de Insp. Amb. en Puer., Aer. y Fron. - Aut. Obs. y Apl. de la Ley CITES. kiacosta@profepa.gob.mx
Lic. Luz María Ortiz Ortiz. - Directora General Adjunta de Acuerdos Amb. Multilaterales de la UCAI. - luz.ortiz@semarnat.gob.mx
M. en C. Paola Mosig Reidl.- Coordinadora de la Autoridad Científica CITES.- pmosig@conabio.gob.mx
M.V.Z. Leonel Francisco Urbano Gutiérrez. - Subdirector de Acuerdos y Convenios para la Vida Silv. - lurbano@semarnat.gob.mx
M.V.Z. Miguel Ángel Flores Mejía. - Jefe de Depto. de Acuerdos Internacionales para la Vida Silv.- miguel.flores@semarnat.gob.mx

From: Miguel Flores Mejia <miguel.flores@semarnat.gob.mx>
To: "info@cites.org" <info@cites.org>
Cc: Jose Luis Pedro Funes Izaguirre <josel.funes@semarnat.gob.mx>, 'Hesiquio Benitez' <hbenitez@conabio.gob.mx>, Paola Mosig Reidl <pmosig@conabio.gob.mx>, Leonel Urbano Gutierrez <leonel.urbano@semarnat.gob.mx>
Date: 23-06-18 01:26
Subject: RV: Notificación a las Partes 2018-048 CITES

David Morgan
Officer-In-Charge
Secretary General CITES

Estimado Sr. Morgan,

En alcance al envío de información respecto de la Notificación a las Partes 2018/048 "Examen de las disposiciones de la CITES relativas al comercio de especímenes de animales y plantas de origen no silvestre", enviada el día de ayer 21 de junio, le solicito atentamente aplicar el siguiente cambio al documento SGPA/DGVS/005878/2018.

Página 5 de 10 y página 6 de 10

Dice:

Página 7 Cuadro:
Se propone los siguientes cambios:

Código de origen	Apéndice	Documento(s) requerido(s)	¿Se necesita un Dictamen de Extracción No Perjudicial?	¿Se necesita un Dictamen de Adquisición Legal?	¿Se permite la importación con fines primordialmente comerciales?	Disposiciones de la Convención
C/A	I	Certificado de cc/ra	NO*	NO*	1 SÍ *NO*	Art. VII.5
	II	Certificado de cc/ra	NO*	NO*	2 SÍ *NO*	Art. VII.5
D	I = II	Permiso de exportación	3 SÍ	SÍ	SÍ	SÍ

Disposiciones de la Convención:
Dado que las disposiciones pueden cambiar dependiendo los propósitos sería conveniente Incluir un cuadro indicando origen y propósito.

Los cambios sugeridos para el cuadro, se identifican con los números **1, 2** y **3**.

1 y **2**:
Aquí debería de ser NO en ambos casos. Para códigos de origen C, debería de estar dado de alta como D para poder exportar con fines comerciales (de acuerdo a la Res. 12.10). Y para códigos de origen A, también debería de estar registrado con código D de acuerdo a la Res. 12.03. Por lo tanto, sugerimos eliminar todo el renglón referente a Ap. I para códigos C/A (estaría mal clasificado con ese código).

3:
En teoría no se requiere un NDF para la exportación de todos los ejemplares producidos en este tipo. Solamente se necesita un NDF para demostrar el cumplimiento de la Resolución 10.16 y la 12.10 en el momento del registro de un criadero ante la CITES y para dictaminar las introducciones ocasionales de ejemplares silvestres para mantener al criadero. Es

necesario hacer una acotación al respecto.

Debe decir:
(los cambios se resaltan en amarillo para su fácil ubicación):

Página 7 Cuadro:
Se propone los siguientes cambios:

Código de origen	Apéndice	Documento(s) requerido(s)	¿Se necesita un Dictamen de Extracción No Perjudicial?	¿Se necesita un Dictamen de Adquisición Legal?	¿Se permite la importación con fines primordialmente comerciales?	Disposiciones de la Convención
C/A	I	Certificado de cc/ra	NO*	NO*	1 NO	Art. VII.5
	II	Certificado de cc/ra	NO*	NO*	SI	Art. VII.5
D	I = II	Permiso de exportación	2 SÍ	SÍ	SÍ	SÍ

Disposiciones de la Convención:
Dado que las disposiciones pueden cambiar dependiendo los propósitos sería conveniente Incluir un cuadro indicando origen y propósito.

Los comentarios para el cuadro, se identifican con los números 1 y 2.

1:
Para códigos de origen C y A Apéndice I, para poder exportar con fines comerciales los especímenes deberían de provenir de criaderos o viveros registrados ante la CITES (de acuerdo a la Res. 12.10 y 12.03 respectivamente), y en ese momento se convertirían en -y clasificarían con- código "D" (dejaría de ser correcto clasificarlos como C o A).

2:
En teoría no se requiere un NDF para la exportación de todos los ejemplares producidos en este tipo. Solamente se necesita un NDF para demostrar el cumplimiento de la Resolución 10.16 y la 12.10 en el momento del registro de un criadero ante la CITES y para dictaminar las introducciones ocasionales de ejemplares silvestres para mantener al criadero. Es necesario hacer una acotación al respecto.

Atentamente

MVZ. Miguel Ángel Flores Mejía
Jefe del Departamento de Acuerdos Internacionales para la Vida Silvestre
Tel.: (55) 56 24 34 93
Dirección General de Vida Silvestre
Ejército Nacional 223, Piso 13, Col. Anáhuac,
Del. Miguel Hidalgo, C. P. 11320, Ciudad de México.

Notification No. 2018/048

Review of CITES provisions relating to the trade in specimens of animals and plants not of wild source

Request for comments from Parties and stakeholders:

1. Decision 17.101 directs the Secretariat to:
[...] review ambiguities and inconsistencies in the application of Article VII paragraphs 4 and 5, Resolution Conf. 10.16 (Rev.) on Specimens of animal species bred in captivity, *Resolution Conf. 12.10 (Rev. CoP15) on* Registration of operations that breed Appendix-I animal species in captivity for commercial purposes, *Resolution Conf. 11.11 (Rev. CoP17) on* Regulation of trade in plants, *Resolution Conf. 9.19 (Rev. CoP15) on* Registration of nurseries that artificially propagate specimens of Appendix-I plant species for export purposes, *Resolution Conf. 5.10 (Rev. CoP15) on* Definition of 'primarily commercial purposes' *and Resolution Conf. 12.3 (Rev. CoP17) on* Permits and certificates *as it relates to the use of source codes R, F, D, A and C, including the underlying CITES policy assumptions and differing national interpretations that may have contributed to uneven application of these provisions, as well as the captive breeding issues presented in document SC66 Doc. 17 and legal acquisition issues, including founder stock, as presented in document SC66 Doc. 32.4.*
2. The Secretariat presented a provisional draft of this review to the Standing Committee at its 69th meeting (Geneva, November 2017). The Committee made comments on the provisional draft and formed a working group which has provided further advice to the Secretariat.
3. In the Annex to the present Notification, the Secretariat provides the text of its review which it submits to Parties and stakeholders for comment.
4. Parties and stakeholders are requested to provide comments on the ambiguities and inconsistencies presented in the document, and to present other possible interpretations, ambiguities or inconsistencies for consideration, which, if they wish, could include their own country's approach. Such ambiguities and inconsistencies could occur both within each of the provisions for captive breeding and artificial propagation, but also between the relevant provisions. The Secretariat would also particularly appreciate comments on the underlying CITES policy assumptions related to this issue.
5. In accordance with Decision 17.101, all comments received from Parties and stakeholders will be presented to the Standing Committee (in the language in which they were submitted).

New Zealand response (submitted by New Zealand CITES Management Authority/New Zealand CITES Scientific Authority

Contact details: New Zealand CITES Management and Scientific Authorities

Department of Conservation, 18-32 Manners Street, Wellington 6011, New Zealand

Email: cites@doc.govt.nz

		Application of Article VII paragraphs 4 & 5
Page	Line	Comment
5	191-192	It would be helpful to know how many Parties do this
5	202-204	Guidance should be provided to establish clearly the documentation requirements for Article VII 4 and 5 as either a certificate of captive breeding /artificial propagation (not subject to provisions of Articles III, IV or V) or as a permit (subject to provisions of Articles III, IV or V).

5	205-210	Agree that Article VII para 5 controls on trade are weaker i.e. no import permit is required or NDFs. Certificates of CB/AP are rarely encountered. New Zealand currently issue Export/Re-export/Import permits using source codes A and C and similarly accept permits with these codes from exporting countries. Permits rather than certificates are issued in NZ due to stricter domestic measures whereby the issuance of a permit requires an NDF. The issuance of permits however is inconsistent with Article VII para 5 where a Cert of CM/AP should be issued where a MA is satisfied the specimen is captive bred or artificially propagated for non-commercial purposes e.g. in the case of zoo imports and exports. It is possible that import permits are being issued unnecessarily whereby if the Certificate of CB/AP were issued (as required in Article VII 5)) instead of a permit, the import permit would not be required (Res Conf 12.10).
		Additional comment: Is there a possibility that countries are applying the down listing from App I to App II for all captive bred/artificially propagated specimens rather than those solely from Registered Facilities?
		Resolution Conf 12.3 (Rev CoP17) Permits and certificates
Page	Line	Comments
5	218-221	Disagree that these codes are straightforward. Source codes A and C are being widely applied to 'permits' in contrary to the definition of the codes in Res Conf 12.3, where they should only be applied to 'certificates' under Article VII, paragraph 5. Source code D is rarely encountered on permits; the use of A & C are however common
6	235-237	Table format makes the requirements very clear and could be included in Res Conf 12.3 (Rev CoP17)
6	246-251	Source codes, A and C, are applied to Export/Re-export and Import permits issued by New Zealand due to their non-commercial nature. It should be clearly stated in a Resolution that these codes should be applied exclusively to Certificates of Captive Breeding and Certificates of Artificial Propagation, noting that this information is provided in 'Guidelines for the preparation and submission of CITES Annual Reports (January 2017)'
6	253-254	Clear guidance for the use of source code 'F' is provided in flow chart on page 6 of 'A guide to the application of CITES source codes' This useful document is rarely referred to and should be included as a reference in Res Conf 12.3 Is it possible that F is being mistaken for 'Farmed'?
7	258-260	Reference to Res Conf 9.19 (Rev CoP15) should be included in the definition of source code D. It is noted that it is not a requirement that artificially propagated plants must be sourced from a CITES registered facility in the same way that captive bred animals are.
7	263-265	Agree - 'Other' is vague. Consider including tick boxes for Certificate of Captive Breeding and Certificate of Artificial Propagation
		Resolution Conf 5.10 (Rev CoP15) Definition of 'primarily commercial purposes'
Page	Line	Comment
7	271-272	Agree, Resolution should 'recommend' application Article III paragraphs 3 (c) and 5 (c) AND Article VII 4 & 5
		Additional comment: the exporting country should declare that the trade is not for primarily commercial purposes, to prevent commercial exports of animals and plants (by breeders or propagators) to organisations or individuals who will use the specimen for non-commercial purposes - e.g. as a pet or a plant in a garden. It seems as though some Parties regard this as a non-commercial transaction. It seems that this would require an amendment to the Convention text, which is very difficult. It depends to some extent on how many Parties abuse this loophole. See also Line 429

		Additional comment: General Principles 3) where the burden of proof is on the importer. This is only effective where the Import permit is obtained before the Export permit. Many Parties have different procedures around permitting and will issue an export permit prior to the issuance of an import permit for Appendix I specimens even though this is a provision of Article III 2(d).
		Resolution Conf 10.16 (Rev) Specimens of animal species bred in captivity
Page	Line	Comment
8	322-326	This probably applies to many African Grey breeding operations where the shift to Appendix I has required such documentation which was not needed when they were in App II; likewise for non-listed species suddenly put into App I.
8	331-337	Allowing specimens from the wild to be added to the breeding stock of captive facilities makes sense from a genetics perspective, but the Resolution needs tightening. We suggest that it should be a requirement to report 'top-ups' from the wild in trade statistics, even for CITES-listed species WITHIN a country. We also suggest potentially requiring the SA to certify that such top-ups are not detrimental to the survival of the species in the wild OR are necessary to allow the survival of the species (e.g. in instances where the wild population is heading to oblivion and can only be maintained through artificial propagation or captive-breeding – white rhinos, orange-fronted parakeets).
8	338-344	We are generally positive of the suggestion to restrict trade of captive-bred specimens to F2 or beyond, in instances where it is difficult to prove the legal origin of the breeding stock. However we caution that this may be too restrictive if legal origin is well documented and it is a long-lived late-breeding species (e.g. parrots, tortoises)
		Resolution Conf 11.11 (Rev CoP17) Regulation of trade in plants
Page	Line	Comment
9	376-387	Agreed, even when in 4 (iv A. an NDF is required. Maybe however be open to abuse given that registration is not compulsory and as such an export permit could be issued for Appendix I W sourced with a source code of D
		Resolution Conf 12.10 (Rev CoP15) Registration of operations that breed Appendix-1 animal species in captivity for commercial purposes
Page 10	413-429	This is a real problem and allows for laundering of illegally obtained wild specimens masquerading as captive-bred. This are needs tightening substantially. The recent listing of African Grey Parrots will lead to more abuse of this Resolution. SC needs to get tougher on Parties that don't follow the rules, not only for the sake of wild populations of App I species, but also to create a level trading field for those (breeders and) Parties that have done the right thing. It is disingenuous for Parties to turn a blind eye to commercial breeding - any transfer of money (beyond recompensing the actual cost of vet checks permits and freight) is a commercial transaction. How many Parties abuse this Resolution?
		Resolution Conf 9.19 (Rev CoP15) Registration of nurseries that artificially propagate specimens of Appendix-1 plant species for export purposes
Page	Line	Comment
11	471-473	Standard procedure' should include a requirement that an NDF must be obtained
11	473	Any unregistered nursery can apply for an export permit. There seems little advantage in a nursery becoming registered. Certificates of Artificial Propagation may be pre-issued by an MA which could provide a degree of convenience to the exporter. It would be preferable if animals and plants were treated in a consistent way.

No. 0902.3/ ๒๙๑๕

CITES Management Authority
Department of National Parks,
Wildlife and Plant Conservation
61 Paholyothin Rd., Chatuchak,
Bangkok 10900, THAILAND
Tel./Fax. (66)2 940 6449

๑๔ June B.E. 2561 (2018)

Dear CITES Secretariat,

Subject : Request for comments from Parties and stakeholders

Reference is made to Notification to the Parties no. 2018/048 dated 15 May 2018. Please find the attachment for the comment on the draft review of CITES provisions relating to the trade in specimens of animals and plants not of wild source.

Your continued assistance is, as always, highly appreciated.

Yours sincerely,

(Mr. Somkiat Soontornpitakkool)
Director of CITES MA of Thailand
Department of National Parks, Wildlife and Plant Conservation

CITES Secretariat
International Environment House
11 Chemin des Anémones
CH-1219 Châtelaine, Geneva, Switzerland
Tel: +41 (22) 917 81 39/40
Fax: +41 (22) 797 34 17

The comment on the draft review of CITES provisions relating to the trade in specimens of animals and plants not of wild source.

Samples of wildlife parts or other derivatives of wildlife acquired in accordance to Article VII on Paragraph 4 and 5 are required to include clarifications on the meaning of the Source Code. This requirement seeks to reduce confusion or ambiguity in Source Code classifications, especially for Source Codes C, F, and R. Additionally, there should be assigned types, procedures, or categorizations of source codes which are accepted and clarified in order to facilitate implementations and proper usages of source codes.

ENVIRONMENTAL INVESTIGATION AGENCY

62-63 Upper Street
London N1 0NY
+44 (0) 20 7354 7960
eia-international.org

CITES Secretariat
International Environment House
Chemin des Anemones
1219 Châtelaine
Geneva, Switzerland

June 22, 2018

Re: Review of CITES Provisions Relating to The Trade in Specimens of Animals and Plants Not of Wild Source

Dear Secretariat,

On behalf of the Environmental Investigation Agency, UK (EIA), we hereby submit this response to CITES Notification 2018/048 in relation to the '*Review of CITES provisions relating to the trade in specimens of animals and plants not of wild source*'. We have reviewed the draft report contained in the Annex to the Notification and our comments on the same are provided below. As requested in the Notification, where applicable our comments are provided with reference to the relevant page and line of the draft report.

Introductory comments: We welcome the opportunity to comment on the draft report prepared by the Secretariat in consultation with the Standing Committee Working Group established to consider this subject. In particular, we fully support the recognition in the draft report that a 'one size fits all' policy approach would not be suitable in tackling the issues related to trade in specimens of animals and plants not of wild source. For some Appendix-I species such as tigers (*Panthera tigris*) and other Asian big cats, the Conference of the Parties have expressly recognised the threat posed by commercial trade in captive specimens to wild populations and have called for limiting captive breeding of tigers to levels supportive only for conservation purposes and for ensuring that tigers are not bred in captivity for trade in their parts and derivatives.[1]

Page 3, Lines 77-79: We support the acknowledgment of the fact that "[w]*hen the Convention was drafted, captive breeding and artificial propagation of wild fauna and flora species were relatively limited and certainly intensive production of many species for commercial purposes was rarely undertaken*" and that this is no longer the case with growing commercial trade in captive specimens. To ensure that trade in captive sourced CITES specimens does not threaten these species in the wild, it is critical that comprehensive recommendations are adopted to effectively address the escalating trade in captive-sourced CITES-listed specimens. Indeed, Article XI(3)(e) of the Convention provides the broad mandate to the Conference of the Parties to "review the progress made towards the restoration and conservation" of CITES-listed species and to make recommendations "*for improving the effectiveness*" of the Convention."

Page 3, Lines 114-119: As mentioned above, EIA fully supports the acknowledgement that "*[b]enefits and disadvantages for the conservation of the species, of trade in specimens of CITES-listed species bred in captivity or artificially propagated, may vary between species*". We also support the recognition that a targeted approach has already been applied in the case of tigers. Tigers are endangered with fewer than 4,000 individuals remaining in the wild. Trade continues to be the primary threat to the survival of wild

tigers and has led to their recent disappearance from areas of otherwise suitable habitat. Given the highly endangered status of tigers and the significant trade threat, in 2007 CITES Parties adopted Decision 14.69 which continues to be applicable and reads as follows: "*Parties with intensive operations breeding tigers on a commercial scale shall implement measures to restrict the captive population to a level supportive only to conserving wild tigers; tigers should not be bred for trade in their parts and derivatives.*" During deliberations at the 14th Conference of the Parties which adopted this Decision, one Party argued that CITES is a mechanism to control only international trade rather than domestic trade, and proposed the addition of the word "international" before "trade" in the Decision. However, CITES Parties overwhelmingly rejected this proposal, proactively determining that Decision 14.69 should apply to internal as well as international trade.[ii] In CITES Notification No. 2008/059, the CITES Secretariat provided guidance on specific actions that Parties could adopt towards implementation of Decision 14.69 including: the establishment of a national individual animal registration process, incorporating a marking system using, for example, microchips or DNA profiling; the segregation of sexes to prevent further breeding; the development of a strategic plan, incorporating deadlines, for the phasing-out of intensive breeding operations on a commercial scale or their conversion to operations devoted solely to the conservation of tigers; and the development of a policy with regard to what will happen to tigers currently in intensive breeding operations.[iii] Since 2007, a number of recommendations have been adopted by the Conference of the Parties and Standing Committee to implement Decision 14.69 and Resolution Conf. 12.5 (rev. CoP17), *Conservation of and trade in tigers and other Appendix-I Asian big cat species*, in relation to tackling the growing trade in captive sourced tiger parts and derivatives.[iv]

Page 4, Lines 137-143: In the case of tigers, there is substantial evidence to demonstrate that a parallel trade (legal or illegal) in captive sourced parts and derivatives undermines both enforcement efforts to address illegal trade in wild-caught specimens and efforts to reduce demand for tiger and other big cat products. For example, EIA investigations and research have found that wild-caught tiger parts and derivatives are sold alongside captive-sourced tiger specimens in Laos[v] - a Party which is currently subject to compliance measures under Article XIII of the Convention including for its role in tiger farming and breeding of tigers on a commercial scale for trade in their parts and derivatives. Demand for tiger parts is exacerbated by the availability of captive-bred tiger parts and this unchecked demand has in turn exacerbated the trafficking and consumption of other big cat parts such as leopard, jaguar and African lion bones, teeth and claws, which are marketed as "tiger".[vi]

Page 4, Lines 144-149: In the case of captive tigers in China, Laos, South Africa, Thailand and Vietnam, none of the facilities engaged in commercial scale breeding, and none of the facilities engaged in legal and illegal trade in specimens of captive bred tigers are providing any conservation benefits. Examples of captive tiger facilities that are linked to illegal tiger trade and other transnational wildlife crime are available.[vii]

In closing we concur that not all species can be treated the same, and for this reason matters relating to captive tigers and other Asian big cats threatened by trade in parts and derivatives of captive specimens should be dealt with under species-specific matters under Asian big cats such as through the review of implementation of Resolution Conf. 12.5 (Rev CoP17) and associated Decisions (rather than under the 'Trade in specimens bred in captivity or artificially propagated' agenda matters).

We hope that the CITES Parties and the Secretariat find these comments of use and thank you for your kind consideration. Please let us know if you have any questions.

Sincerely,

Shruti Suresh
Senior Wildlife Campaigner
Environmental Investigation Agency, UK (EIA)

References:

[i] CITES Decision 14.69.

[ii] CoP14 Com. II Rep 14 (Rev 1).

[iii] CITES Notification 2008/059.

[iv] *See, e.g.*, SC65 Com. 4 and SC65 Sum. 9; CITES Decisions 17.224, 17.226, and 17.229.

[v] EIA (2015), *Sin City, Illegal wildlife trade in Laos' Golden Triangle Special Economic Zone*.

[vi] EIA (2017), *Cultivating Demand: The growing threat of tiger farms*; EIA (2017), The Lion's Share: South Africa's trade exacerbates demand for tiger parts and derivatives.

[vii] EIA (2017), *Cultivating Demand*

From: Ganesan RP <ganesanrp@gmail.com>
To: CITES HO <info@cites.org>
Cc: Malin Rivers <malin.rivers@bgci.org>, Megan Barstow <megan.barstow@bgci.org>, UNEP <unepinfo@uneb.org>, UNFCCC <secretariat@unfccc.int>, UN CCD <secretariat@unccd.int>, Prof Ramesh Chand <rc.niti@gov.in>, Secy MoA <secy-agri@nic.in>, cSTEP <cpe@cstep.in>, TERI <mailbox@teri.res.in>, CPR India <cprindia@cprindia.org>
Date: 22-06-18 17:50
Subject: Comments on Draft review of CiTES .... Not of wild Source. Notification no 2018/048 dt 15 May 2018

Respected sirs

I thank for your initiative to resolve the ambiguities and confusion in understanding in CITES provision for "not from wild source"

We, dry land farmers who grow an endangered species, Red Sanders (Pterocarpus santalinus) are suffering due to these kind of lapses.

We have been representing to government of India, IUCN and CITES for some time.

Please find recent representation to IUCN

https://www.slideshare.net/GanesanRP/red-sanders-is-not-an-endangered-species-representation-to-iucn-by-rp-ganesan

We understand that even if IUCN delist's it from redlist, the restriction will not go till CITES updates it. So we are trying out in all directions to remove the lapses and remove hurdles for export of Red sanders wood from small dry land farmers, which is a medicine also.

Please find the comments on "DRAFT REVIEW OF CITES PROVISIONS RELATING TO THE TRADE IN SPECIMENS OF ANIMALS AND PLANTS NOT OF WILD SOURCE" in presentation / pdf format.

I am not a Biologist, but an engineer turned treeculturist. So please bear with me for any errors.

But know that Trees are healthy wealth of the globe.

http://wca2014.org/healthy-wealth-from-degraded-dry-lands-with-trees/

Thanking you

RP Ganesan
A stack holder - An endangered tree grower
Hosur
India

Comments on

REVIEW OF CITES PROVISIONS RELATING TO THE TRADE IN SPECIMENS OF ANIMALS AND PLANTS NOT OF WILD SOURCE

Refer notification no. 2018/048 dt 15 May 2018

By Ganesan RP - A stack holder
(An Endangered species Tree grower)
Communication address
H 96, New ASTC Hudco,
Hosur 635109,
Tamilnadu state, India
ganesanrp@gmail.com

A Big Thanks

For recognizing the ambiguities and confusion in Artificially propagated source and related regulations

1000s of dry land endangered Red Sanders tree growing farmers in India are suffering due to these ambiguities & confusion

Refer our struggle

https://www.slideshare.net/GanesanRP/red-sanders-action-required-by-govt-of-india-and-progress

(google Red sanders action required by govt of India)

Nurseries, Line - 454

- In India nursery is referred to place where tree sapling are produced not the trees grown.
- So better to use some other word
  - Farmlands or
  - Private farm land by farmers / companies.

Distinguish Wild Vs Farmers land clearly

- In parties like India there is no separate policy & procedures for wild and farmers land (propagated source)
- FAO itself is under the process of defining "Forest".
- CITES uses word wild
- So please add definitions for wild, forest and farmlands including in article I of CITES.

Please specify clearly

- Even though CITES encouraged artificially propagated material particularly by farmers to meet the demand & additional income for them.

- So, please clearly specify " All species artificially propagated by the farmers in their private land should not be restricted for international trade", just ensure only the authenticity of felling at farmer's land. Preferably in article III, IV, V & VII

It is very easy for trees.

Better sub-classify forest land

- Forest land in India is
  - Govt land
  - Comes under the control of Forest department of Ministry of Environment , Forest and climate change
  - Subclassification
    - Reserve Forest, may be wild as per CITES
    - Plantation forest, Artificially propagated
    - But no semi-natural forest classification in India

- Need not allow felling and trade of appendix I, II & III species from plantation forest also.
- Shall be allowed once it comes out of IUCN Redlist.

A permanent setup for CITES

- The official in MA / SA are often get transfer. So, they are not getting familiar with CITES provisions.

Solution

- Better insist for permanent setup like National Biodiversity Authority
- And insist for CITES certification in MAs, SAs and Colleges
- Insist at least 5 persons from SA and 5 Persons from MA for CITES certification

Permission / Certification

- Tree growing farmers are bombarded with many certification from many departments.
- Simplify, as small farmers like India (small holding), can not understand complex procedures
- One certificate from SA, after verifying with revenue records proving famers private land shall be allowed for export.
- We find forest range officers are not familiar with any of CITES provisions.

Born Vs Bred Line 45 (table)

- Needs more clarity and clear definition between born and bred

- This table is good.

Define Treeculture (Agroforestry)

- Like agriculture, horticulture, sericulture, apiculture, define "Treeculture"
- Treeculture is better than Agroforestry
- The word forest implies **"wilderness"**
- The word culture implies "**artificial propagation**"

Sub- classify Artificially Propagated source code 'A"

- Under artificially propagated source, there shall be difference between
  - Propagated at Farmers land (A1),
  - Propagated at Non forest public lands (A2)
  - and Propagated at forest lands (A3).
- A1, source materials should be facilitated for easy trade.
- A3, forest wood should be restrictive

Conservation measure

- Even if is artificially propagated in forest land, don't allow it export as long as the species in Endangered list / Redlist
- At least insist them to plant 5 times of tree to be felled in the planted forest 5 years before applying for permission to fell.
- Even for confiscated source, insist them as above before trade.

Confiscated source

- Govt gets income while exporting confiscated endangered materials.
- Insist to propagate 5 times of the trees that would been felled.
- Next permission shall be after proving that the planted species has grown at least 10 ft height. (similar method for other species)

Software / On-line

- Create a software, incorporating provisions and explanations.
- Online application with required details and proofs.
- Monitor the permissions with time frame.
- If permission are denied, let them record the reason.
- The reasons shall be monitored by CITES HO Expert group

Table, Line 236

- The table is good
- Better to create such table for easy understanding, compare and choose.

- IUCN / CITES objective are good
- Needs to make it more clear with simple language and on-line software application method
- These provisions shall shall be made part of education at college levels

Thanking you

GLOBAL EYE

NOTIFICATION 2018/048 – COMMENTS

Lines 137 – 143: Discusses the relative potential benefits and drawbacks of captive breeding for conservation, and then makes the statement *"There seems to be little empirical evidence to support either of these hypotheses".*

This statement is not accurate and does not reflect the number of scientific studies presented in peer reviewed literature available that discuss these mechanisms and the many papers which support the hypothesis that captive breeding does not provide conservation benefit to the species being bred, as demand for wild caught remains high, and in many cases drives demand for the wild caught species.

Some such papers are as follows, this list is not exhaustive, but provides evidence of the scientifically reviewed empirical information available. These papers also contain large number of other relevant papers to this topic:

Drury, R., *Reducing urban demand for wild animals in Vietnam: examining the potential of wildlife farming as a conservation tool*, Conservation Letters – A Journal of the Society for Conservation Biology, 2009

Brooks, E.G.E, *The conservation impact of commercial wildlife farming of porcupines in Vietnam*, Biological Conservation, Vol 143, Issue 11, 2808-2814, 2010

Bush, E. R, Baker, S. E., Macdonald, D. W., *Global Trade in Exotic Pets 2006-2012*, Conservation Biology, Vol 28, No. 3, 663-676, 2014

Lyons, J. A. & Natusch, D. J. D, *Wildlife laundering through breeding farms: Illegal harvest, population declines and a means of regulating the trade of green pythons (Morelia viridis) from Indonesia*, Vol 144, Issue 12, 3073-3081, 2011

Williams, S. J., Jones, J. P. G., Annewandter, R. and Gibbons, J. M., Cultivation can increase harvesting pressure on overexploited plant populations, Ecological Society of America, 24 (8), 2050-2062, 2014

Bulte, E.H. & Damaniat, R., *An Economic Assessment of Wildlife Farming and Conservation*, Conservation Biology, 19 (4), 1222-1233, Conservation Biology, 2004

Kirkpatrick, R.C & Emerton, L, *Killing Tigers to Save Them: Fallacies of the Farming Argument*, Conservation Biology, Volume 24, No. 3, 655-659, 2009

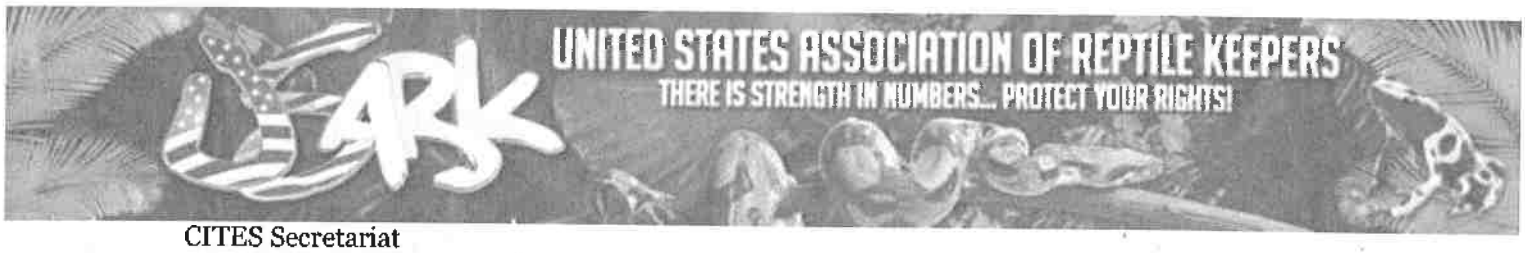
Burivalova, Z. et al, *Understanding consumer preferences and demography in order to reduce the domestic trade in wild-caught birds,* Biological Conservation, 209: 423-431, 2017

Fleming, L.V., Douse, A. F. & Williams, N. P., *Captive breeding of peregrine and other falcons in Great Britain and implications for conservation of wild populations,* Endangered Species Research, Vol 14, 243-257, 2011

Fraser, D. J., *How well can captive breeding programs conserve biodiversity? A review of salmonids,* Evolutionary Applications, Vol 1, Issue 4, 2008

Dolman, P. M., Collar, N. J., Scotland, K. M., Burnside, R. J., *Ark or park: the need to predict relative effectiveness of ex situ and in situ conservation before attempting captive breeding,* Journal of Applied Ecology, Vol 52, Issue 4, 2015

COMMENT: This report should refrain from making sweeping statements such as that made in the above mentioned paragraph, which are inaccurate, and are likely to be picked up and repeated for years to come. As demonstrated above, there is significant amount of scientific data available on whether captive breeding is contributing to positive outcomes for the species involved. While there have bene some success stories, the overwhelming data shows that commercial captive breeding does not provide the desired positive outcomes for the species, with many continuing to decline in the wild.



CITES Secretariat
International Environment House
Chemin des Anémones
CH-1219 Chatelaine
Geneva, Switzerland
info@cites.org

June 20, 2018

Subject: Notification No. 2018/048

Thank you for the opportunity to provide comments in response to Notification No. 2018/048. The United States Association of Reptile Keepers (USARK) offers the following comments for your consideration.

USARK is a non-profit education, conservation and advocacy organization promoting awareness, responsible care and professional unity for herpetofauna. USARK advocates for the practice of herpetoculture: the non-traditional agricultural pursuit of farming high quality captive bred reptiles and amphibians for conservation projects, zoos, museums, research facilities, education, entertainment and pets. USARK is dedicated to conservation through captive propagation, espouses the ideal of "preserving reptiles and amphibians for our future," and advocates a Keepers Code of Ethics. Members of USARK are veterinarians, researchers, academics, breeders, husbandry product manufacturers, feed producers, hobbyists and pet owners.

Lines 193-194: The Secretariat's draft review states that "[w]ith respect to Article VII.5., it is not clear if the use of certificates of captive breeding/artificial propagation is obligatory or not." What is clear, however, is that other Parties must accept such certificates ("a certificate ... shall be accepted in lieu of any of the permits or certificates required under the provisions of Article III, IV or V"). Accordingly, where the Management Authority is satisfied that a specimen of an animal species was bred in captivity and issues a certificate to that effect, the Convention states that it shall be accepted.

Instead of accepting such certificates as proof of the bona fide nature of the breeding program and the captive-bred status of the specimen(s) concerned, some Parties are effectively second-guessing the findings made by Parties of exporting countries. For example, earlier this year, agents with the U.S. Fish and Wildlife Service's (FWS) Office of Law Enforcement seized twenty-eight splash-back poison arrow dart frogs (*Adelphobates galactonotus*) at the Port of Miami despite the fact the shipment was accompanied by a valid CITES permit from the Dutch Management Authority. In this instance, the importer went above the legal requirements and also provided certification of the frogs' captive bred status and lineage of the parental stock. Furthermore, the documentation identified the frogs with the source code "C," which is all FWS regulations require. *See* 50 C.F.R. § 23.43(b)(1).

In effect, some Parties appear to be operating from a presumption that trade is illegal rather than the reality that the great majority of trade is perfectly in compliance with CITES requirements. Casting a shadow over all trade based on illegal or questionable trade by a few leads to disrupted

trade and transport, also potentially raising, even creating, welfare concerns. Therefore, as a general rule, the findings of Parties as evidenced by permits and certificates should be accepted by Parties for imports and the review mechanism established by Resolution Conf. 17.7 should be used to identify potential issues for animal species subject to significant levels of trade. Other compliance and enforcement mechanisms are available and obviously can be invoked in urgent cases, regardless of the level of trade. A more positive approach will be possible when some of the other implementation issues discussed below are addressed.

Lines 261-265: As the Secretariat notes, the standard CITES form is used both as a permit and as a certificate and checking of the "Other" box does not add clarity. USARK suggests the creation of a standalone form to be used for purposes of certificates issued under Article VII, paragraph 5. This will create greater clarity for governments, the regulated community, and customs officials. It also should lead to increased uniformity in understanding of and implementing the Convention for captive bred specimens.

Lines 280-291: USARK agrees that the examples in the annex of Resolution Conf. 5.10 (Rev. CoP15) raise significant questions and suggests the removal of text that is not found in the referenced resolutions. In particular, any text that imposes additional or new regulatory requirements not agreed by the Parties – such as the example provided by the Secretariat (i.e., that imports must be aimed as a priority at the long-term protection of the affected species) certainly should be deleted.

Lines 322-341: USARK agrees with the Secretariat's description of the challenges to prove legal origin of, for example, founder stock acquired many years ago. To overcome these significant challenges, which include demands by some Parties of import for documentation from periods of time in which such documentation was not required, a different approach is needed going forward.

USARK supports the notion of simplification in the interest of harmonized interpretation and implementation of the Convention, noting, however, that an absolute restriction on augmenting breeding stock through the occasional addition of a specimen taken from the wild and/or trade in specimens born in captivity but which are not "demonstrably F2 or beyond" would be inappropriate and potentially adverse to conservation objectives.

Thank you for your time and have a good day.

Sincerely,
/s/ *Phil Goss*
President of USARK
President@USARK.org
www.facebook.com/UnitedStatesAssociationOfReptileKeepers

(English only / seulement en anglais / unicamente en ingles)

At its 72nd meeting (SC72, Geneva, August 2019), the Standing Committee established an intersessional working group to address the matter of Captive-bred and ranched specimens.

Part (i) of the Mandate of the Working Group on captive-bred and ranched specimens (Decision 18.173) reads:

i. **consider at SC73 the Secretariat's update of the review of CITES provisions related to trade in specimens of animals and plants not of wild source in Annex 7 of document SC70 Doc. 31.1 and Parties' comments and recommendations in document SC70 Doc. 31.1 Annex 8; the underlying CITES policy assumptions that may have contributed to the uneven application of Article VII, paragraphs 4 and 5; the Secretariat's recommendations in the Annexes to SC70 Doc. 31.1; and the recommendations of the Animals and Plants Committees under Decision 18.AA of document CoP18 Doc. 57.**

Each of the subtasks enumerated in the above-mentioned task (i) of the mandate will be discussed separately below, in their own headings.

Subtask 1: consider at SC73 the Secretariat's update of the review of CITES provisions related to trade in specimens of animals and plants not of wild source in Annex 7 of document SC70 Doc. 31.1 and Parties' comments and recommendations in document SC70 Doc. 31.1 Annex 8

Regarding this first subtask, five Parties (Canada, EU, Mexico, New Zealand and Thailand) and four organizations (EIA, Ganesan RP, Global Eye and USARK) have sent their comments to the Secretariat in response to Notification 2018/048. These comments are summarized in the table below and the Secretariat will revise the review in the light of the comments received.

Document SC70 Doc. 31.1 Annex 8 - Parties' comments

Line	Content	Comments
45	Glossary used in this Review	**EU:** "not of wild source" is not an appropriate term for specimens traded under source code R. **Ganesan RP:** Born vs Bred. Needs more clarity and clear definition between born and bred. The table is good.
52	It noted that there were concerns about the confusing and challenging nature of the wording of current CITES Resolutions on the subject, about insufficient checks on the legal origin of the breeding stock used in captive-breeding facilities and about the establishment of captive-breeding facilities outside the country of origin of the specimens and species concerned.	**EU:** Concerns about the "establishment of captive-breeding facilities outside the country· of origin of the specimens and species concerned" are mentioned but not explained in the document CoP17 Doc. 32. There seems to be no immediate connection to the mandate of the WG or reason to cite this concern here.
77	When the Convention was drafted, captive breeding and artificial propagation of wild fauna and flora species were relatively limited and certainly intensive production of many species for commercial purposes was rarely undertaken.	**EIA:** We support the acknowledgment of the fact that "when the Convention was drafted, captive breeding and artificial propagation of wild fauna and flora species were relatively limited and certainly intensive production of many species for commercial purposes was rarely undertaken" and that this is no longer the case with growing commercial trade in captive specimens.. To ensure that trade in captive sourced CITES specimens do not threaten these species in the wild, it is critical that comprehensive recommendations are adopted to effectively address the escalating trade in captive¬ sourced CITES-listed specimens.
85	This trend is expected to continue. Similarly areas of planted forests are increasing, while those of natural forests are decreasing.	**EU:** The mixing of CITES and non-CITES terms for breeding and artificial propagation in the entire paragraph poses a problem: Planting trees does not necessarily result in plantations and can be interpreted in a wrong way. We would therefore request the Secretariat to be more precise as this interpretation is reflected neither in the current resolutions, nor in the reality of today's forestry.
87	The Parties' views on the merits or otherwise of captive breeding and artificial propagation have varied over the years ….	**Canada:** Does not provide context to the overall objective of Decision 17.101.
114 - 115	Benefits and disadvantages for the conservation of the species, of trade in specimens of CITES-listed species bred in captivity or artificially propagated, may vary between species and perhaps depend on whether the activity is conducted *in situ* or *ex situ*.	**EIA:** EIA fully supports the acknowledgement that benefits and disadvantages for the conservation of the species, of trade in specimens of CITES-listed species bred in captivity or artificially propagated, may vary between species". We also support the recognition that a targeted approach has already been applied in the case of tigers. **UE:** "...may vary between species according to framework conditions". Whether the activity is conducted *in situ* or *ex situ* is only one of many influencing factors. In this context it seems to be overemphasized. The current draft wording seems to oversimplify the situation.
137	The question of the linkage between populations of the species in the wild on the one side and captive-breeding and artificial-propagation operations on the other is a key one.	**EIA:** In the case of tigers, there is substantial evidence to demonstrate that a parallel trade (legal or illegal) in captive sourced parts and derivatives undermines both enforcement efforts to address illegal trade in wild-caught specimens and efforts to reduce demand for tiger and other big cat products. For example, EIA investigations and research have found that wild -caught

Line	Content	Comments
		tiger parts and derivatives are sold alongside captive-sourced tiger specimens in Laos. **Global Eye:** Discusses the relative potential benefits and drawbacks of captive breeding for conservation, and then makes the statement "There seems to be little empirical evidence to support either of these hypotheses". This statement is not accurate and does not reflect the number of scientific studies presented in peer reviewed literature available that discuss these mechanisms and the many papers which support the hypothesis that captive breeding does not provide conservation benefit to the species being bred, as demand for wild caught remains high, and in many cases drives demand for the wild caught species. A list of papers is provided.
138	Trade in captive-bred/artificially propagated specimens can have a negative impact if wild sourced specimens are passed off as bred in captivity or artificially propagated.	**UE:** Not "trade in captive-bred/artificially propagated specimens" as such but insufficient enforcement of CITES causes this negative effect.
144	Increased trade in captive-bred/artificially propagated specimens may also influence the incentives for the conservation of species in the wild	**UE:** This paragraph again overemphasizes the importance of in-situ versus ex-situ breeding. Often ex-situ breeding programs of zoos are also engaged in-situ conservation activities. Resolution Conf. 13.9 is a positive example for desirable mutual benefits which should be highlighted instead of focusing on potential conflicts of interest. **EIA:** In the case of captive tigers in China, Laos, South Africa, Thailand and Vietnam, none of the facilities engaged in commercial scale breeding, and none of the facilities engaged in legal and illegal trade in specimens of captive bred tigers are providing any conservation benefits. We concur that not all species can be treated the same, and for this reason matters relating to captive tigers and other Asian big cats threatened by trade in parts and derivatives of captive specimens should be dealt with under species-specific matters.
155	Brief history of the regulation of trade in specimens not taken from the wild (table form to be completed)	**Canada:** This section should: provide a general understanding of the global "landscape" of captive breeding and artificial propagation within the context of the 1960s and 1970s. specifically document the history of interpretation of Article Vll.4 and Vl1.5. include a history of the development of the Registration process. review the history and summarize considerations associated with the adoption of a separate definition for bred in captivity for commercial purposes in Res. 12.1O (e.g., CoP11 Doc. 11.48).
157	**1. The application of Article VII paragraphs 4 and 5**	**UE:** Articles Vll.4 and VII.5 both apply to specimens of species listed in Appendix I . The standard CITES form in Annex 2 of Resolution Conf. 12.3 (Rev. CoP17) does not clearly distinguish between cases when it is used as an export permit or 'certificate of captive breeding/artificial propagation'. That is not needed; what matters is that the CITES MA verifies source code A or C. **Thailand:** Samples of wildlife parts or other derivatives of wildlife acquired in accordance to Article VII on Paragraph 4 and 5 are required to include clarifications on the meaning of the Source Code. This requirement seeks to reduce confusion or ambiguity in Source Code classifications,

Line	Content	Comments
		especially for Source Codes C, F, and R. Additionally, there should be assigned types, procedures, or categorizations of source codes which are accepted and clarified in order to facilitate implementations and proper usages of source codes.
159	Article VII paragraphs 4 and 5 allow trade in specimens that meet set definitions of 'bred in captivity' and 'artificially propagated' to be undertaken with controls that are not as strict as that for trade in specimens taken from the wild.	**Mexico:** Replace the text with "... *under certain exceptions. Same as detailed in several Resolutions which are indicated in square brackets.*"
162	Article VII.4 states that specimens of Appendix-I species bred or artificially propagated for commercial purposes are deemed to be specimens of species included in Appendix II and thus traded under Article IV. This means, for instance, that they may be imported for primarily commercial purposes, while still being subject to a non-detriment finding. Use of this provision is qualified by two Resolutions – see sections 6 and 7 of the present document.	**Mexico:** Delete the paragraph "Article VII, paragraph 4, states that specimens included in Appendix I and bred in captivity..." and only explain that both paragraphs are supported by Resolutions xxx, x xx, xx, xxx.
167	Article VII.5 states that for specimens bred in captivity or artificially propagated, a certificate stating this shall be accepted in lieu of any of the permits or certificates required under the provisions of Article III, IV or V (i.e. this provision applies for specimens of species in Appendices I, II or III). The practical implications of the use of certificates of captive breeding/artificial propagation are detailed in the table in paragraph 2 of the present document	**Mexico:** Delete the text "Article VII, paragraph 5, provides that for specimens bred in captivity or artificially propagated, a certificate to that effect shall be accepted in lieu of ....."
172	However, as first noted in Resolution Conf. 2.12 on Specimens bred in captivity or artificially propagated, the provisions of Article VII.4 and 5 are to be applied separately – i.e. any qualifying Appendix I specimens cannot be treated as Appendix II under Article VII.4 and then be given a certificate of captive breeding/artificial propagation by virtue of Article VII.5.	**Canada:** There may be need to clarify the meaning of Articles Vll.4 and Vll.5. especially in terms of their goals, their relationship with trade under Article III, and their relationship to one another. Canada is of the view that there may be need to for review of the current implementation of Vll.4 and Vll.5 in Resolutions more broadly, to reassess them in the context of the current "captive breeding landscape" to ensure that implementation is coherent and relevant and consistent. **Mexico:** Please remove, these Resolutions are no longer in force and the analysis is more complicated by the example.
191	However, the Secretariat has observed that some Parties are of the view that captive bred/artificially propagated specimens may also be traded under Articles III and IV.	**Canada:** Would be changed as follows: "However, the Secretariat has observed that some Parties are of the view that captive bred/artificially propagated source code D, A and C specimens may also be traded under Articles III and IV." **Mexico:** It may be necessary to specify this point in more detail in Res. Conf. 12.3 on Permits and Certificates: "*With regard to Article VII, paragraph 5, it is not clear whether the use of certificates of captive breeding or artificial propagation is mandatory or not*." **New Zealand:** It would be helpful to know how many Parties do this.
193	With respect to Article VII.5, it is not clear if the use of certificates of captive breeding/artificial propagation is obligatory or not.	**USARK:** The Secretariat's draft review states that with respect to Article VII.5., it is not clear if the use of certificates of captive breeding/artificial propagation is obligatory or not." What is clear,

Line	Content	Comments
		however, is that other Parties must accept such certificates. Instead of accepting such certificates as proof of the bona fide nature of the breeding program and the captive-bred status of the specimen(s) concerned, some Parties are effectively second¬ guessing the findings made by Parties of exporting countries. In effect, some Parties appear to be operating from a presumption that trade is illegal rather than the reality that the great majority of trade is perfectly in compliance with CITES requirements. Casting a shadow over all trade based on illegal or questionable trade by a few leads to disrupted trade and transport.
195	Many Parties use the Standard CITES form in Annex 2 of Resolution Conf. 12.3 (Rev. CoP17) for CITES documentation.	**Canada:** Would be useful to understand the rationale for the deletion of the specific instruction to indicate whether a document issued was as a certificate of captive breeding or artificial propagation, or not.
196	Because of the way the form is designed, it is important to clearly indicate on the form whether a document issued is an export permit issued under Article III, IV or V, or a certificate of captive breeding/artificial propagation issued under Article VII paragraph 5. Until CoP12, Resolution Conf. 10.2 (Rev.) on Permits and certificates, specified that every form issued should indicate if it was being issued as a certificate of captive breeding or artificial propagation or not, but this specific instruction was deleted thereafter.	**Mexico:** We believe that it is not necessary to make such a detailed definition in CITES permits. Furthermore, including that level of detail does not provide any added value to the permit.
202	Following the replacement of Resolution Conf. 2.12 by Resolution Conf. 10.16, the guidance to the effect that the provisions of Article VII.4 and 5 are to be applied separately has been lost. It is unclear if this has created misunderstandings for Parties.	**Mexico:** Including Resolutions that are no longer in force further complicates the analysis, if it is a historical fact to place it in background. **New Zealand:** Guidance should be provided to establish clearly the documentation requirements for Article VII 4 and 5 as either a certificate of captive breeding /artificial propagation (not subject to provisions of Articles III, IV or V) or as a permit (subject to provisions of Articles III, IV or V).
205	Controls of trade under Article VII paragraph 4 are rigorous as the specimens are treated as if they were included in Appendix II; however controls on trade under Article VII paragraph 5 are arguably weaker as once a determination has been made that a specimen has been bred in captivity or artificially propagated, only a certificate to that effect is required. This highlights the importance of having clear definitions of the terms bred in captivity and artificially propagation and their careful and accurate application. Current definitions may not be sufficiently clear as explained in paragraphs 4 and 5 below.	**New Zealand:** Agree that Article Vll para 5 controls on trade are weaker i.e. no import permit is required or NDFs. Certificates of CB/AP are rarely encountered. New Zealand currently issue Export/Re-export/Import permits using source codes A and C and similarly accept permits with these codes from exporting countries. Permits rather than certificates are issued in NZ due to stricter domestic measures whereby the issuance of a permit requires an NDF. The issuance of permits however is inconsistent with Article Vll para 5 where a Cert of CM/AP should be issued where a MA is satisfied the specimen is captive-bred or artificially propagated for non-commercial purposes e.g. in the case of zoo imports and exports. It is possible that import permits are being issued unnecessarily whereby if the Certificate of CB/AP were issued (as required in Article Vll 5)) instead of a permit, the import permit would net be required (Res. Conf.12.10). Additional comment: Is there a possibility that countries are applying the down listing from App I to App II for all captive bred/artificially propagated specimens rather than those solely from Registered Facilities?
211	**2. Resolution Conf. 12.3 (Rev. CoP17) on *Permits and certificates***	
218	The use of source codes C and A seems relatively straight forward and are applied in relation to Article VII.5.	**New Zealand:** Disagree that these codes are straightforward. Source codes A and C are being widely applied to 'permits' in contrary to the definition of the codes in Res Conf. 12.3, where they should only

Line	Content	Comments
		be applied to 'certificates' under Article VII, paragraph 5. Source code D is rarely encountered on permits the use of A & C are however common.
219	When specimens that are bred in captivity or artificially propagated originate from a registered facility or nursery (see sections 6 and 7), they can be traded under Article VII.4 and are given the code D instead of C or A.	**EU:** Please be more precise: "When specimens of species listed on Appendix I that are bred in captivity or artificially propagated originate from a registered facility or nursery, they can be traded under Article VII.4 and are given the code D instead of C or A."
222	Concerning source code R, the obligations upon Parties are different depending on whether the specimen concerned is from a population transferred from Appendix I to Appendix II under the provisions of paragraph A. 2. b) in Annex 4 of Resolution Conf. 9.24 (Rev. CoP17) on Criteria for amendment of Appendices I and II (so called 'ranching downlisting') or not.	**Mexico:** As suggested by the Secretariat, Res. 12.3 should be edited to refer to Res. 11.16. An edition should be included as an attachment to this Resolution.
230	Source code F is applied to specimens born in captivity, but not to the standards required to be considered a bred in captivity as per Resolution Conf. 10.16 (Rev.) and thus qualify for the use of source code C.	**Mexico:** It is not clear how the Secretariat comes to this conclusion. In Resolution 12.3 the definition of F-coded specimens is clear and is mutually exclusive with the definition contained in Resolution 10.16. This would be clarified by including a "no" to read as follows: "... therefore, specimens do not qualify for use of source code C".
235	The following table summarizes the permits or certificates required for specimens given each source code and some of the consequent obligations required before issuance of such permits or certificates.	**New Zealand:** Table format makes the requirements very clear and could be included in Res Conf. 12.3 (Rev CoP17). **EU:** As the table indicates the same requirements for R,F, and W, these categories could be fused. This would provide the same information in a more concise way. Comparable to the application of code D for animals, it could be discussed and it would be preferable to limit source code D for Appendix I plants originating from registered commercial nurseries. **Mexico:** Since the provisions of the Convention may change depending on the purposes it would be appropriate to include a table indicating origin and purpose. Changes to the table are proposed. **Ganesan RP:** The table is good. Better to create such table for easy understanding, compare and choose.
246	Concerning the use of source codes, paragraph 3 i) of the Resolution recommends that source codes D, C and A are only to be used in the context of the application of Articles VII paragraphs 4 and 5, but this is not applied by all Parties, as some also use source codes C and A on export permits issued under Articles III and IV	**Canada:** The export provisions referencing Article VII.4 and VII.5 in the source code definitions of Res. 12.3 could be removed if there were a different way to indicate on a permit whether a specimen is being traded under Article VII.4 and VII.5 other than through source codes. Source codes would therefore be dedicated to providing data about trade trends from different production systems. Such a measure would also reduce the variable use of source codes that has been cited as a cause of concern in Res. 17.7. Paragraph 5(k) of Resolution 12.3 creates ambiguity as to its application for trade under the provisions of Article VII.5. Application of the restrictions of paragraph 5(k) to trade that occurs under Article VII.5 would be inconsistent with the current definition of source code C in Res. 12.3).

Line	Content	Comments
		UE: While the permit requirements for source codes F, R, and W are identical, These source codes still indicate differences in the production method which can have an important influence on the NDF. It seems unclear whether improving the applicability of the current source codes F and R or their replacement by a more elaborate classification is a more promising way forward, but their simplification or deletion without replacement could create more new problems than it salves and might result in a loss of valuable information. **New Zealand:** Source codes, A and C, are applied to Export/Re-export and import permits issued by New Zealand due to their non-commercial nature. It should be clearly stated in a Resolution that these codes should be applied exclusively to certificates of captive Breeding and certificates of Artificial Propagation, noting that this information is provided 'Guidelines for the preparation and submission of CITES Annual Reports (January 2017)'.
253	The source code F is one that is defined in the Resolution, but only by what qualities the specimen involved do not have, rather than in positive sense. This seems to have resulted in source F being used when it is not clear what other code to use. The permit requirements for specimens with source codes F and R are identical to those for source code W; this begs the question of the purpose of these codes, as they render the implementation of the Convention more complicated without any discernible benefits.	**Canada:** Disagree with the Secretariat that because the permit requirements for specimens with source codes F and R are identical to those for source code W that these intermediate source codes are of questionable value. **Mexico:** We consider that code F is useful for a special case of breeding in a controlled environment. It seems that the source code F is used when you do not know which other code to use. The permit requirements for specimens with source codes F and R are identical to those of source code W, which makes us question the purpose of these codes, as they complicate the implementation of the Convention without any apparent benefit. **New Zealand:** Clear guidance for the use of source code 'F' is provided in flow chart on page 6 of 'A guide to the application of CITES source codes' This useful document is rarely referred to and should be included as a reference in Res Conf. 12.3 Is it possible that F is being mistaken for 'Farmed'?
258	It can be noted that, perhaps by oversight, in relation to the use of source code D, the Resolution does not mention Resolution Conf. 9.19 (Rev. CoP15) regarding artificial propagation of plants, in the way that Resolution Conf. 12.10 (Rev. CoP15) is mentioned for animals.	**Canada:** Regarding the possible oversight in not mentioning Res. 9.19 in the source code definition of D for plants in the same way as 12.1O is mentioned for animals, this is not an oversight **UE:** Please correct the text: "It can be noted that, perhaps by oversight, in relation to the use of source code D, the Resolution does not mention Resolution Conf. 9.19 (Rev. CoP15) 'Registration of nurseries that artificially propagate specimens of Appendix-1 plant species for export purposes', in the way that Resolution Conf. 12.10 (Rev. CoP15) is mentioned for animals." **Mexico:** It would be useful to include an edited version of Resolution 12.3 that specifies the following: "It should be noted that, perhaps by mistake, in relation to code of origin O, the resolution does

Line	Content	Comments
		not refer to Resolution Conf. 9.19 (Rev. CoP15) regarding the artificial propagation of plants, similar to the reference in Resolution Conf. 12.10 (Rev. CoP15) for animals." **New Zealand:** Reference to Res, Conf. 9.19 (Rev eoP15) should be included in the definition of source code D. It is noted that it is not a requirement that artificially propagated plants must be sourced from a CITES registered facility in the same way that captive bred animals are.
261	The standard CITES form in Annex 2 of Resolution Conf. 12.3 (Rev. CoP17) does not clearly distinguish between cases when it is used as an export permit under Article III or IV, or when it being used as a certificate of captive breeding or artificial propagation under Article VII paragraph 5.	**Mexico:** Delete this paragraph, as it contradicts itself. At the beginning it proposes an idea and at the end it is discarded: "The standard CITES model in Annex 2 ....."
263	The box "Other" could be checked at the top of the form where the type of permit or certificate is indicated, but this still would not provide clarity.	**New Zealand:** Agree - 'Other' is vague. Consider including tick boxes for certificate of captive Breeding and certificate of Artificial Propagation.
266	**3. Resolution Conf. 5.10 (Rev. CoP15) on *Definition of 'primarily commercial purposes'***	
271	This Resolution provides recommendations to Parties when assessing whether the import of a specimen of an Appendix-I species would result in its use for primarily commercial purposes [Article III, paragraphs 3 (c) and 5 (c)]. Nevertheless, some of the general principles and examples in its Annex refer exemptions under Article VII, paragraphs 4 and 5. It is not however very clear if the guidance is to be used in relation to the application of Article III or Article VII.4 and 5.	**New Zealand:** Agree, Resolution should 'recommend' application Article III paragraphs 3 (c) and 5 (c) and Article VII 4&5. Additional comment: the exporting country should declare that the trade is not for primarily commercial purposes, to prevent commercial exports of animals and plants (by breeders or propagators) to organizations or individuals who will use the specimen for non-commercial purposes - e.g. as a pet or a plant in a garden. It seems as though some Parties regard this as a non-commercial transaction. It seems that this would require an amendment to the Convention text, which is very difficult. It depends to some extent on how many Parties abuse this loophole. Additional comment: General Principles 3) where the burden of proof is on the importer. This is only effective where the import permit is obtained before the Export permit. Many Parties have different procedures around permitting and will issue an export permit prior to the issuance of an import permit for Appendix I specimens even though this is a provision of Article III 2(d).
274	The text could be read to confirm that import of specimens bred in captivity (and by extension, plant specimens that have been artificially propagated) should take place under Article VII, paragraphs 4 and 5 and not Article III and IV.	**Canada:** Would be changed as follows·: "The text could be read to confirm that import of specimens bred in captivity (and by extension plant specimens that have been artificially propagated) should take place only using source codes D. C and A under Article VII, paragraphs 4 and 5 and not Article III and IV."
279	Ambiguities and inconsistencies. The examples in the Annex of the Resolution raise significant questions.	**Canada:** Examples should be rewritten and streamlined to be consistent with the other examples: to provide guidance on evaluating the commercial aspects associated with the import, in the country of import. for wild Appendix II specimens. **Mexico:** Res. 5.10 (Rev. CoP15) on Definition of the term "for primarily commercial purposes, contains several inconsistencies and interpretations that should be addressed, and we suggest that a Working Group be opened within the framework of the Animals and Plants Committees for its

Line	Content	Comments
		review. **USARK:** USARK agrees that the examples in the annex of Resolution Conf. 5.10 (Rev. CoP15) raise significant questions and suggests the removal of text that is not found in the referenced resolutions. In particular, any text that imposes additional or new regulatory requirements not agreed by the Parties - such as the example provided by the Secretariat (i.e., that imports must be aimed as a priority at the long-term protection of the affected species) certainly should be deleted.
283	The text refers to Resolution Conf. 10.16 (Rev.) which defines the term “bred in captivity” which might imply the former.	**UE:** The text [in Resolution Conf. 5.10) refers to Resolution Conf. 10.16 (Rev.); the reference is also to Regarding the term 'bred in captivity', DECIDES b) ii) B
290	Further, the text attributes requirements to Resolution Conf. 10.16 (Rev.) that are not found in that Resolution e.g. imports must be aimed as a priority at the long-term protection of the affected species.	**Canada:** We would also add that the requirements of this text, for "imports to be aimed...at the long-term protection of the affected species," are beyond the scope of the Convention to ensure that there is no detriment of trade. **Mexico:** We agree with this point, and Resolution 5.10 (Rev. CoP15) should be amended to remove this reference, as well as anything that is not formally described in Resolution 10.16: "In addition, the text attributes requirements to Resolution Conf. 10.16 (Rev.) that are not found in that Resolution, e.g. imports should have as a priority the long-term protection of the species concerned.”
292	The Resolution refers to the use of the term “primarily commercial purposes” in relation to the importation of specimens under Article III.	**Canada:** We agree that this paragraph seems to indicate that the term "bred in captivity for primarily commercial purposes" in VII.4 is problematic because of the ambiguous relationship with the term "primarily commercial purposes" as used in Article III.
296	In the latter case, some Parties consider that it is the commercial nature of the breeding that is at issue and not the nature of the trade transaction that subsequently takes place with the specimen. They therefore allow facilities where the breeding in captivity of specimens of Appendix-I species is not primarily undertaken to obtain economic benefit, (so-called ‘hobby breeders’) to export such specimens for trade purposes.	**Canada:** The ·language in the Resolution should be carefully reviewed and clarified so that "transaction" is always being used in the same sense given the confusion that currently exists.
299	Many importing Parties of such specimens, seeing that the specimens are bred in captivity and therefore traded under Article VII.5, then allow the import even if the specimens are to be used for primarily commercial purposes. Such a set of events circumvents the need for registration of the breeding facilities under Resolution Conf. 12.10 (Rev. CoP15) – see section 6 of the present document.	**Canada:** It is not clear what is meant by "trade purposes." **UE:** Regarding Article VII.5, there is no basis in the text to interpret this as applying only to trade in Appendix I specimens traded for non-commercial purposes, and the article should not be interpreted as only applicable for non-commercial purposes. According to the source code D, registration is not necessary for artificially propagated plants. "Hobby breeders" cannot always fulfil the condition for a registered commercial breeding operation. If hobby breeders are self-sustaining and both the NDF and LAF conditions are fulfilled, there should be no objection to trading even the F1-generations.
306	**4. Resolution Conf. 10.16 (Rev.) on *Specimens of animal species bred in***	

Line	Content	Comments
	captivity	
311	the environment is which	**UE:** environment +sin which
321	4.2 Ambiguities and inconsistencies	**Canada:** The preambular text should be amended to correctly reflect the text of the Convention and current operative language of Resolutions as they apply to animals (e.g., 12.3 source code definitions for C). Additional guidance regarding of Res. 10.16 should be developed, to provide clarity and consistency in application. Specific guidance for treatment of the offspring of gravid/pregnant individuals taken from the wild should be developed due to the potential significant impact on the wild of such practices.
322	Parties have experienced difficulties in proving the legal origin of the breeding stock used to produce the specimens bred in captivity. This applies particularly where the original breeding stock was acquired many years ago when there may have been no reason to believe that such documentation to confirm the legal origin of specimens might be important many years later.	**New Zealand:** This probably applies to many African Grey breeding operations where the shift to Appendix I has required such documentation which was not needed when they were in App II; likewise for non-listed species suddenly put into App I. **Mexico:** This assertion by the Secretariat, is biased towards allowing non-compliance with the Convention. Delete this paragraph, as the fact that the parental stock has been acquired several generations ago does not exempt it from the requirement of having been legally established: "This applies in particular if the original breeding stock was acquired many years ago...."
331	Paragraph 2 b) ii) B of the Resolution permits specimens from the wild to be added to the breeding stock, but provides guidance about the circumstances under which this may be warranted which is open to a variety of interpretations. Although it may be clearer to limit the definition of 'bred in captivity' to those specimens produced in captivity from facilities that are no longer taking further specimens from the wild, some Parties are worried such a restriction may hamper attempts to breed species in captivity. A balance may need to be struck between the need for clear and simple procedures and the economic and biological viability of some individual facilities.	**UE:** It would be clearer to limit the definition of "bred in captivity" to specimens produced in facilities that are no longer taking specimens from the wild. However, in some exceptional cases it might be reasonable to introduce externa! specimens. Thus, it would be more appropriate to tighten the conditions and requirements and define the amount and temporal scale for occasional introduction of wild specimens to the breeding stock, instead of limiting it *per se*. **New Zealand:** Allowing specimens from the wild to be added to the breeding stock of captive facilities makes sense from a genetics perspective, but the Resolution needs tightening. We suggest that it should be a requirement to report 'top-ups' from the wild in trade statistics, even for CITES-listed species WITHIN a country. We also suggest potentially requiring the SA to certify that such top-ups are not detrimental to the survival of the species in the wild OR are necessary to allow the survival of the species (e.g. in instances where the wild population is heading to oblivion and can only be maintained through artificial propagation or captive-breeding- white rhinos, orange-fronted parakeets). **Mexico:** The current procedure in Resolution 10.16 contains a lock that limits the introduction 'of wild specimens after approval by the Scientific Authority, so we suggest that no change be made to this section: "It may be necessary to achieve a balance ....."
338	Paragraph 2 b) ii) C 2 permits an exception to the general principle that specimens bred in captivity should be limited to those of generation F2 and	**UE:** "A requirement for all specimens to be demonstrably F2 or beyond", without considering

Line	Content	Comments
	beyond. Here again difficulties have been experienced in determining when such exceptions apply. A requirement for all specimens to be demonstrably F2 or beyond may be easier to implement.	paragraph 2 b) ii) C.2. of Res. Conf. 10.16 might become even more difficult in species that are kept in big groups **New Zealand.** We are generally positive of the suggestion to restrict trade of captive-bred specimens to F2 or beyond, in instances where it is difficult to prove the legal origin of the breeding stock. However we caution that this may be too restrictive if legal origin is well documented and it is a long-lived late-breeding species (e.g. parrots, tortoises)
341	Again some Parties claim this might hinder certain commercial captive breeding operations, but this might be price worth paying if a simplification of the rules could improve the implementation of the Convention to the benefit of the conservation of the species concerned.	**UE:** For species which would produce large numbers of F1 over several decades be fare the first captive bred generation matures, the fate of F1specimens is more than a small problem. A limited commercial trade in F1 should be allowed, but it could be accompanied by restrictions regarding the inclusion of further wild caught specimens into the breeding stock. **Mexico:** We agree with this part. What could be done is to amend Res. Conf. 10.16, in paragraph 2 b) ii) c 2). to indicate that it is the responsibility of the Scientific Authority to "endorse" that the ability of the hatchery to reproduce F2 is being demonstrated: “Again some Parties claim this might hinder…..”
349	**5. Resolution Conf. 11.11 (Rev. CoP17) on Regulation of trade in plants**	**Mexico:** To carry out a harmonized work with the Working Group that is carrying out an analysis to this particular Resolution
351	This Resolution sets out the definition of the term ‘artificially propagated’ to be used in the implementation of the special provisions of Article VII paragraphs 4 and 5 and applies to specimens of species in Appendix I, II and III and regardless of whether the propagation or trade is commercial or non-commercial.	**Ganesan RP:** Define Treeculture (Agroforestry). Like agriculture, horticulture, sericulture, apiculture, define "Treeculture". Treeculture is better than Agroforestry. The word forest implies wilderness. The word culture implies "artificial propagation"
358	The main features are the degree to which the environment in which the species have been produced is controlled by the propagator and the qualities of the cultivated parental stock used to produce the propagated plants. This stock should be legally established under national law and CITES and not in a manner detrimental to the survival of the species. The degree to which the propagating facility should be self-sustaining – i.e. no longer taking specimens from the wild is less constrained than for animals.	**Ganesan RP:** Please specify clearly. Even though CITES encouraged artificially propagated material particularly by farmers to meet the demand Tree & additional income for them. So, please clearly specify "All species artificially propagated by the farmers in their private land should not be restricted for international trade", just ensure only the authenticity of felling at farmer's land. Preferably in article III, IV, V & VII. Better sub-classify forest land. Forest land in India is; Govt land, comes under the control of Forest department of Ministry of Environment, Forest and climate change. Subclassification: Reserve Forest may be wild as per CITES. Plantation forest, Artificially propagated. But no semi-natural forest classification in India. Need not allow felling and trade of Appendix I, II & III species from plantation forest also. Shall be allowed once it comes out of IUCN Redlist.
369	They may also be significant if for example, large-scale semi-natural forests are considered to be ‘under controlled conditions’ and specimens originating therefrom are thus treated as if they were artificially propagated.	**UE:** We strongly support the Secretariat's concern on this point.
373	Examination of the flow diagram on page 7 of document SC69 Inf. 3 - A guide to the application of CITES source codes shows that the definition of the term ‘artificially propagated’ is very complicated, making its application a challenge for Parties.	**Ganesan RP:** Sub- classify Artificially Propagated source code 'A". Under artificially propagated source, there shall be difference between propagated at Farmers land {Al}, propagated at Non forest public lands {A2} and Propagated at forest lands {A3}. Al, source materials should be facilitated for

Line	Content	Comments
		easy trade. A3, forest wood should be restrictive.
376	It seems rather incongruous that paragraph 4 of the Resolution permits specimens taken from the wild to be described as artificially propagated under certain circumstances. As in the case of the definition of 'bred in captivity', guidance on legal acquisition would be beneficial and it may be wise to explore the possibility of simplifying the definition, particularly by removing exceptions from general provisions.	**Mexico:** Paragraph 4 of the Resolution contains sufficient padlocks and reference to legal provenance and non-detrimental acquisition, however, the export resulting from this particular condition would be code A and there is a gap in being able to identify these cases with a particular code similar to R. We suggest considering this possibility and integrating paragraph 4 either within Res. 12.3 or extending the scope of Resolution 11.16 on Ranching. **New Zealand:** Agreed, even when in 4 (iv A. an NDF is required. Maybe however be open to abuse given that registration is not compulsory and as such an export permit could be issued for Appendix 1 W sourced with a source code of D.
381	No compliance procedure for claims of artificial propagation has been put in place by the Conference of the Parties.	**UE:** At the beginning of the discussion (see SC 61 Doc. 27 and discussions at SC 61) plant issues (the misuse of source codes affects plants as well as animals) were involved, but it was suggested and decided to first address animals and then plants.
396	**6. Resolution Conf. 12.10 (Rev. CoP15) on Registration of operations that breed Appendix-I animal species in captivity for commercial purposes**	**UE:** The export of captive-bred Appendix I specimens for commercial purposes (sale) should not be restricted to registered facilities. If a non-registered facility or a private breeder can demonstrably prove that specimens are captive-bred and that the breeding stock was obtained in line with the preconvention, the export of such specimens is reasonable and might even contribute to reducing further pressure on wild populations.
412	6.2 Ambiguities and inconsistencies	**Canada:** There may be value to re-evaluate the functioning of Res. 12,10 in terms of how well it addresses the original aims of the special trade provisions and exemptions of Article VII for captive bred specimens, and how well it addresses today's concerns about the impact of captive breeding operations on wild populations (especially in light of how Article VII.5 is being implemented). The preambular text should be amended to correctly reflect the text of the Convention and current operative language of Resolutions as they apply to animals (e.g., 12.3 source code definitions for C). Additional text could be added to the preamble of Res.12.10 such as, for example, the text of in the last paragraph of the preamble in Res. 10.16 (CONCERNED...)
413	The procedures for registering facilities such that they may take advantage of the special provisions of Article VII paragraph 4 are rigorous.	**New Zealand:** This is a real problem and allows for laundering of illegally obtained wild specimens masquerading as captive-bred. The recent listing of African Grey Parrots will lead to more abuse of this Resolution. SC needs to get tougher on Parties that don't follow the rules.
423	The main way that these controls seem to be bypassed is that exporting Parties determine that although the export and subsequent import may be commercial in nature, the purpose of the breeding, defined in paragraph 1 of the Resolution, is not commercial and therefore the specimens have not been bred in captivity for commercial purposes and can be exported under Article VII paragraph 5, and not Article VII paragraph 4.	**Canada:** The Secretariat's use of the word "bypass" seems to indicate a deliberate attempt to avoid the clearly defined rules (which are not clear). Is the Secretariat relying on a past interpretation that Article VII.5 is meant only for animal specimens that are bred in captivity for non-commercial purposes?
427	Although it is contrary to Resolution Conf. 12.3 (Rev. CoP17), sometimes	**Canada:**

Line	Content	Comments
	such specimens are also traded under Article III of the Convention, with the exporting Party claiming that, while the export might be commercial, the subsequent import is not and therefore such trade is allowed.	It is unclear what is meant by the Secretariat when they write "while the export might be commercial." Is this referring to the trade transaction between exporter and importer, the pre¬ export activities, or the post-import activities? Consideration might be given to also changing "...traded under Article III of the Convention..." to "...traded as source code C..."
430	By contrast, those Parties implementing Resolution Conf. 12.10 (Rev. CoP15) must comply with a complex and bureaucratic process before their facilities are proposed for inclusion in the Register of operations that breed Appendix-I animal species for commercial purposes.	**Canada:** We agree with the Secretariat that the registration process is complex and bureaucratic. We also agree that the rigorous controls of Res. 12,10 are inconsistent when Parties can easily decide not to be bound by them.
441	One Party alone exported over 42,000 specimens declared to have been bred in captivity (source code C) in 2102.	**UE:** in 2102?
443	Application of this Resolution is complicated by breeding systems using satellite facilities, such as for certain crocodilian species in South-East Asia.	**UE:** The export of captive-bred Appendix I specimens for commercial purposes (sale) should not be restricted to registered facilities. If a non-registered facility or a private breeder can demonstrably prove that specimens are captive-bred and that the breeding stock was obtained in line with the preconvention, the export of such specimens is reasonable and might even contribute to reducing further pressure on wild populations.
454	**7. Resolution Conf. 9.19 (Rev. CoP15) on Registration of nurseries that artificially propagated specimens of Appendix-I plant species for export purposes**	**UE:** The process of registration of nurseries facilitates and simplifies subsequent permitting procedures. In addition, in contrast to the 'standard procedures', Parties shall "design a simple procedure for the issuance of export permits to each registered nursery". Such a procedure could involve the pre-issuance of CITES export permits. **Ganesan RP:** In India nursery is referred to place where tree sampling are produced, not trees grown. So, better to use some other word: Farmlands or Private farm land by farmers companies.
471	Is rather ambiguous and it is not clear what types of 'standard procedures' are referred to. If unregistered nurseries are able to export artificially propagated specimens of Appendix I plant species under Article VII.5 and using the source code A, then the purpose of registration may seem moot.	**New Zealand:** Standard procedure should include a requirement that an NDF must be obtained. Any unregistered nursery can apply for an export permit. There seems little advantage in a nursery becoming registered. Certificates of Artificial Propagation may be pre-issued by an MA which could provide a degree of convenience to the exporter. It would be preferable if animals and plants were treated in a consistent way.
474	While to the best recollection of the Secretariat, it has not removed any nursery operations from the register at the request of another Party, it would seem more appropriate for any such contested registrations to be judged by the peers in other Parties through the Standing Committee rather than by the Secretariat itself.	**Mexico:** We agree with the Secretariat that there is no provision in Resolution 9.19 that would allow the Parties to assess that a new nursery registration in effect complies with the provisions outlined in Annex 1 of that Resolution. Therefore, in order for any Party to be able to challenge the removal of a fraudulent nursery, the procedure described in this Resolution should be standardized, or integrated into that found in Resolution 12.10.

Subtask 2: The underlying CITES policy assumptions that may have contributed to the uneven application of Article VII, paragraphs 4 and 5

In this regard, in SC70 Doc. 31.3, the Secretariat noted that Parties have not determined the 'underlying CITES policy assumptions' that may have contributed to uneven application of provisions relating to the regulation of trade in specimens traded with source codes R, F, D, A and C in great detail. In practice, these have been articulated in the terms of the provisions themselves. Nevertheless, there are clearly differences of approach between Parties, particularly between those Parties that are range States and those non-range States in which specimens are subsequently being bred in captivity or artificially propagated.

Regarding the application of the special provisions in Article VII paragraphs 4 and 5 relating to trade in specimens which have been bred in captivity or artificially propagated, the provisions are fragmented, disconnected and partially covered in several Resolutions. Based on the review in Annex 7 of the document SC70 Doc. 31.1, the Secretariat believes that there is merit in bringing these provisions together to avoid the current lack of harmonized implementation and application of these provisions.

This point will be further addressed in paragraph (b) of the mandate.

Subtask 3: The Secretariat's recommendations in the Annexes to SC70 Doc. 31.1

These recommendations are as follows:

a) *take note of the presentation of the review of ambiguities and inconsistencies in the application of Article VII paragraphs 4 and 5 and related Resolutions presented in Annex 7 of the present document and the Secretariat's intention to further revise the review in the light of comments received from Parties in response to Notification to the Parties No. 2018/048 and at the present meeting;*

The ambiguities and inconsistencies identified by the Secretariat are:

Resolution	Ambiguities and inconsistencies
Application of Article VII paragraphs 4 and 5	The Secretariat has noted some differences of views between Parties about the use of Article VII paragraphs 4 and 5 of the Convention and the permits or certificates required. Paragraph 3 i) of Resolution Conf. 12.3 (Rev. CoP17) indicates that the source codes D, A and C, i.e. specimens bred in captivity/artificially propagated, should only be used when Article VII paragraphs 4 and 5 are being applied. However, the Secretariat has observed that some Parties are of the view that captive bred/artificially propagated specimens may also be traded under Articles III and IV. With respect to Article VII.5, it is not clear if the use of certificates of captive breeding/artificial propagation is obligatory or not. Many Parties use the Standard CITES form in Annex 2 of Resolution Conf. 12.3 (Rev. CoP17) for CITES documentation. Because of the way the form is designed, it is important to clearly indicate on the form whether a document issued is an export permit issued under Article III, IV or V, or a

Resolution	Ambiguities and inconsistencies
	certificate of captive breeding/artificial propagation issued under Article VII paragraph 5. Until CoP12, Resolution Conf. 10.2 (Rev.) on *Permits and certificates*, specified that every form issued should indicate if it was being issued as a certificate of captive breeding or artificial propagation or not, but this specific instruction was deleted thereafter. Following the replacement of Resolution Conf. 2.12 by Resolution Conf. 10.16, the guidance to the effect that the provisions of Article VII.4 and 5 are to be applied separately has been lost. It is unclear if this has created misunderstandings for Parties. Controls of trade under Article VII paragraph 4 are rigorous as the specimens are treated as if they were included in Appendix II; however controls on trade under Article VII paragraph 5 are arguably weaker as once a determination has been made that a specimen has been bred in captivity or artificially propagated, only a certificate to that effect is required. This highlights the importance of having clear definitions of the terms bred in captivity and artificially propagation and their careful and accurate application. Current definitions may not be sufficiently clear as explained in paragraphs 4 and 5 below.
Resolution Conf. 12.3 (Rev. CoP17) on Permits and certificates	Concerning the use of source codes, paragraph 3 i) of the Resolution recommends that source codes D, C and A are only to be used in the context of the application of Articles VII paragraphs 4 and 5, but this is not applied by all Parties, as some also use source codes C and A on export permits issued under Articles III and IV. This may be because they are applying stricter domestic measures or because they have a different understanding about which type of permit and certificate is to be issued in which circumstances. The fact that some source codes are defined in the Resolution and others not, is unhelpful. The source code F is one that is defined in the Resolution, but only by what qualities the specimen involved do <u>not</u> have, rather than in positive sense. This seems to have resulted in source F being used when it is not clear what other code to use. The permit requirements for specimens with source codes F and R are identical to those for source code W; this begs the question of the purpose of these codes, as they render the implementation of the Convention more complicated without any discernible benefits. It can be noted that, perhaps by oversight, in relation to the use of source code D, the Resolution does not mention Resolution Conf. 9.19 (Rev. CoP15) regarding artificial propagation of plants, in the way that Resolution Conf. 12.10 (Rev. CoP15) is mentioned for animals. The standard CITES form in Annex 2 of Resolution Conf. 12.3 (Rev. CoP17) does not clearly distinguish between cases when it is used as an export

Resolution	Ambiguities and inconsistencies
	permit under Article III or IV, or when it being used as a certificate of captive breeding or artificial propagation under Article VII paragraph 5. The box "Other" could be checked at the top of the form where the type of permit or certificate is indicated, but this still would not provide clarity.
Resolution Conf. 5.10 (Rev. CoP15) on *Definition of 'primarily commercial purposes'*	The examples in the Annex of the Resolution raise significant questions. When they refer to imports of specimens of Appendix-I species for captive-breeding purposes, it is difficult to ascertain if this refers to specimens which themselves are bred in captivity or specimens from the wild which are to be used in captive breeding. The text refers to Resolution Conf. 10.16 (Rev.) which defines the term "bred in captivity" which might imply the former. However, Resolution Conf. 5.10 (Rev. CoP15) then goes on to refer to the import of specimens of Appendix-I species bred in captivity that could be allowed for commercial purposes, provided that any profits are reinvested in the continuation of the captive-breeding programme to the benefit of the species, and here it must be presumed that it refers to trade in specimens of source W traded under Article III because as the text explains, trade in specimens with source code D and C is not undertaken under Article III. Further, the text attributes requirements to Resolution Conf. 10.16 (Rev.) that are not found in that Resolution e.g. imports must be aimed as a priority at the long-term protection of the affected species. The Resolution refers to the use of the term "primarily commercial purposes" in relation to the importation of specimens under Article III. However, the similar term "bred in captivity for commercial purposes" is used in Article VII paragraph 4 and is defined in Resolution Conf. 12.10 (Rev. CoP15) in a slightly different way. In the latter case, some Parties consider that it is the commercial nature of the breeding that is at issue and not the nature of the trade transaction that subsequently takes place with the specimen. They therefore allow facilities where the breeding in captivity of specimens of Appendix- I species is not primarily undertaken to obtain economic benefit, (so-called 'hobby breeders') to export such specimens for trade purposes. Many importing Parties of such specimens, seeing that the specimens are bred in captivity and therefore traded under Article VII.5, then allow the import even if the specimens are to be used for primarily commercial purposes. Such a set of events circumvents the need for registration of the breeding facilities under Resolution Conf. 12.10 (Rev. CoP15). Resolution Conf. 9.19 (Rev. CoP15) is silent on the definition of commercial purposes in relation to the artificial propagation of plants of Appendix I species.

Resolution	Ambiguities and inconsistencies
Resolution Conf. 10.16 (Rev.) on *Specimens of animal species bred in captivity*	Parties have experienced difficulties in proving the legal origin of the breeding stock used to produce the specimens bred in captivity. This applies particularly where the original breeding stock was acquired many years ago when there may have been no reason to believe that such documentation to confirm the legal origin of specimens might be important many years later. To the contrary, and as highlighted in document SC66 Doc. 32.4, a number of instances have been found where specimens which had almost certainly been illegally obtained have been incorporated into breeding stocks producing specimens bred in captivity which have subsequently been internationally traded. A lack of a standardized approach in this area is a difficulty. This issue is to be addressed by the Standing Committee under paragraph c) of Decision 17.66 and at a workshop due to be held in June 2018. Paragraph 2 b) ii) B of the Resolution permits specimens from the wild to be added to the breeding stock, but provides guidance about the circumstances under which this may be warranted which is open to a variety of interpretations. Although it may be clearer to limit the definition of 'bred in captivity' to those specimens produced in captivity from facilities that are no longer taking further specimens from the wild, some Parties are worried such a restriction may hamper attempts to breed species in captivity. A balance may need to be struck between the need for clear and simple procedures and the economic and biological viability of some individual facilities. Paragraph 2 b) ii) C 2 permits an exception to the general principle that specimens bred in captivity should be limited to those of generation F2 and beyond. Here again difficulties have been experienced in determining when such exceptions apply. A requirement for all specimens to be demonstrably F2 or beyond may be easier to implement. Again some Parties claim this might hinder certain commercial captive breeding operations, but this might be price worth paying if a simplification of the rules could improve the implementation of the Convention to the benefit of the conservation of the species concerned. Provisions such as these which are open to different interpretations make harmonious implementation of the Convention more difficult. Regardless of the clarity or simplicity of the instructions, Parties are still likely to be victims of fraudulent declarations of captive breeding. In this respect, Resolution Conf. 17.7 should assist in identifying cases of such fraud which have escaped the attention of national authorities.
Resolution Conf. 11.11 (Rev. CoP17) on *Regulation of trade in*	Examination of the flow diagram on page 7 of document SC69 Inf. 3 - *A guide to the application of CITES source codes* shows that the definition of the term 'artificially propagated' is very complicated, making its

Resolution	Ambiguities and inconsistencies
plants	application a challenge for Parties. The fact that it is spread over three different Resolutions is also not conducive to correct application. It seems rather incongruous that paragraph 4 of the Resolution permits specimens taken from the wild to be described as artificially propagated under certain circumstances. As in the case of the definition of 'bred in captivity', guidance on legal acquisition would be beneficial and it may be wise to explore the possibility of simplifying the definition, particularly by removing exceptions from general provisions. No compliance procedure for claims of artificial propagation has been put in place by the Conference of the Parties. It should be noted that, under Decision 17.175, the Plants Committee is also reviewing the applicability and utility of the current definitions of 'artificial propagation' and 'under controlled conditions' in Resolution Conf. 11.11 (Rev. CoP17) in order to make recommendations to the Standing Committee. Further, under Decision 16.156 (Rev. CoP17), the Plants Committee, after considering the current production systems of tree species, including mixed and monospecific plantations, is assessing the applicability of the current definitions of artificial propagation in Resolution Conf. 10.13 (Rev. CoP15) on *Implementation of the Convention for timber species* and Resolution Conf. 11.11 (Rev. CoP17) on *Regulation of trade in plants*. The Secretariat has been following these deliberations in the Plants Committee and will take these into account when proposing its conclusions and recommendations arising from the present review to the Standing Committee at its 70th meeting. However, in order to propose a coherent approach on this matter to the Conference of the Parties, the Standing Committee will need to combine its recommendations under Decision 17.106 with those made under Decision 17.177.
Resolution Conf. 12.10 (Rev. CoP15) on *Registration of operations that breed Appendix-I animal species in captivity for commercial purposes*	The procedures for registering facilities such that they may take advantage of the special provisions of Article VII paragraph 4 are rigorous. However, many Parties do not apply this Resolution. Some of these Parties have a very large number of commercial captive-breeding facilities in their territory. This leads to an inconsistent approach as many captive-bred specimens of Appendix-I animals are exported from unregistered operations, but using purpose code 'T' for trade. During the period 2007-2016, there were 22,650 exports of this type involving 110 Appendix-I taxa. The main species involved were birds of prey and parrots. The trend in this type of trade is increasing. The main way that these controls seem to be bypassed is that exporting Parties determine that although the export and subsequent import may be commercial in nature, the purpose of <u>the breeding</u>, defined in paragraph 1 of the Resolution, is not commercial and therefore the

Resolution	Ambiguities and inconsistencies
	specimens have not been bred in captivity for commercial purposes and can be exported under Article VII paragraph 5, and not Article VII paragraph 4. Although it is contrary to Resolution Conf. 12.3 (Rev. CoP17), sometimes such specimens are also traded under Article III of the Convention, with the exporting Party claiming that, while the export might be commercial, the subsequent import is not and therefore such trade is allowed. By contrast, those Parties implementing Resolution Conf. 12.10 (Rev. CoP15) must comply with a complex and bureaucratic process before their facilities are proposed for inclusion in the *Register of operations that breed Appendix-I animal species for commercial purposes.* It is difficult to reconcile the rigorous controls on the registration of operations with the ease with which these controls can be circumvented by Parties which do not wish to be bound by them. This juxtaposition is striking and the Secretariat has long been of the view that the registration process is lengthy, costly and ineffective (see documents CoP10 Doc. 10.67, CoP12 Doc. 55.1 and CoP15 Doc. 18 Annex 2. a). Minor changes to Resolution Conf. 12.10 were made at CoP15, but since then the scale of commercial export of specimens of Appendix-I species from unregistered facilities has continued to increase as shown in Figure 1. Additionally, new species have recently been added to Appendix I, such as the African grey parrot, *Psittacus erithacus,* which is bred in captivity commercially in very large numbers. One Party alone exported over 42,000 specimens declared to have been bred in captivity (source code C) in 2102 with reportedly over 1,630 facilities breeding the species there, almost exclusively for export. Application of this Resolution is complicated by breeding systems using satellite facilities, such as for certain crocodilian species in South-East Asia. Here the actual breeding of the specimens is done by a very large number of small scale facilities which then pass the specimens on within the same State to a small number of registered facilities who carry out the export of the specimens. This situation seems to work without reported detriment to populations in the wild, but is not properly provided for in the Resolution. The new compliance controls in Resolution Conf. 17.7 would appear to have alleviated some of the concerns expressed by Parties when significant changes to Resolution Conf. 12.10 have been proposed in the past. The Secretariat does not have the resources to visit any of the operations wishing to be registered and therefore is almost completely reliant on the Management Authorities in the Parties where the operations are located for information about the facilities.

Resolution	Ambiguities and inconsistencies
Resolution Conf. 9.19 (Rev. CoP15) on *Registration of nurseries that artificially propagated specimens of Appendix-I plant species for export purposes*	The preamble clause in this Resolution, which states: *RECOGNIZING that nurseries that are not registered may still continue exporting artificially propagated specimens of Appendix-I species using the standard procedures for obtaining export permits.* is rather ambiguous and it is not clear what types of 'standard procedures' are referred to. If unregistered nurseries are able to export artificially propagated specimens of Appendix I plant species under Article VII.5 and using the source code A, then the purpose of registration may seem moot. While to the best recollection of the Secretariat, it has not removed any nursery operations from the register at the request of another Party, it would seem more appropriate for any such contested registrations to be judged by the peers in other Parties through the Standing Committee rather than by the Secretariat itself.

The Secretariat will make available a reviewed version to the AC and the PC meetings scheduled for July.

b) *propose the draft Resolution on Implementation of Article VII paragraphs 4 and 5 concerning specimens bred in captivity or artificially propagated included in Annex 2 of the present document to CoP18 for adoption;*

   At the 70th meeting of the Standing Committee (SC70), the drafting group on trade in specimens bred in captivity or artificially propagated recommended that the Standing Committee forward two draft decisions for consideration at the 18th meeting of the Conference of the Parties (CoP18). The Conference of the Parties at CoP18 subsequently adopted Decision 18.173 (which provides the mandate of this working group).

c) *propose the draft amendments to Resolution Conf. 12.3 (Rev CoP17) in Annex 3 of the present document to CoP18 for adoption;*

   The Conference of the Parties at CoP18 amended Resolution Conf. 12.3.

d) *propose the draft decision on an intermediate source code between bred in captivity/artificially propagated and wild in Annex 3 of the present document to CoP18 for adoption;*

   Not adopted at CoP18.

e) *propose the draft decision on the definition of 'commercial purposes' and 'primarily commercial purposes' in Annex 4 of the present document to CoP18 for adoption;*

   Not adopted at CoP18.

f) propose the draft decisions on the definitions of the terms "bred in captivity" and "artificially propagated" in Annex 5 of the present document to CoP18 for adoption;

Not adopted at CoP18.

g) propose the draft decision on implementation of Article VII paragraph 4 of the Convention and Resolutions Conf. 9.19 (Rev. CoP15) on Registration of nurseries that artificially propagate specimens of Appendix-I plant species for export purposes and Resolution Conf. 12.10 (Rev. CoP15) on Registration of operations that breed Appendix-I animal species in captivity for commercial purposes in Annex 6 of the present document to CoP18 for adoption; and

Not adopted at CoP18.

h) propose the draft amendments to Resolution Conf. 12.10 (Rev CoP15) in Annex 6 of the present document to CoP18 for adoption.

Not adopted at CoP18.

Subtask 4: The recommendations of the Animals and Plants Committees under Decision 18.172 of document CoP18 Doc. 57

There are no such recommendations made by the Animals or Plants Committees as yet.

Mandate of the Working Group on captive-bred and ranched specimens (Decision 18.173). Paragraph b)

ii. review the key issues and challenges in the application of the Convention to non-wild specimens and draft appropriate recommendations, including amendments to existing Resolutions or development of a new Resolution or Decisions, to address these issues and challenges, for consideration at the 19th meeting of the Conference of the Parties.

Considering the ambiguities and inconsistencies identified by the CITES Secretariat, these seven 7 matters have been selected for discussion, with the purpose of proposing recommendations:

- Application of Article VII paragraphs 4 and 5
- Resolution Conf. 12.3 (Rev. CoP17) on *Permits and certificates*
- Resolution Conf. 5.10 (Rev. CoP15) on *Definition of 'primarily commercial purposes'*
- Resolution Conf. 10.16 (Rev.) on *Specimens of animal species bred in captivity*
- Resolution Conf. 12.10 (Rev. CoP15) on *Registration of operations that breed Appendix-I animal species in captivity for commercial purposes*
- Resolution Conf. 9.19 (Rev. CoP15) on Registration of nurseries that artificially propagated specimens of Appendix-I plant species for export purposes
- Resolution Conf. 11.11 (Rev. CoP17) on *Regulation of trade in plants*

We consider each of these in turn below.

Application of Article VII paragraphs 4 and 5

- To clarify the use of Article VII paragraphs 4 and 5 of the Convention and what kind of permits or certificates are required.

- To clarify if the use of certificates of captive breeding/artificial propagation are obligatory under Article VII paragraph 5.

- To evaluate the suitability of a new design of Resolution Conf. 12.3 (Rev. CoP18) in order to indicate more clearly whether a document is an export permit issued under Article III, IV or V, or a certificate of captive breeding/artificial propagation issued under Article VII paragraph 5. Alternatively, to evaluate the suitability of having a specific instruction indicating that every form issued should indicate whether it is being issued as a certificate of captive breeding or artificial propagation or not (as was the case before CoP12).

- To establish guidance explaining that the provisions of Article VII.4 and 5 are to be applied separately.

Resolution Conf. 12.3 (Rev. CoP17) on *Permits and certificates*

In Annex 7 of SC70 Doc. 31.1, the Secretariat summarized the permits or certificates required for specimens given each source code and some of the consequent obligations before issuance of such permits or certificates. The definitions of source codes as adopted by the Conference of the Parties atCoP18 are indicated in the table below:

Source code	Definition Res. Conf. 12.3 (Rev. CoP18)	App.	Document(s) requiered	Non-detriment finding needed?	Legal acquisition finding needed?	Import for primarily commercial purposes allowed?	Provision of the Convention
C	Animals bred in captivity in accordance with Resolution Conf. 10.16 (Rev.), as well as parts and derivatives thereof, exported under the provisions of	I	Certificate of cb	No	No	Yes	Art. VII.5
		II	Certificate of cb	No	No	Yes	Art. VII.5
A	Plants that are artificially propagated in accordance with Resolution Conf. 11.11 (Rev. CoP18)1, as well as parts and derivatives thereof, exported under the provisions of Article VII, paragraph 5 (specimens of species included in Appendix I that have been propagated artificially for non-commercial purposes and specimens of species included in Appendices II and III)	I	Certificate of ap	No	No	Yes	Art. VII.5
		II	Certificate of ap	No	No	Yes	Art. VII.5
D	Appendix-I animals bred in captivity for commercial purposes in operations included in the Secretariat's Register, in accordance with Resolution Conf. 12.10 (Rev. CoP15), and Appendix-I plants artificially propagated for commercial purposes, as well as parts and derivatives thereof, exported under the provisions of Article VII, paragraph 4, of the Convention	I=II	Export permit	Yes	Yes	Yes	Art. VII.4
R	Ranched specimens: specimens of animals reared in a controlled environment, taken as eggs or juveniles from the wild, where they would otherwise have had a very low probability of surviving to adulthood	I	Export & Import permit	Yes	Yes	No	Art. III
		II	Export permit	Yes	Yes	Yes	Art. IV
F	Animals born in captivity (F1 or subsequent generations) that do not fulfil the definition of 'bred in captivity' in Resolution Conf. 10.16 (Rev.), as well as parts and derivatives thereof	I	Export & Import permit	Yes	Yes	No	Art. III
		II	Export permit	Yes	Yes	Yes	Art. IV
W	Specimens taken from the wild	I	Export & Import permit	Yes	Yes	No	Art. III
		II	Export permit	Yes	Yes	Yes	Art. IV

In view of these requirements, the following challenges arise/recommendations should be made:

- The subject of an NDF is wild-taken specimens and their products, but captive bred and artificially propagated specimens also give rise to questions which are associated with an NDF. There are important issues such as the origin of the initial parental stock and the effect of this trade on *in situ* conservation that can have direct bearing on wild populations. But also, some other indicators are not of relevance. Perhaps it could be a recommendation to develop guidelines for the making of NDFs for captive bred and artificially propagated specimens.

- To evaluate the requirements for trade in specimens depending on their origin. According to the table above, the requirements for specimens of D origin are much stricter than for specimens of C and A origin. For specimens of D origin, NDF and legal acquisition finding are required to authorize their export while for C and A origin with a certificate of captive breeding or artificial propagation is enough.

Resolution Conf. 5.10 (Rev. CoP15) on *Definition of 'primarily commercial purposes'*

- To amend the Annex of Resolution Conf. 5.10 (Rev. CoP15) to include examples relevant to the application of Article III paragraphs 3 (c) and 5 (c) and Article VII 4&5, when importing specimens of Appendix-I species respecting its use for primarily commercial purposes.

- To unify the definition "use for primarily commercial purposes" so that it is interpreted in the same way in relation to:
  - Importation of specimens under Article III
  - Article VII paragraph 4
  - Definition of "bred in captivity for commercial purposes" of Resolution Conf. 12.10 (Rev. CoP15)
  - Definition of commercial purposes in relation to the artificial propagation of plants of Appendix I species

Resolution Conf. 10.16 (Rev.) on *Specimens of animal species bred in captivity*

- To consider amending the Resolution so as to tighten the conditions and requirements for adding specimens from the wild to the breeding stock and to give guidelines for its occasional introduction.

- To evaluate the pros and cons of limiting the exception to the general principle that specimens bred in captivity should be limited to those of generation F2 and beyond (Paragraph 2 b) ii) C 2).

Resolution Conf. 12.10 (Rev. CoP15) on *Registration of operations that breed Appendix-I animal species in captivity for commercial purposes*

- To assess whether specimens of Appendix-I species should be exported using the purpose code "T" only if they have been bred in registered facilities.

- To establish a common interpretation about the commercial nature of the breeding operation and the transaction (export and import).

Resolution Conf. 9.19 (Rev. CoP15) on Registration of nurseries that artificially propagated specimens of Appendix-I plant species for export purposes

- To clarify what the 'standard procedures' are for obtaining export permits indicated in the preamble of the Resolution, in order to determine the purpose and benefit of the registration.

- To amend this Resolution in order to establish a standardised procedure which allows Parties to contest registrations of possibly fraudulent nurseries.

- To evaluate the suitability of amending Resolution Conf. 9.19 (Rev. CoP15) in order to include the use of source code D for plants.

Resolution Conf. 11.11 (Rev. CoP17) on *Regulation of trade in plants*

As this Resolution was amended at CoP18, no recommendation has been included.