

1 CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES  
2 OF WILD FAUNA AND FLORA  
3



7 DRAFT REVIEW OF CITES PROVISIONS RELATING TO THE TRADE IN  
8 SPECIMENS OF ANIMALS AND PLANTS NOT OF WILD SOURCE

9 This review has been prepared by the Secretariat and represents its own views, taking into account advice from  
10 a Standing Committee working group on the subject.

11 The Secretariat recognizes that some Parties and stakeholders have different interpretations of certain provisions  
12 of the Convention and Resolutions of the Conference of the Parties. Reconciling these different interpretations is  
13 one of the reasons that this review has been requested.

14 Contents

15 Glossary used in this Review

16 Introduction

17 Background

18 Brief history of the CITES regulation of trade in specimens not taken from the wild.

19 Review of provisions, ambiguities and inconsistencies and issues that may need attention.

20 1. The application of Article VII paragraphs 4 and 5

21 1.1 Overview

22 1.2 Ambiguities and inconsistencies

23 2. Resolution Conf. 12.3 (Rev. CoP17) on *Permits and certificates*

24 2.1 Overview

25 2.2 Ambiguities and inconsistencies

26 3. Resolution Conf. 5.10 (Rev. CoP15) on *Definition of 'primarily commercial purposes'*

27 3.1 Overview

28 3.2 Ambiguities and inconsistencies

29 4. Resolution Conf. 10.16 (Rev.) on *Specimens of animal species bred in captivity*

30 4.1 Overview

31 4.2 Ambiguities and inconsistencies

32 5. Resolution Conf. 11.11 (Rev. CoP17) on *Regulation of trade in plants*

33 5.1 Overview

34 5.2 Ambiguities and inconsistencies

35 6. Resolution Conf. 12.10 (Rev. CoP15) on *Registration of operations that breed Appendix-I animal species in*  
36 *captivity for commercial purposes*

37 6.1 Overview

38 6.2 Ambiguities and inconsistencies

39 7. Resolution Conf. 9.19 (Rev. CoP15) on *Registration of nurseries that artificially propagate specimens of*  
40 *Appendix-I plant species for export purposes*

41 7.1 Overview

42 7.2 Ambiguities and inconsistencies

43 Annex: Responses from Parties and stakeholders to Notification to the Parties No. 2018/0XX seeking  
44 comments on the draft review.

45 Glossary used in this Review

“Artificially propagated” or “ap”	Specimens of plant species meeting the qualifications set by the Conference of the Parties and traded using source code A or D.
“Bred in captivity”, “captive-bred” or “cb”	Specimens of animal species meeting the qualifications set by the Conference of the Parties and traded using source code C or D.
“Not of wild source”	Specimens traded using source codes A, C, F, R, or D.
Source codes [from Resolution Conf. 12.3 (Rev. CoP17)]	W Specimens taken from the wild; R Ranches 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; 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; A Plants that are artificially propagated in accordance with Resolution Conf. 11.11 (Rev. CoP17), 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); 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 Article VII, paragraph 5; 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

46

47 Introduction

48 Following on from work undertaken between 2013 and 2016 under Decisions 16.63 to 16-66, the Standing  
49 Committee noted that more attention needed to be paid to the control of trade in specimens claimed to have been  
50 bred in captivity or ranches. It noted that there were concerns about the confusing and challenging nature of the  
51 wording of current CITES Resolutions on the subject, about insufficient checks on the legal origin of the breeding  
52 stock used in captive-breeding facilities and about the establishment of captive-breeding facilities outside the  
53 country of origin of the specimens and species concerned (see document [CoP17 Doc. 32](#)).

54 Consequently, at the 17th meeting of the Conference of the Parties, the Committee proposed and the Conference  
55 of the Parties agreed to adopt Decision 17.101, which reads as follows:

56 *Subject to available resources, the Secretariat shall review ambiguities and inconsistencies in the application*  
57 *of Article VII paragraphs 4 and 5, Resolution Conf. 10.16 (Rev.) on Specimens of animal species bred in*  
58 *captivity, Resolution Conf. 12.10 (Rev. CoP15) on Registration of operations that breed Appendix-I animal*  
59 *species in captivity for commercial purposes, Resolution Conf. 11.11 (Rev. CoP17) on Regulation of trade in*  
60 *plants, Resolution Conf. 9.19 (Rev. CoP15) on Registration of nurseries that artificially propagate specimens*  
61 *of Appendix-I plant species for export purposes, Resolution Conf. 5.10 (Rev. CoP15) on Definition of*  
62 *'primarily commercial purposes' and Resolution Conf. 12.3 (Rev. CoP17) on Permits and certificates as it*  
63 *relates to the use of source codes R, F, D, A and C, including the underlying CITES policy assumptions and*  
64 *differing national interpretations that may have contributed to uneven application of these provisions, as well*  
65 *as the captive breeding issues presented in document SC66 Doc. 17 and legal acquisition issues, including*  
66 *founder stock, as presented in document SC66 Doc. 32.4, submit the review to Parties and stakeholders for*  
67 *comments through a notification, and submit its conclusions and recommendations along with the comments*  
68 *of Parties and stakeholders to the Standing Committee.*

69 The Secretariat will submit the review, along with the comments of Parties and stakeholders on it, to the Standing  
70 Committee at its 70th meeting (Rosa Khutor, Sochi, October 2018). At that time, the Secretariat will also provide

71 the Standing Committee with its conclusions and recommendations on the matter which will be prepared in light  
72 of the review and the comments of Parties and stakeholders upon it.

73 As per Decision 17.106, the Standing Committee will then review the conclusions and recommendations of the  
74 Secretariat under Decision 17.101 and make recommendations to the Conference of the Parties as appropriate.

## 75 Background

76 When the Convention was drafted, captive breeding and artificial propagation of wild fauna and flora species  
77 were relatively limited and certainly intensive production of many species for commercial purposes was rarely  
78 undertaken. As demonstrated by recent work commissioned by the Secretariat<sup>1</sup> at the request of the Conference  
79 of the Parties, this is no longer the case. More recent figures show for example that, during the period 2007-2016,  
80 62% of all reported commercial trade in live CITES animal species involved specimens declared as not from wild  
81 source. For mammals, 95% of live commercial trade was in specimens from these sources. The percentage of  
82 trade in animal specimens declared as not from wild source is increasing every year. This trend is mirrored in  
83 relation to natural resources more generally. The Food and Agriculture Organization of the United Nations' (FAO)  
84 [State of World Fisheries and Aquaculture 2016](#) states that in terms of food supply, aquaculture provided more  
85 fish than capture fisheries for the first time in 2014. This trend is expected to continue. Similarly areas of planted  
86 forests are increasing, while those of natural forests are decreasing.

87 The Parties' views on the merits or otherwise of captive breeding and artificial propagation have varied over the  
88 years and have not always been consistent across different taxa. Resolution Conf. 1.6 on *Resolutions adopted*  
89 *by the Plenary Session* (repealed in 2002) urged all contracting Parties to encourage the breeding of animals for  
90 the pet trade and the preamble to Resolution Conf. 9.19 on *Registration of nurseries that artificially propagate*  
91 *specimens of Appendix-I plant species for export purposes*, agreed in 1994 but still in force, recognizes that the  
92 artificial propagation of specimens of plant species included in Appendix I could form an economic alternative to  
93 traditional agriculture in countries of origin, and could also increase conservation interest in the areas of natural  
94 distribution. It further recognizes that, by making such specimens readily available, the artificial propagation of  
95 specimens of plant species included in Appendix I reduces the collecting pressure on wild populations and thus  
96 has a positive effect on their conservation status. To the contrary, Decision 14.69 from 2007 directs Parties,  
97 especially Appendix-I Asian big cat range States with intensive operations breeding tigers (*Panthera tigris*) on a  
98 commercial scale, to implement measures to restrict the captive population to a level supportive only to  
99 conserving wild tigers, stating that tigers should not be bred in captivity for trade in their parts and derivatives.

100 While it may relieve the pressure on wild stocks, artificial propagation and captive breeding can have perverse  
101 effects on the conservation of the species in the wild. Where CITES plants are grown in plantations (mixed or  
102 monoculture), it is worth bearing in mind that natural habitat may have been removed to provide space for such  
103 plantations. In such cases, the CITES species involved has been 'saved', but the conservation of nature as a  
104 whole may have suffered. The recent history of trade in sturgeon caviar is also notable. Wild stocks became  
105 increasingly depleted in the Caspian Sea, but when supplies of caviar of wild origin were replaced with caviar  
106 from captive fish, the captive breeding did not generally take place *in situ* in Caspian littoral States, but in other  
107 countries outside the natural range of the species concerned. Efforts to rebuild the stocks of sturgeons in the  
108 Caspian Sea are faltering and this may be because there is a lack of incentive to undertake this activity as the  
109 market demand for caviar is now being met by other countries. The question of who benefits financially from trade  
110 in fauna and flora produced outside range States is also pertinent in the light of the preamble to [Resolution](#)  
111 [Conf. 8.3 \(Rev. CoP13\) on Recognition of the benefits of trade in wildlife](#), which recognizes that the returns from  
112 legal use may provide funds and incentives to support the management of wild fauna and flora to contain the  
113 illegal trade.

114 Benefits and disadvantages for the conservation of the species, of trade in specimens of CITES-listed species  
115 bred in captivity or artificially propagated, may vary between species and perhaps depend on whether the activity  
116 is conducted *in situ* or *ex situ*. If these varied effects do occur, then the different approaches to be taken should  
117 preferably be clearly agreed by the Parties in order for policies governing the implementation of the Convention  
118 to be more targeted and contribute better to the conservation of those species. To a certain extent, this has  
119 already been done in the case of tigers.

120 As supplies of some species from the wild have become more limited and demand has increased, a new trend  
121 has emerged, which may be termed 'assisted wild production'. For fauna, this has been established for some  
122 time in the form of ranching, which, in Resolution Conf. 11.16 (Rev. CoP15) on *Ranching and trade in ranched*  
123 *specimens of species transferred from Appendix I to Appendix II*, Parties have recognized as a management

---

<sup>1</sup> See Annex 2 in AC27 Doc. 17 (Rev.1) - <https://cites.org/sites/default/files/eng/com/ac/27/E-AC27-17.pdf>.

124 system that for some species has proven to be a 'safe' and robust form of sustainable utilization relative to wild  
125 harvests of adults. This approach has been expanded to a number of other different types of production systems,  
126 some of which were summarized in document [AC20 Inf. 15](#). These systems are evolving and developing all the  
127 time. Recent examples include fragging and budding of corals in order to increase production. For flora, the trend  
128 is often exhibited in the form of mixed or monoculture plantations that are only lightly managed. The harvesting  
129 of specimens from such plantations generally may have less of an impact on the conservation of the species  
130 than harvest directly from the wild – even if the specimens do not meet the definition of 'artificially propagated'.  
131 Over the years, some made efforts to seek better understanding of, and recognition for, these forms of production  
132 and harvesting; an early review for animal species can be found in document [AC17 Doc. 14 \(Rev. 1\)](#). For plants,  
133 this has taken the form of attempts by some Parties to widen the definition of the term 'artificially propagated' to  
134 allow more specimens to be covered by this term. In exchanges with the Secretariat, a number of Parties have  
135 expressed frustration that trade in specimens derived from such forms of production and harvesting are treated  
136 too strictly under current CITES rules.

137 The question of the linkage between populations of the species in the wild on the one side and captive-breeding  
138 and artificial-propagation operations on the other is a key one. Trade in captive-bred/artificially propagated  
139 specimens can have a negative impact if wild sourced specimens are passed off as bred in captivity or artificially  
140 propagated. Such trade may perhaps also increase demand which may subsequently be met by illegal or  
141 unsustainable removal of specimens from the wild. On the other hand, the availability of captive bred/artificially  
142 propagated specimens may assist in meeting the demand, which would otherwise be satisfied by specimens  
143 removed from the wild. There seems to be little empirical evidence to support either of these hypotheses.

144 Increased trade in captive-bred/artificially propagated specimens may also influence the incentives for the  
145 conservation of species in the wild, but such incentives may vary depending on whether the captive  
146 breeding/artificial propagation is taking place within or outside the natural range of the species. In this respect,  
147 although not mentioned in the terms of reference for this review, the provisions of Resolution Conf. 13.9 on  
148 *Encouraging cooperation between Parties with ex situ breeding operations and those with in situ conservation*  
149 *programmes* are significant.

150 These sometimes conflicting and contradictory impacts confound the search for a coherent approach to  
151 controlling trade in captive-bred and artificially propagated specimens.

152 It should be noted that this is far from the first attempt to bring some clarity to the application of Article VII.4 and 5  
153 and related provisions and Resolutions – see document [CoP10 Doc. 10.67](#) for instance.

154 Brief history of the regulation of trade in specimens not taken from the wild.

155 TO BE COMPLETED (table form)

156 Review of provisions, ambiguities and inconsistencies and issues that may need attention.

## 157 **1. The application of Article VII paragraphs 4 and 5**

### 158 1.1 Overview

159 Article VII paragraphs 4 and 5 allow trade in specimens that meet set definitions of 'bred in captivity'  
160 and 'artificially propagated' to be undertaken with controls that are not as strict as that for trade in  
161 specimens taken from the wild.

162 Article VII.4 states that specimens of Appendix-I species bred or artificially propagated for commercial  
163 purposes are deemed to be specimens of species included in Appendix II and thus traded under Article  
164 IV. This means, for instance, that they may be imported for primarily commercial purposes, while still  
165 being subject to a non-detriment finding. Use of this provision is qualified by two Resolutions – see  
166 sections 6 and 7 of the present document.

167 Article VII.5 states that for specimens bred in captivity or artificially propagated, a certificate stating this  
168 shall be accepted in lieu of any of the permits or certificates required under the provisions of Article III,  
169 IV or V (i.e. this provision applies for specimens of species in Appendices I, II or III). The practical  
170 implications of the use of certificates of captive breeding/artificial propagation are detailed in the table  
171 in paragraph 2 of the present document.

172 However, as first noted in Resolution Conf. 2.12 on *Specimens bred in captivity or artificially propagated*,  
173 the provisions of Article VII.4 and 5 are to be applied separately – i.e. any qualifying Appendix I  
174 specimens cannot be treated as Appendix II under Article VII.4 and then be given a certificate of captive  
175 breeding/artificial propagation by virtue of Article VII.5.

176 In order to assist distinguishing wild source specimens from those that have been bred in captivity or  
177 artificially propagated (and thus qualify for exemptions under Article VII 4 and 5), Resolution Conf. 3.6  
178 on *Standardization of permits and certificates issued by Parties* introduced source codes which were to  
179 be included on permits and certificate. At the time, these were “W”, “C” and “A”, with a source code “O”  
180 for specimens which did not fit the above three categories.

181 Today, the source codes are found in Resolution Conf. 12.3 (Rev. CoP17) which is described further in  
182 paragraph 2 of the present document.

183 The term commercial purposes in Article VII.4 is addressed in Resolution Conf. 5.10 (Rev. CoP15),  
184 Resolution Conf. 12.10 (Rev. CoP15) and Resolution Conf. 9.19 (Rev. CoP15), which are reviewed in  
185 paragraphs 3, 6 and 7 of the present document.

## 186 1.2 Ambiguities and inconsistencies

187 The Secretariat has noted some differences of views between Parties about the use of Article VII  
188 paragraphs 4 and 5 of the Convention and the permits or certificates required. Paragraph 3 i) of  
189 Resolution Conf. 12.3 (Rev. CoP17) indicates that the source codes D, A and C, i.e. specimens bred in  
190 captivity/artificially propagated, should only be used when Article VII paragraphs 4 and 5 are being  
191 applied. However, the Secretariat has observed that some Parties are of the view that captive  
192 bred/artificially propagated specimens may also be traded under Articles III and IV. With respect to  
193 Article VII.5, it is not clear if the use of certificates of captive breeding/artificial propagation is obligatory  
194 or not.

195 Many Parties use the Standard CITES form in Annex 2 of Resolution Conf. 12.3 (Rev. CoP17) for CITES  
196 documentation. Because of the way the form is designed, it is important to clearly indicate on the form  
197 whether a document issued is an export permit issued under Article III, IV or V, or a certificate of captive  
198 breeding/artificial propagation issued under Article VII paragraph 5. Until CoP12, Resolution Conf. 10.2  
199 (Rev.) on *Permits and certificates*, specified that every form issued should indicate if it was being issued  
200 as a certificate of captive breeding or artificial propagation or not, but this specific instruction was deleted  
201 thereafter.

202 Following the replacement of Resolution Conf. 2.12 by Resolution Conf. 10.16, the guidance to the  
203 effect that the provisions of Article VII.4 and 5 are to be applied separately has been lost. It is unclear if  
204 this has created misunderstandings for Parties.

205 Controls of trade under Article VII paragraph 4 are rigorous as the specimens are treated as if they were  
206 included in Appendix II; however controls on trade under Article VII paragraph 5 are arguably weaker  
207 as once a determination has been made that a specimen has been bred in captivity or artificially  
208 propagated, only a certificate to that effect is required. This highlights the importance of having clear  
209 definitions of the terms bred in captivity and artificially propagation and their careful and accurate  
210 application. Current definitions may not be sufficiently clear as explained in paragraphs 4 and 5 below.

## 211 2. **Resolution Conf. 12.3 (Rev. CoP17) on *Permits and certificates***

### 212 2.1 Overview

213 This Resolution lists the source codes to be used on permits and certificates for specimens not from  
214 wild source. They are set out in paragraph 3 i) of the Resolution and include R, D, A, C and F which are  
215 pertinent to the issue at hand. Most of the definitions for the terms covered under the source codes are  
216 not however to be found in Resolution Conf. 12.3 (Rev. CoP17), but are spread out in five other  
217 Resolutions.

218 The use of source codes C and A seems relatively straight forward and are applied in relation to  
219 Article VII.5. When specimens that are bred in captivity or artificially propagated originate from a  
220 registered facility or nursery (see sections 6 and 7), they can be traded under Article VII.4 and are given  
221 the code D instead of C or A.

222 Concerning source code R, the obligations upon Parties are different depending on whether the  
 223 specimen concerned is from a population transferred from Appendix I to Appendix II under the provisions  
 224 of paragraph A. 2. b) in Annex 4 of [Resolution Conf. 9.24 \(Rev. CoP17\) on Criteria for amendment of](#)  
 225 [Appendices I and II](#) (so called ‘ranching downlisting’) or not. In both cases, the provisions of Articles III  
 226 and IV apply to any permits issued, but in the case of specimens of species transferred from Appendix I  
 227 to Appendix II for ranching purpose, extra monitoring and reporting obligations, described in [Resolution](#)  
 228 [Conf. 11.16 \(Rev. CoP15\) on Ranching and trade in ranched specimens of species transferred from](#)  
 229 [Appendix I to Appendix II](#) apply.

230 Source code F is applied to specimens born in captivity, but not to the standards required to be  
 231 considered a bred in captivity as per Resolution Conf. 10.16 (Rev.) and thus qualify for the use of source  
 232 code C.

233 The permit requirements for specimens with source codes R and F are identical to those for wild source  
 234 specimens.

235 The following table summarizes the permits or certificates required for specimens given each source  
 236 code and some of the consequent obligations required before issuance of such permits or certificates.

Source code	App.	Document(s) required	Non-detriment finding needed?	Legal acquisition finding needed?	Import for primarily commercial purposes allowed?	Provision of the Convention
C/A	I	Certificate of cb/ap	NO*	NO*	YES	Art. VII.5
	II	Certificate of cb/ap	NO*	NO*	YES	Art. VII.5
D	I = II	Export permit	YES	YES	YES	Art. VII.4
R	I	Export & Import permit	YES	YES	NO	Art. III
	II	Export permit	YES	YES	YES	Art. IV
F	I	Export & Import permit	YES	YES	NO	Art. III
	II	Export permit	YES	YES	YES	Art. IV
W	I	Export & Import permit	YES	YES	NO	Art. III
	II	Export permit	YES	YES	YES	Art. IV

237

238 \* Although not needed for the actual specimens in trade, these must be made for the parental stock of  
 239 the facility by virtue of Resolution Conf. 10.16 (Rev.) for animals and Resolution Conf. 11.11  
 240 (Rev. CoP17) for plants.

241 Resolution Conf. 12.3 (Rev. CoP17) specifies what information should be included in CITES permits  
 242 and certificates including certificates of captive breeding and artificial propagation. In its Annex 2, it also  
 243 has a standard form for CITES permits and certificates, the content and (to the extent practicable) the  
 244 format of which, Parties are recommended to follow.

## 245 2.2 Ambiguities and inconsistencies

246 Concerning the use of source codes, paragraph 3 i) of the Resolution recommends that source codes  
 247 D, C and A are only to be used in the context of the application of Articles VII paragraphs 4 and 5, but  
 248 this is not applied by all Parties, as some also use source codes C and A on export permits issued under  
 249 Articles III and IV. This may be because they are applying stricter domestic measures or because they  
 250 have a different understanding about which type of permit and certificate is to be issued in which  
 251 circumstances. The fact that some source codes are defined in the Resolution and others not, is  
 252 unhelpful. The source code F is one that is defined in the Resolution, but only by what qualities the  
 253 specimen involved do not have, rather than in positive sense. This seems to have resulted in source F  
 254 being used when it is not clear what other code to use. The permit requirements for specimens with  
 255 source codes F and R are identical to those for source code W; this begs the question of the purpose  
 256 of these codes, as they render the implementation of the Convention more complicated without any  
 257 discernible benefits.

258 It can be noted that, perhaps by oversight, in relation to the use of source code D, the Resolution does  
259 not mention Resolution Conf. 9.19 (Rev. CoP15) regarding artificial propagation of plants, in the way  
260 that Resolution Conf. 12.10 (Rev. CoP15) is mentioned for animals.

261 The standard CITES form in Annex 2 of Resolution Conf. 12.3 (Rev. CoP17) does not clearly distinguish  
262 between cases when it is used as an export permit under Article III or IV, or when it being used as a  
263 certificate of captive breeding or artificial propagation under Article VII paragraph 5. The box “Other”  
264 could be checked at the top of the form where the type of permit or certificate is indicated, but this still  
265 would not provide clarity.

### 266 3. Resolution Conf. 5.10 (Rev. CoP15) on *Definition of 'primarily commercial purposes'*

#### 267 3.1 Overview

268 This Resolution provides recommendations to Parties when assessing whether the import of a  
269 specimen of an Appendix-I species would result in its use for primarily commercial purposes [Article III,  
270 paragraphs 3 (c) and 5 (c)]. Nevertheless, some of the general principles and examples in its Annex  
271 refer exemptions under Article VII, paragraphs 4 and 5. It is not however very clear if the guidance is to  
272 be used in relation to the application of Article III or Article VII.4 and 5.

273 For example, section e) in the Annex relates to captive-breeding programmes, in particular in relation to  
274 the commercial nature of any import of specimens of Appendix-I species. The text could be read to  
275 confirm that import of specimens bred in captivity (and by extension, plant specimens that have been  
276 artificially propagated) should take place under Article VII, paragraphs 4 and 5 and not Article III and IV.  
277 The Resolution also provides some general principles and the examples of “primarily commercial  
278 purposes” to be used in the context of imports of specimens of Appendix I species under Article III.

#### 279 3.2 Ambiguities and inconsistencies

280 The examples in the Annex of the Resolution raise significant questions.

281 When they refer to imports of specimens of Appendix-I species for captive-breeding purposes, it is  
282 difficult to ascertain if this refers to specimens which themselves are bred in captivity or specimens from  
283 the wild which are to be used in captive breeding. The text refers to Resolution Conf. 10.16 (Rev.) which  
284 defines the term “bred in captivity” which might imply the former. However, Resolution Conf. 5.10 (Rev.  
285 CoP15) then goes on to refer to the import of specimens of Appendix-I species bred in captivity that  
286 could be allowed for commercial purposes, provided that any profits are reinvested in the continuation  
287 of the captive-breeding programme to the benefit of the species, and here it must be presumed that it  
288 refers to trade in specimens of source W traded under Article III because as the text explains, trade in  
289 specimens with source code D and C is not undertaken under Article III.

290 Further, the text attributes requirements to Resolution Conf. 10.16 (Rev.) that are not found in that  
291 Resolution e.g. imports must be aimed as a priority at the long-term protection of the affected species.

292 The Resolution refers to the use of the term “primarily commercial purposes” in relation to the  
293 importation of specimens under Article III. However, the similar term “bred in captivity for commercial  
294 purposes” is used in Article VII paragraph 4 and is defined in Resolution Conf. 12.10 (Rev. CoP15) in a  
295 slightly different way. In the latter case, some Parties consider that it is the commercial nature of the  
296 breeding that is at issue and not the nature of the trade transaction that subsequently takes place with  
297 the specimen. They therefore allow facilities where the breeding in captivity of specimens of Appendix-  
298 I species is not primarily undertaken to obtain economic benefit, (so-called ‘hobby breeders’) to export  
299 such specimens for trade purposes. Many importing Parties of such specimens, seeing that the  
300 specimens are bred in captivity and therefore traded under Article VII.5, then allow the import even if  
301 the specimens are to be used for primarily commercial purposes. Such a set of events circumvents the  
302 need for registration of the breeding facilities under Resolution Conf. 12.10 (Rev. CoP15) – see section  
303 6 of the present document.

304 Resolution Conf. 9.19 (Rev. CoP15) is silent on the definition of commercial purposes in relation to the  
305 artificial propagation of plants of Appendix I species.

306 **4. Resolution Conf. 10.16 (Rev.) on *Specimens of animal species bred in captivity***

307 4.1 Overview

308 The Resolution defines the term 'bred in captivity' as used in Article VII paragraphs 4 and 5 (source  
309 codes C and D) and applies to specimens of species in Appendix I, II or II and III and regardless of  
310 whether the breeding or trade is commercial or non-commercial. The main features are the degree to  
311 which the environment in which the species have been produced is controlled by the breeder and the  
312 qualities of the breeding stock used to produce the offspring: this stock should be legally established  
313 under national law and CITES and not in a manner detrimental to the survival of the species. With some  
314 exceptions, the facility should be self-sustaining – i.e. no longer taking specimens from the wild. Lastly,  
315 the facility should have produced F2 or subsequent generations – or be managed in a manner that has  
316 been demonstrated to be capable of doing so.

317 In response to concerns about the veracity of some claims that specimens have been bred in captivity  
318 in accordance with this Resolution and consequently the CITES permits and certificates issued on the  
319 basis of such claims, the Parties agreed Resolution Conf. 17.7 on *Review of trade in animal specimens*  
320 *reported as produced in captivity*.

321 4.2 Ambiguities and inconsistencies

322 Parties have experienced difficulties in proving the legal origin of the breeding stock used to produce  
323 the specimens bred in captivity. This applies particularly where the original breeding stock was acquired  
324 many years ago when there may have been no reason to believe that such documentation to confirm  
325 the legal origin of specimens might be important many years later. To the contrary, and as highlighted  
326 in document [SC66 Doc. 32.4](#), a number of instances have been found where specimens which had  
327 almost certainly been illegally obtained have been incorporated into breeding stocks producing  
328 specimens bred in captivity which have subsequently been internationally traded. A lack of a  
329 standardized approach in this area is a difficulty. This issue is to be addressed by the Standing  
330 Committee under paragraph c) of Decision 17.66 and at a workshop due to be held in June 2018.

331 Paragraph 2 b) ii) B of the Resolution permits specimens from the wild to be added to the breeding  
332 stock, but provides guidance about the circumstances under which this may be warranted which is open  
333 to a variety of interpretations. Although it may be clearer to limit the definition of 'bred in captivity'  
334 to those specimens produced in captivity from facilities that are no longer taking further specimens from  
335 the wild, some Parties are worried such a restriction may hamper attempts to breed species in captivity.  
336 A balance may need to be struck between the need for clear and simple procedures and the economic  
337 and biological viability of some individual facilities.

338 Paragraph 2 b) ii) C 2 permits an exception to the general principle that specimens bred in captivity  
339 should be limited to those of generation F2 and beyond. Here again difficulties have been experienced  
340 in determining when such exceptions apply. A requirement for all specimens to be demonstrably F2 or  
341 beyond may be easier to implement. Again some Parties claim this might hinder certain commercial  
342 captive breeding operations, but this might be price worth paying if a simplification of the rules could  
343 improve the implementation of the Convention to the benefit of the conservation of the species  
344 concerned.

345 Provisions such as these which are open to different interpretations make harmonious implementation  
346 of the Convention more difficult. Regardless of the clarity or simplicity of the instructions, Parties are still  
347 likely to be victims of fraudulent declarations of captive breeding. In this respect, Resolution Conf. 17.7  
348 should assist in identifying cases of such fraud which have escaped the attention of national authorities.

349 **5. Resolution Conf. 11.11 (Rev. CoP17) on *Regulation of trade in plants***

350 5.1 Overview

351 This Resolution sets out the definition of the term 'artificially propagated' to be used in the  
352 implementation of the special provisions of Article VII paragraphs 4 and 5 and applies to specimens of  
353 species in Appendix I, II and III and regardless of whether the propagation or trade is commercial or  
354 non-commercial. Originally, it was the only Resolution in which guidance on this point could be found;  
355 however it has subsequently been supplemented by further guidance in Resolution Conf. 16.10 on

356 *Implementation of the Convention for agarwood-producing taxa* and Resolution Conf. 10.13 (Rev.  
357 CoP15) on *Implementation of the Convention for timber species*.

358 The main features are the degree to which the environment in which the species have been produced  
359 is controlled by the propagator and the qualities of the cultivated parental stock used to produce the  
360 propagated plants. This stock should be legally established under national law and CITES and not in a  
361 manner detrimental to the survival of the species. The degree to which the propagating facility should  
362 be self-sustaining – i.e. no longer taking specimens from the wild is less constrained than for animals.  
363 Over the years, special provisions have been added to the definition in relation to grafted plants,  
364 cultivars, hybrids, flaked seedlings, salvaged plants, plantations of agarwood-producing taxa and for  
365 other trees grown in monospecific plantations. This has resulted in a very complex set of rules which  
366 are difficult for non-specialists to follow.

367 The fecundity of plants and the ease with which many species can be artificially propagated means that  
368 concerns about the impact of false declarations may be less than for animal taxa. However, these do  
369 remain, in particular for species such as rare orchid and cactus species. They may also be significant if  
370 for example, large-scale semi-natural forests are considered to be 'under controlled conditions' and  
371 specimens originating therefrom are thus treated as if they were artificially propagated.

## 372 5.2 Ambiguities and inconsistencies

373 Examination of the flow diagram on page 7 of document SC69 Inf. 3 - *A guide to the application of*  
374 *CITES source codes* shows that the definition of the term 'artificially propagated' is very complicated,  
375 making its application a challenge for Parties. The fact that it is spread over three different Resolutions  
376 is also not conducive to correct application. It seems rather incongruous that paragraph 4 of the  
377 Resolution permits specimens taken from the wild to be described as artificially propagated under  
378 certain circumstances. As in the case of the definition of 'bred in captivity', guidance on legal acquisition  
379 would be beneficial and it may be wise to explore the possibility of simplifying the definition, particularly  
380 by removing exceptions from general provisions.

381 No compliance procedure for claims of artificial propagation has been put in place by the Conference  
382 of the Parties.

383 It should be noted that, under Decision 17.175, the Plants Committee is also reviewing the applicability  
384 and utility of the current definitions of 'artificial propagation' and 'under controlled conditions' in  
385 Resolution Conf. 11.11 (Rev. CoP17) in order to make recommendations to the Standing Committee.  
386 Further, under Decision 16.156 (Rev. CoP17), the Plants Committee, after considering the current  
387 production systems of tree species, including mixed and monospecific plantations, is assessing the  
388 applicability of the current definitions of artificial propagation in Resolution Conf. 10.13 (Rev. CoP15) on  
389 *Implementation of the Convention for timber species* and Resolution Conf. 11.11 (Rev. CoP17) on  
390 *Regulation of trade in plants*. The Secretariat has been following these deliberations in the Plants  
391 Committee and will take these into account when proposing its conclusions and recommendations  
392 arising from the present review to the Standing Committee at its 70th meeting. However, in order to  
393 propose a coherent approach on this matter to the Conference of the Parties, the Standing Committee  
394 will need to combine its recommendations under Decision 17.106 with those made under  
395 Decision 17.177.

## 396 **6. Resolution Conf. 12.10 (Rev. CoP15) on Registration of operations that breed Appendix-I animal** 397 **species in captivity for commercial purposes**

### 398 6.1 Overview

399 Over the years, the provisions which provide guidance in relation to the application of Article VII  
400 paragraph 4, as it relates to specimens of Appendix-I animal species which have been determined to  
401 have been bred in captivity under Resolution Conf. 10.16 (Rev.) have evolved and changed  
402 considerably.

403 The current version of the Resolution restricts the use of the special provisions of Article VII.4 to  
404 specimens that are from breeding operations which are included in the *Register of operations that breed*  
405 *Appendix-I animal species for commercial purposes* maintained by the Secretariat on the CITES  
406 website. Registration requires substantial evidential documentation and can be objected to by other

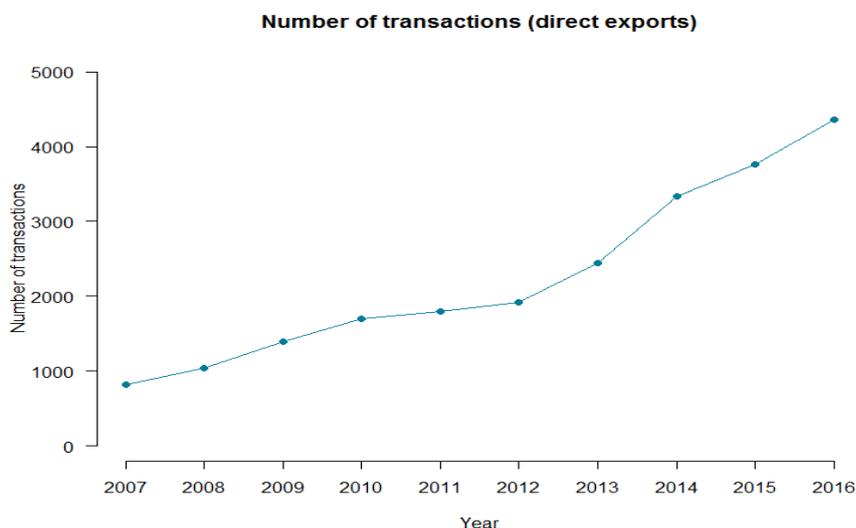
407 Parties. If contested registrations cannot be resolved, including through guidance provided by the  
408 Animals Committee, such cases are arbitrated by the Standing Committee.

409 Specimens of Appendix-I animal species from duly registered operations may be traded as if they were  
410 specimens of species included in Appendix II – i.e. they may be imported for primarily commercial  
411 purposes.

## 412 6.2 Ambiguities and inconsistencies

413 The procedures for registering facilities such that they may take advantage of the special provisions of  
414 Article VII paragraph 4 are rigorous. However, many Parties do not apply this Resolution. Some of these  
415 Parties have a very large number of commercial captive-breeding facilities in their territory. This leads  
416 to an inconsistent approach as many captive-bred specimens of Appendix-I animals are exported from  
417 unregistered operations, but using purpose code 'T' for trade. During the period 2007-2016, there were  
418 22,650 exports of this type involving 110 Appendix-I taxa. The main species involved were birds of prey  
419 and parrots. The trend in this type of trade is increasing.

420 Figure 1: Exports of specimens of captive-bred Appendix-I species for trade purposes from unregistered  
421 facilities.



422

423 The main way that these controls seem to be bypassed is that exporting Parties determine that although  
424 the export and subsequent import may be commercial in nature, the purpose of the breeding, defined  
425 in paragraph 1 of the Resolution, is not commercial and therefore the specimens have not been bred in  
426 captivity for commercial purposes and can be exported under Article VII paragraph 5, and not Article VII  
427 paragraph 4. Although it is contrary to Resolution Conf. 12.3 (Rev. CoP17), sometimes such specimens  
428 are also traded under Article III of the Convention, with the exporting Party claiming that, while the export  
429 might be commercial, the subsequent import is not and therefore such trade is allowed.

430 By contrast, those Parties implementing Resolution Conf. 12.10 (Rev. CoP15) must comply with a  
431 complex and bureaucratic process before their facilities are proposed for inclusion in the *Register of*  
432 *operations that breed Appendix-I animal species for commercial purposes*. It is difficult to reconcile the  
433 rigorous controls on the registration of operations with the ease with which these controls can be  
434 circumvented by Parties which do not wish to be bound by them. This juxtaposition is striking and the  
435 Secretariat has long been of the view that the registration process is lengthy, costly and ineffective (see  
436 documents [CoP10 Doc. 10.67](#), [CoP12 Doc. 55.1](#) and [CoP15 Doc. 18 Annex 2. a](#)). Minor changes to  
437 Resolution Conf. 12.10 were made at CoP15, but since then the scale of commercial export of  
438 specimens of Appendix-I species from unregistered facilities has continued to increase as shown in  
439 Figure 1. Additionally, new species have recently been added to Appendix I, such as the African grey  
440 parrot, *Psittacus erithacus*, which is bred in captivity commercially in very large numbers. One Party  
441 alone [exported over 42,000 specimens declared to have been bred in captivity \(source code C\) in 2102](#)  
442 with reportedly over 1,630 facilities breeding the species there, almost exclusively for export.

443 Application of this Resolution is complicated by breeding systems using satellite facilities, such as for  
444 certain crocodylian species in South-East Asia. Here the actual breeding of the specimens is done by a  
445 very large number of small scale facilities which then pass the specimens on within the same State to  
446 a small number of registered facilities who carry out the export of the specimens. This situation seems  
447 to work without reported detriment to populations in the wild, but is not properly provided for in the  
448 Resolution.

449 The new compliance controls in Resolution Conf. 17.7 would appear to have alleviated some of the  
450 concerns expressed by Parties when significant changes to Resolution Conf. 12.10 have been proposed  
451 in the past. The Secretariat does not have the resources to visit any of the operations wishing to be  
452 registered and therefore is almost completely reliant on the Management Authorities in the Parties  
453 where the operations are located for information about the facilities.

454 **7. Resolution Conf. 9.19 (Rev. CoP15) on Registration of nurseries that artificially propagated**  
455 **specimens of Appendix-I plant species for export purposes**

456 7.1 Overview

457 This Resolution provides guidance on the application of Article VII paragraph 4, as it relates to  
458 specimens of Appendix I plant species, which have been determined to have been artificially propagated  
459 under Resolutions Conf. 11.11 (Rev. CoP17), Conf. 16.10 and Conf. 10.13 (Rev. CoP15).

460 As for animals, the Resolution provides for a register of operations that artificially propagate specimens  
461 of Appendix-I species for commercial purposes, but unlike the situation for animals, it leaves the  
462 registration up to Management Authorities in the Party where the nursery operation is situated. Other  
463 Parties may contest the registration of the operation if they can show that it does not meet the  
464 requirements for registration and in such cases it is for the Secretariat to delete the operation from the  
465 register after consultation with the Management Authority of the Party in which the nursery is located.

466 7.2 Ambiguities and inconsistencies

467 The preamble clause in this Resolution, which states:

468 *RECOGNIZING that nurseries that are not registered may still continue exporting artificially*  
469 *propagated specimens of Appendix-I species using the standard procedures for obtaining export*  
470 *permits.*

471 is rather ambiguous and it is not clear what types of 'standard procedures' are referred to. If unregistered  
472 nurseries are able to export artificially propagated specimens of Appendix I plant species under  
473 Article VII.5 and using the source code A, then the purpose of registration may seem moot.

474 While to the best recollection of the Secretariat, it has not removed any nursery operations from the  
475 register at the request of another Party, it would seem more appropriate for any such contested  
476 registrations to be judged by the peers in other Parties through the Standing Committee rather than by  
477 the Secretariat itself.

478

479

**Annex**

480 Responses from Parties and stakeholders to Notification to the Parties No. 2018/0XX seeking comments on the  
481 draft review.

482

483 [to be added]