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# Seizure, Confiscation, and Disposal of specimens of CITES-listed species illegally traded or possessed



Convention on International Trade in Endangered Species of Wild Fauna and Flora

# Article VIII of the Convention

- The Convention requires Parties to take appropriate measures to enforce the provisions of the Convention and to prohibit trade in specimens in violation thereof. These shall include measures:
  - (a) to penalize trade in, or possession of, such specimens, or both; and**
  - (b) to provide for the confiscation or return to the State of export of such specimens**
- Resolution Conf. 8.4 (Rev.CoP15) on National laws for implementation of the Convention directs the Secretariat to identify those Parties whose domestic measures do not provide them with the authority to:
  - i) designate at least one Management Authority and one Scientific Authority;
  - ii) prohibit trade in specimens in violation of the Convention;
  - iii) penalize trade in violation of the Convention; or**
  - iv) confiscate specimens illegally traded or possessed;**



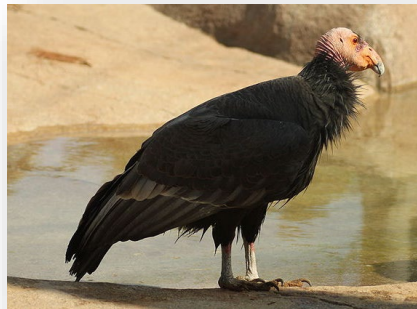
# Seizure and confiscation

- The authority to seize illegal specimens is included in the penalization of trade and possession in violation of the Convention, and confiscation of such illegal specimens is a direct requirement for national laws of the CITES Parties.
- Parties are aware that often the only “anti-fraud” measure is the seizure and confiscation of illegal specimens.
- Three situations:
  - Illegal possession of specimens;
  - Illegal trade – country of export;
  - Illegal trade – country of transit or import.



# Resolution Conf. 17.8

- The Conference of the Parties adopted **Resolution Conf. 17.8, *Disposal of illegally traded and confiscated specimens of CITES-listed species.***
- Recalling Article VIII of the Convention, the Resolution provides further guidance on confiscation and on ways for Parties to dispose of confiscated specimens.



# Resolution 17.8

- First part (para. 1): **Confiscation**
- Second part (para. 2): **Disposal of confiscated and accumulated dead specimens**
- Third part (para. 3): **Disposal of confiscated live specimens**
- Fourth part (para. 4): **Action plans**
- Fifth part (para. 5): **Costs associated with confiscated specimens**
- Sixth part (para. 6): **Publicity**
- Seventh part (para. 7): **Export or re-export of confiscated specimens**

# Confiscation

- The COP recommends that when specimens are exported or re-exported in violation of the Convention, importing Party consider **that the seizure and confiscation of such specimens are generally preferable to the definitive refusal of the import of the specimen;**
- The importing party should also notify as soon as possible the Management Authority of the State from which the specimens were consigned of the violation and of any enforcement actions taken concerning these specimens;
- The **exporting or re-exporting Party take the measures necessary to ensure that such specimens are not reentered into illegal trade, including monitoring their return to the country and providing for their confiscation.**



# General principles



- Different recommendations for disposal of specimens of species in App. I and in App. II-III;
- For App. I, limited options. For App. II and App. III, more options but important general principles;
- It is the Party that confiscated the specimens that makes the final decision on the disposal;
- Costs associated with the confiscated specimens should be charged to the offender, where possible in accordance with national legislation.



# Action plans

- Since confiscation of live specimens requires rapid action and effective organization, dispositions must be made in advance.
- The Conference of the Parties urges Management Authorities, in consultation with Scientific Authorities and other bodies concerned, to develop action plans to deal with seized and confiscated live specimens.





# Action plan on seized and/or confiscated live specimens

- This plan should, inter alia:
  - identify **means** for procuring funds to provide care, quarantine, and transport and other costs incurred;
  - establish a **procedure** for implementing the Guidelines;
  - identify **government agencies and personnel** with authority to make decisions regarding the seizure and disposal of live specimens and clarify their roles and jurisdiction;
  - Identify which **authority** in the country of origin listed in the CITES Directory should be contacted in the event that live specimens are seized;
  - provide for **training of personnel** involved in the seizure and disposal of live specimens;

# Action plan on seized and/or confiscated live specimens (2)

- This plan should also:
  - include a list of experts who or institutions which can assist in **species identification, care and/or other technical aspects;**
  - **Identify and/or develop facilities to provide for the care of live specimens immediately after seizure;**
  - **identify temporary holding facilities** that have agreed to provide adequate care for seized live specimens of particular taxa until the confiscation process is completed;
- Parties should prepare a **list** of such facilities and programmes, which should be submitted to the Secretariat which will make it available to the Parties on request;
- ensure that the Party begins **evaluating options for disposal** of seized live specimens immediately after seizure.

# Dead specimens – Disposal of App. I listed species

The specimens **can only be used for *bona fide* purposes**, such as

- Scientific;
- Educational;
- Enforcement; or
- Identification



- Where it is not possible to use the specimens for these purposes, the specimens must be
  - Saved in storage or
  - Destroyed
- The specimens **cannot** be sold/auctioned.

# Options (App. II and III)

- It is for the Party that has confiscated the shipment to decide on the disposal based on its national legislation;
- The disposal may be decided by the Court, the enforcement authorities or the CITES Management Authority depending on the country's legislation and the circumstances;
- The Secretariat has previously identified the following disposal options for confiscated timber (could be applied to other taxa):
  - Auction
  - Transformation/use in-country
  - Destruction.



# Disposal of specimens of App. II and III listed tree species

- The specimens must be disposed of in the best manner possible to achieve the **purposes of the Convention**;
- Steps should be taken to ensure that
  - the person responsible for the offence **does not receive financial or other gain** from the disposal;
  - and that such **disposal does not stimulate further illegal trade**
- Measures should be taken to ensure that the specimens **do not re-enter illegal trade**



# Live specimens - Animals



- **Three main options are possible:**
  1. Maintaining the animals in captivity
  2. Returning the animals to the wild
  3. Euthanasia
- Shipments of Appendix-II or -III live specimens can include large quantities of specimens for which no adequate housing can be made available, and that there may be inadequate data about country of origin and site of capture for these specimens.
- Also, releasing confiscated specimens into the wild includes risks, such as the introduction of pathogens and parasites, genetic pollution and negative effects on the local fauna and flora, and that release to the wild may not always be in the best interest of the conservation of a species, especially one not in danger of extinction.



## Live specimens - Animals(2)

- The Conference of the Parties therefore recommends that a Management Authority, before making a decision on the disposal of confiscated live specimens of species in the Appendices, consult with and obtain the advice of its own Scientific Authority and, if possible, of that of the State of export or origin of the confiscated specimens, and other relevant experts.
- **The decision on disposal must also discourage further illegal or irregular trade in the taxon;** and avoid the resources used by organizations involved in their care or disposal being diverted away from other equally important conservation activities.



# Live specimens - Plants



- Regarding the disposal of **confiscated live plants**, the decision must be made in order to maximize **conservation value** of the specimens without in any way endangering the genetic integrity or conservation status of wild or cultivated populations.
- Seized and confiscated plants can be placed in temporary holdings.
- **Three main options are possible:**
  1. Maintaining the plants in cultivation for education or propagation
  2. Returning the plants to the wild
  3. Destruction.
- The decision on disposal must also **discourage further illegal or irregular trade** in the taxon; and avoid the resources used by organizations involved in their care or disposal being diverted away from other equally important conservation activities.



# Costs

- Make legislative provisions require the offender (trader or carrier) to cover the costs (custody, storage, destruction or other disposal, including returning to the country of export
- If a country wishes a live confiscated specimen to be returned, that country shall cover the costs or seek financial assistance to facilitate the return.
- Parties have the right to allow or not to allow the sale of confiscated dead specimens of App. II or App. III listed species.

# Publicitation of reports

- Parties should publicize information on seizures and related enforcement action as a deterrent to illegal trade.
- **Biennial/implementation report**
- A report submitted to the Secretariat by each Party every three years on the legislative, regulatory and administrative measures taken to enforce the provisions of the Convention.
- Biennial reports, now called implementation reports, include information on inspections, investigations, seizures, confiscations, prosecutions, convictions, penalties, court decisions, etc.

# CITES Secretariat Geneva

