

Interpretation and Implementation of the Convention

UNIVERSAL TAGGING SYSTEM FOR THE IDENTIFICATION OF CROCODILIAN SKINS

Background

1. All living species of crocodiles are listed in the appendices of CITES, many of them are subject to international trade and some of them have been subject to substantial levels of illegal trade. Aware of this, the Conference of the Parties at its eighth meeting (Kyoto, 1992) made a first attempt to establish a universal tagging system for these species by adopting Resolution Conf. 8.14.
2. However, some problems arising from the implementation of Resolution Conf. 8.14 were detected, especially regarding the needs of legitimate processing industries. The CITES Animals Committee established a working group to deal with this matter and, as a consequence, Resolution Conf. 9.22 was adopted at the ninth meeting of the Conference of the Parties (Fort Lauderdale, 1994). Resolution Conf. 8.14 was then repealed.

The Implementation of Resolution Conf. 9.22

3. To the knowledge of the Secretariat, all producer countries of crocodilian skins are implementing the Resolution in an appropriate manner. The export permits bear the same information as is on the tags or it is included on a separate sheet, which is considered an integral part of the document, carrying the same identification number and validated by the same issuing authority. The Secretariat would like to take this opportunity to thank all countries of origin of crocodilian skins in trade for their co-operation.
4. The Secretariat is not aware whether all countries permitting re-export of raw, tanned, and/or finished crocodilian skins have implemented an administrative system for the effective matching of imports and re-exports. Nor does it know whether they ensure that skins and flanks are re-exported with the original tags intact unless the skins/flanks originally imported have been further processed and cut into smaller pieces.
5. The Secretariat is not sure that, when the original tags have been lost or removed from raw, tanned, and/or finished skins and flanks, the countries of re-export are tagging such skins/flanks, prior to re-export with a "re-export tag", as requested by the Resolution.
6. At least one country of the European Union (EU) had informed the Secretariat that, because the EU had not yet adopted a policy regarding this matter, the original tags that were lost during processing were reattached with tape to the skins/flanks prior to them being re-

exported. The new Regulation AOW in force provides for the full implementation of Resolution Conf. 9.22.

7. In accordance with Annex 2 of the Resolution, the Secretariat has approved tag manufacturers and communicated this information to the Parties through a Notification. To date, six manufacturers have been registered by the Secretariat.
8. Some Parties that authorize import, export or re-export of crocodile products have requested the assistance of the Secretariat in interpreting the language of Resolution Conf. 9.22 regarding tag specifications for crocodile skins and parts thereof.
9. At the 13th meeting of the CITES Animals Committee, which was held in Pruhonic, Czech Republic, in September 1996, the matter was raised in a working group. It was clear that the intention of the drafters of Resolution Conf. 9.22 was that all the specifications described in the resolution should apply to skins and flanks. Tags for containers of parts (referred to in paragraph c) of the Resolution) should meet all the identification and information specifications relating to export and re-exports. However, except for the specific property of being non-reusable, tags for containers of parts need not conform to the physical specifications detailed in the Resolution. Conformity to these physical requirements is optional for tags on containers of parts, but Parties may choose to adopt the stricter skin tag requirements if they so wish. This clarification was communicated through Notification to the Parties No. 947, dated 18 November 1996.
10. The Resolution also recommends that the Secretariat implement a management and tracking system for tags used in trade and computerize the information collected. WCMC has already started to store tag numbers in the CITES annual report database that is maintained for the Secretariat. In 1997 the system will be developed to improve the utility of the data on tags.
11. Finally, the Secretariat considers that a small problem remains regarding Resolution Conf. 6.17 on Implementation of the Export Quotas for Nile and Saltwater Crocodile Skins. The marking provisions detailed in Resolution Conf. 6.17 are, in fact, made redundant by Resolution Conf. 9.22. The Secretariat has the intention, within the frame of its on-going process of consolidation of Resolutions adopted at previous meetings of the Conference of the Parties, to consolidate the texts of Resolutions Conf. 6.17 and Conf. 9.22.

Interpretation and Implementation of the Convention

IDENTIFICATION OF CORALS AND REPORTING OF CORAL TRADE

1. This document has been submitted by the United States of America, at the request of the Animals Committee at its 13th meeting (September 1996, Pruhonice, Czech Republic).

Background

2. CITES regulates all trade in specimens of coral species listed in the appendices, but there is the need for the Parties to agree on the use of standardized units for reporting information in their annual reports. CITES Notification to the Parties No. 788 suggests reporting all coral trade in kilograms, however live coral is transported in a unique manner. In addition, there is a concern that species identification of readily recognizable coral gravel and living rock (also known as live rock) can not be accomplished at ports of entry. The following recommendations are submitted by the United States at the request of the Animals Committee. The United States also notes that if there are CITES-listed invertebrates attached to the living rock, they should be recorded separately on the CITES document and in addition to the living rock.

Recommendations

3. The Guidelines for the Preparation and Submission of Annual Reports should be amended to indicate that:
4. – reports of trade in specimens of coral transported in water should record the number of pieces traded;
5. – reports of trade in coral specimens other than specimens of coral transported in water should record the weight in kilograms;
6. – specimens of readily recognizable coral gravel and “living rock” (also known as “live rock”) in trade be reported at the level of order (Scleractinia), where

“living rock” is defined as pieces of dead scleractinian coral to which are attached live specimens of invertebrate species not included in the appendices.

7. Resolution Conf 9.3 should be amended as follows:
8. under the second “RECOMMENDS,” insert the following paragraph after paragraph h):
9. that, on permits for trade in specimens that are readily recognizable as coral gravel or “living rock” (i.e. pieces of dead scleractinian coral to which are attached live specimens of invertebrates of species not included in the appendices), where the genus can not be readily determined, the scientific name for the given specimens should be “Scleractinia”;
10. Resolution Conf 9.4 should be amended as follows:
11. under “RECOMMENDS that Parties,” add a new paragraph as follows:
12. d) make every effort to report trade in CITES-listed species of coral at the species level or, if this is impossible, at the generic level;
13. Resolution Conf 9.6 should be amended as follows:
14. in the preamble, append the following paragraph:
15. RECOGNIZING that the species of coral from which coral sand is derived can not be readily determined;
16. insert the following paragraph:
17. AGREES however that coral sand is not readily recognizable and is therefore not covered by the provisions of the Convention.

COMMENTS OF THE SECRETARIAT

18. The Secretariat supports these recommendations in principle but two issues need to be addressed.
19. The recommendations suggest that coral sand be treated as not readily recognizable and therefore not subject to the provisions of the Convention but that coral gravel is subject to these provisions. It therefore

- needs to be clear how coral gravel can be distinguished from coral sand.
20. As the Secretariat stated at the 13th meeting of the Animals Committee, coral sand is often traded with large pieces of coral in the shipment, which make the specimens traded recognizable in CITES terms.

Interpretation and Implementation of the Convention

IMPLEMENTATION OF ARTICLE VII, PARAGRAPH 2: PRE-CONVENTION

1. This document has been submitted by the United States of America.

Background

2. Despite attempts by prior meetings of the Conferences of the Parties to arrive at a workable interpretation of CITES Article VII, paragraph 2, inconsistencies in its implementation remain.
3. Resolution Conf. 5.11 on the Definition of the term 'Pre-Convention Specimen', currently in effect, lists several factors for consideration when a Management Authority of an exporting or re-exporting Party is making its determination whether to issue a pre-Convention certificate for a given specimen. Two of these factors (the accession dates of exporting and re-exporting Parties, and the existence of reservations by the country of origin or re-exporting Party with respect to the species involved) have resulted in the same specimen being considered pre-Convention by one country, but subject to the provisions of Articles III, IV, or V of the Convention by another. This situation has led to an increased risk of infractions of the Convention. It has also led to disagreements among exporting,

re-exporting, and importing Parties regarding a given specimen, placing an additional administrative burden on the Management Authorities concerned. The Management Authority of the importing country must expend additional time and resources in challenging a pre-Convention certificate.

4. As the number of Parties has increased, the number of accession dates has proliferated. There are now 134 Parties with 123 different accession dates.
5. The multiplicity of possible pre-Convention dates for specimens of a species creates opportunities for the laundering of specimens, particularly of Appendix-I species, which then enter international trade covered by pre-Convention certificates, creating serious conservation concern.
6. Parties should take steps to ensure that this loophole is closed, by eliminating accession dates and reservations as factors for consideration in the issuance of pre-Convention certificates. It is far preferable for all Parties to utilize the same date in determining whether a specimen is pre-Convention.

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DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES

Implementation of Article VII, Paragraph 2: Pre-Convention

RECALLING that Article VII, paragraph 2, of the Convention provides an exemption from the requirements of Articles III, IV and V where a Management Authority of the State of export or re-export is satisfied that a specimen was acquired before the provisions of the present Convention applied to that specimen and issues a certificate to that effect;

NOTING that, despite prior Resolutions (Conf. 4.11 and Conf. 5.11) adopted at the fourth and fifth meetings of the Conference of the Parties, respectively, implementation of Article VII, paragraph 2, remains problematic, generating significant opportunities for the laundering of specimens;

COGNIZANT of the risk of laundering of specimens, the threat to international wildlife conservation and the administrative burden on Management Authorities posed by this loophole;

MINDFUL that the central purpose of CITES is to strengthen international conservation of protected species through regulation of international wildlife trade; and

AGREEING that a single pre-Convention date for each species will reduce opportunities for the laundering of specimens, particularly of Appendix I species that may enter international trade covered by a pre-Convention certificate, creating a serious conservation concern;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

RECOMMENDS:

- a) that for the purposes of Article VII, paragraph 2, of the Convention, the date of acquisition of a specimen should be determined according to the earliest date the specimen was known to be:
 - i) removed from the wild;
 - ii) born or propagated in a controlled environment; or

iii) introduced to personal possession;

- b) that Parties issue pre-Convention certificates only when the Management Authority of an exporting or re-exporting country is satisfied:
 - i) that on the date the specimen was acquired the species involved was not listed in one of the appendices to the Convention; and
 - ii) that the specimen was acquired prior to the date of first inclusion of the species concerned in any of the appendices to the Convention;
- c) that a Management Authority, when determining whether to issue a pre-Convention certificate for a given specimen, not consider the date its country or the country of origin acceded to the Convention, nor the existence of reservations with respect to the species involved;
- d) that Parties which issue pre-Convention certificates either indicate on each certificate:
 - i) the precise date of acquisition of the specimen concerned; or
 - ii) certify that the specimen was acquired before the date of first inclusion of the species in the appendices of the Convention;
- e) that a specimen not be subject to the exemption in Article VII, paragraph 2, if neither of the certifications referred to in d) can be determined;
- f) that Parties not accept pre-Convention certificates that have not been issued in compliance with this Resolution; and
- g) that in the case of a species transferred between the appendices (e.g., from Appendix II to I, or I to II), specimens of those species shall be subject to all of

the provisions applicable to them at the time of export, re-export or import (and not at the time of acquisition of the specimens);

CALLS on Parties to take any necessary measures in order to prevent the undue acquisition of specimens of a species, particularly specimens removed from the wild, between the date at which the Conference of the Parties approves the inclusion of that species in Appendix I and the date at which the inclusion takes effect;

REPEALS Resolution Conf. 5.11, adopted at its fifth meeting; and

RECOMMENDS that the following text be added to the instructions and explanations in Annex 2 of Resolution Conf. 9.3:

"12b. The date of acquisition is the earliest date the specimen was taken from the wild; born or propagated in a controlled environment; or introduced to personal possession."