

RESOLUTION CONF. 9.6 (REV.)

TRADE IN READILY RECOGNIZABLE PARTS AND DERIVATIVES

1. Several times a year, the Secretariat receives requests for advice on whether animal excretions, in particular urine, faeces and white ambergris, are specimens covered by the Convention. Its response is that there is no definitive answer to this question because the Conference of the Parties has not made any decision on this issue. By the presentation of this Annex, the Secretariat seeks a definitive decision from the Conference of the Parties.

Urine and faeces

2. At the 45th meeting of the Standing Committee (Paris, June 2001), in document SC45 Doc. 10 (Rev. 1) on *Trade in time-sensitive research samples*, the Secretariat reported on actions taken in response to Decision 11.103, calling on the Animals Committee to examine the issues related to the international transfer of samples of species included in the CITES Appendices. The Animals Committee had identified the various types of samples transferred internationally and included secretions with a note that this did not include excretions such as urine and faeces. The Standing Committee established a working group (China, Colombia, Germany, Mexico, Switzerland, the United Republic of Tanzania and the United States of America) to work with the Secretariat to develop a draft resolution for consideration at the 46th meeting (SC46, Geneva, March 2002).
3. At SC46, the Secretariat presented document SC46 Doc. 12, on the same subject, with the results of the discussions of the working group. It recognized that there was not consensus in the working group on all of the items discussed, but contained recommendations for three actions. One of these was that the Standing Committee should request the Depositary Government to submit a proposal for consideration at the 12th meeting of the Conference of the Parties to amend the interpretation section of the Appendices to note that the following types of specimens were not subject to the provisions of the Convention: synthetically derived DNA that did not contain any part of the original template; urine and faeces; synthetically produced medicines and other pharmaceutical products such as vaccines that did not contain any part of the original genetic material from which they were derived; and fossils. The Committee noted the need for an approach that was compatible with the obligations of Parties to the Convention on Biological Diversity and the urgent need for expedited procedures for the international movement of samples for purposes that did not pose a conservation risk. It instructed the working group to continue to work with the Secretariat on this issue and to prepare proposals for consideration at the 12th meeting of the Conference of the Parties (CoP12, Santiago, 2002).
4. Consequently, at CoP12, Switzerland, as Depositary Government, submitted a proposal to amend the Appendices, CoP12 Prop. 1, as follows:

Amendment of Annotation 607 to read:

The following are not subject to the provisions of the Convention:

- a) *synthetically derived DNA that does not contain any part of the original;*
 - b) *urine and faeces;*
 - c) *synthetically produced medicines and other pharmaceutical products such as vaccines that do not contain any part of the original genetic material from which they are derived; and*
 - d) *fossils.*
5. During the discussion of this proposal, some countries expressed the view that the proposal was scientifically ill-founded, particularly in its references to synthetically derived DNA. There was also some confusion because the annotation to be replaced referred only to corals. As a result, the Depositary Government withdrew the proposal and committed to submit a new one on the subject for consideration at the following meeting of the Conference of the Parties.

6. At the 13th meeting of the Conference of the Parties (CoP13, Bangkok, 2004), the Depository Government, submitted a proposal to amend Appendices I and II, in document CoP13 Prop. 2, as follows:

Inclusion of a new paragraph after paragraph 4 in the Interpretation section of the Appendices, to read as follows (with the following paragraphs being renumbered):

5. *The following are not subject to the provisions of the Convention:*
- a) *in vitro cultivated DNA that does not contain any part of the original;*
 - b) *urine and faeces;*
 - c) *synthetically produced medicines and other pharmaceutical products such as vaccines that do not contain any part of the original genetic material from which they are derived; and*
 - d) *fossils.*

A complementary amendment to the interpretation of Appendix III was proposed in document CoP13 Doc. 61, prepared by the Secretariat and submitted by Switzerland.

7. Some support for the proposal was expressed. Some Parties opposed the proposal, suggesting that there would be substantive consequences and that it would create implementation problems. One Party thought that trade in urine from wild animals might have a detrimental impact on their populations. Switzerland then withdrew the proposal.
8. The result is that the Conference of the Parties has still not expressed its view on whether urine and faeces are specimens covered by the Convention. Considering that urine and faeces are waste products that are naturally excreted by animals, the Secretariat would like the Conference of the Parties to decide whether they should be subject to CITES controls. It has prepared a draft amendment to Resolution Conf. 9.6 (Rev.) to recommend that they not be considered as parts and derivatives, and that, therefore, they be considered as excluded from CITES controls.

Ambergris

9. Ambergris is a waxy substance produced in the digestive system of sperm whales (*Physeter macrocephalus*). It is found in two forms: black ambergris and white ambergris.
- a) Black ambergris, is obtained by extraction from a sperm whale. Being produced within the gut of the whale, it could be considered as a part of the whale, being a secretion rather than an excretion. The Secretariat is not aware of any human use of black amber.
 - b) White ambergris is a form that has been naturally ejected from the gut of a sperm whale and that has gone through chemical changes as a result of its very long exposure to light and air (sometimes several years). It is found floating in the sea or on beaches. Sometimes the colour is greyish or brownish. After the chemical changes have taken place, white ambergris may be used as a fixative in the perfume industry (although it is now largely replaced by synthetic fixatives). Because white ambergris has been naturally excreted, a number of Parties take the view that it is not a CITES specimen.
10. The summary record of the third meeting of the Conference of the Parties (New Delhi, 1981), at which the sperm whale was included in Appendix I, records the hope expressed by one Party:
- that the Parties would not include in any ban on sperm whale products the material known as white ambergris – a natural product of living sperm whales, distinguishable from black ambergris, the product obtained from killed whales, by its light colour and sweet smell – as trade in this material represents no threat to the species.*
11. Considering that white ambergris is a waste product that is naturally excreted by sperm whales, the Secretariat would like the Conference of the Parties to decide whether it should be subject to CITES controls. It has prepared a draft amendment to Resolution Conf. 9.6 (Rev.) to recommend that it not be considered as a part or derivative, and that, therefore, it be considered as excluded from CITES controls.

Recommendation

12. The Secretariat recommends that the Conference of the Parties adopt the amendments to Resolution Conf. 9.6 (Rev.), indicated in Annex 3.2 to the present document.

PROPOSED AMENDMENTS TO RESOLUTION CONF. 9.6 (REV.)

TRADE IN READILY RECOGNIZABLE PARTS AND DERIVATIVES

NB: Proposed new text is underlined.

RECALLING Resolutions Conf. 1.5, paragraph 3¹, Conf. 1.7², Conf. 2.18², Conf. 4.8, Conf. 4.24², Conf. 5.9, Conf. 5.22, paragraph c), Conf. 6.18², Conf. 6.22, last paragraph, and Conf. 7.11², adopted by the Conference of the Parties at its first, second, fourth, fifth, sixth and seventh meetings (Bern, 1976; San José, 1979; Gaborone, 1983; Buenos Aires, 1985; Ottawa, 1987; Lausanne, 1989), relating to readily recognizable parts and derivatives;

RECOGNIZING that Article I of the Convention defines a 'specimen' as including readily recognizable parts and derivatives of animals and plants but does not define the term 'readily recognizable', which is therefore subject to differing interpretations by the Parties;

NOTING that the trade in parts and derivatives regulated by one Party is therefore not always subject to regulation in others;

ACKNOWLEDGING that, under Articles III, IV and V of the Convention, Parties may allow import of CITES specimens from other Parties only upon presentation of CITES documentation;

CONSIDERING that proper monitoring of and reporting on trade in ranched specimens are only possible if all importing countries consider all products of the operation to be readily recognizable;

RECOGNIZING that the species or genera of coral from which coral sand and coral fragments [as defined in the Annex of Resolution Conf. 11.10 (Rev. CoP15)³] are derived cannot be readily determined;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

AGREES that the term 'readily recognizable part or derivative', as used in the Convention, shall be interpreted to include any specimen which appears from an accompanying document, the packaging or a mark or label, or from any other circumstances, to be a part or derivative of an animal or plant of a species included in the Appendices, unless such part or derivative is specifically exempted from the provisions of the Convention;

RECOMMENDS that:

- a) Parties consider all products of ranching operations to be readily recognizable; and
- b) importing Parties that require that CITES export permits or re-export certificates accompany imports of parts and derivatives do not waive that requirement when such parts and derivatives are not considered to be readily recognizable by the exporting or re-exporting Party;

AGREES also that:

- a) coral sand and coral fragments [as defined in the Annex of Resolution Conf. 11.10 (Rev. CoP15)³] are not considered readily recognizable and are therefore not covered by the provisions of the Convention;

¹ Note from the Secretariat: repealed by Resolution Conf. 9.25 (Rev.), itself replaced by Resolution Conf. 9.25 (Rev. CoP14).

² Note from the Secretariat: repealed by the adoption of document Com. 9.14.

³ Corrected by the Secretariat following the 12th, 14th and 15th meetings of the Conference of the Parties: originally referred to Resolution Conf. 11.10, later corrected to Resolution Conf. 11.10 (Rev. CoP12), then to Resolution Conf. 11.10 (Rev. CoP14).

b) urine, faeces and white ambergris (that has been naturally excreted by a sperm whale) are not considered as parts or derivatives of a CITES species and are therefore not covered by the provisions of the Convention; and

REPEALS the Resolutions, or parts thereof, listed hereunder:

- a) Resolution Conf. 4.8 (Gaborone, 1983) – *Treatment of Exports of Parts and Derivatives without Permit from a Party to Another which Deems them Readily Recognizable*;
- b) Resolution Conf. 5.9 (Buenos Aires, 1985) – *Control of Readily Recognizable Parts and Derivatives*;
- c) Resolution Conf. 5.22 (Buenos Aires, 1985) – *Criteria for the Inclusion of Species in Appendix III – recommendation c*); and
- d) Resolution Conf. 6.22 (Ottawa, 1987) – *Monitoring and Reporting Procedures for Ranching Operations* – the paragraph under RECOMMENDS.