CONVENTION SUR LE COMMERCE INTERNATIONAL DES ESPECES
DE FAUNE ET DE FLORE SAUVAGES MENACEES D'EXTINCTION

Séances conjointes de la 31e session du Comité pour les animaux et
la 25e session du Comité pour les plantes
Genève (Suisse), 17 juillet 2020

Questions d'interprétation et application

Réglementation du commerce

Spécimens élevés en captivité et en ranch

Examen des dispositions CITES relatives au commerce des spécimens non sauvages d'animaux et de plantes

1. Le présent document a été soumis par les présidents du Comité pour les animaux et du Comité pour les plantes*.

2. À sa 18e session (CoP18, Genève, 2019), la Conférence des Parties a adopté les décisions 18.172 et 18.173, *Examen des dispositions CITES relatives au commerce des spécimens non sauvages d'animaux et de plantes*, comme suit :

18.172 À l'adresse du Comité pour les animaux et du Comité pour les plantes

Le Comité pour les animaux, sa 31e session, et le Comité pour les plantes, à sa 25e session, examinent l'actualisation par le Secrétariat de l'examen des dispositions CITES relatives au commerce des spécimens non sauvages d'animaux et de plantes figurant en annexe 7 du document SC70 Doc. 31.1 [que l'on trouve dans le document CoP18 Inf. 28] et les commentaires et recommandations des Parties figurant dans le document SC70 Doc. 31.1 annexe 8, identifie les principales questions et difficultés liées à l'application de la Convention aux spécimens non sauvages, et formule des recommandations à ce sujet au Comité permanent, à temps pour sa 73e session.

18.173 À l'adresse du Comité permanent

Le Comité permanent :

a) examine, à sa 73e session, l'actualisation par le Secrétariat de l'examen des dispositions CITES relatives au commerce des spécimens non sauvages d'animaux et de plantes figurant en annexe 7 du document SC70 Doc. 31.1 et les commentaires et recommandations des Parties figurant dans le document SC70 Doc. 31.1 annexe 8 ; les hypothèses de stratégies CITES sous-jacentes qui pourraient avoir contribué à l'application inégale des paragraphes 4 et 5 de l'Article VII ; les recommandations du Secrétariat figurant aux annexes du document SC70 Doc. 31.1 ; et les recommandations du Comité pour les animaux et du Comité pour les plantes au titre de la décision 18.172 ; et

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* *Les appellations géographiques employées dans ce document n'impliquent de la part du Secrétariat CITES (ou du Programme des Nations Unies pour l'environnement) aucune prise de position quant au statut juridique des pays, territoires ou zones, ni quant à leurs frontières ou limites. La responsabilité du contenu du document incombe exclusivement à son auteur.*

b) examine les principales questions et difficultés liées à l'application de la Convention aux spécimens non sauvages, et formule les recommandations appropriées, y compris des amendements aux résolutions existantes ou l'élaboration d'une nouvelle résolution ou de nouvelles décisions, afin de traiter ces questions et difficultés, pour examen à la 19e session de la Conférence des Parties.

Progrès concernant l'application des décisions 18.172 et 18.173

3. En ce qui concerne la décision 18.172, à toutes fins utiles, le Secrétariat a inclus dans l'**annexe 1** du présent document la révision, après examen, des dispositions de la CITES relatives au commerce des spécimens non sauvages d'animaux et de plantes (à savoir le document d'information CoP18 Inf. 28), et dans son **annexe 2,** les commentaires et recommandations des Parties (à savoir le document SC70 Doc. 31.1 annexe 8).

4. Bien que dans la décision 18.172, le Comité pour les animaux et le Comité pour les plantes soient priés de soumettre les résultats de leurs travaux au Comité permanent en temps voulu pour sa 73e session (SC73), le temps disponible entre la présente session et la date limite de remise des documents pour la SC73 ne permet pas de donner des avis approfondis sur ce qui est un sujet complexe. Nous estimons qu'il serait plus réaliste en termes de calendrier et pour pouvoir appliquer totalement la décision 18.172 de faire rapport au Comité permanent lors de sa 74e session (SC74) et nous demandons aux Comités de nous autoriser à informer la présidente du Comité permanent de cette opinion.

5. En ce qui concerne la décision 18.173, lors de sa 72e session (SC72, Genève, août 2019), le Comité permanent a créé un groupe de travail intersessions sur les spécimens élevés en captivité et en ranch[1], qui est chargé de :

   a) examiner, à sa 73e session, l'actualisation par le Secrétariat de l'examen des dispositions CITES relatives au commerce des spécimens non sauvages d'animaux et de plantes figurant en annexe 7 du document SC70 Doc. 31.1 et les commentaires et recommandations des Parties figurant dans le document SC70 Doc. 31.1 annexe 8 ; les hypothèses de stratégies CITES sous-jacentes qui pourraient avoir contribué à l'application inégale des paragraphes 4 et 5 de l'Article VII ; les recommandations du Secrétariat figurant aux annexes du document SC70 Doc. 31.1 ; et les recommandations du Comité pour les animaux et du Comité pour les plantes au titre de la décision 18.AA du CoP18 Doc. 57 ; et

   b) examiner les principales questions et difficultés liées à l'application de la Convention aux spécimens non sauvages, et rédige les recommandations appropriées, y compris des amendements aux résolutions existantes ou l'élaboration d'une nouvelle résolution ou de nouvelles décisions, afin de traiter ces questions et difficultés, pour examen à la 19e session de la Conférence des Parties.

   Le groupe de travail intersessions est présidé par l'Espagne et sa composition complète est disponible à l'adresse: https://cites.org/sites/default/files/eng/com/sc/72/SC72-WGs-members-2304.pdf

6. En avril 2020, le président du groupe de travail intersessions a fait circuler deux documents pour lancer la discussion, conformément aux instructions figurant dans son mandat : concernant l'élément a) du mandat, le premier document est une compilation sous forme de tableau des commentaires figurant dans le document SC70 Doc. 31.1 annexe 8 ; concernant l'élément b) du mandat, le second document comprend les sept sujets choisis pour la discussion. À toutes fins utiles, ces deux documents figurent, respectivement, **dans les annexes 3 et 4** du présent document.

7. Au moment de la rédaction du présent document, les discussions du groupe de travail intersessions sur ces deux documents étaient en cours, et toute mise à jour ayant trait à des questions scientifiques et des difficultés, conformément à la décision 18.172, sera communiquée par le Secrétariat lors de la présente session.

[1] *Selon la présidente du Comité pour les plantes, il conviendrait de modifier le nom du groupe de travail intersessions, compte tenu de son mandat (à savoir les spécimens non sauvages d'animaux et de plantes).*

Recommandations

8. Le Comité pour les animaux et le Comité pour les plantes sont invités à créer un groupe de travail conjoint intersessions sur le commerce des spécimens non sauvages d'animaux et de plantes chargé de :

   a) examiner le rapport actualisé du Secrétariat figurant à l'annexe 1 du document AC31 Doc. 19.3/PC25 Doc. 21, ainsi que les commentaires et recommandations des Parties figurant à l'annexe 2 de ce même document ;

   b) sur la base de ce qui précède, identifier les principaux problèmes scientifiques et les difficultés liés à l'application de la Convention aux spécimens non sauvages ;

   c) élaborer des recommandations pour traiter ces problèmes et ces difficultés ; et

   d) faire rapport sur les résultats de ces travaux aux 32e et 26e sessions du Comité pour les animaux et du Comité pour les plantes, respectivement, et demander aux présidents de ces Comités de communiquer au président du groupe de travail intersessions du Comité permanent sur les spécimens élevés en captivité et en ranch les progrès accomplis et les accords conclus en temps voulu pour qu'ils soient intégrés dans le rapport qu'il soumettra au Comité permanent à sa 74e session, conformément à la décision 18.173.

Examen des dispositions CITES relatives au commerce de spécimens non sauvages d'animaux et de plantes

1. Cet examen a été préparé par le Secrétariat et reflète ses propres points de vue, prenant en compte les avis d'un groupe de travail du Comité permanent sur le sujet.

2. Le Secrétariat reconnaît que certaines Parties et parties prenantes interprètent différemment certaines dispositions de la Convention et résolutions de la Conférence des Parties. La conciliation de ces différentes interprétations est l'une des raisons pour lesquelles cet examen a été demandé.

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Glossaire utilisé dans cet examen

“Reproduits artificiellement” ou “ap”	Spécimens de plantes répondant aux critères définis par la Conférence des Parties et commercialisés avec les codes de source A ou D.
“Élevés en captivité” ou “cb”	Spécimens d’espèces animales répondant aux critères définis par la Conférence des Parties et commercialisés avec les codes de source C ou D.
“Non sauvages”	Spécimens commercialisés avec les codes de source A, C, F, R ou D plutôt que W.
Codes de source [résolution Conf. 12.3 (Rev. CoP17)]	W Spécimens prélevés dans la nature. R Spécimens élevés en ranch : spécimens d’animaux élevés en milieu contrôlé, provenant d’œufs ou de juvéniles prélevés dans la nature, où ils n’auraient eu sinon que très peu de chances de survivre jusqu’au stade adulte. D Animaux de l’Annexe I reproduits en captivité à des fins commerciales dans des établissements inscrits au registre du Secrétariat, conformément à la résolution Conf. 12.10 (Rev. CoP15), et plantes de l’Annexe I reproduites artificiellement à des fins commerciales, ainsi que leurs parties et produits, exportés au titre de l’Article VII de la Convention, paragraphe 4. A Plantes reproduites artificiellement conformément à la résolution Conf. 11.11 (Rev. CoP15), ainsi que leurs parties et produits, exportés au titre de l’Article VII, paragraphe 5 (spécimens d’espèces inscrites à l’Annexe I reproduits artificiellement à des fins non commerciales et spécimens d’espèces inscrites aux Annexes II et III). C Animaux reproduits en captivité conformément à la résolution Conf. 10.16 (Rev.), ainsi que leurs parties et produits, exportés au titre de l’Article VII, paragraphe 5. F Animaux nés en captivité (F1 ou générations ultérieures) ne répondant pas à la définition d’“élevés en captivité” donnée par la résolution Conf. 10.16 (Rev.), ainsi que leurs parties et produits.

Introduction

Faisant suite aux travaux entrepris entre 2013 et 2016 au titre des décisions 16.63 à 16.66, le Comité permanent a noté qu’il était nécessaire d’accorder plus d’attention au contrôle du commerce des spécimens déclarés comme ayant été élevés en captivité ou en ranch. Il a noté des préoccupations concernant la nature confuse et la complexité du libellé des résolutions CITES actuelles sur le sujet, les vérifications insuffisantes de l’origine légale du cheptel de reproduction utilisé dans les établissements d’élevage en captivité, et la création d’établissements d’élevage en captivité en dehors des pays d’origine des spécimens et des espèces concernés (voir le document CoP17 Doc. 32).

Par conséquent, à la 17e session de la Conférence des Parties, le Comité permanent a proposé et la Conférence des Parties est convenue d’adopter la décision 17.101, qui se lit comme suit :

> *Sous réserve de fonds disponibles, le Secrétariat examine les ambiguïtés et les incohérences dans l’application des paragraphes 4 et 5 de l’Article VII, de la résolution Conf. 10.16 (Rev.),* Spécimens d’espèces animales élevés en captivité*, de la résolution Conf. 12.10 (Rev. CoP15),* Enregistrement des établissements élevant en captivité à des fins commerciales des espèces animales inscrites à l’Annexe I*, de la résolution Conf. 11.11 (Rev. CoP17),* Réglementation du commerce des plantes*, de la résolution Conf. 9.19 (Rev. CoP15),* Enregistrement des pépinières qui reproduisent artificiellement des spécimens d’espèces végétales inscrites à l’Annexe I à des fins d’exportation*, de la résolution Conf. 5.10 (Rev. CoP15),* Définition de l’expression "à des fins principalement commerciales", *et de la résolution Conf. 12.3 (Rev. CoP17),* Permis et certificats, *en ce qui concerne l’utilisation des codes de source R, F, D, A et C, y compris les suppositions sous-jacentes de la politique de la CITES et les interprétations nationales divergentes qui peuvent avoir contribué à l’application inégale de ces dispositions, ainsi que les questions sur l’élevage en captivité soulevées dans le document SC66 Doc. 17, et les questions liées à la légalité des acquisitions, notamment des cheptels souches, soulevées dans le document SC66 Doc. 32.4; soumet l’examen aux Parties et parties prenantes à travers une notification, pour commentaires ; et soumet ses conclusions et recommandations ainsi que les observations des Parties et des parties prenantes au Comité permanent.*

Le Secrétariat a soumis l’examen, avec les commentaires des Parties et des parties prenantes, au Comité permanent, en sa 70e session (Rosa Khutor, Sotchi, octobre 2018). Lorsqu’il s’est réuni, le Comité permanent a

décidé qu'il était nécessaire de mener des études complémentaires sur les différentes approches et suppositions adoptées par les Parties dans les résolutions actuelles concernant la reproduction en captivité et artificielle afin de faire progresser les travaux prévus au document SC70 Doc. 31.1. Le Comité est convenu de proposer l'adoption d'un certain nombre de décisions lors de la CoP18 qui permettront de poursuivre ces études.

Historique

À l'époque de la rédaction de la Convention, l'élevage en captivité et la reproduction artificielle d'espèces sauvages de la faune et de la flore étaient relativement limités et, de toute évidence, il y avait peu de tentatives de production intensive de nombreuses espèces à des fins commerciales. Comme l'ont montré les travaux récents commandés par le Secrétariat[2] à la demande de la Conférence des Parties, ce n'est plus le cas. Des chiffres plus récents montrent par exemple qu'entre 2007 et 2016, 62 % de tous les échanges commerciaux déclarés de spécimens vivants d'espèces animales CITES concernaient des spécimens déclarés comme n'étant pas de source sauvage. Pour les mammifères, 95 % des transactions commerciales concernaient des spécimens de source non sauvage. Le pourcentage des transactions commerciales de spécimens d'animaux déclarés comme n'étant pas de source sauvage augmente chaque année. Cette tendance se reflète pour l'ensemble des ressources naturelles. Selon le rapport intitulé *La situation mondiale des pêches et de l'aquaculture 2016* de l'Organisation des Nations Unies pour l'alimentation et l'agriculture (FAO), du point de vue des approvisionnements alimentaires, l'aquaculture a fourni plus de poissons que les pêcheries de capture pour la première fois en 2014. La situation mondiale des pêches et de l'aquaculture 2018 montre que le pourcentage de poissons produits en aquaculture à toutes fins continue d'augmenter. De même, la superficie des plantations forestières augmente, tandis que celle des forêts naturelles diminue. Par conséquent, la situation qui prévalait lors de la rédaction initiale du texte de la Convention ne correspond plus à la situation actuelle.

Les points de vue des Parties sur les mérites éventuels de l'élevage en captivité et de la reproduction artificielle ont varié au fil des ans et n'ont pas toujours été cohérents d'un taxon à l'autre. La résolution Conf. 1.6, *Résolutions adoptées en séance plénière*, (abrogée en 2002) priait toutes les Parties contractantes d'encourager l'élevage d'animaux pour le commerce d'animaux de compagnie et le préambule de la résolution Conf. 9.19, *Lignes directrices pour l'enregistrement des pépinières exportant des spécimens reproduits artificiellement d'espèces inscrites à l'Annexe I*, adoptée en 1994, mais encore valable, reconnaît que la reproduction artificielle de spécimens d'espèces de plantes inscrites à l'Annexe I pourrait constituer une solution économique autre que l'agriculture traditionnelle dans les pays d'origine et pourrait aussi augmenter l'intérêt pour la conservation dans les zones de répartition naturelle. Elle reconnaît en outre qu'en rendant ces spécimens facilement accessibles, la reproduction artificielle de spécimens d'espèces de plantes inscrites à l'Annexe I réduit la pression du prélèvement et a donc un effet favorable sur l'état de conservation des populations sauvages. En revanche, la décision 14.69 de 2007 donne instruction aux Parties, en particulier les États de l'aire de répartition des grands félins d'Asie inscrits à l'Annexe I ayant des établissements d'élevage intensif de tigres *(Panthera tigris)* à échelle commerciale de prendre des mesures pour limiter la population en captivité à un niveau ne faisant que soutenir la conservation des tigres dans la nature, déclarant, en d'autres termes, que les tigres ne doivent pas être élevés en captivité pour le commerce de leurs parties et produits.

Bien que cela puisse soulager la pression sur les stocks sauvages, la reproduction artificielle et l'élevage en captivité peuvent avoir des effets pervers sur la conservation des espèces dans la nature. Lorsque des plantes inscrites à la CITES sont cultivées en plantation (mixte ou en monoculture), il convient de garder présent à l'esprit que l'habitat naturel peut avoir été éliminé pour faire place à ces plantations. Dans de tels cas, les espèces CITES concernées ont été "sauvées", mais la conservation de la nature dans son ensemble peut avoir souffert. L'histoire récente du commerce du caviar d'esturgeon est également notable. Les stocks sauvages se sont appauvris de plus en plus en mer Caspienne, toutefois lorsque l'approvisionnement en caviar d'origine sauvage a été remplacé par du caviar provenant de poissons d'élevage, cet élevage n'a généralement pas été mené *in situ* dans les États du littoral de la mer Caspienne, mais dans des pays situés en dehors de l'aire de répartition naturelle des espèces concernées. Les efforts de reconstitution des stocks d'esturgeon de la mer Caspienne sont défaillants, ce qui s'explique peut-être par un manque d'incitation, la demande du marché pour le caviar étant désormais satisfaite par d'autres pays. La question de savoir qui bénéficie financièrement du commerce de la faune et de la flore produites en dehors des États de l'aire de répartition est également pertinente à la lumière du préambule de la résolution Conf. 8.3 (Rev. CoP13), *Reconnaissance des avantages du commerce de la faune et de la flore sauvages*, qui reconnaît que les revenus de l'utilisation légale peuvent fournir des fonds et des incitations propres à soutenir la gestion de la faune et de la flore sauvages afin de freiner le commerce illégal.

[2] *Voir l'annexe 2 dans AC27 Doc. 17 (Rev.1) - https://cites.org/sites/default/files/fra/com/ac/27/F-AC27-17.pdf.*

Les avantages et inconvénients, pour la conservation d'une espèce CITES, du commerce de spécimens élevés en captivité ou reproduits artificiellement, peuvent varier selon l'espèce et même dépendre du fait que l'activité est réalisée *in situ* ou *ex situ.* Si ces différents effets se produisent effectivement, les différentes approches à adopter devraient de préférence être clairement approuvées par les Parties afin que les politiques régissant l'application de la Convention soient plus ciblées et contribuent davantage à la conservation de ces espèces. Dans une certaine mesure, c'est déjà le cas pour les tigres, avec la Décision 14.69.

Comme l'offre de certaines espèces sauvages est devenue plus limitée et que la demande a augmenté, une nouvelle tendance est apparue, que l'on peut qualifier de "production sauvage assistée". Pour la faune, cela a été établi depuis un certain temps par l'élevage en ranch, qui, dans la résolution Conf. 11.16 (Rev. CoP15), *Élevage en ranch et commerce des spécimens élevés en ranch d'espèces transférées de l'Annexe I à l'Annexe II*, a été reconnu par les Parties comme un système de gestion qui, pour certaines espèces, s'est avéré être une forme d'utilisation durable "sûre" et robuste pour ce qui est du prélèvement de spécimens adultes dans la nature. Cette approche a été étendue à plusieurs autres types de systèmes de production, dont certains ont été résumés dans le document AC20 Inf. 15. Ces systèmes évoluent et se développent en permanence. Les exemples récents comprennent la fragmentation et le bourgeonnement des coraux afin d'augmenter la production. Pour la flore, cette tendance prend souvent la forme de plantations mixtes ou en monoculture qui ne sont que légèrement gérées. La récolte de spécimens de ces plantations pourrait avoir généralement moins d'impact sur la conservation de l'espèce que le prélèvement direct dans la nature – même si les spécimens ne répondent pas à la définition de "reproduits artificiellement". Au fil des années, des efforts ont été faits pour chercher à mieux comprendre et reconnaître ces formes de production et de récolte ; un premier examen pour les espèces animales figure dans le document AC17 Doc. 14 (Rev. 1). Pour les plantes, cela a pris la forme de tentatives par certaines Parties d'élargir la définition de l'expression "reproduits artificiellement" afin qu'elle couvre davantage de spécimens. Lors d'échanges avec le Secrétariat, plusieurs Parties ont exprimé leur mécontentement de voir que le commerce de spécimens issus de telles formes de production et de récolte était traité de façon trop stricte dans les réglementations CITES en vigueur.

La question du lien entre les populations d'espèces dans la nature d'une part et les établissements d'élevage en captivité et de reproduction artificielle d'autre part est une question clé. Le commerce de spécimens élevés en captivité/reproduits artificiellement peut avoir un effet négatif si l'on fait passer des spécimens d'origine sauvage comme élevés en captivité ou reproduits artificiellement. Un tel commerce peut peut-être aussi accroître la demande qui peut ensuite être satisfaite par le prélèvement illégal ou non durable de spécimens dans la nature. D'un autre côté, la disponibilité de spécimens élevés en captivité/reproduits artificiellement peut aider à répondre à la demande, qui serait autrement satisfaite par des spécimens prélevés dans la nature. Il semble y avoir peu de preuves concrètes à l'appui de l'une ou l'autre de ces hypothèses.

Un commerce accru de spécimens élevés en captivité/reproduits artificiellement peut aussi avoir une influence sur les incitations à la conservation d'espèces dans la nature, mais ces incitations peuvent varier selon que l'élevage en captivité/la reproduction artificielle a lieu à l'intérieur ou à l'extérieur de l'aire de répartition naturelle de l'espèce. À cet égard, bien que cela ne soit pas mentionné dans le cadre de référence de cet examen, les dispositions de la résolution Conf. 13.9, *Encourager la coopération entre les Parties où se trouvent des établissements d'élevage* ex situ *et celles qui réalisent des programmes de conservation* in situ, sont importantes.

Ces effets, parfois conflictuels et contradictoires, entravent la recherche d'une approche cohérente pour contrôler le commerce de spécimens élevés en captivité et reproduits artificiellement.

Il convient de noter que ceci est loin d'être la première tentative visant à clarifier l'application des paragraphes 4 et 5 de l'Article VII et des dispositions et résolutions connexes – voir le document CoP10 Doc. 10,67 par exemple.

Un bref historique des résolutions de la Conférence des Parties concernant la réglementation du commerce des spécimens non prélevés dans la nature est disponible en Annexe du présent document.

Examen des dispositions, ambiguïtés et incohérences, et questions pouvant nécessiter une attention particulière

1. Application des paragraphes 4 et 5 de l'Article VII

1.1 Vue d'ensemble

Les paragraphes 4 et 5 de l'Article VII autorisent que le commerce de spécimens qui sont "élevés en captivité" ou "reproduits artificiellement" soit entrepris avec des contrôles qui ne sont pas aussi stricts que ceux qui régissent le commerce de spécimens prélevés dans la nature. Le terme « élevés en captivité » et « reproduits artificiellement » ont été définis dans deux résolutions (voir les sections 4 et

5 ci-dessous). L'article VII.4 porte sur les spécimens d'espèces inscrites à l'Annexe I qui ont été élevées en captivité/reproduites artificiellement à des fins non commerciales, ainsi que sur les spécimens d'espèces inscrites aux Annexes II ou III, élevées à toutes fins (commerciales ou non-commerciales).

Le paragraphe 4 de l'Article VII stipule que les spécimens d'espèces de l'Annexe I élevés en captivité ou reproduits artificiellement à des fins commerciales sont considérés comme des spécimens d'espèces inscrites à l'Annexe II et donc commercialisés en vertu de l'Article IV. Cela signifie, par exemple, qu'ils peuvent être importés à des fins principalement commerciales, tout en faisant l'objet d'un avis de commerce non préjudiciable. L'utilisation de cette disposition est complétée par deux résolutions – voir les sections 6 et 7 du présent document.

Le paragraphe 5 de l'Article VII stipule que, pour les spécimens élevés en captivité ou reproduits artificiellement, un certificat délivré par l'organe de gestion à cet effet est accepté à la place des permis et certificats requis conformément aux dispositions des Articles III, IV ou V (cette disposition s'applique aux spécimens d'espèces inscrites aux Annexes I, II ou III). Les implications pratiques de l'utilisation des certificats d'élevage en captivité/reproduction artificielle sont indiquées dans le tableau de la section 2 du présent document.

Afin d'aider à distinguer les spécimens de source sauvage de ceux qui ont été élevés en captivité ou issus de reproduction artificielle (et peuvent donc bénéficier d'exemptions au titre des paragraphes 4 et 5 de l'Article VII), la résolution Conf. 3.6, *Normalisation des permis et certificats émis par les Parties* introduit des codes de source à inclure dans les permis et les certificats. À l'époque, il s'agissait de "W", "C" et "A", avec un code de source "O" pour les spécimens qui ne correspondaient pas à ces trois catégories.

Aujourd'hui, les codes de source figurent dans la résolution Conf. 12.3 (Rev. CoP17), qui est décrite plus en détail au paragraphe 2 du présent document.

L'expression "à des fins commerciales" du paragraphe 4 de l'Article VII est traitée dans la résolution Conf. 5.10 (Rev. CoP15), la résolution Conf. 12.10 (Rev. CoP15) et la résolution Conf. 9.19 (Rev. CoP15), examinées aux paragraphes 3, 6 et 7 du présent document.

1.2 Ambiguïtés et incohérences

Le Secrétariat a noté des différences d'opinions fondamentales entre les Parties, concernant l'application des paragraphes 4 et 5 de l'Article VII de la Convention et les permis ou certificats requis. Le paragraphe 3 i) de la résolution Conf. 12.3 (Rev. CoP17) indique que les codes de source D, A et C, c'est-à-dire des spécimens élevés en captivité/reproduits artificiellement, ne doivent être utilisés que lorsque les paragraphes 4 et 5 de l'Article VII sont appliqués. Le Secrétariat a observé que certaines Parties estiment que les spécimens élevés en captivité/reproduits artificiellement (code de source D, A et C) peuvent également être commercialisés en vertu des Articles III et IV. Cependant, comme expliqué dans le document CoP10 Doc. 10.67 Annexe, lorsque la Résolution Conf 10.16 a été approuvée, le troisième et quatrième préambule ont été rédigés pour préciser que les procédures de l'Article IV s'appliquaient aux exports d'après l'Article VII.4 et que des certificats d'élevage en captivité/reproduction artificielle étaient délivrés dans le cadre de l'Article VII.5.

De nombreuses Parties utilisent le formulaire CITES standard figurant à l'annexe 2 de la résolution Conf. 12.3 (Rev. CoP17) en tant que documentation CITES. Compte tenu de la manière dont le formulaire est conçu, il est important d'y indiquer clairement si le document délivré est un permis d'exportation délivré en vertu des Articles III, IV ou V ou un certificat d'élevage en captivité/reproduction artificielle délivré en vertu du paragraphe 5 de l'Article VII. Jusqu'à la CoP12, la résolution Conf. 10.2 (Rev.), *Permis et certificats*, précisait que tout formulaire délivré devait indiquer s'il était délivré en tant que certificat d'élevage en captivité/reproduction artificielle ou non, mais cette instruction spécifique a été supprimée par la suite, pour des raisons qui ne sont pas détaillées dans le compte-rendu de la réunion.

Il n'est pas précisé si les paragraphes 4 et 5 de l'Article VII doivent être appliqués successivement (tout spécimen éligible de l'Annexe I peut être traité conformément à l'Annexe II dans le cadre de le paragraphe 4 de l'Article VII, puis recevoir un certificat d'élevage en captivité/reproduction artificielle conformément au paragraphe 5 de l'Article VII). Il était auparavant précisé que les dispositions des paragraphes 4 et 5 de l'Article VII devaient être appliqués séparément étaient auparavant données dans la Résolution Conf. 2.12 mais ces indications ont été supprimées lorsque la résolution a été

remplacée par la résolution Conf. 10.16. Il n'est pas certain que cela ait créé de malentendus pour les Parties.

Les contrôles du commerce relevant du paragraphe 4 de l'Article VII sont rigoureux, car les spécimens sont traités comme s'ils étaient inscrits à l'Annexe II ; cependant, les contrôles du commerce conformément au paragraphe 5 de l'Article VII sont vraisemblablement plus faibles, car une fois qu'il a été déterminé qu'un spécimen a été élevé en captivité ou reproduit artificiellement, seul un certificat à cet effet est requis. Cela met en évidence l'importance de disposer de définitions claires des expressions "élevés en captivité" et "reproduits artificiellement" pour une application rigoureuse et précise. Les définitions actuelles ne sont peut-être pas assez claires, comme cela est expliqué aux sections 4 et 5 ci-dessous.

Dans l'ensemble, il semble que des indications claires fassent défaut quant au type de document à produire et dans quelles circonstances, dans le cas de commerces relevant de l'Article VII, paragraphes 4 et 5.

2. Résolution Conf. 12.3 (Rev. CoP17), *Permis et certificats*

2.1 Vue d'ensemble

Cette résolution dresse la liste des codes de source à utiliser sur les permis et certificats pour les spécimens de source non sauvage. Ceux-ci sont énumérés au paragraphe 3 i) de la résolution et comprennent les codes R, D, A, C et F pertinents pour la question qui nous intéresse. La plupart des définitions des termes utilisés dans les descriptifs des codes de source ne se trouvent cependant pas dans la résolution Conf. 12.3 (Rev. CoP17), mais sont répartis dans cinq autres résolutions.

L'utilisation des codes de source C et A parait relativement simple et s'applique au paragraphe 5 de l'Article VII. Lorsque des spécimens d'espèces inscrites à l'Annexe I, élevées en captivité ou reproduites artificiellement proviennent d'un établissement ou d'une pépinière enregistrée (voir les sections 6 et 7), ils peuvent être commercialisés en vertu du paragraphe 4 de l'Article VII et reçoivent le code D au lieu de C ou A.

Concernant le code de source R, les obligations pour les Parties sont différentes, selon que le spécimen concerné appartient à une population transférée de l'Annexe I à l'Annexe II en vertu des dispositions du paragraphe A. 2. b) de l'annexe 4 de la résolution Conf. 9.24 (Rev. CoP17), *Critères d'amendement des Annexes I et II* (ledit "transfert pour élevage en ranch") ou non. Dans les deux cas, les dispositions des Articles III et IV s'appliquent à tous les permis délivrés, mais dans le cas de spécimens d'espèces transférées de l'Annexe I à l'Annexe II à des fins d'élevage en ranch, des obligations supplémentaires de suivi et de rapport, décrites dans la résolution Conf. 11.16 (Rev. CoP15), *Élevage en ranch et commerce des spécimens élevés en ranch d'espèces transférées de l'Annexe I à l'Annexe II* s'appliquent.

Comme indiqué dans la Résolution Conf. 12.3, le code de source F est appliqué aux spécimens nés en captivité, mais ne répondant pas aux conditions requises pour être considérés comme élevés en captivité (code de source C) selon la résolution Conf. 10.16 (Rev.).

Les exigences d'autorisation pour les spécimens ayant des codes de source R et F sont identiques à celles pour les spécimens de source sauvage.

Le tableau suivant résume les permis ou certificats requis pour les spécimens selon chaque code de source et certaines des obligations qui en découlent, nécessaires avant la délivrance des permis ou certificats.

Code de source	Annexe	Document(s) requis	Avis de commerce non préjudiciable nécessaire?	Avis d'acquisition légale nécessaire?	Importation à des fins principalement commerciales autorisée?	Dispositions de la Convention
C/A	I	Certificat de cb/ap	NON*	NON*	OUI	Art. VII.5
	II	Certificat de cb/ap	NON*	NON*	OUI	Art. VII.5
D	I = II	Permis d'exportation	OUI	OUI	OUI	Art. VII.4
R	I	Permis d'exportation et d'importation	OUI	OUI	NON	Art. III
	II	Permis d'exportation	OUI	OUI	OUI	Art. IV
F	I	Permis d'exportation et d'importation	OUI	OUI	NON	Art. III
	II	Permis d'exportation	OUI	OUI	OUI	Art. IV
W	I	Permis d'exportation et d'importation	OUI	OUI	NON	Art. III
	II	Permis d'exportation	OUI	OUI	OUI	Art. IV

* Bien que non nécessaire pour les spécimens dans le commerce, nécessaire pour le stock parental de l'établissement en vertu de la résolution Conf. 10.16 (Rev.) pour les animaux et la résolution Conf. 11.11 (Rev. CoP17) pour les plantes.

La résolution Conf. 12.3 (Rev. CoP17) décrit l'information à inclure sur les permis et certificats CITES, y compris les certificats d'élevage en captivité et de reproduction artificielle. Dans son annexe 2, elle contient aussi un formulaire normalisé pour les permis et certificats CITES, leur contenu et (dans la mesure du possible) le modèle recommandé aux Parties.

2.2 Ambiguïtés et incohérences

Concernant l'utilisation des codes de source, le paragraphe 3 i) de la résolution recommande que les codes de source D, C et A ne soient utilisés que dans le contexte de l'application des paragraphes 4 et 5 de l'Article VII, mais cela n'est pas appliqué par toutes les Parties, car certaines utilisent également les codes de source C et A sur les permis d'exportation délivrés en vertu des Articles III et IV comme indiqué ci-avant. Cela peut être dû au fait qu'elles appliquent des mesures nationales plus strictes ou qu'elles ont une compréhension différente du type de permis et de certificat à délivrer dans certaines circonstances. Le fait que certains codes de source soient définis dans la résolution et d'autres pas ne facilite pas les choses. Le code de source F est défini dans la résolution, mais seulement par rapport aux qualités que le spécimen concerné ne présente pas, plutôt que dans un sens positif. Cela semble avoir entraîné l'utilisation de la source F lorsque le choix du code à utiliser n'est pas clair. Les exigences en matière de permis pour les spécimens ayant les codes de source F et R sont identiques à celles du code de source W, ce qui peut soulever la question de l'objet de ces codes, car ils compliquent l'application de la Convention sans avantages perceptibles. Certains arguments en faveur de ces codes de sources « intermédiaires » ont été avancés, voir par exemple le paragraphe 12 du document PC24 Doc.16.1.

Il est à noter qu'en ce qui concerne l'utilisation du code de source D, la résolution ne mentionne pas la résolution Conf. 9.19 (Rev. CoP15) concernant la reproduction artificielle des plantes de la manière dont la résolution Conf. 12.10 (Rev. CoP15) est mentionnée pour les animaux. Bien que la Résolution Conf. 9.19 (Rev. CoP15) manque de clarté (voir section 7.2), il semble que cela vienne du fait que l'enregistrement des établissements qui reproduisent artificiellement des spécimens d'espèces inscrites à l'Annexe I à des fins commerciales ne semble pas optimal.

Une autre incohérence apparente est que lorsqu'il est utilisé au titre du paragraphe 5 de l'Article VII, le code de source A ne s'applique aux spécimens d'espèces végétales répertoriées à l'Annexe I que lorsque celles-ci ont été reproduites artificiellement à des fins non commerciales. Bien qu'on puisse supposer que les mêmes critères (élevés à des fins non commerciales) s'appliquent aux animaux, cela n'est pas spécifié dans la définition du code de source C, qui se trouve au paragraphe 3 i) de la Résolution Conf. 12.3 (Rev. CoP17).

Le formulaire CITES standard figurant à l'annexe 2 de la résolution Conf. 12.3 (Rev. CoP17) ne distingue pas clairement les cas où il est utilisé comme permis d'exportation au titre de l'Article III ou IV

ou lorsqu'il est utilisé comme certificat d'élevage en captivité ou de reproduction artificielle en vertu du paragraphe 5 de l'Article VII. La case "Autre" peut être cochée en haut du formulaire où le type de permis ou de certificat est indiqué, mais cela n'indique toujours pas de manière claire l'utilisation à laquelle est destinée le document.

3. Résolution Conf. 5.10 (Rev. CoP15), *Définition de l'expression "à des fins principalement commerciales"*

3.1 Vue d'ensemble

Cette résolution fournit des recommandations aux Parties lorsqu'elles évaluent si l'importation d'un spécimen d'une espèce de l'Annexe I entraînera son utilisation à des fins principalement commerciales [Article III, paragraphes 3 (c) et 5 (c)] et dont l'utilisation principale prévue ne se rapporte pas au paragraphe de l'Article VII. Néanmoins, certains des principes généraux et des exemples figurant dans son annexe renvoient aux exemptions prévues aux paragraphes 4 et 5 de l'Article VII. Il n'est cependant pas très clair si les orientations doivent être utilisées en relation avec l'application de l'Article III ou des paragraphes 4 et 5 de l'Article VII.

Par exemple, la section e) de l'annexe porte sur les programmes d'élevage en captivité, en particulier en ce qui concerne la nature commerciale de toute importation de spécimens d'espèces de l'Annexe I. Le texte pourrait être interprété comme confirmant que l'importation de spécimens élevés en captivité (et, par extension, de spécimens végétaux reproduits artificiellement) devrait avoir lieu en vertu des paragraphes 4 et 5 de l'Article VII, utilisant les codes de source D, C et A, et non des Articles III et IV. La résolution contient également quelques principes généraux et des exemples de "fins principalement commerciales" à utiliser dans le contexte des importations de spécimens d'espèces inscrites à l'Annexe I au titre de l'Article III.

3.2 Ambiguïtés et incohérences

Les exemples figurant dans l'annexe de la résolution soulèvent des questions importantes.

Lorsque l'on se réfère aux importations de spécimens d'espèces de l'Annexe I à des fins d'élevage en captivité, il est difficile de vérifier si l'on fait référence à des spécimens qui, eux-mêmes, sont élevés en captivité ou à des spécimens sauvages qui sont utilisés dans l'élevage en captivité. Le texte renvoie à la résolution Conf. 10 16 (Rev.) définissant l'expression "élevés en captivité", ce qui pourrait supposer que l'on est dans le premier cas. Toutefois, la résolution Conf. 5.10 (Rev. CoP15) poursuit en faisant référence à l'importation de spécimens d'espèces inscrites à l'Annexe I élevés en captivité qui pourrait être autorisée à des fins commerciales à condition que tous les profits soient réinvestis dans la poursuite du programme d'élevage en captivité dans l'intérêt de l'espèce et l'on doit présumer que cela fait référence au commerce de spécimens de source W commercialisés conformément à l'Article III parce que, comme l'explique le texte, le commerce de spécimens portant les codes D et C ne relève pas de l'Article III.

En outre, le texte attribue des obligations à la résolution Conf. 10.16 (Rev.) que l'on ne trouve pas dans cette résolution, c'est-à-dire les importations doivent, en priorité, viser la protection à long terme de l'espèce concernée.

La résolution fait référence à l'utilisation de l'expression "à des fins principalement commerciales" en relation avec l'importation de spécimens au titre de l'Article III. Cependant, l'expression semblable "élevés en captivité à des fins commerciales" est utilisée dans le paragraphe 4 de l'Article VII et est définie dans la résolution Conf. 12.10 (Rev. CoP15) de manière légèrement différente. Dans ce dernier cas, certaines Parties considèrent que c'est le caractère commercial de l'élevage qui est en cause et non la nature de la commercialisation internationale qui a lieu ultérieurement avec le spécimen. Elles autorisent donc les établissements où l'élevage en captivité de spécimens d'espèces inscrites à l'Annexe I n'est pas principalement entrepris pour obtenir un bénéfice économique (ce qu'on appelle les "*hobby breeders*", les éleveurs amateurs) à exporter de tels spécimens à des fins commerciales en utilisant le code T. De nombreuses Parties importatrices de ces spécimens, voyant que les spécimens sont élevés en captivité et donc commercialisés en vertu du paragraphe 5 de l'Article VII, autorisent ensuite l'importation même si les spécimens doivent être utilisés à des fins principalement commerciales. Un tel ensemble d'événements écarte la nécessité d'enregistrer les établissements d'élevage en vertu de la résolution Conf. 12.10 (Rev. CoP15) – voir la section 6 du présent document.

La résolution Conf. 9.19 (Rev. CoP15) n'aborde pas la définition des fins commerciales en relation avec la reproduction artificielle des espèces de plantes de l'Annexe I.

4. Résolution Conf. 10.16 (Rev.), *Spécimens d'espèces animales élevés en captivité*

4.1 Vue d'ensemble

La résolution définit l'expression "élevés en captivité" utilisée aux paragraphes 4 et 5 de l'Article VII, (codes de source C et D) et s'applique aux spécimens d'espèces des Annexes I, II et III, indépendamment du fait que l'élevage ou le commerce soit commercial ou non commercial. Les principales caractéristiques sont le degré de contrôle par l'éleveur du milieu dans lequel l'espèce a été produite ainsi que les qualités du stock reproducteur utilisé pour produire la descendance : ce stock doit être légalement établi en vertu de la législation nationale et de la CITES et d'une manière non préjudiciable à la survie de l'espèce. À quelques exceptions près, l'établissement doit être autosuffisant, c'est-à-dire ne plus prélever de spécimens dans la nature. Enfin, l'établissement doit avoir produit des descendants F2 ou les générations suivantes – ou être géré d'une manière démontrant qu'il était capable de le faire.

En réponse aux préoccupations concernant la véracité de certaines allégations selon lesquelles des spécimens avaient été élevés en captivité conformément à cette résolution et, par conséquent, les permis et certificats CITES délivrés sur la base de ces déclarations, les Parties ont adopté la résolution Conf. 17.7, *Étude du commerce des spécimens d'animaux signalés comme produits en captivité.*

4.2 Ambiguïtés et incohérences

Les Parties ont rencontré des difficultés pour prouver l'origine légale des stocks reproducteurs utilisés pour produire les spécimens élevés en captivité. Cela est particulièrement le cas lorsque le cheptel reproducteur original a été acquis depuis de nombreuses années alors qu'il n'y avait peut-être aucune raison de croire que de tels documents permettant de confirmer l'origine légale des spécimens pourraient être importants des années plus tard. Au contraire, comme démontré dans le document SC66 Doc. 32.4, il y a eu plusieurs cas où des spécimens qui avaient très probablement été obtenus illégalement ont été incorporés dans des cheptels reproducteurs produisant des spécimens élevés en captivité qui, par la suite, ont fait l'objet d'un commerce international. L'absence d'approche normalisée dans ce domaine pose des problèmes. Cette question a été examinée par le Comité permanent en vertu du paragraphe c) de la décision 17.66 et lors d'un atelier organisé en juin 2018. Dans une Résolution préalable, le Comité permanent a proposé des indications d'usage lors de la vérification de la légalité de l'acquisition d'un cheptel souche de spécimens commercialisés au titre des paragraphes 4 et 5 l'Article VII du document CoP18Doc. 39.

Le paragraphe 2 b) ii) B de la résolution autorise l'ajout de spécimens sauvages au cheptel reproducteur, et fournit des orientations sur les circonstances dans lesquelles cela peut se justifier, ce qui peut donner lieu à diverses interprétations. Bien qu'il puisse être plus clair de limiter la définition de l'expression "élevés en captivité" aux spécimens élevés en captivité dans des établissements qui ne prélèvent plus de spécimens dans la nature, certaines Parties s'inquiètent qu'une telle restriction puisse entraver les tentatives d'élevage d'espèces en captivité. Il sera peut-être nécessaire de trouver un équilibre entre le besoin de procédures claires et simples et la viabilité économique et biologique de certains établissements.

Le paragraphe 2 b) ii) C 2 permet une exception au principe général selon lequel les spécimens élevés en captivité devraient être limités à ceux de la génération F2 et au-delà. Là encore, des difficultés ont été rencontrées pour déterminer quand de telles exceptions s'appliquent. Il pourrait être plus facile d'appliquer pour tous les spécimens une obligation de démontrer qu'ils sont de la génération F2 ou au-delà. Là encore, certaines Parties affirment que cela pourrait gêner certains établissements commerciaux d'élevage en captivité, mais cela pourrait être un prix à payer si une simplification des règles pouvait améliorer l'application de la Convention au profit de la conservation des espèces concernées.

Des dispositions de ce type, susceptibles de faire l'objet d'interprétations différentes, rendent plus difficile l'application harmonieuse de la Convention. Indépendamment de la clarté ou de la simplicité des instructions, les Parties risquent toujours d'être victimes de déclarations frauduleuses d'élevage en captivité. À cet égard, la résolution Conf. 17.7 devrait aider à identifier les cas de fraude qui ont échappé à l'attention des autorités nationales.

5. Résolution Conf. 11.11 (Rev. CoP17), *Réglementation du commerce des plantes*

5.1 Vue d'ensemble

Cette résolution définit l'expression "reproduits artificiellement" à utiliser dans l'application des dispositions spéciales des paragraphes 4 et 5 de l'Article VII et s'applique aux spécimens d'espèces inscrites aux Annexes I, II et III, que la multiplication ou le commerce soit commercial ou non commercial. À l'origine, c'était la seule résolution dans laquelle des indications sur ce point pouvaient être trouvées ; cependant, cela a par la suite été complété par des orientations complémentaires dans la résolution Conf. 16.10, *Application de la Convention aux taxons produisant du bois d'agar* et la résolution Conf. 10.13 (Rev. CoP15), *Application de la Convention aux essences forestières*.

Les principales caractéristiques sont le degré de contrôle par le cultivateur du milieu dans lequel l'espèce a été produite et les qualités du stock parental cultivé utilisé pour produire les plantes multipliées. Ce stock doit être légalement établi en vertu de la législation nationale et de la CITES et d'une manière non préjudiciable à la survie de l'espèce. Le degré d'autosuffisance de l'établissement de multiplication – c.-à-d. lui permettant de ne plus prélever de spécimens dans la nature – est moins contraignant que pour les animaux. Au fil des années, des dispositions spéciales ont été ajoutées à la définition en ce qui concerne les plantes greffées, les cultivars, les hybrides, les plantules en flacons, les plantes sauvées, les plantations de taxons producteurs de bois d'agar et d'autres arbres produits dans des plantations monospécifiques. Il en résulte un ensemble de règles très complexes qui sont difficiles à suivre pour les non-spécialistes.

La fécondité des plantes et la facilité avec laquelle de nombreuses espèces peuvent être reproduites artificiellement signifient que les préoccupations concernant l'impact des fausses déclarations peuvent être moindres que pour les taxons animaux. Toutefois, les préoccupations persistent, en particulier pour des espèces telles que des orchidées et des cactus rares. Elles peuvent même être importantes si de vastes forêts semi-naturelles, par exemple, sont considérées comme étant "dans des conditions contrôlées" et que les spécimens qui en sont issus sont en conséquence traités comme s'ils étaient reproduits artificiellement.

5.2 Ambiguïtés et incohérences

L'examen du diagramme de la page 7 du document SC69 Inf. 3 – G*uide d'application des codes de source CITES*, montre que la définition de l'expression "reproduits artificiellement" est très compliquée et que son application pose un problème aux Parties. Le fait qu'elle soit répartie sur trois résolutions différentes, comme indiqué précédemment, ne conduit pas non plus à une application correcte. Il semble assez incongru que le paragraphe 4 de la résolution permette de décrire les spécimens prélevés dans la nature comme reproduits artificiellement dans certaines circonstances. Comme pour la définition d'"élevés en captivité", des orientations sur l'acquisition légale seraient utiles et il pourrait être sage d'explorer la possibilité de simplifier la définition, en particulier en retirant les exceptions aux dispositions générales.

Aucune procédure de respect de la Convention pour des déclarations de reproduction artificielle n'a été mise en place par la Conférence des Parties.

Il convient de noter que, conformément à la décision 17.175, le Comité pour les plantes examine également l'applicabilité et l'utilité des définitions actuelles des expressions "reproduction artificielle" et "dans des conditions contrôlées" figurant dans la résolution Conf. 11.11 (Rev. CoP17) afin de faire des recommandations au Comité permanent. En outre, en vertu de la décision 16.156 (Rev. CoP17), le Comité pour les plantes, après avoir examiné les systèmes actuels de production d'espèces d'arbres, y compris les plantations mixtes et monospécifiques, est en train d'évaluer l'applicabilité des définitions actuelles de la reproduction artificielle dans la résolution Conf. 10.13 (Rev. CoP15), *Application de la Convention aux essences forestières* et la résolution Conf. 11.11 (Rev. CoP17), *Réglementation du commerce des plantes.* En conclusion de ce travail, le Comité permanent a proposé un code de source supplémentaire pour les plantes, le code « Y », pour adoption à la CoP18, avec le document CoP18 Doc. 59.2. Ce code de source serait intermédiaire entre le code de source W et le code de source A.

6. Résolution Conf. 12.10 (Rev. CoP15), *Enregistrement des établissements élevant en captivité à des fins commerciales des espèces animales inscrites à l'Annexe I*

6.1 Vue d'ensemble

Au fil des années, les dispositions qui fournissent des orientations relatives à l'application du paragraphe 4 de l'Article VII, en ce qui concerne les spécimens d'espèces animales de l'Annexe I dont il a été déterminé qu'ils ont été élevés en captivité conformément à la résolution Conf. 10.16 (Rev.) ont évolué et changé considérablement.

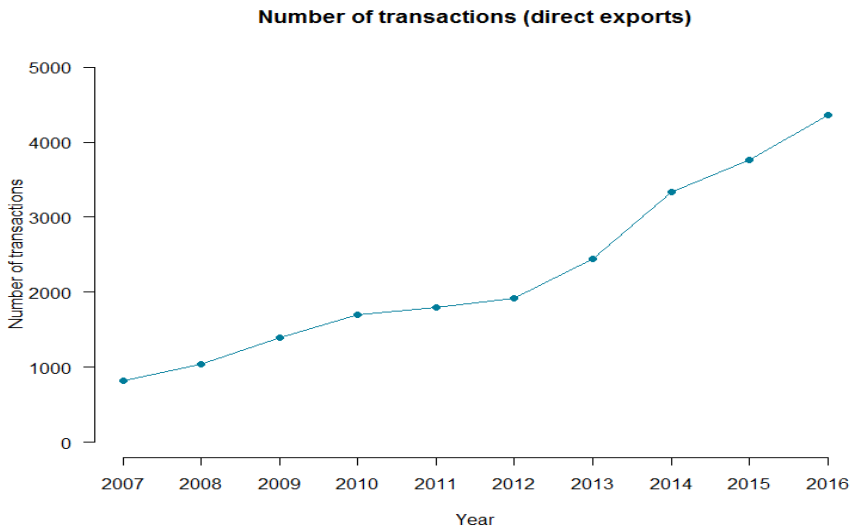
La version actuelle de la résolution limite l'utilisation des dispositions spéciales du paragraphe 4 de l'Article VII aux spécimens provenant d'élevages figurant dans le *Registre des établissements élevant en captivité des espèces animales inscrites à l'Annexe I à des fins commerciales,* maintenu par le Secrétariat sur le site Web de la CITES. L'enregistrement nécessite une documentation substantielle et peut être contesté par d'autres Parties. Si le cas d'un enregistrement contesté ne peut être résolu, y compris avec des orientations fournies par le Comité pour les animaux, il est arbitré par le Comité permanent.

Les spécimens d'espèces animales inscrites à l'Annexe I provenant d'établissements dûment enregistrés peuvent être commercialisés comme s'il s'agissait de spécimens d'espèces inscrites à l'Annexe II – c.-à-d. qu'ils peuvent être importés à des fins principalement commerciales.

6.2 Ambiguïtés et incohérences

Les procédures d'enregistrement des établissements de manière à ce qu'ils puissent bénéficier des dispositions spéciales du paragraphe 4 de l'Article VII sont rigoureuses. Cependant, de nombreuses Parties n'appliquent pas cette résolution. Certaines Parties ont un très grand nombre d'établissements d'élevage en captivité à des fins commerciales pour les espèces inscrites à l'Annexe I, sur leur territoire. Cela conduit à une approche incohérente, car de nombreux spécimens d'espèces animales de l'Annexe I élevés en captivité sont exportés à partir d'établissements non enregistrés, mais en utilisant le code de but "T" pour le commerce. De 2007 à 2016, il y a eu 22 650 exportations de ce type impliquant 110 taxons de l'Annexe I. Les principales espèces impliquées étaient des rapaces et des perroquets. Ce type de commerce est en augmentation.

Figure 1: Exportations de spécimens d'espèces de l'Annexe I élevés en captivité à des fins commerciales dans des établissements non enregistrés (Base de données commerciales CITES).



Ce commerce est essentiellement fait par des établissements non enregistrés lorsque les Parties qui sont des pays d'exportation déterminent que même si l'exportation et l'importation ultérieures sont de nature commerciale (utilisant le code d'objet T), le but de l'élevage, défini au paragraphe 1 de la résolution, n'est pas considéré comme commercial et que par conséquent les spécimens n'ont pas été élevés en captivité à des fins commerciales et peuvent ainsi être exportés en vertu du paragraphe 5 de l'Article VII et non du paragraphe 4 de l'Article VII. Cela semble contraire au paragraphe 5. k) de la

Résolution Conf. 12.3 (Rev. CoP17) qui recommande aux Parties d'éviter de délivrer des permis pour des spécimens d'espèces inscrites à l'Annexe I lorsque ceux-ci sont destinées principalement à des fins commerciales et que les spécimens ne proviennent pas d'un établissement d'élevage enregistré auprès de la CITES. De plus, bien que cela soit contraire à la résolution Conf. 12.3 (Rev. CoP17), ces spécimens sont parfois aussi commercialisés en vertu de l'Article III de la Convention et la Partie qui exporte prétend que si l'exportation peut être commerciale, l'importation ultérieure ne l'est pas et que par conséquent ce commerce est autorisé.

En revanche, les Parties qui appliquent la résolution Conf. 12.10 (Rev. CoP15) doivent se conformer à un processus complexe et bureaucratique avant que leurs établissements soient inscrits au *Registre des établissements élevant en captivité à des fins commerciales des espèces animales inscrites à l'Annexe I*. Il est difficile de concilier les contrôles rigoureux imposés à l'enregistrement des établissements et la facilité avec laquelle ces contrôles peuvent être circonvenus par les Parties qui ne souhaitent pas être contraintes. Cette juxtaposition est frappante et le Secrétariat estime, depuis longtemps, que le processus d'enregistrement est long, coûteux et inefficace (voir les documents CoP10 Doc. 10.67, CoP12 Doc. 55.1 et CoP15 Doc. 18 Annexe 2. a). Des modifications mineures de la résolution Conf. 12.10 ont été faites à la CoP15, mais depuis lors, l'ampleur des exportations commerciales de spécimens d'espèces inscrites à l'Annexe I provenant d'établissements non enregistrés a continué d'augmenter, comme le montre la figure 1. De plus, de nouvelles espèces ont récemment été inscrites à l'Annexe I, comme le Perroquet gris, *Psittacus erithacus,* qui est élevé en captivité en très grand nombre à des fins commerciales.

L'application de cette résolution est compliquée par les systèmes d'élevage utilisant des établissements satellites, comme pour certaines espèces de crocodiliens en Asie du Sud-Est. Dans ces cas, l'élevage proprement dit des spécimens est effectué par un très grand nombre de petits établissements qui transmettent ensuite les spécimens dans le même État à un petit nombre d'établissements enregistrés qui procèdent à l'exportation des spécimens. Cette situation semble fonctionner sans porter préjudice aux populations sauvages, mais n'est pas correctement prévue dans la résolution.

Les nouveaux contrôles de respect de la Convention énoncés dans la résolution Conf. 17.7 semblent avoir atténué certaines des préoccupations exprimées par les Parties lorsque des changements importants apportés à la résolution Conf. 12.10 ont été proposés dans le passé. Le Secrétariat n'a pas les ressources nécessaires pour visiter les établissements qui souhaitent être enregistrés et dépend donc presque entièrement des organes de gestion dans les Parties où ceux-ci sont situés pour obtenir des informations à leur sujet.

7. Résolution Conf. 9.19 (Rev. CoP15), *Enregistrement des pépinières qui reproduisent artificiellement des spécimens d'espèces végétales inscrites à l'Annexe I à des fins d'exportation*

7.1 Vue d'ensemble

Cette résolution donne des orientations sur l'application du paragraphe 4 de l'Article VII en ce qui concerne les spécimens d'espèces végétales inscrites à l'Annexe I, qui ont été déterminés comme ayant été reproduits artificiellement au titre des résolutions Conf. 11.11 (Rev. CoP17), Conf. 16.10 et Conf. 10.13 (Rev. CoP15).

Comme pour les animaux, la résolution prévoit un registre des établissements qui reproduisent artificiellement des spécimens d'espèces inscrites à l'Annexe I à des fins commerciales, mais contrairement aux animaux, l'enregistrement est confié aux organes de gestion de la Partie où est située la pépinière. D'autres Parties peuvent contester l'enregistrement de l'établissement si elles peuvent démontrer qu'il ne remplit pas les obligations d'enregistrement et dans de tels cas c'est au Secrétariat de retirer l'établissement du registre après consultation avec l'organe de gestion de la Partie où se trouve la pépinière.

7.2 Ambiguïtés et incohérences

Le dernier paragraphe du préambule de cette résolution, qui stipule :

> *RECONNAISSANT que les pépinières qui ne sont pas enregistrées peuvent continuer d'exporter des spécimens d'espèces inscrites à l'Annexe I reproduits artificiellement en suivant les procédures habituelles d'obtention des permis d'exportation.*

est plutôt ambiguë et l'on ne sait pas clairement de quels types de "procédures habituelles" il s'agit. Si les pépinières non enregistrées sont en mesure d'exporter des spécimens reproduits artificiellement d'espèces végétales inscrites à l'Annexe I en vertu du paragraphe 5 de l'Article VII et en utilisant le code de source A, le but de l'enregistrement peut sembler discutable.

Autant que le Secrétariat s'en souvienne, il n'a jamais retiré de pépinières du registre à la demande d'une autre Partie et il serait plus approprié que ces établissements contestés soient évalués par des pairs d'autres Parties, dans le cadre du Comité permanent plutôt que par le Secrétariat lui-même.

Annexe : Bref historique des résolutions de la Conférence des Parties concernant la réglementation du commerce de spécimens non sauvages (autres que l'élevage)

Définition d'"élevé en captivité"

Année	CoP	Résolution	Caractéristiques/changements notables par rapport à la version antérieure
1979	CoP2	2.12 concernant les *Spécimens élevés en captivité ou reproduits artificiellement*	Rappelait que le traitement particulier des animaux élevés en captivité [Article VII.4 et 5] devait s'appliquer uniquement aux populations captives maintenues sans introduction de spécimens sauvages. Recommandait que les dispositions du paragraphe 4 de l'Article VII de la Convention s'appliquaient indépendamment de celles du paragraphe 5 de l'Article VII, à savoir que les spécimens élevés en captivité à des fins commerciales d'espèces animales inscrites à l'Annexe I devaient être traités comme s'ils figuraient en Annexe II et ne dérogeaient pas aux dispositions de l'Article VI concernant la délivrance de certificat au motif qu'ils étaient élevés en captivité. [ces préambules ont été supprimés en 10.16] Concernant la définition de "élevés en captivité", recommande à la satisfaction des autorités compétentes du pays en question que : - Les spécimens soient produits dans un « milieu contrôlé » - Le cheptel reproducteur ait été constitué d'une manière non préjudiciable à la survie de l'espèce dans la nature ; soit largement maintenu sans introduction de spécimens sauvages ; soit géré d'une manière capable d'assurer la pérennité du cheptel reproducteur. "Milieu contrôlé" défini. "Géré d'une manière capable d'assurer la pérennité du cheptel reproducteur " est interprété comme une manière s'étant révélée capable de produire, de façon sûre, une descendance de deuxième génération.
1992	CoP8	2.12 (Rev.) [Abrogé par 10.16]	Les éléments relatifs aux plantes et à la reproduction artificielle ont été supprimés.
1997	CoP10	10.16 concernant *Les spécimens d'espèces élevés en captivité*	De même que d'« d'une manière non préjudiciable à la survie de l'espèce dans la nature », le cheptel reproducteur doit être constitué conformément aux dispositions de la CITES et aux lois nationales pertinentes. Les apports occasionnels au cheptel reproductif doivent être effectués de la même manière. "Cheptel reproductif" est défini comme : Le caractère pérenne du cheptel d'un établissement est défini comme produisant une descendance F2 ou ultérieure, ou constitué d'espèces répertoriées comme habituellement reproduites en captivité d'après le Comité permanent, ou géré d'une manière qui s'est révélée capable de produire, de façon sûre, une descendance de deuxième génération en milieu contrôlé. Tous les spécimens d'espèces inscrites à l'Annexe I doivent être marqués conformément aux dispositions de la CITES à ce sujet.
2000	CoP11	10.16 (Rev)	La référence à une liste d'espèces habituellement reproduites en captivité, établie par le Comité permanente, a été supprimée – elle n'a jamais été convenue.

Enregistrement des établissements élevant en captivité à des fins commerciales des espèces animales inscrites à l'Annexe I

Année	CoP	Résolution	Caractéristiques/changements notables par rapport à la version antérieure
1983	CoP4	4.15 concernant le *Contrôle des établissements élevant en captivité des espèces inscrites à l'Annexe I* [remplacée par 6.21, puis 7.10, puis 8.15, puis 11.14, puis 12.10]	Le Secrétariat a demandé que soit établi un Registre des établissements qui élèvent en captivité, à des fins commerciales, des spécimens d'espèces inscrites à l'Annexe I, les parties devant fournir des « informations appropriées ». Les parties ont suggéré de rejeter tout document délivré au titre du paragraphe 4 de l'Article VII si les spécimens en question n'étaient pas issus d'un établissement enregistré. .
1987	CoP6	6.21 concernant le *Contrôle des procédures pour les établissements élevant des espèces en captivité* [complétée par 7.10 puis remplacée par 8.15, puis 11.14, puis 12.10]	Recommandait que les Parties s'assurent que les spécimens provenant d'établissements élevant en captivité à des fins commerciales soient marqués et que les oiseaux provenant de ces établissements soient bagués – détails à ajouter au paragraphe 4 de l'Article VII. Recommande que l'enregistrement du premier établissement impliquant des espèces qui ne figurent pas au Registre, soit approuvé seulement sur accord de la CoP. Prévoyait que les Parties proposent à la CoP de retirer un établissement du Registre si elles considérait qu'il ne se conformait pas aux « exigences ».
1989	CoP7	7.10 concernant le *Modèle et les critères de candidature pour le premier enregistrement d'établissement élevant en captivité à des fins commerciales des espèces animales inscrites à l'Annexe I* [abrogée par 8.15]	Complète le 6.21 et fournit des indications quant au premier établissement élevant en captivité à des fins commerciales des espèces animales inscrites à l'Annexe I. Les établissements d'élevage en captivité à des fins commerciales ne devraient normalement pas être envisagés pour des espèces qui sont si gravement en danger de disparition que leur survie dépend des programmes de reproduction en captivité, à moins que soient utilisées des spécimens en surplus de ceux nécessaires à la préservation de l'espèce à l'état sauvage et en captivité. A établi un modèle de demande d'inscription auprès de la CoP pour le premier établissement impliquant des espèces non inscrites au Registre.
1992	CoP8	8.15 concernant les *Indications pour une procédure d'enregistrement et de contrôle des établissements élevant en captivité à des fins commerciales des espèces animales inscrites à l'Annexe I* [8.15 a abrogé 7.10, puis a été remplacée par 11.14, et ensuite 12.10]	Notait qu'en mars 1992, 60 établissements étaient enregistrés pour 14 espèces*. Reconnaissait que l'élevage en captivité à des fins commerciales d'une espèce pouvait être une alternative économique aux animaux d'élevage domestique dans son lieu d'origine et ainsi motiver les populations rurales de ces endroits à s'intéresser à leur conservation. Invitait le Secrétariat à encourager les Parties à créer, le cas échéant, des établissements élevant en captivité à des fins commerciales des espèces animales autochtones inscrites à l'Annexe I. A établi un processus complet d'enregistrement de tout établissement (pas uniquement le premier pour une espèce concernée), y compris des Annexes portant sur les rôles de l'établissement, des administrations compétentes des Parties hébergeant ces établissements, ainsi que du Secrétariat, des Parties et de la CoP. Les propositions de candidature devaient être notifiées à toutes les Parties, qui pouvaient s'opposer à l'enregistrement, auquel cas la question était référée à la CoP. Statuait que dans le cas de l'enregistrement d'un établissement d'élevage en captivité impliquant la capture ou la récolte dans la nature (permis uniquement dans certaines circonstances), cet établissement devait prouver, à la satisfaction des autorités compétences et du Secrétariat, que la capture ou récolte de

			ces spécimens n'étaient pas préjudiciable à la conservation de l'espèce et, dans le cas d'espèces non-autochtones, une telle capture ou récolte exigeait l'accord de l'État d'origine, conformément à l'Article III de la Convention. Statuait que lorsque les besoins de conservation de l'espèce le justifiaient, l'organe de gestion devait s'assurer que l'établissement d'élevage en captivité apporte une contribution durable et prolongée correspondant aux besoinx de conservation de l'espèce.
2000	CoP11	11.14 concernant les *Indications pour une procédure d'enregistrement et de contrôle des établissements élevant en captivité à des fins commerciales des espèces animales inscrites à l'Annexe I* [remplacée par 12.10]	Définissait "élevés en captivité à des fins commerciales". A supprimé l'admission que l'élevage en captivité d'espèces à des fins commerciales pouvait être une alternative économique à l'élevage domestique dans leur territoire d'origine et ainsi motiver les populations rurales de ces endroits à s'intéresser à sa conservation, et que le Secrétariat encourage les Parties à mettre en place, le cas échéant, des établissements d'élevage en captivité à des fins commerciales d'espèces autochtones d'animaux inscrits à l'Annexe I. A simplifié les procédures d'enregistrement avec l'allègement des Annexes portant sur les informations à fournir par l'organe de gestion (du pays hébergeant l'établissement) au Secrétariat ainsi que sur les Procédures d'enregistrement des nouveaux établissements. L'organe de gestion du pays hébergeant l'établissement, en collaboration avec les autorités scientifiques, doit contrôler la gestion de chaque établissement d'élevage en captivité enregistré relevant de sa compétence et informer le Secrétariat de tout changement majeur dans la nature de l'établissement ou du type d'animaux élevés pour l'exportation, auquel cas le Comité pour les animaux révisera l'enregistrement de l'établissement pour déterminer s'il peut rester au Registre. Toute Partie supposant qu'un établissement enregistré n'est pas conforme aux dispositions de la Résolution Conf. 10.16 (Rev.) peut, après consultation avec le Secrétariat et la Partie concernée, proposer que la CoP supprime l'établissement du Registre. Convient que les Parties doivent limiter les importations à des fins essentiellement commerciales, tel que le prévoit la Résolution Conf. 5.10, des spécimens élevés en captivité d'espèces inscrites à l'Annexe I et listées à l'annexe 3 de la Résolution portant sur ceux élevés dans des établissements inscrits au Registre du Secrétariat, et doit rejeter tout document délivré au titre du paragraphe 4 de l'Article VII de la Convention, si les spécimens concernés ne proviennent pas de tels établissements et si le document ne détaille pas le marquage spécifique utilisé pour identifier chaque spécimen. Les Procédures antérieures de la Résolution Conf. 8.15 devaient être abrogées lorsque la liste en annexe 3 serait approuvée par le Comité permanent et distribuée par le Secrétariat. Le Comité pour les animaux a été chargé de dresser cette liste, mais aucune liste n'a été convenue.
2002	CoP12	12.10 concernant les *Indications pour une procédure d'enregistrement et de contrôle des établissements élevant en captivité à des fins commerciales des espèces animales inscrites à l'Annexe I*	Le texte reste le même qu'en 11.14, avec quelques modifications mineures, y compris la suppression de la référence à l'annexe 3 et les changements suivants : Modification du renvoi de toutes les demandes impliquant des espèces non encore inscrites au Registre vers le Comité pour les animaux, à la condition que cela soit fait si une Partie s'oppose à, ou fait part de préoccupations par rapport à, l'un des enregistrements proposés. Le Comité pour les animaux est chargé de répondre à ces objections sous 60 jours, à la suite de quoi le Secrétariat devra engager un dialogue entre l'organe de gestion de la Partie soumettant la demande et la ou les Parties faisant objection à son

			enregistrement, avant de renvoyer le cas au Comité pour les animaux pour résolution du/des problème(s) identifié(s). Si l'objection n'est pas levée ou le(s) problème(s) identifié(s) non résolu(s), la demande d'enregistrement doit être référée à la CoP pour décision finale. (8.15 et 11.14 abrogées).
2004	CoP13	12.10 (Rev. CoP13)	Suppression de l'invitation aux Parties à inciter leurs établissements d'élevage en captivité à s'enregistrer et aux pays importateurs à faciliter l'importation d'espèces inscrites à l'Annexe I provenant d'établissements d'élevage en captivité enregistrés. Par rapport au fait de prouver l'origine légale du cheptel parental, prévoit que, jusqu'à la CoP14, dans le cas où la documentation existante est difficile à obtenir, l'organe de gestion peut accepter des attestations signées vérifiées par d'autres documents (reçus datés).
2007	CoP14	12.10 (Rev. CoP14)	Suppression de la disposition prévoyant l'acceptation d'attestations signées vérifiées par d'autres document (reçus datés) comme preuve d'origine légale du cheptel souche.
2010	CoP15	12.10 (Rev. CoP15) concernant *L'enregistrement des établissements élevant en captivité à des fins commerciales des espèces animales inscrites à l'Annexe I*	Dans le cas d'objections à un enregistrement de la part des Parties, la question doit être tranchée par le Comité permanent, non la CoP. Modifications conséquentes du texte des Annexes. Toute objection doit être liée à la demande ou aux espèces concernées, et soutenue par des pièces justificatives appuyant les préoccupations exprimées. Ajout d'une annexe contenant un modèle de formulaire de demande d'enregistrement (annexe 3) pour les établissements qui souhaitent être enregistrés.
			*En 2018, le Registre contenait plus de 350 établissements répartis au sein de 24 différentes Parties et concernant 26 des 707 espèces animales inscrites à l'Annexe I.

Définition de “reproduits artificiellement”

Année	CoP	Résolution	Caractéristiques/changements notables par rapport à la version antérieure
1979	CoP2	2.12 concernant *Les spécimens élevés en captivité ou reproduits artificiellement* Éléments relatifs aux plantes abrogés en 8.17	Rappelait que le traitement spécifique des plantes reproduites artificiellement [Article VII.4 and 5] ne prévoyait de s’appliquer qu’aux pépinières maintenues sans introduction de spécimens sauvages. Recommandait que les dispositions du paragraphe 4 de l’Article VII de la Convention s’applique indépendamment de celles du paragraphe 5 de l’Article VII, à savoir que les spécimens d’espèces végétales inscrites à l’Annexe I reproduites artificiellement à des fins commerciales doivent être traitées comme si elles figuraient à l’Annexe II et ne dérogent pas aux dispositions de l’ Article IV concernant la délivrance de certificats parce qu’elles ont été reproduites artificiellement [ces préambules ont été supprimés en 8.17] Définissait « reproduits artificiellement » comme concernant les végétaux cultivés par l’homme à partir de graines, boutures, divisions, tissus calleux, spores ou autres propagules dans des « conditions contrôlées » (dont la définition est également donnée). La population [parentale] cultivée utilisée pour la reproduction artificielle doit être établie et maintenue de manière à ne pas compromettre la survie de l’espèce dans la nature, et Gérée de manière à garantir le maintien indéfini de cette population reproduite artificiellement.
1992	CoP8	8.17 concernant *L’amélioration de la réglementation de la commercialisation des végétaux* [8.17 abrogeait 2.12 et a été ensuite remplacée par 9.18, puis par 11.11]]	Notait que 2.12 ne mentionnait pas toutes les formes de reproduction artificielle, que l’hybridation artificielle est une pratique courante et fréquente pour certains groupes de plantes et que les hybrides qui en résultent et leurs descendants peuvent faire l’objet d’un vaste commerce et que le contrôle du commerce des plantules d’orchidées en flacons n’est pas considéré comme étant en rapport avec la protection des populations naturelles des espèces d’orchidées. Des modifications mineures ont été apportées à la définition de « dans des conditions contrôlées » « Gérée de manière à garantir le maintien indéfini de cette population reproduite artificiellement » est devenu « gérée de manière à garantir le maintien à long terme de cette population cultivée » S’applique aux plantes greffées, et aux hybrides et plantules en flacons d'espèces d'orchidées inscrites à l'Annexe I.
1994	CoP9	9.18 concernant la *Réglementation du commerce de végétaux* [9.18 abrogeait 8.17 et a été remplacé par 11.11]	Observait que certaines Parties exportant de grandes quantités de végétaux reproduits artificiellement doivent trouver les moyens de réduire les démarches tout en maintenant la protection des plantes sauvages et en aidant les exportateurs de plantes reproduites artificiellement à comprendre et se conformer aux exigences de la Convention. Changements mineurs apportés aux provisions relatives à la reproduction artificielle. D’autres changements ont été ajoutés qui ne sont pas en lien avec la reproduction artificielle.

1997	CoP10	9.18 (Rev. CoP10)	Il incombe aux autorités gouvernementales concernées du pays exportateur de déterminer si un spécimen peut être qualifié comme reproduit artificiellement. De même que « de manière à ne pas compromettre la survie de l'espèce dans la nature », les populations parentales cultivées doivent être établies conformément aux dispositions de la CITES et des législations nationales en la matière. S'applique aux graines, autres parties et produits éligibles.
		10.13 concernant *L'application de la Convention sur les espèces d'arbres* [révisée en 10.13 (Rev. CoP14)]	Le bois provenant d'arbres ayant poussé dans des plantations monospécifiques soient reconnus comme répondant à la définition de « reproduits artificiellement ».
2000	CoP11	11.11 concernant *La réglementation du commerce de végétaux* [11.11 abrogeait 9.18]	Changements mineurs dans le texte par rapport à 11.11
2004	CoP13	11.11 (Rev. CoP13)	Reconnaissait que les dispositions de l'Article III de la Convention restent la base de l'autorisation du commerce des spécimens d'espèces végétales inscrites à l'Annexe I qui ne remplissent pas les conditions de la dérogation énoncées aux paragraphes4 et 5 de l'Article VII. Notait que l'importation de spécimens d'espèces végétales inscrites à l'Annexe I prélevés dans la nature dans le but de créer un établissement commercial de reproduction artificielle est interdite. Changements majeurs dans la définition de « dans des conditions contrôlées » et « populations parentales cultivées ». "gérée de manière à garantir le maintien à long terme de cette population cultivée" a été modifié comme suit : "conservées en quantité suffisante pour la reproduction afin de réduire au minimum ou d'éliminer la nécessité d'une augmentation par des prélèvements dans la nature, une telle augmentation étant l'exception et se limitant à la quantité nécessaire pour assurer la vigueur et la productivité du stock parental cultivé". Les dispositions s'appliquant aux plantes cultivées à partir de boutures ou divisions et aux plantes greffées ont été légèrement modifiées. Recommande que graines ou de spores ramassés dans la nature puissent être considérés comme reproduits artificiellement sous certaines conditions spécifiques, y compris l'inscription au *Registre des établissement reproduisant artificiellement à des fins commerciales des spécimens d'espèces inscrites à l'Annexe I* du Secrétariat, si des espèces inscrites à l'Annexe I sont concernées.
2007	CoP14	11.11 (Rev. CoP14)	Changements mineurs apportés au texte.
		10.13 (Rev. CoP14)	Le bois ou autres parties et produits d'arbres poussant dans des plantations monospécifiques soient considérés comme répondant à la définition de reproduits artificiellement.
2010	CoP15	11.11 (Rev. CoP15)	Changements mineurs apportés au texte.
		10.13 (Rev. CoP15)	Retient que le bois ou autres parties et produits d'arbres poussant dans des plantations monospécifiques soient considérés comme reproduits artificiellement.

2013	CoP16	16.10 concernant *L'application de la Convention aux taxons produisant du bois d'agar*	Nouvelle définition de "dans des conditions contrôlées" et règles moins strictes relatives à l'augmentation de la population parentale cultivée adoptées concernant les taxons *Aquilaria* spp. et *Gyrinops* spp. produisant du bois d'agar. Est convenu que les arbres cultivés dans des jardins ou plantations (qu'elles soient monospécifiques ou d'espèces mélangées) doivent être considérés comme reproduits artificiellement.
2016	CoP17	11.11 (Rev. CoP17)	Aucun changement apporté aux dispositions concernées.

Enregistrement des pépinières qui reproduisent artificiellement des spécimens d'espèces végétales inscrites à l'Annexe I à des fins d'exportation

Année	CoP	Résolution	Caractéristiques/changements notables par rapport à la version antérieure
1985	CoP5	5.15 concernant *L'amélioration et la simplification de la réglementation de la commercialisation des végétaux reproduits artificiellement* [abrogée par 9.19]	*Inter alia*, a recommandé que les Parties puissent, si les circonstances le justifient, enregistrer des commerçants individuels de spécimens reproduits artificiellement d'espèces végétales inscrites à l'Annexe I, et en informer le Secrétariat en fournissant des copies des documents, tampons, sceaux, etc. utilisés. Les Parties doivent aussi prendre des mesures pour s'assurer que ces commerçants ne commercialisent pas également des végétaux récoltés dans la nature, y compris en organisant des inspections des pépinières, catalogues de vente, publicités, etc.
1994	CoP9	9.19 concernant *Les indications pour l'enregistrement des pépinières exportant des spécimens reproduits artificiellement d'espèces végétales inscrites à l'Annexe I* [9.19 abrogeait 5.15]	Reconnaissait que la reproduction artificielle de spécimens d'espèces inscrites à l'Annexe I pourrait constituer une alternative économique à l'agriculture traditionnelle dans les pays d'origine et pourrait renforcer l'intérêt vis-à-vis de la conservation dans les aires de répartition naturelles, et que rendre ces spécimens accessibles à tous ceux qui en manifestaient l'intérêt pouvait avoir un impact positif sur l'état de conservation des populations sauvages car cela réduit la pression du prélèvement. Statuait que la responsabilité d'enregistrer les pépinières qui reproduisent artificiellement des spécimens d'espèces végétales inscrites à l'Annexe I à des fins d'exportation incombe à l'organe de gestion de chaque Partie, transmettant toutes les informations au Secrétariat, qui doit estimer que toutes les exigences sont remplies avant de publier l'enregistrement. Définissait les rôles des pépinières commerciales, organes de gestion, et du Secrétariat, en Annexes. Stipule que les spécimens exportés soient empaquetés et étiquetés de manière que l'on puisse les distinguer clairement, dans le même envoi, les plantes de l'Annexe II et/ou de l'Annexe III reproduites artificiellement ou prélevées dans la nature. Le permis d'exportation doit mentionner clairement le numéro d'enregistrement attribué par le Secrétariat et le nom de la pépinière d'origine si elle n'est pas l'exportateur. Les Parties peuvent supprimer du Registre une pépinière située sur leurs territoires. Toute Partie qui peut prouver qu'une pépinière ne se conforme pas aux conditions d'enregistrement peut proposer au Secrétariat sa suppression du registre, le Secrétariat en procédera à la suppression qu'après consultation de l'organe de gestion de la Partie où est implantée la pépinière.
2004	CoP13	9.19 (Rev. CoP13)	Changements mineurs apportés au texte.
2010	CoP15	9.19 (Rev. CoP15) on *Registration of nurseries that artificially propagate specimens of Appendix-I plant species for export purposes*	Changements mineurs apportés au texte.
			En 2018, le Registre comptait 111 établissements répartis dans 11 différentes Parties et concernant 252 des 338 espèces végétales inscrites à l'Annexe I (91 de ces établissements concernent uniquement le *Saussurea costus* en Inde).

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
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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

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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
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~~*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".

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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
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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.

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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
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Hosur 635109,
Tamilnadu state, India
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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.

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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,

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		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

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		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).

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		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

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		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

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		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***	

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	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

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	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

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		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:**

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	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.