

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA



Sixteenth meeting of the Conference of the Parties
Bangkok (Thailand), 3-14 March 2013

Interpretation and implementation of the Convention

Exemptions and special trade provisions

PERSONAL AND HOUSEHOLD EFFECTS

1. This document has been prepared by the Chair of the Standing Committee Working Group on Personal and Household Effects (China, HKSAR), in consultation with the Secretariat, and approved by the Chair of the Standing Committee for submission to the present meeting for consideration by the Conference of the Parties.

Background

2. At its 15th meeting (CoP15, Doha, 2010), the Conference of the Parties adopted Decision 14.64 (Rev. CoP15) which reads:

The Standing Committee shall extend the operation of its Working Group on Personal and Household Effects until the 16th meeting of the Conference of the Parties (CoP16) and oversee the Group's working fulfilling the following terms of reference:

- a) *clarify the relationship between 'tourist souvenirs', 'hunting trophies' and 'personal and household effects';*
 - b) *clarify the interpretation of Article VII, paragraph 3 (b), of the Convention;*
 - c) *assess whether there are specific species or types of personal or household effects which, in view of conservation concerns, would require different treatment under Resolution Conf. 13.7 (Rev. CoP14);*
 - d) *collate information about how each Party has implemented Resolution Conf. 13.7 (Rev. CoP14), particularly with regard to requirements for export permits, and assess whether this indicates the need to amend the Resolution; and*
 - e) *report at each regular meeting of the Standing Committee until CoP16 and at CoP16.*
3. Discussions of the Working Group pertaining to its mandates were mostly conducted electronically, but Working Group members took the opportunity to meet in the margins of the 61st and 62nd meetings of the Standing Committee (SC61, Geneva, August 2011 and SC62, Geneva, July 2012) and achieve further progress. As recommended in document SC61 Doc. 38, the Standing Committee extended the operation of the Working Group until the present meeting and noted that several new State members had joined the Group. Document SC62 Doc. 40 contains a summary of the Working Group's discussions before SC62.

* *The geographical designations employed in this document do not imply the expression of any opinion whatsoever on the part of the CITES Secretariat or the United Nations Environment Programme concerning the legal status of any country, territory, or area, or concerning the delimitation of its frontiers or boundaries. The responsibility for the contents of the document rests exclusively with its author.*

4. During the Working Group meeting held in the margins of SC62, members recognized that the 'Guidelines for Interpretation of Personal and Household Effects' provided by a Party member captured most of the points raised by the Working Group in its previous discussions and effectively clarified the relationship between 'tourist souvenirs', 'hunting trophies' and 'personal and household effects' as well as the Interpretation of Article VII paragraph b) of the Convention. These Guidelines could serve as useful reference for Parties in the uniform implementation of Resolution Conf. 13.7 (Rev. CoP14).
5. The Working Group agreed not to amend the definition of 'personal and household effects' in Resolution Conf. 13.7 (Rev. CoP14), which reads:

[The Conference of the Parties] DECIDES that the term 'personal or household effects' contained in Article VII, paragraph 3, means specimens that are:

- a) *personally owned or possessed for non-commercial purposes;*
 - b) *legally-acquired; and*
 - c) *at the time of import, export or re-export either:*
 - i) *worn, carried or included in personal baggage; or*
 - ii) *part of a household move;*
6. In their discussions held to date, members of the Working Group have not identified any specific species or types of personal and household effects requiring different treatment under Resolution Conf. 13.7 (Rev. CoP14). However, Members have considered it necessary to clarify that commodities, such as jewelry or leather goods, consisting of multiple pieces, should be treated as one specimen.
 7. Several attempts have been made to obtain complete information from Parties on their treatment of personal and household effects but, unfortunately, all have been unsuccessful to date. Without such a complete set of information, the Working Group was unable to assess whether there is a need to amend Resolution Conf. 13.7 (Rev. CoP14), as it was directed to do under Decision 14.64 (Rev. CoP15). Nonetheless, the Working Group noted that reporting on personal and household effects was also being addressed by the Working Group on Special Reporting Requirement (in connection with revisions to the biennial report format) and the Working Group on Multilateral Measures (in connection with a consultancy to assess the implementation of Resolutions adopted by the Conference of the Parties). A majority of the Working Group members agreed that the task of collating information on Parties' treatment of personal and household effects could be picked up by the work of these two working groups.
 8. As reflected in document SC62 Sum. 7 (Rev. 1), it was agreed at SC62 that the Working Group would "continue its work on a proposed annex to Resolution Conf. 13.7 (Rev. CoP14), finalize its report and, after obtaining approval from the Chair of the Standing Committee, submit the report for consideration at the 16th meeting of the Conference of the Parties (CoP16). The Working Group on Personal and Household Effects would also request the Working Group on Special Reporting Requirements and the Working Group on Multilateral Measures to consider means for collating information about how each Party has implemented Resolution Conf. 13.7 (Rev. CoP14)".

Recommendations

9. To assist Parties with the uniform interpretation and implementation of the personal or household effects exemption, the Working Group proposes to annex a set of 'Guidelines for Interpretation of Personal and Household Effects' to Resolution Conf. 13.7 (Rev. CoP14). In this connection, it is recommended that the Conference of the Parties adopt the proposed amendments to Resolution Conf. 13.7 (Rev. CoP14) contained in the Annex to this document.

COMMENTS FROM THE SECRETARIAT

- A. The Secretariat recommends the adoption of the draft amendments to Resolution Conf. 13.7 (Rev. CoP14) contained in the Annex to the present document.
- B. The Secretariat believes that Decision 14.64 (Rev. CoP15) has been implemented and can therefore be deleted.

DRAFT RESOLUTION OF THE CONFERENCE OF THE PARTIES

Proposed amendments to Resolution Conf. 13.7 (Rev. CoP14)
on *Control of trade in personal and household effects*

NB: Text to be deleted is ~~crossed-out~~. Proposed new text is underlined.

RECALLING Resolution Conf. 10.6 on *Control of trade in tourist souvenir specimens*, adopted by the Conference of the Parties at its 10th meeting (Harare, 1997) and Resolution Conf. 12.9 on *Personal and household effects*, adopted at its 12th meeting (Santiago, 2002);

OBSERVING that Article III, paragraph 3 (c), of the Convention requires that specimens of Appendix-I species not be used for primarily commercial purposes in the importing country;

CONSIDERING that Article VII, paragraph 3, of the Convention lays down the conditions under which specimens that are personal or household effects are exempt from the provisions of Articles III, IV and V of the Convention;

CONSIDERING further that the Convention does not define the term 'personal or household effects';

CONSIDERING that the exemption in Article VII, paragraph 3, of the Convention does not apply to specimens of Appendix-I species that are souvenirs being imported by a person returning to his State of usual residence;

CONSIDERING further that the exemption in Article VII, paragraph 3, of the Convention does not apply to specimens of Appendix-II species that are souvenirs being imported by a person returning to his State of usual residence if the specimens were taken from the wild in a State requiring the granting of export permits before the export of such specimens;

RECOGNIZING however that export permits are frequently not required by exporting countries;

NOTING that for Parties other than the exporting and importing Parties such specimens of Appendix-II species are, under Article VII, exempt from CITES provisions;

RECOGNIZING that Parties currently implement Article VII, paragraph 3, in varying ways and that there should be uniform application of the exemption for personal or household effects;

RECALLING Resolution Conf. 11.11 (Rev. CoP15)¹, on *Regulation of trade in plants*, adopted by the Conference of the Parties at its 11th meeting (Gigiri, 2000) and revised at its 13th, 14th and 15th meetings (Bangkok, 2004; The Hague, 2007; Doha, 2010), which recommends a limit on the number of rainsticks per person to be considered as personal effects;

RECALLING Resolution Conf. 12.7 (Rev. CoP14), on *Conservation of and trade in sturgeons and paddlefish*, adopted by the Conference of the Parties at its 12th meeting and revised at its 13th and 14th meetings, which recommends a limit on the quantity of caviar per person to be considered as personal effects;

RECALLING that the Convention does not make special provision for airport lounges (including duty-free shops), free ports or non-Customs zones, because each Party is deemed to have sovereignty over the whole of its territory, and to apply the Convention accordingly;

RECOGNIZING that parts and derivatives of species listed in Appendices I and II continue to be widely sold as tourist souvenir specimens and that specimens of Appendix-I species continue, in some countries, to be offered

¹ Corrected by the Secretariat following the 15th meeting of the Conference of the Parties: originally referred to Resolution Conf. 11.11 (Rev. CoP14).

for sale at gift shops at international airports and other places (including duty-free areas) catering largely to international travellers;

RECOGNIZING that the sale of specimens of Appendix-I species in places of international departure may encourage, either intentionally or unintentionally, the illegal export of such items, and that such export is an issue of concern with respect to the conservation of such species;

ACKNOWLEDGING that sale of tourist souvenir specimens of Appendix-I species can in some cases form a substantial part of a trade which could threaten the survival of such species;

RECOGNIZING that there is still widespread public ignorance of the purpose and requirements of the Convention and of domestic legislation relating to trade in endangered species;

RECOGNIZING further that international airports, seaports and border crossings provide an excellent opportunity for educational displays informing travellers about the requirements of the Convention, and that sales of tourist souvenir specimens in such places may seriously detract from that educational message;

ACKNOWLEDGING that Article XIV, paragraph 1, of the Convention allows both importing and exporting Parties to take stricter domestic measures;

CONSIDERING that effective implementation of these provisions will be strengthened by a clarification of the measures taken by Parties in accordance with Article XIV, paragraph 1;

THE CONFERENCE OF THE PARTIES TO THE CONVENTION

DECIDES that the term 'personal or household effects' contained in Article VII, paragraph 3, means specimens that are:

- a) personally owned or possessed for non-commercial purposes;
- b) legally-acquired; and
- c) at the time of import, export or re-export either:
 - i) worn, carried or included in personal baggage; or
 - ii) part of a household move;

DECIDES also that, for the purposes of this Resolution, the term 'tourist souvenir specimen' shall apply only to personal and household effects acquired outside the owner's State of usual residence and not be applied to live specimens;

AGREES that Parties shall:

- a) regulate the cross-border movements of legally acquired, personally owned live animals of species listed in the Appendices of CITES in accordance with Resolution Conf. 10.20;
- b) not require export permits or re-export certificates, for personal or household effects which are dead specimens, parts or derivatives of Appendix-II species except:
 - i) where they have been advised through a Notification from the Secretariat or on the CITES website that the other Party involved in the trade requires such documents; or
 - ii) for the following, where the quantity exceeds the specified limits:
 - caviar of sturgeon species (*Acipenseriformes* spp.) – up to a maximum of 125 grams per person whereby the container has to be labelled in accordance with Resolution Conf. 12.7 (Rev. CoP14);
 - rainsticks of *Cactaceae* spp. – up to three specimens per person;
 - specimens of crocodylian species – up to four specimens per person;

- queen conch (*Strombus gigas*) shells – up to three specimens per person;
 - seahorses (*Hippocampus* spp.) – up to four specimens per person; and
 - giant clam (Tridacnidae spp.) shells – up to three specimens, each of which may be one intact shell or two matching halves, not exceeding 3 kg per person;
- c) advise their Customs administrations of the treatment of personal or household effects under CITES;
- d) take all necessary steps, including inspection and provision of information to merchants, to prohibit the sale of tourist souvenir specimens of Appendix-I species in places of international departure, such as international airports, seaports and border crossings and particularly in duty-free areas beyond Customs control points;
- e) provide information through displays and by other means, in all relevant languages, in places of international departure and arrival, informing travellers about the purpose and requirements of the Convention, and of their responsibilities with respect to international and domestic laws relating to the export and import of specimens of wild fauna and flora; and
- f) in collaboration with national and international tourist agencies, carriers, hotels and other relevant bodies, take all possible steps to ensure that tourists and persons with diplomatic privileges travelling abroad are made aware of the import and export controls that are or may be in force with respect to items derived from CITES species;

RECOMMENDS that the Parties use the Guidelines contained in Annex 1 to this Resolution when interpreting and implementing the personal or household effects exemption;

FURTHER RECOMMENDS that the Parties follow the Guidelines contained in the Annex 2 to this Resolution, if they wish to amend the list contained in paragraph b) ii) above;

URGES that:

- a) all Parties comply fully with the requirements of Article III of the Convention with respect to tourist souvenir specimens of Appendix-I species; and
- b) importing countries experiencing problems with imports of tourist souvenir specimens notify the relevant exporting countries and the CITES Secretariat accordingly;

DIRECTS the Standing Committee to consider ways of assisting any Party which informs the Committee of difficulties in the application of this Resolution;

ENCOURAGES Parties to harmonize their national legislation with regard to this Resolution; and

REPEALS the Resolutions listed hereunder:

- a) Resolution Conf. 10.6 (Harare, 1997) – *Control of trade in tourist souvenir specimens*; and
- b) Resolution Conf. 12.9 (Santiago, 2002) – *Personal and household effects*.

Annex 1

Guidelines for Interpretation of Personal and Household Effects

Interpretation of Article VII, paragraph 3, of the Convention

1. Article VII, paragraph 3, excludes specimens that are personal or household effects from the provisions of Articles III, IV or V of the Convention.
2. Article VII, paragraph 3 (a), excludes Appendix I specimens from this exemption when they have been acquired outside the person's country of usual residence. Appendix I specimens may be acquired from other countries, but they must be imported home under the conditions of Article III or other paragraphs in Article VII.
3. Article VII, paragraph 3 (b), excludes Appendix II specimens from this exemption when the specimen has been acquired outside the person's country of usual residence, in a country where removal from the wild occurred AND where that country requires an export permit.
4. Parties can choose to apply stricter domestic measures such that any country of import or export can exclude specimens from the personal and household effects exemption, establish quantitative restrictions or choose not to implement the exemption at all.
5. It is recommended in Resolution Conf. 13.7 (Rev. CoP14) that Parties report whether or not they implement the Article VII paragraph 3, in domestic legislation.
6. Parties should consult the Secretariat's web site for Parties that implement the exemption.
7. Parties may establish quantitative limits for Appendix II species by following the guidelines in Annex 2 to Resolution Conf. 13.7 (Rev. CoP14).

Definition of Personal and Household Effects

8. Specimens must be personally owned or possessed for non-commercial purposes. This excludes use for commercial gain, sale, and display for commercial purposes, keeping for sale, offering for sale or transport for sale.
9. Specimens must be legally acquired.
10. There are two types of personally owned or possessed specimens that could be considered personal and household effects. These are (1) Personal effects - specimens that at the time of import, export or re-export were worn, carried or included in personal baggage or (2) Household effects - specimens that at the time of import, export or re-export were part of a household move.

Types of specimens that may be considered as Personal and Household Effects

11. There are several categories of specimens which under certain conditions, can be exempted as personal and household effects (such as personally owned items, tourist souvenirs, hunting trophies).
12. Personally owned or possessed specimens are Appendix I, II or III specimens that have been acquired while a person resides in his country of usual residence. There are many different ways in which a specimen may be acquired as long as the acquisition was in accordance with domestic law. Examples include, but are not limited to:
 - Direct removal from the wild in the person's country of usual residence

- As a gift acquired within the country of usual residence or imported under CITES provisions from another country
 - As an inheritance acquired either within the country of usual residence or imported under CITES provisions from another country
 - Purchase from a vendor who has either obtained the specimen legally from within the country of usual residence or who has imported the specimens under CITES provisions from another country
 - A souvenir acquired while travelling abroad and imported either under the personal and household effects exemption or with the appropriate CITES documents
 - A hunting trophy that has been legally hunted abroad and imported either under the personal and household effects exemption or with the appropriate CITES documents
13. Personally owned or possessed specimens will be exempted as personal effects if both the country of import and export implement the personal and household effects exemption for the species and the specimen at the time of import, export or re-export was worn, carried or included in personal baggage.
 14. Personally owned or possessed specimens will be exempted as household effects if both the country of import and export implement the personal and household effects exemption for the species and the specimen at the time of import, export or re-export was part of a household move.
 15. Tourist souvenirs are Appendix II or III specimens acquired while travelling abroad. They will be exempted as personal effects if both the country of import and export implement the personal and household effects exemption for the species and the specimens at the time of import, export or re-export were worn, carried or included in personal baggage.
 16. Hunting trophies are Appendix II or III specimens that meet the Resolution 12.3 (Rev. CoP15) definition of 'hunting trophy'. They will be exempted as personal effects if both the country of import and export implement the personal and household effects exemption for the species and the specimen at the time of import, export or re-export was worn, carried or included in personal baggage.
 17. Where a commodity (typically consisting of multiple pieces, such as a pair of shoes or a pair of earrings), such as jewelry or leather goods, is composed of multiple pieces of protected specimens and other items, it should be treated as one specimen.

Annex 2

Guidelines for amending the list of personal and household effects of Appendix-II species with quantitative limits

1. Any proposal for adding to, deleting from or otherwise amending the list of personal and household effects of Appendix-II species with quantitative limits, including the quantitative limit set, should be initiated by a Party.
2. The proposal should contain supporting information and a justification, including an indication of whether the proposal is being made primarily for enforcement or conservation purposes.
3. Parties should make every effort not to lengthen unnecessarily the list of personal and household effects with quantitative limits.
4. In support of such proposals submitted to the Parties to the Conference of the Parties for discussion and decision, it is recommended that the following information be contained in any such proposal:
 - a) an assessment of the impact of the proposal, drawn from consultations with range States, producer countries and consumer countries; and
 - b) an assessment of the enforceability of the proposal.