

RESOLUTION CONF. 12.3 (REV. COP15)

*PERMITS AND CERTIFICATES*

1. The Secretariat has been informed of two issues in the implementation of the Convention that could be dealt with by the amendment of Resolution Conf. 12.3 (Rev. CoP15). (It should be noted that an additional amendment to this Resolution is proposed in document CoP16 Doc. 32 on *Introduction from the sea*.)

Specimens containing derivatives of multiple species

2. The Secretariat has been asked what is the best approach to the issuance of permits and certificates for items (such as manufactured products) that contain specimens from more than one species. Examples of such products might include: leather goods that incorporate skin pieces from different species of reptile; wooden furniture or musical instruments containing different types of wood, or with inlays of other types of specimens (other woods, ivory, tortoiseshell, etc.); or oils or perfumes from different plant or animal origins.
3. One Party informed the Secretariat that the number of such cases seems to be increasing and that it is not clear how best to specify the required information on the permit or certificate in a way that does not cause confusion for border officials or for subsequent annual reporting. It should also be noted that some Parties that issue permits from an electronic system might not currently have the possibility to issue a permit that includes two quantities for the same product.
4. There are undoubtedly many possible ways to record the required information on a permit, and it is clear that, currently, Parties take a variety of approaches. Two examples have been brought to the attention of the Secretariat.
  - a) For the export of one handbag, one Party issued a re-export certificate listing three different species and, for each one, the description 'Handbag', followed by the country of origin, the original permit number for the skin, and the country of last re-export and its re-export certificate number. This would have appeared to be a certificate for three handbags but for the fact that it contained a statement, "Item 1, 2 & 3 refer to the same piece of mixed skins handbag".
  - b) For the export of 11 women's wallets and 58 men's wallets, one Party issued three permits. One permit covered the python skin that was used in the 11 women's wallets, but indicated the quantity as "2 pieces". The second permit covered the python skin that was used in the 58 men's wallets but indicated that the quantity was "10 pieces". And the third permit covered the crocodile skin that was used in all 69 wallets, indicating "29 pieces". Presumably the number of pieces recorded was an indication of the number of skins or skin pieces that were used.
5. A practice that requires several permits to be issued for a single specimen (such as a wallet or handbag), as in example b) in paragraph 4 above, is likely to cause confusion and to increase the probability of problems for the importer when they declare the item/s at the time of import in the country of destination.
6. The Secretariat believes that it would be preferable to agree on a harmonized approach to the issuance of permits in such cases, to the extent that this is possible within the constraints of the national permitting system. The objective should be to make it clear on each permit or certificate what is actually being traded.
7. With this in mind, the Secretariat has drafted a proposed addition to Resolution Conf. 12.3 (Rev. CoP15), which is presented in Annex 8 b) to the present document.

Definition of 'usual residence'

8. In the course of 2011, the Secretariat was asked for advice about the interpretation of the term "State of usual residence", as it is used in Resolution Conf. 12.3 (Rev. CoP15) in the definition of 'hunting trophy'. The term "State of usual residence" appears in Article VII, paragraph 3, of the Convention, in relation to the exemption for 'personal or household effects'. It is also used in Resolutions Conf. 10.20 on *Frequent cross-*

*border movement of personally owned live animals*, and Conf. 13.7 (Rev. CoP14) on *Control of trade in personal and household effects*.

9. The question that arose was: if a person goes to live and work in another country for a short period, such as one year, is that person's State of usual residence the country to which they have moved or the country from which they have come?
10. Through Internet searches, the Secretariat observed that the term 'State of usual residence' and variations on these words (such as 'country of usual residence', 'place of usual residence', etc.) are quite commonly used in government documentation. However it is defined in various ways. For example:
  - a) the place where the person lives most of the time or spends at least four nights per week;
  - b) the place where a person considers himself/herself to usually reside;
  - c) the country where a person has lived for a continuous period of 12 months or has the intention of living for 12 months or more;
  - d) the one country where the individual spends most of their time for the period in question. It is likely to be the country where the individual has set up their home, lives with their family and is in full time employment;
  - e) the country where a person has arrived during the 12 months before the day in question with the intention of staying there for at least one year;
  - f) the country in which a person lives, that is to say, the country in which he or she has a place to live where he or she normally spends the daily period of rest.
11. From this short survey, it is clear that there is no universal agreement of the meaning of the term 'State of usual residence'. If all Parties are to have the same understanding of this term, there is a need to define a time threshold, the minimum time a person needs to live in a country in order to be considered as a usual resident of that place (e.g. 3, 6 or 12 months). The Secretariat does not have strong views on this but suggests that 6 months might be a reasonable time for a residence to be considered as 'usual'.
12. It would of course be preferable if any agreed definition of the term 'State of usual residence' were applicable in all cases where the term is used in CITES documentation. As it is used in the text of the Convention and Resolutions in determining the need to issue permits or certificates, Resolution Conf. 12.3 (Rev. CoP15) seems to be an appropriate place to include a definition. The Secretariat has therefore drafted an addition to this Resolution to reflect the comments above. However, it acknowledges that an alternative place in which to record the definition would be in Resolution Conf. 13.7 (Rev. CoP14).

#### Recommendation

13. The Secretariat recommends that the Conference of the Parties adopt the amendments to Resolution Conf. 12.3 (Rev. CoP15) indicated in Annex 8.2 of the present document.

PROPOSED AMENDMENT TO RESOLUTION CONF. 12.3 (REV. COP15)

*PERMITS AND CERTIFICATES*

In section II, *Regarding export permits and re-export certificates*, insert the following new paragraph after paragraph e), and re-letter the subsequent paragraphs:

- f) when a Management Authority issues any export permit or re-export certificate for manufactured products that contains parts or derivatives of more than one species, it should, as far as possible:
  - i) ensure that each manufactured product being traded is covered by only one permit or certificate;
  - ii) include in Box 5, or another appropriate place, a statement that the permit or certificate relates to manufactured products that include multiple CITES species;
  - iii) list on the permit or certificate all the species from which parts or derivatives are included in the manufactured products;
  - iv) for each species named, indicate the type of manufactured product, the type of CITES specimen included in the product and, to the extent practicable, the total quantity of such specimens;
  - v) clearly indicate the total number of manufactured products covered by the permit or certificate; and
  - vi) in the case of re-export, include for each species the information specified under “AGREES” above, in this section;

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After section IV, *Regarding pre-Convention certificates*, insert the following new section, and renumber the subsequent sections:

V *Regarding permits and certificates for personal and household effects*

AGREES that the term ‘State of usual residence’, as used in the text of the Convention and in Resolutions of the Conference of the Parties, may be subject to varying interpretation in accordance with national law but, as a practical guide, should be understood to mean the State where the person concerned has established a home and has spent the majority of his or her time for at least 6 months;