

Chapter 9

The Ursidae and CITES

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9.1 INTRODUCTION

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (**CITES**) was concluded in Washington D.C. on 3 March 1973. It became effective on 1 July 1975 for the first ten Parties. As of 31 December 2006, the number of Party States has risen to 169. In addition, CITES is applicable in a number of dependent territories.

CITES aims at permitting trade in certain species of wild animals and plants only if they have been obtained in a legal way which is not detrimental to the survival of the species in the wild. This goal should be achieved by a system of permits and certificates which have to be issued prior to any transaction by “Management Authorities” designated by the Party States, and which must be controlled by Customs or specialised agents (border veterinarians, wildlife officers) when the “specimens” (animals or plants or parts and derivatives) are actually transported. In the case of certain types of permits, it is mandatory that the “Scientific Authority” of the Party concerned is consulted and agrees to the issuance of the permit.

9.2 THE APPENDICES OF THE CONVENTION

The Convention contains three appendices:

Appendix I includes all species threatened with extinction which are or may be affected by trade. Unless an exemption or special provision in the terms of Article VII of the Convention applies, international trade in Appendix I specimens is regulated by **Article III**. It is subject to the issuance of an export permit (or re-export certificate) and an import permit. An import permit may only be granted if the import will be for purposes which are not detrimental to the survival of the species concerned, if the recipient of a living specimen is suitably equipped to house and care for it, and provided that the specimen will not be used for primarily commercial purposes.

Neither the Convention itself nor any of the resolutions adopted by the Conference of the Parties specifies the criteria for considering housing facilities as suitable. In Switzerland and Liechtenstein, the following criteria were adopted by the Scientific Authorities:

Appendix II contains species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation. International trade in Appendix II specimens is regulated by **Article IV**. It is subject to the issuance of an export permit (or re-export certificate).

Appendix III finally is made up of species identified by individual Party States. International trade in Appendix III specimens is regulated by **Article V**. The export from the state which has included the species in Appendix III requires the issuance of an export permit. If the specimen originates in another country, a certificate of origin is necessary.

Table 1: Criteria considered suitable for housing bears by the Scientific Authorities of Switzerland and Liechtenstein

n adults	Species	Enclosure surface	Extra surface / additional adult	Individual den / adult	Other requirements
2	Giant panda; sun, sloth, Asiatic black, spectacled, brown and American black bear	200 m ² *	+ 20 m ²	6 m ²	bathing and climbing facilities
2	Polar bear	400 m ² (land) 100 m ² (pool)	+ 100 m ² (land) + 50 m ² (pool)	6 m ²	av. pool depth 2 m
2	Lesser panda	40 m ²	+ 4 m ²		

* if soil made from concrete, or drained sand, gravel, marel, bark chips etc.; in case of natural soil (topsoil with or without vegetation not less than 2000 m²)

9.3 SPECIAL PROVISIONS AND CERTIFICATION REQUIREMENTS

Article VII of the Convention contains several exemptions and special provisions. The following are relevant in the EEP context:

Article VII.1 exempts specimen in transit from CITES provisions while they remain under Customs control. It should be noted, however, that certain countries require (on the basis of stricter domestic legislation) the presentation of CITES documents also in transit. This is the case e.g. for transits through Switzerland.

Article VII.2 stipulates that Articles III, IV and V shall not apply to specimens acquired before the provisions of the Convention applied to these specimens, if the competent Management Authority has issued a certificate to this effect (**pre-Convention** clause).

According to **Article VII.4**, animals of an Appendix I-species bred in captivity for commercial purposes shall be deemed to be specimens of Appendix II. While some Parties apply this provision to the letter, others are more liberal and grant Appendix II-status to all captive bred animals regardless of what the purpose of breeding may have been. In 1985, a registration procedure was introduced for captive breeding operations involving Appendix I species. Since 1987, the registration of **commercial captive breeding operations** involving Appendix I species has become a condition for the authorisation of trade.

Article VII.5 exempts any specimen of an animal species bred in captivity (i.e. also animals bred in zoological gardens) from the permit requirements of Articles III, IV or V, if the competent Management Authority has issued a **bred in captivity certificate** for the animal concerned. Resolution **Conf. 2.12** (rev.) recommends that the term "bred in captivity" be interpreted to refer only: to offspring, including eggs, born or otherwise produced in a controlled environment, if reproduction is sexual, or of parents that were in a controlled environment when development of the offspring began, if reproduction is asexual. For the purpose of this recommendation, a controlled environment for animals is defined as an environment that is intensively manipulated by man for the purpose of reproducing the species in question, and that has boundaries designed to prevent the animals, eggs or gametes of the selected species from entering or leaving the environment. The resolution recommends also that the parental stock should have been established in a manner not detrimental to the survival of the species in the wild, and should be managed in a manner designed to maintain the breeding stock indefinitely. The way these recommendations

are implemented by Parties, e.g. the U.S.A. prove to be particularly difficult.

Pre-Convention and Captive-bred certificates are normally issued on the usual CITES permit forms by inserting a "P" or "C" respectively under the heading "Source" (Heading 13 on the EU certificates).

Labelling system: Article VII.6 exempts the non-commercial loan, donation or exchange between scientists or scientific institutions of herbarium specimens, other preserved, dried or embedded museum specimens and live plant material from the permit or certification requirements of Articles III, IV and V. Institutions wishing to make use of this exemption must submit an **Application for registration under Article VII.6** to the Management Authority of their country. After approval of the application, the Management Authority will inform the CITES Secretariat accordingly, and the Secretariat will add the institution to a list which is periodically updated and sent to all parties.

When in transport, the specimens must carry a label issued or approved by the Management Authority, or the shipment must be accompanied by a "institute certificate" introduced by some countries (e.g. Switzerland). Both, the sending and the receiving institution, must be approved. Several, but not all countries have registered zoological gardens as scientific institutions under Article VII.6, allowing these zoos a facilitated exchange of animal material, such as hair samples, feathers, preserved carcasses, tissues or organs, histological slides etc. for DNA identification or for the diagnostic of diseases.

Export permits for live animals are only issued if the Management Authority is satisfied that the animals will be so prepared and shipped as to minimise the risk of injury, damage to health or cruel treatment. By adopting resolution **Conf. 9.23**, the Parties agreed that applicants for export permits or re-export certificates must prepare and ship the animals in accordance with the IATA Live Animals Regulation for transport by air, and the CITES Guidelines for Transport of Live Specimens for marine or terrestrial shipments. (These are likely to be replaced by the corresponding Guidelines issued by the OIE).

The IATA Live Animals Regulations may be subscribed from the following address:

Customer Service Representative
International Air Transport Association
P. O. Box 416
CH-1215 Genève-Aéroport
Switzerland

9.4 SPECIES OF BEARS INCLUDED IN CITES REGULATIONS

When the Convention entered into force for the first ten Member States on 1 July 1975, the Sun Bear, the Andean Black Bear and the Polar bear, as well as four subspecies or regional populations of the Brown bear were included in either Appendix I or II. Other species were added at various meetings of the Conference of the Parties (COP). Today, the entire bear family is listed on the Appendices. The American black bear has been included not because it was considered threatened, but in order to avoid look-alike problems in the trade with gall bladders and other items used in the traditional medicine of certain countries. An overview on the CITES history of each species is given in the following tabulation:

To facilitate the implementation of the Convention, a regularly updated "CITES Identification Manual" is published since 1981. The manual is a loose-leaf collection of data sheets whereby a

code number is assigned to each species / data sheet. The code numbers which are derived from the ISIS codes, as well as references to synonyms included in the CITES Appendices or referred to in the Manual are also shown in the tabulation.

Table 2: Ursids in CITES

Scientific name as used by CITES, Common name ID-Manual code	Synonyms referred to in the CITES ID-Manual	CITES listings	Annotations
<i>Ailuropoda melanoleuca</i> Giant panda 112.002.001.001	none relevant	included in Appendix III (China) on 06.12.1983; transferred to Appendix I on 14.03.1984	
<i>Ailurus fulgens</i> Red panda 112.003.001.001	none relevant	included in Appendix II as from 01.07.1975; transferred to Appendix I on 16.02.1995	
<i>Helarctos malayanus</i> Sun bear 112.002.002.001	none	included in Appendix II as from 01.07.1975; transferred to Appendix I on 28.06.1979	
<i>Melurusus ursinus</i> Sloth bear 112.002.003.001	none	included in Appendix I on 18.01.1990	
<i>Selenarctos thibetanus</i> Asiatic black bear 112.002.004.001	= 325 <i>Ursus thibetanus</i>	subspecies <i>gedrosianus</i> included in Appendix I on 04.02.1977; all other subspecies included in Appendix I on 28.06.1979	a proposal to include the subspecies <i>laniger</i> submitted at COP 2 became redundant
<i>Tremarctos ornatus</i> Spectacled bear 112.002.005.001	none	included in Appendix I as from 01.07.1975	
<i>Ursus arctos</i> Brown bear 112.002.006.001	<i>Ursus horribilis</i> <i>Ursus middendorffi</i>	North America: subspecies <i>nelsoni</i> included in Appendix I as from 01.07.1975; subspecies <i>nelsoni</i> replaced by "population of Mexico" on 18.01.1990; all other North American populations included in Appendix II as from 01.07.1975. Europe: Italian population included in Appendix I as from 01.07.1975; transferred to Appendix II on 29.07.1983, together with the inclusion of all other European populations, except the population of the then USSR.	subspecies <i>nelsoni</i> was considered non-valid at COP 7

		<p>Asia:</p> <p>subspecies <i>pruinus</i> included in Appendix I as from 01.07.1975; replaced by "populations of Bhutan, China and Mongolia" on 11.06.1992;</p> <p>subspecies <i>isabellinus</i> included in Appendix I on 28.06.1979;</p> <p>all other Asian populations, except the population of the then USSR, included in Appendix II on 18.01.1990</p> <p>inclusion in Appendix II of all populations so far not included in Appendix I or II on 11.06.1992</p>	<p>Change made to include also subspecies <i>lasiotus</i></p> <p>Reservation entered by Switzerland</p> <p>concerns in particular the subspecies <i>lasistanicus</i> and <i>syriacus</i> in the former USSR</p>
<i>Ursus americanus</i> American black bear 112.002.006.002	<i>Euarctos americanus</i>	included in Appendix III (Canada) on 18. 09.1991; included in Appendix II on 11.06.1992	included as a "look-alike" (because of the trade in gall bladders) to improve the protection of endangered Asian bear species
<i>Ursus maritimus</i> Polar bear 112.002.006.003	<i>Thalarctos maritimus</i>	included in Appendix II as from 01.07.1975	

The inclusion in Appendix I of all Asian and European populations of the brown bear has been proposed in January 1997 and will be considered at COP 10 (Harare, 9-20 June 1997).

It should be noted that CITES does in no way affect the right of Parties to adopt stricter domestic measures regarding the conditions for trade, taking possession or transport of species included in Appendices I, II and III, or the complete prohibition thereof (CITES Article XIV). Resolution **Conf. 8.5** recommends, however, that each Party informs the other Parties, direct or through the Secretariat of any stricter internal measures it has taken.

Consequently, information on stricter domestic measures may be obtained from the following address:

CITES Secretariat
International Environment House
15, ch. des Anémones
CH-1219 Châtelaine-Genf
Schweiz

Phone ++41-22-917-8139 or 40
Fax. ++41-22-797-3417
E-mail: info @cites.org
Web: www.cites.org

9.5 EUROPEAN UNION REGULATIONS

In the European Union, CITES is implemented by means of the Council regulation (EC) N 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein, published in the Official Journal Vol.40 N L61 of 3 March 1997, which may be obtained from the Office for Official Publications of the European Communities, OP/5, 2 rue Mercier, L-2985 Luxembourg (price 19.50 ECU). The rules for the introduction into the Community are contained in Article 4 and those for the export or re-export from the Community in Article 5, while the movement of live specimens within the Community is regulated in Article 9. Article 6 lays down the rules for the rejection of applications for permits and certificates, and Article 7 relates to exemptions, in particular to specimens which are born or bred in captivity, to the transit, and the exchange between scientific institutions. Article 11 specifies the validity of and special conditions for permits and certificates, and Article 12 requests Member States to designate points of entry and exit for CITES specimens. The bears are listed in Annexes A and B of the regulation whereby, in contrast to CITES, the entire species of *Ursus arctos* is listed in the more stringent Annex.