

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



Seventy-eighth meeting of the Standing Committee
Geneva (Switzerland), 3-8 February 2025

Species conservation and trade

Fauna

Aquatic species

Sharks and rays (Elasmobranchii spp.)

REPORT OF THE INTERSESSIONAL WORKING GROUP

1. This document has been submitted by the United States of America as Chair of the Standing Committee's intersessional working group on *Sharks and rays*.^{*}
2. At its 19th meeting (CoP19; Panama City, 2022), the Conference of Parties adopted Decisions 19.222 to 19.227 on [Sharks and rays \(Elasmobranchii spp.\)](#). At its 76th meeting, the Standing Committee established an intersessional working group ([SC76 SR](#)) with the following mandate:
 - a) review the revised Rapid Guide on the making of legal acquisition findings, and related assessments as they relate to trade in CITES-listed sharks species caught in areas beyond national jurisdiction (including introductions from the sea), and determine if more specific guidance is needed for CITES-listed shark species, including engagement with RFMOs and any capacity building which might support their role in the making of legal acquisition findings (LAFs) and related assessments;
 - b) develop new guidance or identify existing guidance on the control and monitoring of stockpiles of shark parts and derivatives, in particular for specimens caught prior to the inclusion of the species in Appendix II;
 - c) review the FAO's on-going guidance on Catch Document Schemes, Port State Measures and any other measures to reduce Illegal, Unregulated and Unreported (IUU) fishing;
 - d) in consultation with the Animals Committee, discuss challenges related to transport of biological samples for research and data collection purposes in the context of fisheries management including the context of the provisions on introduction from the sea in Resolution Conf 14.6 (Rev. CoP16) and make recommendations to CoP20; and
 - e) report its findings to the Standing Committee for its consideration.
3. At its 32nd meeting, the Animals Committee agreed to nominate the representative for Central and South America and the Caribbean (Mr. Gongora) and the representative for Oceania (Mr. Robertson) to participate in the Standing Committee's intersessional working group on sharks and rays ([AC32 SR](#)).

^{*} *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.*

4. The membership of the working group was as follows:

Chair: United States of America

Parties: Argentina, Australia, Benin, Brazil, Canada, China, Colombia, Costa Rica, Democratic Republic of the Congo, Ecuador, El Salvador, European Union, France, Gambia (the), Germany, Guatemala, Guinea, Honduras, India, Indonesia, Italy, Japan, Kenya, Liberia, Malaysia, Peru, Republic of Korea, Senegal, South Africa, Spain, Togo, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania

Observers: Convention on Migratory Species (CMS), United Nations Food and Agriculture Organization (FAO), International Commission for the Conservation of Atlantic Tunas (ICCAT), International Union for Conservation of Nature (IUCN), Association of Northeast Fish and Wildlife Agencies, Association of Zoos and Aquariums (AZA), Defenders of Wildlife, Global Guardian Trust, Humane Society International (HSI), International Fund for Animal Welfare (IFAW), IWMC World Conservation Trust, Law of the Wild, Oceana Inc., Resource Africa, South African Taxidermy and Tannery Association, TRAFFIC, Wildlife Conservation Society (WCS), World Resources Institute (WRI), World Wide Fund for Nature (WWF), Zoological Society of London.

AC members: representative for Central and South America and the Caribbean (Mr. Gongora) and representative for Oceania (Mr. Robertson)

Progress update

5. The working group initiated its work in September of 2023 through email exchanges. The Chair proposed to the working group members to concentrate on paragraph a) of the mandate. Working group members were invited to review the revised Rapid Guide on the making of legal acquisition findings, as found in Annex 3 of [Resolution Conf. 18.7 \(Rev. CoP19\) on Legal acquisition findings](#), as they relate to trade in CITES-listed shark species caught in areas beyond national jurisdiction (including introductions from the sea). The Chair drew attention to Table 3 of the Rapid Guide as being particularly relevant to the intersessional working group. Additionally, the working group members were invited to determine if more specific guidance is needed for CITES-listed-shark species, including engagement with RFMOs and any capacity building which might support their role in the making of legal acquisition findings (LAFs) and related assessments.
6. The recommended amendment to the Rapid Guide on the making of legal acquisition findings developed by the working group to date can be found in the Annex to this document. The working group's recommended amendments mainly pertained to Table 3 (Evidence of legality along the chain of custody for marine species) but included clarifying language to Section 3 (What laws and regulations apply to the legality of the specimen?), Section 5 (Review validity, accuracy, and completeness of documentation of the chain of custody), and Table 1 (Evidence of legality along the chain of custody for flora and fauna).
7. There was a suggestion to use the broader term of 'aquatic species' over 'marine species' throughout the document as 'aquatic species' would also cover inland waters shark and ray species. Additionally, it was proposed to have an additional part in Table 3 that sets out the specific elements that could be considered when making legal acquisition findings for marine species. While there were varied views in the group, the majority did not support the use of 'aquatic species.' Ultimately it was determined that 'aquatic species' was beyond the scope of the working group as the mandate.
8. The discussion on whether to use 'coastal State' versus 'flag State' formed a large part of deliberations of this working group. Specifically, the working group discussed whether the coastal or flag State should be the exporting State in the situation where a vessel of a flag State catches a CITES-listed specimen in the territorial waters or exclusive economic zone (EEZ) of a different State from the flag State before landing it in a third State. It was argued there is no provision in CITES that defines the exporting State as the coastal State. Furthermore, they asserted that it is consistent with the purpose of the Convention for the flag State of the fishing vessel, operating under the permissions from the coastal State, to be designated as the exporting State since the flag State of the fishing vessel must take appropriate and effective control without prejudice to the rights and obligations of the coastal State under the Convention. There were suggestions that existing certification system in RFMOs designating a "flag State" as an "exporting State", to which consistencies would need to be kept with CITES. In cases where EEZ delimitations between states with opposite / adjacent coasts have not been determined, it would be impossible to unambiguously identify a

“coastal State” as an “exporting State”, which would undermine the legal stability and could cause unnecessary disputes.

9. Others in the working group indicated the question of whether the flag or coastal State is the exporting State in such a scenario is an important distinction. There was a reminder that [Resolution Conf. 14.6. \(Rev. CoP16\) on Introduction from the sea](#) assigns responsibility to the flag State for export permits and introduction from the sea (IFS) certificates where catches occur in Areas Beyond National Jurisdiction (ABNJ). There were doubts raised as to whether this could effectively be applied to situations where the catch is made in the jurisdiction of another State. It was noted that if the transaction outlined in paragraph 8 was recorded in CITES trade statistics as an export from the flag State to the landing State, the true geographical origin of the specimens (the EEZ of a third State) would not be recorded. Further, concern was expressed that if the catch in such a scenario was landed in a port of the flag State, the flag State would be both the exporter and importer, even though the specimens were caught in the EEZ of another State. This would result in an inaccurate CITES trade statistics.
10. Working group members expressed the need for a legal interpretation from the Secretariat about the responsibilities of a foreign flagged vessel operating in the EEZ of a different State. The Secretariat provided clarification on various scenarios concerning fishing activities based on the provisions of the Convention, [Resolution Conf. 14.6. \(Rev. CoP16\) on Introduction from the sea](#), and advice already previously provided by the Secretariat. The Secretariat clarified that assuming that a fishing agreement or relevant authorization to fish is given, a vessel under flag of State A fishes in the territorial waters or EEZ of State B, and lands the catch in State C: this is also international trade, with State B – coastal State which has jurisdiction over the waters and resources – as the State of export, and State C– in which the catch was landed – as the State of import.
11. Despite the working group’s productive discussions and clarification from the Secretariat, there was no consensus amongst the working group on this matter to be recommended to the Standing Committee. Therefore, the working group has presented both possible options in the Annex to this document pertaining to this issue for the Standing Committee to consider.
12. The working group determined additional specific guidance for CITES-listed shark species was not warranted. Based on the discussions surrounding ‘coastal State’ versus ‘flag State,’ there is a potential need for additional guidance on IFS and overall international trade activities related to marine species due to the complex and complicated nature of this trade. These topics were beyond the scope of the working group’s mandate.
13. The working group started to make progress on paragraph d) of its mandate to discuss challenges related to transport of biological samples for research and data collection purposes in the context of fisheries management including the context of the provisions on IFS in [Resolution Conf 14.6 \(Rev. CoP16\)](#) in consultation with the Animals Committee.
14. Working group members identified the CITES permit processing time and period of validity for IFS certificates as being the main challenges to transport biological samples for research and data collection purposes. Multiple examples were provided by members of how the delay in issuance of CITES permits, coupled with the timing of funding allocation for research projects, result in postponement or cancelation of collaborative, international initiatives. This hinders the strength of the scientific advice that can be provided for the management and conservation CITES-listed shark and ray species. Additionally, a concern was raised that sufficient efforts, including research and data collection activities for species identified as being of conservation concern (i.e., prohibited species), could be reallocated away from CITES-listed shark and ray species due to the burden caused by requirements under CITES.
15. In addition, different Parties’ interpretation of what qualifies as “in-transit” under Article VII(1) and [Resolution Conf. 9.7 \(Rev. CoP15\) on Transit and transshipment](#) was identified as a challenge. A research vessel sampling CITES-listed specimens in the ABNJ or another Party’s territorial waters might need to transit through multiple Parties’ territorial waters or dock at a port to resupply before reaching its ultimate destination to offload specimens. Further guidance in Resolution Conf. 9.7 (Rev. CoP15) specific to marine transport could help alleviate some of the delays associated to this challenge.
16. There was support in the working group to explore opportunities for information exchange between fisheries researchers, CITES permitting authorities, and CITES enforcement authorities. It was suggested the different respective groups would benefit greatly by learning from each other both the practicalities of how fisheries research operates in practice and the requirements for CITES permitting.

17. Additionally, there was a proposal to gather additional information on the challenges regarding the transport of biological samples for research and data collection purposes in the context of fisheries management beyond the working group members. Specifically, there was interest in gathering information on CITES permitting challenges and how they have impacted legitimate scientific research for conservation and identify opportunities to improve the CITES permitting process.
18. Further there was a suggestion to explore the possibility of special CITES research sampling permits being granted to RFMOs. Discussion on this topic is in its infancy and needs additional time for the working group to explore this suggestion.

Recommendations

19. The Standing Committee is invited to:
 - a) review the intersessional working group's recommended amendments to the *Rapid Guide on the making of legal acquisition findings*, as found in Annex 3 of Resolution Conf. 18.7 (Rev. CoP19) on *Legal acquisition findings* found in the Annex of this document;
 - b) based on the outcomes of discussions under paragraph a) above, make any appropriate revisions and submit the proposed amendments to Annex 3 of Resolution Conf. 18.7 (Rev. CoP19) to the 20th meeting of the Conference of the Parties (CoP20);
 - c) recommend the Secretariat issue a Notification to the Parties, inviting Parties to provide information on their experience in implementing CITES provisions for listed shark and ray species, in particular challenges related to permitting process. In this regard, we recommend that the Standing Committee submit the draft decision 20.XX1, below, to CoP20 for consideration;
 - d) encourage the Secretariat, subject to external funding, to explore opportunities for information exchange between fisheries researchers, CITES permitting authorities, and CITES enforcement authorities;
 - e) recommend to CoP20 the renewal of Decision 19.226 with some amendments as captured in Decision 20.XX2 below (text proposed to be deleted from CoP19 Decision is in ~~strike through~~ and proposed new text is underlined). Although this intersessional working group made progress in its deliberations, more time and discussion are needed to fulfil its mandate; and
 - f) invite self-nomination from Parties, particularly those Parties that self-identify as key beneficiaries from the guidance document(s) provided by Decision 20.XX2 paragraphs a) and b) to encourage further and broader participation in any Standing Committee working groups established to address Decision 20.XX2. In this regard, we recommend that the Standing Committee submit the draft decision 20.XX3, below, to CoP20 for consideration.
20. As indicated above, the working group recommends that the Standing Committee submit the following set of draft decisions for consideration at CoP20:

Directed to Secretariat

20.XX1 The Secretariat shall:

- a) issue a Notification to the Parties inviting Parties to, in accordance with Resolution Conf. 12.6 (Rev. CoP18) on *Conservation and management of sharks*, share through the Secretariat their experience in implementing CITES provisions for listed shark and ray species, in particular:
 - i) challenges related to CITES permitting process including but not limited to the making of non-detriment findings and legal acquisition findings; and
 - ii) challenges related to transport of biological samples for research and data collection purposes in the context of fisheries management including the context of the provisions on introduction from the sea in Resolution Conf. 14.6 (Rev. CoP16);
- b) invite non-Party, intergovernmental organizations and non-governmental organization observers to support Parties by providing concise information related to the above; and

- c) collate this information for the consideration of the Animals Committee and the Standing Committee.

Directed to Standing Committee

20.XX2 The Standing Committee shall:

- ~~a) review the revised Rapid Guide on the making of legal acquisition findings, and related assessments as they relate to trade in CITES-listed sharks species caught in areas beyond national jurisdiction (including introductions from the sea), and determine if more specific guidance is needed for CITES-listed shark species, including engagement with RFMOs and any capacity building which might support their role in the making of LAFs and related assessments;~~
- ab) consider if there is a need to develop new guidance or identify existing guidance on the control and monitoring of stockpiles of shark parts and derivatives, in particular for specimens caught prior to the inclusion of the species in Appendix II;
- be) review the FAO's on-going guidance on Catch Document Schemes, Port State Measures and any other measures to reduce Illegal, Unregulated and Unreported (IUU) fishing;
- ce) in consultation with the Animals Committee, discuss review challenges and consider the need for the development of further appropriate mechanisms, including guidance, related to transport of biological samples for research and data collection purposes in the context of fisheries management including the context of the provisions on introduction from the sea in Resolution Conf 14.6 (Rev. CoP16) and make recommendations to CoP21 ~~CoP20~~; and
- de) report its findings under the present Decision to the ~~20th~~ 21st meeting of the Conference of the Parties.

Directed to Parties

20.XX3 Parties are encouraged to:

- a) respond to the Notification called for in Decision 20.XX1 and share their experience in implementing CITES provisions for listed shark and ray species, in particular current challenges; and
- b) consider if they are likely to be key beneficiaries from the guidance document(s) reviewed under Decision ~~19.226~~ 20.XX2, paragraphs a) and b); if so, these Parties are strongly encouraged to participate in any Standing Committee working groups established to address Decision ~~19.226~~ 20.XX2.

PROPOSED AMENDMENTS TO ANNEX 3 OF RESOLUTION CONF. 18.7 (REV. COP19)

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?
Possible additional considerations beyond the Resolution	
i) Species: Is the species native or non-native? ii) Level of trade: 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. iii) Is there a quota for the species? 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? iv) Stricter domestic measures: Is the species subject to stricter domestic measures? v) Traceability scheme: Is the species subject to a well-established and widely accepted international traceability standard or scheme? vi) National or domestic register of persons allowed to trade: 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	

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?

~~The Management Authority should, in consultation with other relevant authorities, as appropriate, identify, review and assess national laws, regulations, policies, and management plans for the protection of flora and fauna to determine the relevant rules that establish the requirements applicable to the CITES-listed species that are subject of an application for a CITES permit or certificate. To ensure a practical assessment, the Management Authority should ensure, as a minimum, that all legal requirements for obtaining a CITES-listed specimen pursuant to national laws, regulations, policies, and management plans for the protection of flora and fauna are fulfilled prior to the issuance of the CITES permit or certificate. For specimens of CITES-listed species being re-exported it should be established that prior trade was in accordance with the provisions of CITES governing activities along wildlife supply chains. The Secretariat, in collaboration is collaborating with FAO, to design has developed 'CITES-LEX',¹ an information system that provides national catalogues and comprehensive search capabilities of policies and legislation relevant to CITES and its implementation, tool building upon existing legal databases managed by FAO (for example, FAOLEX² and the 'Shark Measures Database'³) to assist the CITES Management Authorities and the applicants of CITES permits or authorizations the regulated community in identifying national laws, regulations, policies, and management plans for the protection of flora and fauna.~~ 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. Traceability⁴ 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.

¹ *CITES-LEX is a non-binding research tool that provides national catalogues and comprehensive search capabilities of legislation and policies relevant to the implementation of CITES to assist Parties and regulated individuals and entities engaged in trade provides.* <https://citeslex.fao.org>

² <https://www.fao.org/faolex/en>

³ <https://www.fao.org/ipoa-sharks/database-of-measures/en/>

⁴ *The working definition of CITES traceability is the ability to access information on specimens and events in a CITES species supply chain*. (* This information should be carried, on a case by case basis, from as close to the point of harvest as practicable and needed to the point at which the information facilitates the verification of legal acquisition and non-detriment findings and helps prevent laundering of illegal products.)*

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 regulatory/management regimes, including operational guidelines 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, <u>certificates</u> , 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. <u>Records, such as permits and licenses, that demonstrate that the breeder has authorization under relevant wildlife conservation laws or regulations.</u> <u>Any relevant management plans for the species.</u>
	Artificially propagated	In accordance with Resolution Conf. 11.11 (Rev. CoP18)	Records that identify the nursery or propagator of the specimens that have been identified by the propagation date.

		on <i>Regulation of trade in plants</i>	
	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, <u>last inspection reports</u> 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 Post-harvest monitoring Detailed records of numbers and volumes of logs removed cross checked against authorization to harvest, including the approved cut
3. Export, import and domestic trade and transport	Export quota and monitoring system in place, Marking system, Traceability system.
4. Payment of taxes, duties and fees applicable to timber trade	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.

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

The Convention regulates international trade ~~in specimens as well as~~ including 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. If, after landing, the State where the specimen was landed (importing State, in such case) exports the same specimen to another State, this qualifies as a re-export under the Convention. In this scenario, the State where the specimen was landed becomes the State of re-export, 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. Such State is the State of introduction, and the provisions of Article III and IV concerning legal acquisition findings apply. 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, after landing, the State of introduction exports the specimen to another State, this qualifies as an export and import under the Convention. The State of introduction becomes the State of export, the other State receiving the specimen is the State of import, and the provisions of Articles III, IV and V concerning legal acquisition findings apply.

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).

Option 1: When a specimen is taken from the jurisdictional waters of a coastal State and landed in a different State, this qualifies as export and import under the Convention. That coastal State 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.

Option 2: When a specimen is taken from the exclusive economic zone of a coastal State and landed in a third 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.

It is therefore important, as a preliminary step, to identify where the catch will occur (e.g. ABNJ, a State's exclusive economic zone or a State's territorial waters) and all States involved in the trade transaction to determine the requirements that may apply to each State. ~~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).~~

Additionally, it is pertinent to identify:

- i. the State under whose flag the vessel (that has harvested the specimen of a CITES-listed species) is operating;
- ii. the State where the specimen is landed;
- iii. whether the vessel involved is chartered by another State;
- iv. whether, after landing, the specimen is subject of another international trade transaction involving a different State;
- v. whether the States involved in the trade transaction are members of or participants in a regional fisheries management organization (RFMO) and whether such RFMO has applicable obligations, including conservation and management measures (CMMs) that apply to regional port State measures; and

- vi. applicable measures under international law for the conservation and management of living marine resources, including those of any other treaty⁵, convention or agreement with conservation and management measures for the marine species in question.

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.

The applicant could be asked to provide evidence on:	Examples of possibly relevant documentation
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). <u>Harvest location(s) such as fishery management areas, including regional management areas.</u> <u>Physical and/or electronic catch report forms, when available,</u> <u>Port of landing.</u> Observer data or logbooks; physical and/or electronic catch report forms.
3. Gear/technique employed	License/permit, 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. <u>Compliance with relevant RFMOs obligations and/or national regulations related to transshipment including:</u> <u>Authorisation issued by the national competent authority to engage in transshipment,</u> <u>Observer data relating to transshipment, when available,</u> <u>Transshipment entries in logbooks,</u> <u>Vessel Monitoring System (VMS), Automatic Identification System (AIS), or navigation system data (e.g. GPS data) showing transshipment activity</u>
7. Compliance with measures relating to processing and handling of catch	Records or other information showing compliance with <u>safe handling guidelines and the requirements to land sharks with or without their fins naturally attached, as fin-to-carcass ratios and/or fins-attached rules (in case of shark fishing)</u> established under domestic measures or <u>any applicable</u> RFMO Conservation and Management Measures,

⁵ For instance, as applicable, the Agreement on Port States Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA), whose Annex B explicitly refers, among the documentation to be reviewed during port inspection procedures, the documents required under CITES.

	Observer data, Logbooks, Records showing compliance with <u>national regulations, including measures consistent with individual National Action Plans for the conservation and management of sharks adopted by the country,</u> Records showing compliance with regulations on prohibition to take and land certain species, Records showing compliance with regulations <u>including those that establish time and/or area closures for temporary bans</u> to fish certain species.
8. Compliance with bycatch ⁶ and discard measures	Records showing compliance with <u>obligations domestic measures or RFMO Conservation and Management Measures</u> related to bycatch and discards, <u>such as time and/or area closures, specific gear requirements, retention prohibitions, safe handling guidelines; as established under domestic measures or to demonstrate for compliance with RFMO obligations, where relevant,</u> Observer data or logbooks, <u>Physical and/or electronic catch report forms, when available,</u> 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 <u>demonstrating compliance with requirements to land sharks with or without their fins naturally attached, or finning.</u> <u>For artisanal fisheries: a r</u> 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.

⁶ 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.

