



**CAPTIVE BREEDING OF INTERNATIONALLY PROTECTED WILD SPECIES IN THE EU
RECOMMENDATIONS ON THE IMPLEMENTATION OF ‘EU GUIDANCE ON LIVE ANIMALS BRED IN
CAPTIVITY UNDER THE EU WILDLIFE TRADE REGULATIONS’ (2022/C 306/02)**

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1. INTRODUCTION AND CONTENTS

In August 2022, the European Commission published guidance on live animals bred in captivity under the EU Wildlife Trade Regulations (publication 2022/C 306/02 – hereafter referred to as ‘the Guidance’¹). Its stated intention is:

“to help EU Member States and stakeholders implement the EU Wildlife Trade Regulations in relation to live animal specimens born and bred in captivity, in cases where they are brought into the EU, (re-)exported from the EU, or traded internally within the bloc...”

and specifically:

“to help EU Member States assess whether captive-bred specimens of species listed in the Annexes to the Basic Regulation² meet the conditions for issuing the documents required for importing, (re-)exporting or internal trade.”

We strongly urge Member States to strictly apply the Guidance, and to “Ensure no trade occurs when there are reasonable doubts regarding the authenticity of captive-breeding claims”, particularly when faced with a lack of information or any doubt as to the validity of information provided.

This paper is divided into the following sections:

1. Introduction and contents
2. Background
3. Why a highly precautionary approach to the trade in captive bred wildlife is necessary
4. Recommendations to Member State Authorities and stakeholders for the implementation of the Guidance
5. Current EU policy shortcomings regarding captive breeding operations
6. Recommendations for future EU policy

2. BACKGROUND

The European Union and all of its Member States are Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). CITES provisions are implemented in the EU via its Wildlife Trade Regulations (WTRs), which primarily consist of Council Regulation (EC) No. 338/97 - commonly known as ‘the Basic Regulation’ - and Commission Regulation (EC) No. 865/2006 - known as ‘the Implementing Regulation’.

¹ <https://op.europa.eu/en/publication-detail/-/publication/1c83954a-1910-11ed-8fa0-01aa75ed71a1/language-en/format-PDF>

² Council Regulation (EC) No. 338/97

Derogations to the international trade in captive bred species listed in Annex A of the EU WTRs

Article III of CITES³ prohibits international trade for primarily commercial purposes in species listed in Appendix I. However, paragraph 4 of Article VII⁴ provides that “*Specimens of an animal species included in Appendix I bred in captivity for commercial purposes... shall be deemed to be specimens of species included in Appendix II*”, enabling specimens from captive breeding operations to be traded internationally for commercial purposes⁵.

This derogation is reflected in **Article 7 Paragraph 1 of the Basic EU Regulation**, which states: “*Save where Article 8 applies, specimens of species listed in Annex A that have been born and bred in captivity or artificially propagated shall be treated in accordance with the provisions applicable to specimens of species listed in Annex B.*” In effect this means that **international trade in captive bred specimens of species listed in Annex A of the EU WTRs are treated under the rules that apply to Annex B listed species, enabling them to be traded commercially across borders** subject to appropriate permits.

3. WHY A HIGHLY PRECAUTIONARY APPROACH TO THE TRADE IN CAPTIVE BRED WILDLIFE IS NECESSARY

The captive breeding of and trade in captive bred wild animals, or parts and products derived from them, can be:

- **Detrimental to the conservation of wild populations** of the species concerned, through the ongoing demand for wild animals to stock breeding farms, the stimulation of consumer demand for wild animals or parts and products derived from them, and the associated incentivisation of further offtake from the wild;
- **Detrimental to the welfare and genetic integrity of wild animals** through inadequate husbandry conditions on breeding farms, inbreeding, possible hybridisation, during preparation and shipping, and at their final destination;
- **Detrimental to the wider environment** through the establishment of invasive species following escapes or releases of non-indigenous wild animals from breeding farms; and
- **Detrimental to animal and human health and safety** through the emergence, proliferation and spill-over of pathogens from or through captive breeding facilities and animals traded from them.
- **Detrimental to law enforcement** through the provision of legal trading mechanisms by which illegally procured specimens can be laundered into trade;

The Guidance itself notes the following:

- Captive breeding can have a **considerable negative impact on the conservation of natural populations** in cases where founder-breeding stocks have been acquired or are being supplemented in an unsustainable way.
- In some cases, captive-breeding operations have used **specimens acquired illegally**.
- There have been cases where breeding claims were **not genuine and wild specimens were ‘laundered’ as captive-bred**.

³ <https://cites.org/eng/disc/text.php#III>

⁴ <https://cites.org/eng/disc/text.php#VII>

⁵ <https://cites.org/eng/disc/text.php#IV>

4. RECOMMENDATIONS FOR THE IMPLEMENTATION OF THE GUIDANCE

General recommendations

1. **A highly precautionary approach** should be adopted when considering applications **for permits or certificates for specimens of protected species** reported to have been **bred in captivity**.
2. **The health and welfare of live animals in captive breeding facilities and in trade** should always be afforded the highest priority.
3. Member States should consider the **following key objectives when implementing the Guidance**:
 - The trade in captive bred specimens of listed species should only be permitted when **captive breeding operations are in full compliance** with all **relevant national, EU and international requirements**, including the need to ensure legal acquisition and non-detriment of founder stock and imports, and the requirement to trace them back to source;
 - The trade in wild animals derived from captive breeding operations **should not require or incentivise further offtake from threatened wild populations**;
 - The regulatory system **should not provide opportunities** by which illegally sourced wild animals or parts and products derived from them can be **laundered into trade or used as founder stock**;
 - The trade in wild animals derived from captive breeding operations **should not present a significant risk to animal, human or environmental health or well-being**; and
 - Captive breeding operations **should be required to provide the highest welfare standards for wild animals** maintained in and traded from such operations.

Practical advice

SECTION 3: Verifying legal acquisition	<ul style="list-style-type: none">○ The considerations listed in Annex 1 of the Guidance provide an overview of risk factors when assessing whether specimens claimed to be captive bred have been legally acquired. These assessments, which form a key part of the due diligence process, may require specialist knowledge and experience, which should be sought not just from CITES authorities, but also from independent experts with specialist knowledge of the species concerned.○ Credible chronological documentation (e.g. dated capture permits or receipts, CITES documents, markings, etc) of the chain of custody going back to the original source should be a mandatory requirement.○ If the required documents detailed in section 3.1 are not available, trade permits should not be issued.○ Member States should ensure compliance with an EU Certificate and any conditions and restrictions it contains.
Breeding stock	<ul style="list-style-type: none">○ The existence of import permits is not sufficient to prove legal acquisition of breeding stock. CITES Resolution Conf. 18.7 (Rev. CoP19) on Legal Acquisition Findings⁶ states in Annex 1 paragraph 2 b): <i>“The documentation should, to the extent practicable, provide information on the entire chain of custody back to the source of the specimen. Such information may include records demonstrating that</i>

⁶ <https://cites.org/sites/default/files/documents/COP/19/resolution/E-Res-18-07-R19.pdf>

	<p><i>the specimen or parental stock was removed from the wild in accordance with relevant laws (licences, collections permits, etc.), records identifying the specific specimen (band numbers or other marks, etc.) and documenting the history of transfers of ownership (sales, receipts, invoices, etc.), and records showing that the specimen was reared at a particular facility, for example.”</i></p> <ul style="list-style-type: none"> ○ The Implementing Regulation states that breeding stock for captive breeding operations should have been legally acquired (at the time of acquisition), in a manner not detrimental to the survival of the species in the wild, and that the introduction of further specimens from the wild to maintain breeding stock should only be permitted ‘exceptionally’. A highly precautionary approach should therefore be applied to any situation where additional breeding stock has been acquired from the wild. ○ The factors to be taken into consideration for importing wild specimens of Annex A species as breeding stock in Section 3.1.1 of the Guidance should also be applied to specimens of species listed in a Annex B. Clear criteria should also be provided for specimens of species listed in other Annexes.
<p><i>Production of second-generation offspring</i></p>	<ul style="list-style-type: none"> ○ As stated in the Guidance, judgement of whether captive breeding operations can reliably produce second generation offspring requires a substantial amount of information about the breeding methods and knowledge of the individual species concerned. Member States should require and monitor the keeping of up to date stud books, consult independent species experts, and adopt a general policy of rejecting imports of specimens of first-generation offspring from captive breeding facilities.
<p><i>Purpose codes</i></p>	<ul style="list-style-type: none"> ○ Purpose code S should only be applied to "<i>non-commercial loan, donation or exchange between scientists or scientific institutions</i>" (CITES Article VII, paragraph 6) that are "<i>registered or otherwise acknowledged by the Management Authority of the country of import</i>" (CITES Resolution Conf. 5.10 Rev. CoP19⁷). ○ Purpose code ‘M’ should only be applied where there is no alternative to using the species concerned, and where no other specimens suitable for the purpose exist across the breeding centre concerned or in other such facilities. It should not be used where commercial considerations apply (such as to stock a facility for competitive commercial purposes). ○ Purpose code ‘B’ should only be applied where there is a clear requirement, identified in an IUCN Red List assessment or in the conservation literature, for ex-situ breeding for conservation purposes, and only to facilities that are part of a credible, established conservation breeding programme recognised by the Management Authority of the importing country, focussed on re-introduction and supporting in situ conservation of the species concerned. ○ The use of purpose code ‘Z’ is controversial, since zoos utilise many animals for commercial purposes. Member States are encouraged to use purpose code ‘T’ in these circumstances. Where relevant and the above-mentioned conditions are fulfilled, purpose codes S or B should be used for non-commercial transfers to zoos. ○ The use of purpose code ‘E’ is not clearly articulated and may be subject to abuse. It should therefore be regarded with extreme caution.

⁷ <https://cites.org/sites/default/files/documents/COP/19/resolution/E-Res-05-10-R19.pdf>

	<ul style="list-style-type: none"> ○ Purpose code 'P' should not be used in relation to commercial captive breeding operations for listed species. The breeding of animals for sale for personal use, such as 'pets', should be regarded as a commercial activity and purpose code 'T' should be applied. ○ Any change to the original purpose of an import should be regarded with extreme caution. The subsequent commercial use of specimens imported for non-commercial purposes, or offspring derived from them, should not be permitted under any circumstances.
<p>SECTION 4: <i>Introduction into the EU</i></p>	<ul style="list-style-type: none"> ○ Member State Management and Scientific Authorities should adopt a highly precautionary approach when determining whether imports of specimens reported to be captive bred comply with the requirements of CITES and associated EU Regulations. ○ Member States should only consider issuing import permits for captive bred specimens of CITES Appendix I listed species from captive breeding facilities that have been registered with the CITES Secretariat according to the requirements of CITES Resolution Conf. 12.10 (Rev. CoP15). ○ When assessing whether specimens for import meet the criteria in Annex 1 of the Guidance, Management and Scientific Authorities should seek independent species-specific expert advice. Management Authorities should refuse to issue import permits in cases of doubt. The emphasis should be on disallowing trade unless the application clearly meets all criteria and satisfies risk assessments. ○ Information from the applicant should be requested, although it should not be taken as a substitute for information from the government of export/origin, nor should it override independent expert advice. ○ The sharing of information between Member States, through the Captive Breeding Database and via the Scientific Review Group, is vitally important in order to inform other Member States of facilities or applications that give rise to concern.
<p>SECTION 5: <i>Internal EU trade</i></p>	<ul style="list-style-type: none"> ○ When considering applications for intra-EU certificates, previous applications by the applicant should be taken into account, particularly when such applications have been refused. Where there is any doubt, the authorities in the State of Import should also be consulted. ○ Claims of production of higher numbers of captive bred offspring than might be expected in the wild through scientific advancements or other factors, should require the provision of clear and unequivocal evidence prior to the issuing of associated certificates. ○ Member State Authorities should require responses from applicants to the additional questions suggested in section 5.1 of the Guidance in all cases, and additional information should be sought in cases where breeding stock has been augmented with wild caught individuals to ensure legal acquisition and non-detriment to wild populations. ○ Reliance on any samples for DNA analysis should always require the sampling to be overseen by a designated official.
<p>SECTION 6: <i>Exports and re-</i></p>	<ul style="list-style-type: none"> ○ In determining whether captive bred specimens for export from the EU meet the criteria in Article 54 of the Implementing Regulation, independent expert advice

<p>exports from the EU</p>	<p>should be sought by Management and Scientific Authorities, particularly where there is any cause for doubt.</p> <ul style="list-style-type: none"> ○ A highly precautionary approach should be adopted in the presence of risk factors which result in uncertainty over whether the criteria in Article 54 of the Implementing Regulation have been met. ○ The health and welfare of live animals in trade should be prioritised prior to the issuance of export permits, by ensuring that such animals are afforded appropriate care during preparation and shipping, that the destination facilities for such animals are adequately equipped to conserve and care for them properly, and in order to reduce the risk of potential pathogen emergence. ○ When specimens are marked, specification of the identification numbers on the export permit (or re-export certificate) in description box 8 should be a requirement.
<p>SECTION 7: Confiscated animals</p>	<ul style="list-style-type: none"> ○ Confiscated specimens should never be reintroduced into commercial trade or used to stock commercial breeding facilities as breeding animals or additional stocks. Such actions undermine law enforcement and potentially encourage further illegal trade in threatened species. ○ Guidance should be provided to Member States on the requirements for the transfer of confiscated CITES-listed animals between Member States to ensure a harmonised approach.

5. CURRENT EU POLICY SHORTCOMINGS REGARDING EU CAPTIVE BREEDING OPERATIONS

CITES provisions for ‘humane’ captive breeding operations and their registration

CITES provides definitions and recommendations for captive-bred specimens in Resolution Conf. 10.16 (Rev. CoP19)⁸, and recommends that Parties in which captive breeding operations for Appendix I species exist, should register those operations with the CITES Secretariat. The criteria and process for registration is detailed in Resolution Conf. 12.10 (Rev. CoP15)⁹.

Resolution Conf. 12.10 (Rev. CoP15) also states, under Paragraph 16 of Annex 1, that Parties registering captive breeding operations with the CITES Secretariat should provide “*Assurance that the operation shall be carried out at all stages in a humane (non-cruel) manner*”. Similar language appears in CITES Resolution Conf. 11.16 (Re. CoP15) in relation to ranched specimens.

Failure to comply with CITES provisions in relation to captive breeding operations

The rules governing the trade in specimens of listed species born and bred in captivity are detailed in Articles 54 and 55 of the EU’s Implementing Regulation¹⁰. According to these provisions, **the European Union currently does not require its Member States to register breeding operations for Appendix I/Annex A species with the CITES Secretariat.**

⁸ <https://cites.org/sites/default/files/documents/COP/19/resolution/E-Res-10-16-R19.pdf>

⁹ <https://cites.org/sites/default/files/documents/COP/19/resolution/E-Res-12-10-R15.pdf>

¹⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:02006R0865-20220119>

In its report to the 77th meeting of the Standing Committee on compliance and the Application of Article XIII in the European Union, published in September 2023¹¹, **the CITES Secretariat is highly critical of the EU and its Member States in relation to their lack of implementation of internationally agreed rules on the export and re-export of captive bred specimens of CITES Appendix I listed specimens for primarily commercial purposes**, particularly in relation to:

- the large number of (re-) exports of captive bred specimens of App. I species for commercial purposes (47,377 between 2011 -2020)¹²;
- the failure of EU Member States to implement CITES Resolution Conf.12.10 (Rev. CoP15) and register all facilities breeding Appendix I species for commercial purposes with the CITES Secretariat;
- the failure to correctly identify the primarily commercial purpose of transactions;
- the lack of clarity around 'commercial' vs 'hobby' breeders and use of 'surplus' stock;
- the lack of clarity around the conservation contribution of exports from such facilities;
- the different requirements that apply to exports within and beyond the EU;
- the consideration of payments for exported specimens by some breeders as 're-financing' conservation activities and thus not constituting commercial purposes; and
- the variability in how and by who breeders are inspected and registered in EU Member States.

In its document the Secretariat recommends that the CITES Standing Committee, *inter alia*:

- determines that Article III and Article VII para. 4 of the Convention are not being effectively implemented by the EU with regard to the registration of operations that breed Appendix-I animal species in captivity for commercial purposes, in particular concerning a) the evidence that the parental stock has been obtained in accordance with relevant national laws and the provisions of the Convention (e.g. dated capture permits or receipts, CITES documents, markings, etc.); and b) the primarily commercial nature of the operations breeding Appendix-I animal species in captivity;
- may decide to take compliance measures referred in paragraphs 29 and 30 of the Annex to Resolution Conf. 14.3 (Rev. CoP19);
- may wish to urge the CITES Management Authorities of the EU to ensure that facilities that are breeding specimens of Appendix-I listed species for commercial purposes be registered with the CITES Secretariat in accordance with the procedures established in Resolution Conf 12.10 (Rev. CoP15);
- may wish to recommend that EU CITES Management Authorities do not issue CITES export permits or re-export certificates authorising export for primarily commercial purposes of specimens of Appendix-I listed species that have been bred in unregistered facilities;
- may wish to invite Parties to restrict imports for primarily commercial purposes, as defined in Resolution Conf. 5.10 (Rev. CoP19), of captive-bred specimens of Appendix-I species to those produced by operations included in the CITES Register; and
- may wish to consider developing additional guidance on the chain of custody required for demonstrating the legal acquisition of the parental Stock, and standardised and objective criteria to assist Management Authorities in making the findings about the continuing meaningful contribution that the captive-breeding operation will make to the conservation needs of the species concerned.

¹¹ <https://cites.org/sites/default/files/documents/E-SC77-33-08.pdf>

¹² Note these figures include data from the UK, which was an EU Member State at the time

6. RECOMMENDATIONS FOR FUTURE EU POLICY

In order to ensure the correct application of the legislation relating to the trade in captive bred wild animals, the credibility of claims of captive breeding, and the safety, health and well-being of people and animals, the EU should:

- Adopt a policy of registering all captive breeding facilities that breed Annex A species for commercial purposes with the CITES Secretariat, according to the requirements of CITES Resolution Conf. 12.10 (Rev. CoP15);
- Adopt a policy requiring mandatory registration in a central database of possession, purchase, sale, export, import, birth, and death of live vertebrate species listed in Annex A and B. This is necessary to ensure stringent trade controls and traceability, specifically as the EU does not require issuance of CITES permits for internal EU trade in Annex B and captive bred Annex A specimens;
- Introduce a clear system of regular independent inspection and monitoring of captive breeding operations to ensure full compliance with Regulations and Guidance, and in order to ensure animals are maintained to high welfare standards;
- Only permit imports of captive bred Annex A specimens for commercial purposes from facilities included in the CITES Secretariat's register;
- Ensure that legal acquisition findings are traced back to the original source - not only the last exporting country, with evidence provided that the parental stock has been obtained in accordance with relevant national laws and the provisions of the Convention (e.g. dated capture permits or receipts, CITES documents, markings, etc.)
- Require that oversight and issuance of permits and certificates at least for Annex A species, including captive bred specimens and transfers within the EU, lies with CITES authorities at national level - given that local authorities may lack relevant expertise and capacity;
- Incorporate key aspects of the Guidance into the EU Wildlife Trade Regulations, in order to make them mandatory and ensure compliance and conformity across Member States;
- Review and update the Guidance on regular basis (including to align with CITES Resolutions and Decisions) and enable input from civil society;
- Develop and maintain a list of independent experts who can be consulted to advise on whether specimens to be imported, exported, or traded within the EU as 'captive-bred' meet the requirements of the Regulations and Guidance. Such a list should include rescue centre and sanctuary staff within the EU, with species-specific knowledge and expertise;
- Develop clear and robust guidance on the disposal of confiscated live animals, including the development of a network of experts and genuine sanctuaries/rescue centres that can assist in ensuring that confiscated live animals are afforded appropriate care. Such guidance should prioritise the return of such animals to their country of origin, or where this is not possible, their lifetime sanctuary care. It should preclude any subsequent commercial use of such specimens and their offspring;
- Establish restrictions on the introduction of certain species. Paragraph 6 of Article 4 of the Basic Regulation specifies that the Commission "...may establish general restrictions, or restrictions relating to certain countries of origin, on the introduction into the Community, of live specimens of species listed in Annex B which have a high mortality rate during shipment or for which it has been established that they are unlikely to survive in captivity for a considerable proportion of their potential life span, or of live specimens of species for which it has been established that their introduction into the natural environment of the Community presents an ecological threat to wild species of fauna and flora indigenous to the

Community.” Such restrictions should be robustly applied to captive bred animals that suffer high levels of morbidity or mortality, or that present an ecological threat through the establishment of invasive species.

For and on behalf of:

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