

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



Seventieth meeting of the Standing Committee
Rosa Khutor, Sochi (Russian Federation), 1-5 October 2018

Interpretation and implementation matters

General compliance and enforcement

DISPOSAL OF CONFISCATED SPECIMENS:
REPORT OF THE WORKING GROUP

1. This document has been prepared and submitted by Switzerland and Israel identified by SC68 as co-chairs for the working group on the disposal of illegally traded and confiscated specimens of Appendix I, II and III species.*
2. At its 17th meeting (CoP17, Johannesburg, 2016), the Conference of the Parties adopted a new Resolution, Conf. 17.8 on "Disposal of illegally traded and confiscated specimens of CITES-listed species" merging and repealing Resolutions Conf. 9.9, Conf. 9.10 (Rev. CoP15) and Conf. 10.7 (Rev. CoP15).
3. At the same meeting, the Conference of the Parties also adopted the following decisions:

Decision 17.118 directed to the Secretariat

The Secretariat is requested to:

- a) *subject to the availability of external funding, develop a questionnaire to be distributed to Parties or gather information by other means, such as a workshop or oral interviews, which would review the use and usefulness of the guidelines contained in three annexes to the Resolution Conf. 17.8 on Disposal of illegally traded and confiscated specimens of CITES-listed species for Parties in disposal of confiscated live animals and plants as well as evaluate current practice;*
- b) *subject to the availability of external funding, conduct an analysis of available data on the disposal of confiscated live animals and plants collected through inter alia the biennial reports or other special reports; and*
- c) *submit this information to the Standing Committee for its consideration.*

and

* *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.*

Decision 17.119 directed to the Standing Committee

The Standing Committee should consider how and to which extent the content of the new, merged Resolution Conf. 17.8 should be adapted at its 69th meeting. It should also evaluate the results of the activities conducted by the Secretariat under Decision 17.118 and consider how to incorporate these results into the guidelines (included in the Annexes of Resolution Conf. 17.8). The Standing Committee should propose amendments to Resolution Conf. 17.8, including the annexes, accordingly, and report on its work to the 18th meeting of the Conference of the Parties.

4. At its 69th meeting, the Standing Committee established a working group with the following membership: Israel and Switzerland (co-Chairs), Argentina, Brazil, Canada, China, Ethiopia, European Union, France, Guatemala, Italy, Japan, Kenya, Liberia, Malaysia, Netherlands, Peru, Portugal, Singapore, Spain, Sweden, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, and the United States of America; as well as Animal Welfare Institute, Association of Zoos and Aquariums, Born Free Foundation, Eurogroup for Animals, European Alliance of Rescue Centres & Sanctuaries, European Association of Zoos and Aquaria, Humane Society International, International Fund for Animal Welfare, International Union for Conservation of Nature, International Wood Products Association, San Diego Zoo Global, Species Survival Network, Stichting Animal Advocacy, and Protection, Wildlife Impact, World Association of Zoos and Aquariums, World Parrot Trust, World Resources Institute, and World Wildlife Fund.

The Standing Committee gave the Working Group the following mandate as set out in the Summary Record of SC69:

The Working Group shall:

- a) analyze the results of the questionnaire and other activities undertaken by the CITES Secretariat under Decision 17.118; and
 - b) prepare a report to the 70th meeting of the Standing Committee, containing recommendations on the following topics, as appropriate and necessary:
 - i) possible amendments to Resolution Conf. 17.8 on Disposal of illegally traded and confiscated specimens of CITES-listed species and its Annexes;
 - ii) the possibility of the creation of a list of rescue centers for the disposal of live specimens which might be published on the CITES Secretariat website;
 - iii) the different options for disposal of confiscated specimens under the Convention and the legal questions related to these options; and
 - iv) (review) the use of the term “disposal” and considerations of possible alternative terms that might be more appropriate.
5. The working group worked inter-sessionally and corresponded by electronic means.

Concerning mandate a) to analyze the results of the questionnaire and other activities undertaken by the CITES Secretariat under Decision 17.118

6. The working group felt that the biggest challenge for Parties seems to be financial constraints related to the recovery of costs of seizure and disposal and that there is a lack of official funding. In addition, a number of responding Parties expressed the view that there seems to be a lack of (appropriate) facilities to place confiscated live specimens. Only a few Parties indicated that the return of seized specimens to the country of origin is a frequently applied option for them. Some countries indicated that they experienced problems with record keeping of data related to the confiscation of live specimens; however the nature of these problems is not clear from the questionnaire. Some Parties noted that the safe and appropriate custody of live animals until final disposition and related expertise is a challenge. It was suggested that guidance and training for humane handling and rescue facilities (including permanent facilities) would be valuable.
7. Less than half of Parties responding to questionnaire had established decision-making procedures/plans of action. It was suggested that collection of best practices identified in Annex 3 of Resolution Conf. 17.8, including those Action Plans received by four Parties, could be included on the CITES webpage.

Concerning mandate b) i) to submit possible amendments to Resolution Conf. 17.8 on Disposal of illegally traded and confiscated specimens of CITES-listed species and its Annexes

8. The WG discussed the addition of guidelines on how to determine what a suitable designated rescue center is. Even though the possible utility of such guidelines were acknowledged, one member felt that the utility was limited due to the fact that the determination of the suitability of a rescue center is governed by varying national legislations. Amongst those members supportive of creating a list of rescue centres, there was support for such guidance.
9. Another suggestion was to develop a definition and minimum standards of what a “designated rescue center” might be and to develop a list of such rescue centers approved by CITES. Concerns were expressed about whether it was in the mandate of CITES to approve such rescue centers, together with concern about the limitation of such a definition given national legislation. Another point was that requirements might differ depending on the nature of the facility in question i.e. designated rescue centers or centers for short-term emergency placement.
10. Some members of the Working Group held that certain provisions of Resolution Conf. 17.8 are inconsistent with the text of the Convention, for example the potential for disposing of living specimens to vivisection laboratories. A few members suggested a more user friendly and modern decision-tree could be desirable.
11. The addition of guidelines for humane handling of confiscated specimens as well as for humane euthanasia methods and the creation of guidelines for the process of selling confiscated specimens were suggested. Draft guidelines for humane handling of confiscated specimens (“*Recommendations for the initial housing and care of wild animals confiscated from trade*”) were shared by one member of the working group but were not further discussed.

Concerning mandate b) ii) on the possibility of the creation of a list of rescue centers for the disposal of live specimens which might be published on the CITES Secretariat website

12. A majority of members were in support of the creation of a list of rescue centres; however, especially Parties have concerns regarding (the format of) such a list. Some Parties indicated that an open list is not possible due to, among other reasons, security concerns associated with the custody of seized/ confiscated CITES listed species as well as safeguarding the rescue centers. A majority of members were in support of a list that only Parties have access to, which might be placed on an access restricted section of the CITES website. To some members it remained unclear however what purpose this list could serve and how and by whom such a list would be maintained. It was also not clear what kind of mechanisms might be used to ensure an appropriate level of operational and care standards for these rescue centres, as well as how a center would be removed from this list when their standards would change. A draft set of criteria for such facilities was put forward by one member and received some support.
13. Some members also suggested to create a list of taxon or species-specific experts that could be contacted if needed for support for the immediate care of seized/ confiscated live specimens, but no details of how such a list could be developed have been put forward and no consensus was reached on this issue.

Concerning mandate b) iii) on the different options for disposal of confiscated specimens under the Convention and the legal questions related to these options

14. Some members expressed the opinion that it would be difficult to create common guidelines for all CITES Parties as national laws vary widely and thus limit a common approach. Some members of the working group see euthanasia as the most controversial option of disposal but other members refer to it as a valid and humane option depending on the case and the circumstances while others considered it an option of last resort only. The option ‘return to the wild’ was stressed by many members of the working group as often not feasible or realistic. Some members objected to selling confiscated specimens as being inconsistent with the provisions of Article VIII, as well as inconsistent with recent trends in international law (e.g. the Nagoya Protocol of CBD) and noted that there is credible risk that sold confiscated specimens could be reintroduced into illegal trade while others noted that sale must be carried out under controlled conditions and that guidelines on how to ensure the sale of confiscated specimens does not stimulate further illegal trade and to prevent laundering of previously confiscated specimens.
15. There was no consensus on the option of sale of confiscated specimens but it was highlighted that it should be ensured that sale must not stimulate further illegal trade.

16. Some Parties pointed out that there are further factors to be considered such as veterinary or administrative requirements, which are all regulated at the national level by Parties.

Concerning mandate b iv) (review) the use of the term “disposal” and considerations of possible alternative terms that might be more appropriate.

17. There was no consensus reached on this. Some members consider the term “disposal” as suitable and wished to maintain it while noting that the resolution also covers non-live specimens while others preferred a different term. Suggestions for alternative terminology were:

- Management of confiscated specimens
- Treatment of confiscated specimens
- Placement of confiscated specimens
- Disposition of confiscated specimens
- Custody of confiscated specimens
- Guardianship/ supervision of confiscated specimens

Recommendations to the Standing Committee

18. The working group recommends to the Standing Committee:
- a) to acknowledge the different opinions expressed by the members of the Working Group;
 - b) to invite the Secretariat to include consideration of paragraph 5a of Res. Conf. 17.8 in their existing legislative initiatives, such as the National Legislation Project, to support Parties’ efforts in the development, legal formulation and implementation of effective mechanisms to recover the costs of confiscation, custody, and disposal
 - c) to propose to the CITES Secretariat to evaluate the aim and purpose of a list of rescue centres and how it might be managed and updated
 - d) to form an in-session working group to see if consensus on some of the open topics can be reached
 - e) depending on the discussion and outcome of discussions at SC70, propose draft decisions for consideration at CoP18 to continue the work of this group.