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

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CITES

Sixty-ninth meeting of the Standing Committee
Geneva (Switzerland), 27 November -1 December 2017

Interpretation and implementation matters

Trade control and traceability

ELECTRONIC SYSTEMS AND INFORMATION TECHNOLOGIES

CITES readiness for support modern electronic border clearance processes and instruments of the
WTO Trade Facilitation Agreement

Background

At its 17th meeting (Johannesburg, 2016), the Conference of the Parties adopted Decision 17.158
b) on *electronic systems and information technologies:*

> *17.158 The Standing Committee shall:*

> a) *review the information submitted by Parties under Decision 17. 156, as well as the
> progress of implementation of Decision 17.157 and make recommendations as necessary,
> any suggestions for the revision of Resolution Conf. 12.3 (Rev. CoP17) on Permits and
> certificates to ensure the Resolution allows for electronic border clearance processes that
> are consistent with and incorporate the requirements of Articles III, IV, V and VI into any e-
> permitting system, examining in particular the issues of presentation and validation, to the
> 18th meeting of the Conference of the Parties.*

The Conference of the Parties also approved the draft work plan of the CITES Working Group on
electronic System and Information Technologies in SC 69 Doc. 40 Annex 1 which requests an
analysis of CITES export and import processes including Customs clearance procedures:

> *Analysis of the import and export process under CITES, including the cross border customs
> clearance procedures if the processes are in electronic format and the consequences for
> Resolutions 11.17 (Rev. CoP17) and 12.3 (Rev. CoP17)*

> • *How do todays customs clearance procedures and developments match with the
> current CITES processes*

- *What changes to the Resolutions 11.17 (Rev. CoP17) and 12.3 (Rev. CoP17) would be needed to reflect those developments*

The WG will receive an analysis done by the Secretariat on that topic and will have to comment on this analysis and make appropriate recommendations to SC

About CITES

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) establishes a legally binding regulatory regime to ensure the survival of CITES-listed species in the wild, providing opportunities for sustainable trade and economic development, in particular in developing countries and for local communities. Currently, 183 States are Party to this Convention and bound to its rules (182 countries and the European Union).

CITES regulates trade in over 36,000 species of wild animals and plants, both aquatic and terrestrial, including emblematic species such as tigers, elephants, rhinos, manta rays and great apes. The core instrument for regulating trade is a system of permits and certificates issued and controlled by a national CITES Management Authority, which has been officially appointed by the Government. The CITES permit documents the legality and sustainability of trade and is the core instrument for Customs to distinguish between legal and illegal trade in wildlife.

Challenge of increased global trade for trade control

Globalization and economic expansion have led to an enormous increase in cross border trade. International seaborne trade[1] increased over the last 20 years from 371 mio tonnes to 1 720 mio tonnes per year and containerized trade[2] reached 140 mio TEU[3] in 2017. The value of global trade in merchandise is now estimated[4] at 16 trillion USD p.a. with an annual growth of around 5%.

In line with the increase of global trade CITES trade has also significantly increased.

The increased global trade volumes pose a challenge to CITES Management Authorities and Customs administrations when controlling trade in wildlife. In 2017 the United Nations General Assembly recognised in its *Resolution on tackling illicit wildlife trafficking[5]* that illicit trade in wildlife contributes to the degradation of ecosystems and rural livelihoods, undermines good governance and, in some cases, threatens national stability. The General Assembly called upon member states to increase collaboration among relevant border control agencies and to take advantage of modern information and communication technologies for improved control of CITES trade and to prevent use of fraudulent documents.

Trade facilitation to improve Government control of cross border trade

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[1] *Statista https://www.statista.com/statistics/253987/international-seaborne-trade-carried-by-containers/*

[2] *UNCTAD, http://unctad.org/en/PublicationsLibrary/rmt2017_en.pdf*

[3] *Twenty-foot Equivalent Unit;*

[4] *World Bank estimation for 2015, https://data.worldbank.org/topic/trade*

[5] *A/71/L.88 , http://undocs.org/A/71/L.88*

Trade Facilitation is a concept to simplify and automate trade procedures with the objective to facilitate procedures for compliant traders, strengthen efficiency of Government controls and focus Government resources to combat non-compliant or illegal traders.

International organizations such as the World Customs Organization (WCO), the World Trade Organization (WTO) and the United Nations Economic Commission of Europe through its Centre for Trade Facilitation and electronic Business (UN/CEFACT) have developed a set of trade facilitation instruments to meet the challenges of increased global trade.

Well known Trade Facilitation instruments include inter alia the Revised Kyoto Convention, the WCO Framework of Standards to Secure and Facilitate Global Trade (WCO SAFE Framework of Standards), Coordinated Border Management (CBM), UNECE Trade Facilitation standards such as the Single Window Recommendation and UN/CEFACT eBusiness standards such as the eCERT message which is used for the CITES electronic permit.

The WTO Trade Facilitation Agreement (TFA) references many of the above mentioned trade facilitation instruments and provides a regulatory framework for the implementation of these instruments. The agreement is binding for all Government agencies that control cross border trade, including CITES Management Authorities and national Plant Protection Organizations (NPPOs) of those countries that have signed the WTO TFA[6].

The role of Customs for control of **cross** border trade

In the context of the globalization of trade the role of Customs at the border has considerably expanded. Customs has become the key border agency for control of international trade and often controls goods on behalf of other national agencies or in coordination with these agencies. Customs

Authorities have a crucial role in the effective implementation and enforcement of the CITES Convention. It is the Customs administration and here in particular the electronic Customs clearance system that needs to analyse all import and export declarations for their relevance and compliance to CITES regulations and decide on further controls such as a control of the CITES permit, the involvement of the CITES Management Authority or a physical inspection.

Trade Facilitation and Coordinated Border Management (CBM)[7] is recognized[8] by the Customs community as a key tools to manage the challenges of global trading system with respect to border control and administration. Trade Facilitation and CBM favours the coordination of policies, programmes and delivery among cross-border regulatory agencies instead of isolated approaches. Modern Customs policies are well positioned to support a whole-of-government approach to border management.

It is therefore highly important that CITES Management Authorities are familiar with the latest trade facilitation approaches, technologies and agreements used by Customs to trade control and that they collaborate with Customs to ensure that the implementation of these instruments by Customs fully takes into account the CITES specific interests in controlling cross border trade of CITES listed

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[6] As of April 2018 163 WTO members have signed the WTO TFA.

[7] "The term Coordinated Border Management (CBM) refers to a coordinated approach by border control agencies, both domestic and international, in the context of seeking greater efficiency over managing trade flows, while maintaining balance with compliance requirements.", WCO, Coordinated Border Management, a Concept Paper

[8] http://www.wcoomd.org/en/topics/facilitation/activities-and-programmes/coordinated-border-management.aspx

species. As both WTO TFA and CBM are recognised by all Customs administrations as best practice they provide a framework for improved collaboration between Management Authorities and their national Customs administration[9].

Automated Customs clearance and its implication for CITES

Customs controls around the world are now based on electronic systems, automated procedures, electronic information exchange (eBusiness) with other Government agencies (G2G) and the private sector (B2G) and automated management of risk.

The typical Customs clearance process[10] starts when the declarant (i.e. the exporter or importer) submits an electronic Customs declaration together with other (supporting) documents that are required for the Customs clearance. The CITES permit is a supporting document in the Customs clearance process.

The Customs system cross checks the data from the declaration and those supporting documents that are available in electronic format for consistency (i.e. BoL, electronic airway bills, ship manifest, etc.). and hands the data to the Customs Risk Management System.

This system analyses the potential risks of the trade transaction against a set of predefined criteria to detect incidents of undervaluation, misdeclaration, fraud, dual use, smuggling etc. system will then decide on the further steps to be taken.

In the vast majority of cases the system will automatically approve the declaration and immediately release the goods. If the risk criteria indicate a potential conflict the system will assign a Customs official to perform a manual control of the document (documentary control) or order a physical inspection of the goods.

In a typical Customs operation, the vast majority of consignments are automatically cleared and released in under one second. Only a small number undergoes a documentary control and only a very small fraction of the consignment become subject to a physical control.

From a CITES perspective there are three important aspects in an essentially automated processing of Customs declarations:

1. CITES controls will only take place if the Customs administration has become aware that a specific consignment falls under the realm of the Convention. There are three ways on how the Customs Administration becomes aware of the need for a CITES control:
   a. The declarant has submitted a CITES permit together with the Customs declaration

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[9] To support the harmonized implementation of the WTO TFA by using core WCO instruments and tools, the WCO released an Implementation Guidance for Section I of the WTO TFA. For each WTO TFA Article, it contains the following categories of information: Overview; Text of the WTO TFA Article; relevant Revised Kyoto Convention Standards and Guidelines; other relevant WCO tools; Member practices; and performance indicators, see http://www.wcoomd.org/en/topics/wco-implementing-the-wto-atf.aspx

[10] The example aims to give a very brief sketch of activities that takes place when a declaration is processed. Customs procedures in each country are implemented using a general concept for a procedure. (i.e. Import for home consumption, import for inward processing, transit...) which are laid out in the Revised Kyoto Convention. These procedures are implemented slightly different in each country.

b. The commodity[11] code in the declaration indicates the need of a CITES permit
c. A criteria used by the Customs Risk Management System has indicated that a CITES permit may be required for this transaction[12]

2. The electronic Customs clearance and risk management system can only access CITES permit information if this information is made available in electronic format at the time the declaration is submitted. This requires in particular that:
   a. CITES permit information is available in electronic format to Customs
   b. Permit information is of good quality and trusted
   c. The CITES data formats and codes can be understood by the Customs clearance system

   Therefore, efficient CITES border controls depends on the automation of the CITES permit process (ePermitting) in the Management Authority and the ability to provide this data in electronic format to Customs.

3. The Customs Risk Management System must be configured with CITES risk criteria to be able to evaluate the declarations against CITES related trade risks. This implies that national Management Authorities and Customs closely work together to define and prioritise the CITES control objectives and to develop criteria to detect potential violations based the electronic data that is available to Customs.

Trade Facilitation instruments, their application in Customs and their role for CITES

Access to electronic information and electronic Customs clearance using automated risk management have allowed Customs organizations world-wide to adopt Trade Facilitation instruments for better control of cross border trade. The WTO TFA[13] refers to these instruments and enforces their application in all Government agencies that regulate cross order trade, including CITES Management Authorities. This chapter discusses important WTO TFA instruments that are relevant for CITES.

WTO TFA Article 7: Release and Clearance of Goods, Chapter 4 Risk Management

4.1 Each Member shall, to the extent possible, adopt or maintain a risk management system for customs control.

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[11] *Customs uses the Harmonised System (HS) to classify goods. The national Tarff lists the supporting documents that are required for specific HS codes.*

[12] *The system may, for example, decide that a declaration containing goods with HS Code*

440722 Wood, tropical; virola, imbuia and balsa, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, thicker than 6mm

and coming from specific port has an increased likelihood to require a CITES permit

[13] *WTO Trade Facilitation Agreement https://www.wto.org/english/docs_e/legal_e/tfa-nov14_e.htm*

4.2 Each Member shall design and apply risk management in a manner as to avoid arbitrary or unjustifiable discrimination, or a disguised restriction on international trade.

4.3 Each Member shall concentrate customs control and, to the extent possible other relevant border controls, on high-risk consignments and expedite the release of low-risk consignments. A Member also may select, on a random basis, consignments for such controls as part of its risk management.

4.4 Each Member shall base risk management on an assessment of risk through appropriate selectivity criteria. Such selectivity criteria may include, inter alia, the Harmonized System code, nature and description of the goods, country of origin, country from which the goods were shipped, value of the goods, compliance record of traders, and type of means of transport.

Risk management requires a systematic analysis of regulatory risks and the optimal allocation of available resources to minimise this risk. In the CITES permit process there are two instances where risk management is of particular importance:

1. During the permit approval process the Management Authority assess the risk for issuing the permit. CITES risk management may, for example lead to facilitated permit approval processes for exporters with particular good standing or, on the contrary, lead to physical inspections for exporters with a negative compliance record.

2. During the Customs clearance process the Customs Risk Management System conducts a risk analysis for compliance with national laws and regulations including CITES regulations. As outlined above this requires that the Management Authority collaborates with Customs to identify CITES related trade risks and to configure the Risk Management System so that these risks are identified based on the electronic information available.

Adoption of risk management in the CITES permit process requires that Management Authorities receive information on best practice in implementing risk management under the rules of the Convention. It is suggested that the CITES Conference of Parties recommends Parties to apply risk management in the permit process and to develop capacity building material to support Management Authorities in its implementation.

WTO TFA Article 8: Border Agency Cooperation

1. Each Member shall ensure that its authorities and agencies responsible for border controls and procedures dealing with the importation, exportation, and transit of goods cooperate with one another and coordinate their activities in order to facilitate trade.

2. Each Member shall, to the extent possible and practicable, cooperate on mutually agreed terms with other Members with whom it shares a common border with a view to coordinating procedures at border crossings to facilitate cross-border trade. Such cooperation and coordination may include:
    (a)   *alignment of working days and hours;*

(b)   *alignment of procedures and formalities;*

(c)   *development and sharing of common facilities;*

(d)   *joint controls;*

(e)   *establishment of one stop border post control.*

The article requires that CITES Management Authorities coordinate their regulatory controls and interventions with other agencies, in particular with Customs, the Scientific Authorities and Sanitary and Phytosanitary Authorities.

Inter-agency coordination requires regular, formal meetings on the managerial level to discuss coordination of procedures, review of the efficiency of control procedures and joint risk management approaches. In the day-to-day work of the administrations inter-agency cooperation requires electronic information exchanges between the agencies to share information and coordinate their interventions.

It is suggested that the CITES Conference of Parties requests Parties to share their experiences in Border Agency Cooperation. CITES should also develop Guidelines and checklists for collaboration with Customs which are of particular importance for those countries were the implementation of the Convention is lacking.

WTO TFA Article 10: Formalities connected with importation, exportation and transit, Chapter 4 Single Window

4.1 Members shall endeavour to establish or maintain a single window, enabling traders to submit documentation and/or data requirements for importation, exportation, or transit of goods through a single entry point to the participating authorities or agencies. After the examination by the participating authorities or agencies of the documentation and/or data, the results shall be notified to the applicants through the single window in a timely manner.

4.2 In cases where documentation and/or data requirements have already been received through the single window, the same documentation and/or data requirements shall not be requested by participating authorities or agencies except in urgent circumstances and other limited exceptions which are made public.

4.3 Members shall notify the Committee of the details of operation of the single window.

4.4 Members shall, to the extent possible and practicable, use information technology to support the single window.

Single Window are implemented by many Governments around the world, in particular in developing and least developed countries as a measure for trade reform and improvement. A Single Window is a facility to exchange electronic trade documents and to provide an organizational and a technical platform for coordination of activities of border control agencies.

The development of a Single Window is a medium to long term undertaking which is usually governed by a multi-agency steering committee. Single Window implementation requires extensive inter-agency negotiation on project objectives and implementation priorities.

Single Windows are very relevant for CITES Management Authorities as they may provide a mechanism to implement an electronic Permit system in the Management Authority and as a means to exchange electronic information with Customs and other border agencies. However, many Management Authorities lack experience in Single Window implementation and struggle to get CITES needs adequately included in the national Single Window plan.

It is suggested that CITES develops guidance and support material for Management Authorities on how to develop and integrate electronic CITES systems within a national Single Window programme.

WTO TFA Article 7: Release and Clearance of Goods, Chapter 7 Trade Facilitation Measures for Authorized Operators

7.1 Each Member shall provide additional trade facilitation measures related to import, export, or transit formalities and procedures, pursuant to paragraph 7.3, to operators who meet specified criteria, hereinafter called authorized operators. Alternatively, a Member may offer such trade facilitation measures through customs procedures generally available to all operators and is not required to establish a separate scheme.

7.2 The specified criteria to qualify as an authorized operator shall be related to compliance, or the risk of non-compliance, with requirements specified in a Member's laws, regulations or procedures.

(a)　*Such criteria, which shall be published, may include:*

  (i)　*an appropriate record of compliance with customs and other related laws and regulations;*

  (ii)　*a system of managing records to allow for necessary internal controls;*

  (iii)　*financial solvency, including, where appropriate, provision of a sufficient security or guarantee; and*

  (iv)　*supply chain security.*

(b)　*Such criteria shall not:*

  (i)　*be designed or applied so as to afford or create arbitrary or unjustifiable discrimination between operators where the same conditions prevail; and*

  (ii)　*to the extent possible, restrict the participation of small and medium-sized enterprises.*

7.3 The trade facilitation measures provided pursuant to paragraph 7.1 shall include at least three of the following measures:[14]

    (a)   *low documentary and data requirements, as appropriate;*

    (b)   *low rate of physical inspections and examinations, as appropriate;*

    (c)   *rapid release time, as appropriate;*

    (d)   *deferred payment of duties, taxes, fees, and charges;*
    (e)   *use of comprehensive guarantees or reduced guarantees;*

    (f)   *a single customs declaration for all imports or exports in a given period; and*

    (g)   *clearance of goods at the premises of the authorized operator or another place authorized by customs.*

7.4 Members are encouraged to develop authorized operator schemes on the basis of international standards, where such standards exist, except when such standards would be an inappropriate or ineffective means for the fulfilment of the legitimate objectives pursued.

7.5 In order to enhance the trade facilitation measures provided to operators, Members shall afford to other Members the possibility of negotiating mutual recognition of authorized operator schemes.

7.6 Members shall exchange relevant information within the Committee about authorized operator schemes in force.

The measure calls on CITES Management Authorities to implement simplified procedures for privileged (trusted) operators. A CITES simplified procedures could be, for example, issuance of blank permits, a "green lane" permit issuance process, post clearance audits[15] or status of an Authorized CITES operator for approved nurseries, farms or fisheries. These measures should be implement these measures based on risk assessment and compliance history of the operators.

The implementation of simplified procedures in CITES requires that the Management Authority has already implemented risk management to identify low risk operators and supply chains.

It is suggested that the Conference of Parties recommends a common approach to the implementation of Authorized Operator schemes by Management Authorities in providing rules and guidelines to implement and oversee these schemes. A common approach to simplified procedures would prevent a piecemeal approach to simplified procedure in CITES with a multitude of different procedures and regulations for different CITES circumstances. As the WCO has similar programmes and in order to avoid duplication, a close cooperation with Customs is recommended when developing this approach.

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[14] A measure listed in subparagraphs 7.3 (a) to (g) will be deemed to be provided to authorized operators if it is generally available to all operators.

[15] *In the context of a CITES permit process the WTO TFA Article 7.5 on Post-clearance Audi suggests a separation between the actual release of the CITES consignment for export or import and the CITES approval.*

Summary and Recommendations

Trade Facilitation aims to automate and simplify processes in the government agencies, to facilitate trade of compliant businesses, and to focus resources to the identification and combat of non-compliant or illegal trade.

Trade Facilitation is implemented through a set of interlinked instruments such as standardization and automation of business processes, electronic information exchange and collaboration between government agencies, risk management and targeted inspections, Authorised Operators and Single Window. Trade Facilitation instruments require a holistic approach as they are combining information technology, change management, capacity building and legal and institutional reform.

Trade Facilitation instruments are already implemented by many Customs organizations around the world and are a backbone of modern and efficient border management. The WTO Trade Facilitation Agreement (TFA) which came into force in February 2017 provides a mandatory regulatory framework for the implementation of these instruments and applies to all government agencies that regulate cross border trade, including the CITES Management Authorities.

The CITES Convention and its Management Authorities are undertaking under the eCITES initiative an important programme of work to prepare for the automation of the CITES permit processes and the electronic exchange of permit information. Achievements under the ongoing eCITES agenda include inter alia the specification for electronic CITES permits based on international eBusiness standards (ePermitting standard), a managerial framework for implementation of electronic systems in Management Authorities (eCITES Implementation Framework), work on electronic permit information exchange across border (EPIX), the development of an electronic eCITES system for Management Authorities (ASYCUDA aCITES) and guidelines for the electronic equivalent of signatures and seals in CITES permits.

Switzerland as the Chair of the CITES Working Group on electronic Systems and Information technologies together with the UNCTAD ASYCUDA programme organised a joint workshop on modern Customs control procedures and the integration of CITES controls in Customs border clearance[16]. This workshop brought together experts from CITES Management Authorities, national Customs organizations, private sector stakeholders and international and regional organizations to assess the current practice of CITES trade controls and opportunities for strengthened collaboration with Customs.

The workshop found that past CITES efforts focussed on the development of technical readiness for CITES electronic information processing. While this work provides the basis for information exchange it is not sufficient to integrate into modern border control procedures. The Convention currently lacks recommendations, guidelines and tools that encourage and support Management Authorities to adapt trade facilitation procedures and to fully take advantage of the strength of the border control systems.

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[16] *Customs control of trade in CITES listed species: trends, technologies and opportunities for improved trade and regulatory control 29 to 31 May 2018, UK/Gibraltar*

As a result, illegal trade in wildlife is not controlled to the extent possible. Against the background of continuous, rapid expansion of global trade and recent increase of illegal trade it is urgent that CITES adopts a programme of work to adopt latest trade facilitation instruments for cross border trade and to increases its collaboration with Customs.

In particular, the workshop participants recommended that the Convention complements its existing efforts and programmes for electronic Systems and Information Technologies with a CITES Trade Facilitation agenda to improve regulatory control of trade in CITES listed species with the objectives to simplify legal trade, increase efficiency of controls and combat illegal trade in wildlife.