

RECALLING the provisions of Article III, paragraph 2 (b), Article IV, paragraph 2 (b), and Article V, paragraph 2 (a) of the Convention, which require a Management Authority of the State of export to be satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora;

RECALLING the provisions of Article III, paragraph 4 (a), and Article IV, paragraph 5 (a) which require a Management Authority of the State of re-export to be satisfied that the specimen was imported into that State in accordance with the provisions of the Convention;

RECALLING the provisions of Article II, paragraph 4, which states that Parties shall not allow trade in specimens of species included in Appendices I, II, and III except in accordance with the provisions of the Convention;

RECALLING ALSO the provisions of Article VIII, paragraph 1, of the Convention, which requires the Parties to take appropriate measures to enforce the provisions of the Convention and to prohibit trade in specimens in violation thereof and Resolution Conf. 8.4 (Rev. CoP15) on *National laws for implementation of the Convention*, paragraph 2, which urges all Parties to adopt appropriate measures for effective implementation of the Convention;

RECALLING FURTHER Resolution Conf. 12.3 (Rev. CoP19)<sup>1</sup> on *Permits and certificates*, paragraph 5 j) and i), which recommend that “Parties not authorize the import of any specimen if they have reason to believe that it was not legally acquired in the country of origin” and that “no export permit or re-export certificate be issued for a specimen known to have been acquired illegally, even if it has been imported in accordance with the national legislation unless the specimen has previously been confiscated”;

CONSIDERING Resolution Conf. 11.3 (Rev. CoP19)<sup>2</sup> on *Compliance and enforcement*, paragraph 3 a), which recommends that “if the Management Authority of the State of import or re-export has reason to believe that specimens of CITES species are traded in contravention of the laws of any country involved in the transaction, or has reason to believe that the specimen accompanied by a CITES document may not have been traded in accordance with the provisions of the Convention, it should: i) immediately consult with the Management Authority in the country whose laws were thought to have been violated (and the exporting or re-exporting country if different) and, to the extent possible, provide that Management Authority with copies of all documentation relating to the transaction, and during consultation the Parties should inform each other of all circumstances and facts relating to the transaction likely to be relevant to compliance with the Convention, national laws, illegal trade and also of control measures; ii) when they have reason to believe that the specimen may not have been legally acquired, that the non-detriment finding, if required, may not have been made or properly made, or that any other CITES requirement(s) may not have been fulfilled, request the basis for the relevant determination; iii) if after consulting with the Management Authority of the relevant State, the Management Authority of the State of import or re-export has not received satisfactory information regarding any CITES requirements, it should not authorize the import or re-export of the specimen concerned, including not issuing any required permits or certificates; iv) if there is no satisfactory response, request the assistance of the Secretariat, as appropriate, in the context of its responsibilities under Article XIII of the Convention and Resolution Conf. 14.3 (Rev. CoP19)<sup>3</sup> on *CITES compliance procedures*; v) in case of violation of the provisions of the Convention, immediately take appropriate enforcement measures, including pursuant to Article VIII, paragraph 1, of the Convention in order to penalize such violation and to take appropriate remedial action; and vi) if appropriate, make use of stricter measures with regard to that transaction, consistent with the provisions of Article XIV, paragraph 1. a), of the Convention;”

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\* Amended at the 19th meeting of the Conference of the Parties.

<sup>1</sup> Corrected by the Secretariat following the 19th meeting of the Conference of the Parties.

<sup>2</sup> Corrected by the Secretariat following the 19th meeting of the Conference of the Parties. The Secretariat has also updated the text of paragraph 3 a) of Resolution Conf. 11.3 (Rev. CoP19) to reflect the changes made at CoP19.

<sup>3</sup> Corrected by the Secretariat following the 19th meeting of the Conference of the Parties.

RECOGNIZING FURTHER that the Convention places considerable responsibility upon the CITES Management Authorities to ensure that specimens of listed species entering international trade are of legal origin; and

EMPHASIZING that this Resolution is aimed at supporting Management Authorities in verifying the legal acquisition of specimens of CITES-listed species prior to the issuance of CITES documents authorizing their export;

#### THE CONFERENCE OF THE PARTIES TO THE CONVENTION

##### 1. RECOMMENDS that:

- a) for the purposes of Article III, paragraph 2 (b), Article IV, paragraph 2 (b), and Article V, paragraph 2 (a) of the Convention, the term “Legal Acquisition Finding” be used by Parties when referring to the examination conducted by a Management Authority prior to issuing a CITES export permit to satisfy itself that the specimen was not obtained in contravention of the laws and regulations of that State for the protection of fauna and flora (in other words, it was legally acquired);
- b) to the extent possible, the determination of whether a specimen was not obtained in contravention with the laws and regulations of that State for the protection of fauna and flora should take into account the whole series of actions through which the specimen is brought from its source into the possession of an exporter; and
- c) depending on the context, the term defined above should also be used when considering exemptions and other special provisions mentioned in Annex II, on a case-by-case basis;

##### 2. AGREES that:

- a) “Applicant” means a person or an entity who applies for a CITES document required to export, import, re-export or introduce from the sea a specimen of a CITES-listed species;
- b) “Chain of custody” means chronological documentation, to the extent practicable and in accordance with applicable laws and records, of the transactions pertaining to the removal from the wild of a specimen and the subsequent ownership of that specimen; and
- c) “Risk assessment” means the evaluation of the likelihood that a specimen of a CITES-listed species was not legally acquired;

#### **Guiding principles**

##### 3. RECOMMENDS that the following general principles be used by Parties for verifying the legal acquisition of specimens to be exported:

- a) procedures to conduct the verification of legal acquisition should be sufficiently flexible to allow for a risk assessment approach;
- b) to the extent possible, procedures used by a Management Authority for verifying the legal acquisition of specimens to be exported should be publicly available to facilitate the collection of required information and provide clarity to applicants requesting export permits;
- c) the applicant is responsible for providing sufficient information for the Management Authority to determine that the specimen was legally acquired, such as statements or affidavits made under oath and carrying a penalty of perjury, relevant licenses or permits, invoices and receipts, forestry concession numbers, hunting permits or tags, or other documentary evidence;
- d) the information that the Management Authority requires of an applicant for verifying the legality of acquisition should be proportionate with the likelihood that a specimen of a CITES-listed species was not legally acquired; and
- e) Management Authorities are encouraged to maintain records of permits issued, including the information provided by the applicant regarding the legality of acquisition;

##### 4. RECOMMENDS that Management Authorities be guided by the recommendations in Resolution Conf. 11.3 (Rev. CoP19) on *Compliance and enforcement*, paragraph 3 a), including with respect to specimens of Appendix-I species, and Resolution 12.3 (Rev. CoP19) on *Permits and certificates*, paragraph 5 j) and paragraph 24 k) to m);

5. RECOMMENDS that Parties use the guidance contained in Annexes 1 and 3 of this Resolution, when verifying the legal acquisition of CITES specimens traded under Article III, paragraph 2 (b), Article IV paragraph 2 (b) and Article V, paragraph 2 (a) and the legal acquisition of founder stock of specimens traded under Article VII paragraph 4 and 5;
6. RECOMMENDS FURTHER that Parties take note of the additional circumstances listed in Annex 2 of this Resolution where verification of legal acquisition and other legal findings are required and utilize the guidance in Annexes 1 and 3 of this Resolution to the extent that is applicable; and
7. INVITES all Parties, governmental, intergovernmental and non-governmental organizations and other sources to provide financial and/or technical assistance for the development of training material on the verification of legal acquisition, maintaining a dedicated up-to-date webpage on the CITES website, and the organization of workshops and other capacity-building activities related to the implementation of this Resolution.

## Annex 1

### Guidance for making legal acquisition findings

1. **General recommendations for the making of legal acquisition findings by the State of export for specimens of CITES-listed species to be exported in accordance with Article III, paragraph 2 b), Article IV, paragraph 2 b), and Article V, paragraph 2 a) of the Convention**
  - a) Parties are recommended to include in their national regulatory framework the obligation of a Management Authority to verify, prior to issuing any CITES export permit, whether a specimen of CITES-listed species to be exported was legally acquired.
  - b) To ensure due process and assist applicants in providing information demonstrating legal acquisition, each Party may, where appropriate and possible, prepare general written instructions regarding the information required of an applicant and make that information publicly available. The instructions may specify that a Management Authority may require additional information depending on the nature of a specific transaction.
  - c) Management Authorities may choose to verify legal acquisition based on a risk assessment approach, which may include the consideration and balancing of the following factors to the extent that they may be relevant to a particular CITES document request (the order of listing of the factors does not indicate any priority):
    - i) the Appendix in which the species is listed;
    - ii) the source of the specimen (considering whether the specimen is wild-collected, ranched, bred in captivity or artificially propagated, or of unknown origin);
    - iii) occurrence of the species in a controlled environment in the Party dealing with the application;
    - iv) geographical factors (e.g. whether the territory from which the specimen originated is affected by armed conflicts or other factors that may increase the likelihood of illegal acquisition);
    - v) documented illegal harvest or illegal trade;
    - vi) purpose of trade (commercial or non-commercial) including with reference to the definitions of purpose-of-transaction codes outlined in Resolution Conf. 12.3 (Rev. CoP19) on *Permits and certificates*;
    - vii) history of applications from the applicant, including any history of non-compliance;
    - viii) monetary value of the specimens; and
    - ix) existence of look-alike species.
  - d) Where, after considering and balancing the above factors, a Management Authority concludes that there is a high risk that the specimen to be exported was not legally acquired, it may choose to require additional information and engage in further scrutiny of the chain of custody. Where a Management Authority concludes that the risk of illegal acquisition is low, it may choose to engage in less scrutiny and require less information of the applicant.
2. **Practical steps for the verification of legal acquisition by the State of export**
  - a) To verify legal acquisition, a Management Authority must first be aware of and understand their relevant laws for the protection of fauna and flora.
  - b) To verify legal acquisition, the Management Authority should review all the documentary and other information presented by the applicant. 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 the specimen or parental stock was removed from the wild in accordance with relevant laws (licenses, 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. Where a

Management Authority considers that the evidence is incomplete, it should provide the applicant with an opportunity to produce additional information.

- c) If upon the review of the documentation and taking into account all other relevant elements, a Management Authority is satisfied that the specimen was legally acquired, the requirement of verification of legal acquisition is fulfilled.
- d) Where a Management Authority is not satisfied that the specimen was legally acquired, it should not issue the requested CITES document.
- e) A Management Authority may choose to share relevant information about the legal acquisition of the specimen on the CITES document. Such information may be included in Box 5 (or another location) of the standard CITES document and may include import or export permit numbers, forestry concession numbers, hunting permit or tag numbers, for example.

### **3. Cooperation between relevant agencies and CITES Management Authorities**

- a) To ensure effective cooperation between domestic authorities (national, provincial, local, tribal) involved in the process of regulating the acquisition of specimens of CITES-listed species, the Parties may consider establishing mechanisms of inter-agency cooperation.
- b) CITES Management Authorities may consult competent intergovernmental bodies regarding the verification of legal acquisition and the fulfilment of due diligence requirements.
- c) When an exporting or re-exporting State receives a request from an importing State to verify the authenticity and validity of a CITES permit or certificate, it should make every effort to respond as indicated in Resolution Conf. 12.3 (Rev. CoP19) on *Permits and certificates* in paragraph 24 l) and m).

### **4. Practical tools**

- a) For the purpose of establishing the chain of custody, the Parties may make use of information systems and traceability tools.
- b) In verifying legal acquisition, Parties may wish to consult existing international legal databases such as ECOLEX, FAOLEX, and the World Legal Information Institute.
- c) Where Parties consider that more certainty is required to establish that a specimen was legally acquired, Parties may have recourse to request verification by the applicant using forensic tools such as DNA testing, stable isotope analysis, and radiocarbon dating.
- d) Management Authorities may use for their convenience the rapid guide for verifying legal acquisition below.

## Annex 2

### Additional circumstances requiring the verification of legal acquisition or other legal findings

The Conference of the Parties has recommended that verification of legal acquisition and other legal findings, such as verifying the date of acquisition, be made in the following circumstances.

#### Breeding/parental stock of specimens bred in captivity or artificially propagated

1. Pursuant to Resolution Conf. 10.16 (Rev. CoP19)<sup>4</sup> on *Specimens of animal species bred in captivity*, paragraph 2 b ii), and Resolution Conf. 11.11 (Rev. CoP18) on *Regulation of trade in plants*, paragraph 1 b i), a Management Authority of the State of export should verify legal acquisition of the breeding/parental stock of specimens bred in captivity or artificially propagated to be exported under Article VII, paragraphs 4 and 5 of the Convention.

#### 'Pre-Convention' specimens

2. In accordance with Article VII, paragraph 2 of the Convention and pursuant to Resolution Conf. 13.6 (Rev. CoP18) on *Implementation of Article VII, paragraph 2, concerning 'pre-Convention' specimens*, to authorize the export of a 'pre-Convention specimen', a Management Authority shall be satisfied that a specimen was acquired before the provisions of the Convention applied to it and should therefore establish the date of acquisition or the earliest provable date on which it was first possessed by any person.

#### Specimens of Appendix I and II species taken in the marine environment not under the jurisdiction of any State

3. Pursuant to Resolution Conf. 14.6 (Rev. CoP16) on *Introduction from the sea*, paragraph 2 b), "whenever any specimen of a species included in Appendix I or II is taken in the marine environment not under the jurisdiction of any State by a vessel registered in one State and is transported into a different State, the provisions of Article III, paragraphs 2 and 3, or Article IV, paragraphs 2, 3 and 4, respectively, should be applied, with the State in which the vessel that took the specimen is registered being the State of export and the State into which the specimen is transported being the State of import". Under those circumstances, the State of export shall verify the legal acquisition of the specimen.
4. In the case of chartering operations, where the provisions of Article III, paragraphs 2 and 3, or Article IV, paragraphs 2, 3 and 4 apply pursuant to Resolution Conf. 14.6 (Rev. CoP16), paragraph 2 c), the State of export shall verify the legal acquisition of the specimen taken in the marine environment not under the jurisdiction of any State.
5. Pursuant to Resolution Conf. 14.6 (Rev. CoP16), paragraph 3, the State of introduction, the State of export and the State of import should "take into account whether or not the specimen was or will be acquired and landed:
  - i) in a manner consistent with applicable measures under international law for the conservation and management of living marine resources, including those of any other treaty, convention or agreement with conservation and management measures for the marine species in question; and
  - ii) through any illegal, unreported or unregulated (IUU) fishing activity".

#### Other exemptions and special provisions

6. Pursuant to Resolution Conf. 13.7 (Rev. CoP17) on *Control of trade in personal and household effects*, paragraph 1 b), 'personal or household effects' within the meaning of Article VII, paragraph 3 of the Convention, means specimens that are legally acquired (among other requirements).
7. Pursuant to Resolution Conf. 10.20 on *Frequent cross-border movements of personally owned live animals*, paragraph 1 c), a certificate of ownership for a live animal of a species listed in the Appendices may be issued if the animal is legally possessed by the applicant and that the animal

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<sup>4</sup> Corrected by the Secretariat following the 19th meeting of the Conference of the Parties.

has not been acquired in contravention of the provisions of the Convention (among other requirements).

8. Pursuant to Resolution Conf. 11.15 (Rev. CoP18) on *Non-commercial loan, donation or exchange of museum, herbarium, diagnostic and forensic research specimens*, paragraph 3 g) iv), specimens traded under Article VII, paragraph 6 of the Convention should be limited to shipments of legally obtained specimens between registered scientific institutions (among other requirements).
9. Pursuant to Resolution Conf. 12.3 (Rev. CoP19) on *Permits and certificates*, paragraph 14 b), a Party should only issue a Travelling Exhibition Certificate for CITES specimens belonging to a travelling exhibition based in its State, registered with the Management Authority, and wishing to transport specimens of CITES species to other States for exhibition purpose only, on the condition that they were legally acquired and will be returned to the State in which the exhibition is based (among other requirements).
10. Pursuant to Resolution Conf. 16.8 (Rev. CoP17) on *Frequent cross-border non-commercial movements of musical instruments*, paragraph 1 b), a musical instrument certificate should only be issued when a competent CITES Authority is satisfied that the CITES specimens used in the manufacture of the musical instrument have not been acquired in contravention of the provisions of the Convention (among other requirements).
11. Pursuant to Resolution Conf. 17.9 on *Trade in hunting trophies of species listed in Appendix I or II*, paragraph 2 a), the export of hunting trophies of species listed in Appendix I or II should only be authorized when a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that country for the protection of fauna (among other requirements).

## Annex 3

### Rapid guide for the making of legal acquisition findings

#### Introduction

This 'Rapid guide for the verification of legal acquisition' is designed to provide an outline of key minimum steps that all Management Authorities should take into account when establishing and following processes to make legal acquisition findings. The guide is not prescriptive and is designed to be used to complement existing tools, adapted to different taxa, e.g., marine species, timber products, terrestrial fauna, non-timber forest products, etc., or adopted wholesale, as CITES authorities think appropriate. Parties are encouraged to adapt and incorporate the rapid guide into national processes as appropriate and are recommended to ensure that applicants for a permit are aware of what is needed in advance of applying to prevent delays in the processing of CITES documents (permits or certificates). It is the prerogative of each Party to decide how it incorporates CITES obligations into national procedures, considering its needs and legal practice.

The minimum steps identified in the rapid guide are intended to provide basic common ground for assessing legality under CITES. The rapid guide is intended to be practical, flexible, and user-friendly and can be used in conjunction with databases, legal toolkits, handbooks, digital tools, and additional guidance. In accordance with Article XIV of the Convention, Parties always have the right to adopt stricter domestic measures than provided for in the Convention, e.g., by requiring additional conditions, by further restricting or prohibiting the conditions for trade, taking, possession or transport of specimens of species included in Appendices I, II and III, or by restricting the application of certain exemptions provided in the Convention. Resolution Conf. 6.7 on *Interpretation of Article XIV, paragraph 1, of the Convention* recommends that "each Party intending to take stricter domestic measures pursuant to Article XIV, paragraph 1, of the Convention regarding trade in specimens of non-indigenous species included in the Appendices make every reasonable effort to notify the range States of the species concerned at as early a stage as possible prior to the adoption of such measures, and consult with those range States that express a wish to confer on the matter". Parties opting for stricter domestic measures should inform the Secretariat accordingly as recommended in Resolution Conf. 4.22 on *Proof of foreign law*. The desirability and feasibility of using a template or adopting a Standard Operating Procedure (SOP) are left to the consideration of the Parties.

#### Rapid guide

Whenever a Management Authority receives a request to authorize the export of a specimen of a CITES-listed species, the Management Authority may consider several points in verifying legal acquisition:

#### 1. What is the difference between making a legal acquisition finding and verifying legality? Knowing what is required.

A legal acquisition finding is required when a specimen is exported under Article III paragraph 2 (b), Article IV paragraph 2 (b) or Article V paragraph 2 (a) of the Convention.

The verification of legal acquisition and other legal findings, such as verifying the date of acquisition, are to be made in several circumstances, which are outlined in Annex 2 of this Resolution. Note that, in particular, the exemptions and other special procedures listed under Article VII of the Convention may require verifications that are distinct from legal acquisition findings. It is equally important for Management Authorities to check which of these special scenarios have been incorporated into national legislation. Please refer to Annex 2 of this Resolution for further information on these specific scenarios.

For clarification purposes, Parties are reminded here that for 'Pre-Convention' specimens, the Management Authority may authorise export once it is satisfied that a specimen was acquired before the provisions of the Convention applied to it [Article VII(2) of the Convention (Resolution Conf. 13.6 (Rev. CoP18) on Implementation of Article VII, paragraph 2, concerning 'pre-Convention specimens')]. The Management Authority should therefore establish the date of acquisition or the earliest provable date on which it was first possessed by any person. If Pre-Convention status is so established, it will not be necessary to go through the steps to make a legal acquisition finding, as such a finding is not required by the Convention. Note that adequate stockpile management is key in relation to this.

## 2. Is there a high risk that the specimen may have been acquired illegally?

According to Annex 1, para 1 c) of this Resolution, a risk assessment approach is essential to prevent fraud in the applications for permits while ensuring a smooth flow of legitimate wildlife trade (i.e. trade that is sustainable, legal and traceable). This approach allows for the balancing of several factors in order to gauge the risk that the specimen is the product of some illegal activity or that the documentation provided may be inaccurate or fraudulent. If the Management Authority chooses to follow a risk assessment approach, the following is a non-comprehensive list of factors and considerations which are likely to be relevant, noting that national circumstances might dictate additional factors:

Factors in Annex 1	Considerations
i) The Appendix in which the species is listed	Higher conservation risk if the species is included in Appendix I. Higher volumes of trade in species listed in Appendices II or III may increase the likelihood of laundering illegal specimens.
ii) The source of the specimen	Is there sufficient evidence to establish that the source of the specimen is as indicated by the applicant? Was the specimen wild-collected, or from outside its range and propagated in a controlled environment, bred in captivity, ranched, cultivated or artificially propagated, or of unknown origin?
iii) Occurrence of the species in a controlled environment	Is the species easy to propagate in a controlled environment or under captive-breeding conditions? For a cultivated or captive-bred specimen, was the parental stock legally acquired, according to Resolution Conf. 11.11 (Rev. CoP18) on <i>Regulation of trade in plants</i> or Resolution Conf. 10.16 (Rev. CoP19) on <i>Specimens of animal species bred in captivity</i> .
iv) Geographical factors	Are there reports of armed conflict and/or illegal natural resource extraction and/or illegal wildlife trade from the region? Are there other factors that may increase the likelihood of illegal acquisition? Examples may include cross-border smuggling, and lack of or lower levels of enforcement in some areas compared to national norms.
v) Documented illegal harvest or illegal trade in the species, within the range State or in the subregional area	Is there a higher-than-average probability or risk that the specimen was illegally acquired based on the similarity of the reported acquisition to documented cases of illegal harvest or trade?
vi) Purpose of trade	Is the trade commercial or non-commercial? The potential for high in-kind or monetary profit from a commercial transaction may increase the risk.
vii) History of applications from the applicant, including any history of non-compliance	Has the applicant been involved in prior illegal activities? Have others in the supply chain been involved in illegal practices?
viii) Monetary value of the specimens	Is the value of the specimen high enough that it is more likely to be the subject of theft/illegal harvest or capture?
ix) Existence of look-alike species	If there are look-alike species, are they CITES-listed? Is there a risk that a rarer, higher value, or CITES-listed species could be misdeclared as a more common, less valuable, or unlisted species?
<b>Possible additional considerations beyond the Resolution</b>	
<p>i) <b>Species:</b> Is the species native or non-native?</p> <p>ii) <b>Level of trade:</b> Are there any significant exports? The Management Authority should consult national records of export, the CITES Trade Database, trade trends, and other available data sources.</p> <p>iii) <b>Is there a quota for the species?</b> Has this been set by an officially designated Scientific Authority and is it consistent with the requirements of a non-detriment finding for the species? Has the quota been adhered to? What are the start and end dates of the quota period?</p> <p>iv) <b>Stricter domestic measures:</b> Is the species subject to stricter domestic measures?</p> <p>v) <b>Traceability scheme:</b> Is the species subject to a well-established and widely accepted international traceability standard or scheme?</p> <p>vi) <b>National or domestic register of persons allowed to trade:</b> Is the applicant included in the national register of natural and legal persons allowed to trade in accordance with the provisions of the Convention? Has the applicant provided the Management Authority with the documentation required by national legislation to make commercial and non-commercial transactions involving specimens of CITES-listed species? Has this documentation been verified and declared in compliance with national</p>	

legislation? Has the Management Authority attributed a number to the applicant in order to allow tracking of the applicant's activities?

### **3. What laws and regulations apply to the legality of the specimen?**

Identify, review and assess national laws, regulations, policies, and management plans for the protection of flora and fauna to determine the relevant rules governing activities along wildlife supply chains. The Secretariat is collaborating with FAO to design a tool building upon existing legal databases managed by FAO to assist the CITES Management Authorities and the regulated community in responding to this question.

### **4. Review whether CITES permit application is fully completed and whether sufficient chain of custody documentation has been provided**

Questions the Management Authority might ask itself:

- Depending on the risk assessment and circumstances, is it necessary and practicable for the applicant to provide documentation of the entire chain of custody?

Assessing compliance with the legal requirements pertinent to each stage in production (e.g. harvesting, breeding, or cultivating), possession, transport, trade, and export of specimens of CITES-listed species assures that the chain of custody is traceable and legal and thus that a legal acquisition finding can be made. Traceability means the ability to follow the trail of specimens along the supply chain by monitoring and tracking the chain of custody. For example, by using the chain of custody system, authorities can trace raw material or parental stock to the site where they were obtained in the country of origin. However, the Management Authority is not expected to be an expert in assessing evidence and all laws applicable to a CITES specimen through the course of its transaction history. When the Management Authority is not able to assess whether the chain of custody evidence presented by the applicant is sufficient, the Management Authority should consult government entities with the relevant expertise.

- Is the information submitted by the applicant sufficient to demonstrate legal acquisition? If not, what additional information should be required?

The applicant is responsible for providing sufficient information for the Management Authority to determine that the specimen was legally acquired, such as statements or affidavits made under oath and carrying a penalty of perjury, relevant licenses or permits, invoices and receipts, forestry concession numbers, hunting permits or tags, or other documentary evidence.

### **5. Review validity, accuracy, and completeness of documentation of the chain of custody**

The complexity and specific elements of the chain of custody will vary from taxa to taxa, and depend on the circumstances. The tables below provide an overview of elements that may be considered for (i) flora and fauna, (ii) timber, and (iii) marine species, and can be used to help identify relevant evidence.

Note that the columns containing “examples of possibly relevant documentation” are merely intended as illustrations of what documents an applicant could provide to demonstrate compliance with national laws. The applicability of these examples will depend on national legal frameworks. The lists of examples are not intended to be used as complete or exhaustive checklists. Rather, they are a set of options and examples of documentation which an applicant might provide to demonstrate compliance with applicable laws at each step of the chain of custody.

**Table 1: Evidence of legality along the chain of custody for flora and fauna**

This table also contains elements that may apply to timber and marine species, depending on applicable legal frameworks.

The applicant could be asked to provide evidence on:	Type of Activity/Specimen	Type of Legal Finding	Examples of possibly relevant documentation
1. Sourcing	Wild-sourced Specimens	LAF	Records, such as permits, licenses, and tags, records of quotas, harvest locations, and capture means, that demonstrate the specimen was legally removed from the wild under relevant wildlife or forestry laws or regulations; evidence of firearms license where restricted and relevant; invoices related to the hiring of guides or professional hunters, where required; salvage permits.
	Ranched specimens	LAF	Records, such as permits, licenses, and tags, that demonstrate that the specimen was legally removed from the wild under relevant wildlife conservation laws or regulations. Records that document the rearing of specimens at the facility, including signed and dated statement by the owner or manager of the facility that the specimens were reared at the facility in a controlled environment; marking system, if applicable; and photographs or video of the facility.
	Confiscated specimens	LAF	Copy of remission decision, legal settlement, or disposal action after forfeiture or abandonment that demonstrates the applicant's legal possession.
	Bred in captivity	In accordance with Resolution Conf. 10.16 (Rev. CoP19) on <i>Specimens of animal species bred in captivity</i>	Records that identify the breeder or propagator of the specimens that have been identified by birth or hatch date, sex, size, band number, or other marks.
	Artificially propagated	In accordance with Resolution Conf. 11.11 (Rev. CoP18) on <i>Regulation of trade in plants</i>	Records that identify the nursery or propagator of the specimens that have been identified by the propagation date.
	Captive-born (F)	LAF	Records that identify the breeder or propagator of the specimens that have been identified by birth or hatch date, sex, size, band number, or other marks.

	Assisted production plant (Y)	LAF	Records that identify the propagator of the specimens that have been identified by propagation date.
	Previously imported specimens	Re-export	Copy of the previous CITES document that accompanied the shipment into the importing country.
2. Ownership and transfers			Certificates of ownership, and documentation of legal transfers, such as sales bills, receipts, and registrations. In the case of older specimens, in particular, those benefiting from pre-Convention status, this documentation may not exist. If the level of risk is low, an affidavit of ownership that explains the circumstances might be permissible. Additionally, for ivory and rhinoceros horn benefiting from pre-Convention status, the use of reliable methods to verify the date of acquisition, such as carbon-14 dating, may be possible in cases where documentation does not exist.
3. Transport			Licenses, waybills relating to transport of specimens of fauna and flora from place of capture or harvest to place of provisional storage prior to export, packing lists established by the applicant which clearly describe the specimens to be dispatched and inspection records.
4. Processing – taxidermy, meat processing, leather or fur processing, cosmetic, medicinal and food processing			Facility registrations, facility licenses, receipts, invoices, other official transaction documents, sanitation and health code records.
5. Payment of taxes, duties and fees			Proof/receipt of payment of taxes, duties and fees applicable to trade in fauna and flora within the specific national context.

Table 2: Evidence of legality along the chain of custody for timber

The applicant could be asked to provide evidence on:	Examples of possibly relevant documentation
1. Land tenure and harvest rights	Official proof of government-issued tenure, Forest Management Unit/ Concession of Harvest license, Forest Management Unit/ Concession of Harvest location and map.
2. Conditions of harvest	Proof of harvesting permit validated by relevant forestry authority Pre-harvest inventory of all trees and species Identification of each tree, including species, diameter and location marked on map List of all trees that will be harvested Cutting block records Annual allowable cut Log markings Prohibitions or quotas on harvest of rare or endangered species Post-harvest inventory

	<p>Post-harvest monitoring</p> <p>Detailed records of numbers and volumes of logs removed cross checked against authorization to harvest, including the approved cut</p>
<p>3. Export, import and domestic trade and transport</p>	<p>Export quota and monitoring system in place,</p> <p>Marking system,</p> <p>Traceability system.</p>
<p>4. Payment of taxes, duties and fees applicable to timber trade</p>	<p>Proof or receipts of payment of taxes, duties and fees applicable to timber trade within the specific national context, e.g., stumpage fees, concession fees, allowable cut fees, etc.</p>

**Table 3: Evidence of legality along the chain of custody for marine species**

The Convention regulates trade in specimens taken from areas beyond national jurisdiction (ABNJ). When a specimen is taken from ABNJ by a vessel flagged in one State, and landed in a different State, this qualifies as export and import under the Convention. The flag State of the vessel is the exporting State and the State where the specimen is landed is the importing State, and the provisions of Articles III, IV and V concerning legal acquisition findings apply.

When a specimen is taken from ABNJ by a vessel flagged in one State, and landed in the same State, this is known as an introduction from the sea. Resolution Conf. 14.6 (Rev. CoP16) on *Introduction from the sea* states that Parties involved in such a transaction should satisfy themselves that the specimen was acquired and landed in accordance with applicable measures under international law for the conservation and management of living marine resources. For further details, see Resolution Conf. 14.6 (Rev. CoP16).

If a specimen is taken from ABNJ by a chartered vessel and transported to the chartering State, the transaction may be treated as either an introduction from the sea, or as an import-export, as mutually agreed in writing by the States in question (i.e. the State where the vessel is registered and the chartering State). This applies regardless of whether the specimen is of an Appendix-I or Appendix-II species. However, when the specimen is of an Appendix-II species, and the specimen is transported to a third State, the trade should be treated as export-import. For further details, see Resolution Conf. 14.6 (Rev. CoP16).

It is therefore important, as a preliminary step, to identify all States involved in the trade transaction, including if the vessel is chartered, and it is useful to identify whether the State is a port State and Party to the Agreement on Port State Measures (PSMA).

It is also important to note that for the authorization of trade in marine species under the Convention, it is irrelevant whether the caught specimen was targeted or bycatch. Both targeted catch and bycatch should be documented and reported. The provisions of the Convention fully apply to bycatch.

<b>The applicant could be asked to provide evidence on:</b>	<b>Examples of possibly relevant documentation</b>
1. Legal authority to capture a specimen	Quotas, Licenses, Fishing agreements, Fishing permit, Ministerial agreement or regulation, or fishing record.
2. Timing and location of the catch	Digital positioning data, including Vessel Monitoring System (VMS) data, Navigation system data (e.g., GPS data), or Automatic Identification System (AIS) data (for larger vessels). Observer data or logbooks; physical and/or electronic catch report forms.
3. Gear/technique employed	License, Fishing agreements, Observer data or logbooks, when available, Physical and/or electronic catch report forms, when available.
4. The name of the vessel that captured the specimen	Vessel registration, flag State, License, authorization, permit.
5. Identification of vessel captain/master	Captain's certificate/license.
6. Transshipment occurrences	Authorisation issued by the national competent authority to engage in transshipment, Observer data relating to transshipment, when available, Transshipment entries in logbooks, Transshipment authorization by the competent national authority, VMS, AIS, or GPS data showing transshipment activity.

7. Compliance with measures relating to processing and handling of catch	Records or other information showing compliance with fin-to-carcass ratios and/or fins-attached rules (in case of shark fishing) established under domestic measures or RFMO Conservation and Management Measures, Observer data, Logbooks, Records showing compliance with individual National Action Plans for the conservation and management of sharks adopted by the country, Records showing compliance with regulations on prohibition to take and land certain species, Records showing compliance with regulations for temporary bans to fish certain species.
8. Compliance with bycatch <sup>1</sup> and discard measures	Records showing compliance with domestic measures or RFMO Conservation and Management Measures related to bycatch and discards, Observer data or logbooks, Catch report forms.
9. Payment of taxes, duties and fees	Proof or receipt of payment of taxes, duties and fees applicable to marine species within the specific national context.
10. Landing at a port or beach	Fishing permit or fishing records, Certificate of monitoring and control and landing (identification and quantification of species; inspection of fishing methods, Authorization and distribution of permits for movement of fishing products, Documents/regulations on fins attached or finning. For artisanal fisheries: a review of authorized ports for landing; review of formats which include a certificate of the landing of marine species; the information gathered is registered in the country database (Fisheries Ministries or Agencies).

**6. If the Management Authority is satisfied that the specimen has been legally acquired, what documents / other information is it practicable to keep for the record?**

The 'onus of proof' is on the applicant and the degree of satisfaction of the evidence is the level of satisfaction of the CITES Management Authority. The standard of proof or the quality of the evidence is to be determined by the authorities based on legal practice, national legislation and principles of international law, such as *in dubio pro natura*. When in doubt, the authorities are expected to check behind the documentary evidence by checking databases, conducting inspections and consulting with other relevant authorities. See paragraph 2 e) of Annex 1 to this Resolution. A Management Authority may choose to share relevant information about the legal acquisition of the specimen on the CITES document. Such information may be included in Box 5 (or another location) of the standard CITES document and may for example include import or export permit numbers, forestry concession numbers, hunting permit or tag numbers.

Management Authorities are recommended to keep, as far as practicable, relevant documentation relating to legal acquisition findings in order to be able to communicate with other Management Authorities and provide them with supporting documentation beyond the export permit. Parties are also recommended to provide clear information on the process they use to make legal acquisition findings and documentation required from applicants.

<sup>1</sup> *Bycatch is understood by the FAO as being a 'component of the catch which represents non-targeted fish associated with the catch of the target species or group towards which fishing effort is directed, or other aquatic organisms taken incidentally during the course of fishing (e.g. birds, mammals, reptiles, invertebrates).*

## 7. Framework for making a Legal Acquisition Finding

The Rapid Guide sections are integrated below into a flowchart outlining the decision-making process in making a legal acquisition finding.

