

The following is a living document intended to assist Parties in implementing the provisions of the Convention on introduction from the sea (IFS). It is based on [document SC77 Doc. 47](#) and comments received by Parties in response to Notification to the Parties No. 130/2023 of 24 November 2023. Published in March 2024.

FREQUENTLY ASKED QUESTIONS ON INTRODUCTION FROM THE SEA

Question 1: When to issue an IFS certificate – can it be issued after the specimens have been landed in the port of the State of introduction?

1.1 Noting that an IFS certificate shall be issued only when a 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 the same State, the IFS certificate needs to be issued prior to the transportation into a State. For Appendix-II species, see Article IV, paragraph 6: “the introduction from the sea of any specimen of a species included in Appendix shall require the prior grant of a certificate...”

1.2 Based on the Convention text, the IFS certificate could be issued after the specimen has been caught as long as the specimen is not yet transported into the State, or in-transit or transhipped through any Party. In those cases, the vessel would need to communicate the catch of specimens of CITES-listed species to the CITES Management Authority (MA) while still outside of national jurisdiction. The MA will then consult with the Scientific Authority (SA) on the non-detriment finding (NDF) and if the conditions in Article IV are fulfilled, the MA may issue the IFS certificate before the catch is transported into the State and landed.

1.3 Parties are advised that the issuing process may require extensive data collection and the preparation of an NDF and LAF, and thus take time. Parties are therefore encouraged to encourage early requests for IFS certificates, and to collect the necessary data and prepare NDFs for relevant species.

1.4 Parties would need to anticipate what would happen in an instance where the specimens are obtained in the marine environment not under the jurisdiction of any State and a certificate is sought before the vessel enters territorial waters, but the SA deems the catch unsustainable while the vessel is in transit between the marine environment not under the jurisdiction of any State and the port of landing. Presumably, the MA would not be able to issue a certificate and the specimen would be confiscated.

1.5 If a non-detriment finding (NDF) and legal acquisition finding, as appropriate, have been made and an annual quota established, it is highly recommendable, as far as possible, to apply for and issue the IFS certificate before the specimen is caught.

Question 2. What if the Party is also Party to a Regional Fisheries Body or other Convention that has management measures for species that are also listed on the CITES Appendices?

2.1 For several species included in CITES Appendix I or II, there may be binding fisheries measures in place that are stricter than the Convention, e.g., prohibiting the capture, retention, or landing of such species. In the case of Appendix-I species, a CITES certificate or permit should not be issued under any circumstances for primarily commercial purposes. For Appendix I or II species, if the Party is a contracting Party to a Regional Fisheries Body that prohibits retention or landing, a CITES certificate or permit should not be issued. If a CITES Party is also a Party to the Convention on the Conservation of Migratory Species of Wild Animals (CMS), and the species in question is listed on CMS Appendix I, then take (other than limited exemptions) is prohibited, and a certificate or permit should not be issued.

2.2 For introduction of biological samples of species in Appendix I for scientific purposes, the researcher/scientist should apply for the IFS certificate in advance of the take of the samples and the IFS certificate should be issued prior to the sampling operation. The Secretariat notes that there may be instances where benthic sampling was done in the marine environment not under the jurisdiction of any State and CITES-listed specimens were obtained unexpectedly.

Question 3: Is a specimen caught as by-catch (i.e., sharks) covered by CITES provisions?

3.1 All parts and derivatives of CITES-listed species, whether marine, terrestrial, or freshwater are covered by the provisions of the Convention, unless otherwise indicated. This includes fins, meat, blubber, biological samples, etc. It makes no difference to CITES implementation whether the specimen was caught intentionally or as by-catch. The CITES provisions on trade from the marine environment not under the jurisdiction of any State apply, irrespectively. In other words, there is no by-catch or incidental take exemption in CITES.

Question 4: Can a Regional Fisheries Management Organization (RFMO) issue a CITES document?

4.1 Only the CITES MAs designated by each Party to the Convention have the authority to issue CITES documents. RFMOs and similar organizations have a role to play in gathering information and data that can be used for NDFs. See paragraph 7 of Article IV.

Question 5: If national fisheries legislation – or RFMO measures – include a “no-retention” obligation for a species in CITES Appendix II, can trade still be authorized for those species taken in the marine environment not under the jurisdiction of any State?

5.1 If a Party has adopted stricter domestic measures or is a member of an RFMO that prohibits the take, retention or landing of a species, those measures would prevail and no trade in that species should be authorized by that same Party as it would not be legally acquired and the MA would not be able to make a Legal Acquisition Finding. However, Parties to CITES that are not bound by such stricter measures may authorize trade in the species concerned.

5.2 Furthermore, if the management of a CITES-listed species is covered by several RFMOs, where one prohibits retention of the species and another does not, a Party may only authorize international trade in specimens of the species where the harvest of such species is permitted in the RFMO Convention Area. The Secretariat understands that an RFMO requirement, just like CITES, will have national implementing legislation and requirements on its Parties/Members for fisheries that fall under the RFMO's remit. For instance, if an RFMO has banned onboard retention, transshipment, landing, storing, selling or offering for sale any part or whole carcass of a shark species that is included in CITES Appendix II, then, one of the members of that RFMO would not be authorized to trade in that shark species, as they also could not make a LAF.

Question 6: If a CITES Party is Party to another treaty that prohibits take or trade in a CITES-listed species, what are the implications?

6.1 As mentioned under question 2.1, if a CITES-listed species is also listed on Convention on the Conservation of Migratory Species of Wild Animals (CMS) Appendix I, then take (other than limited exemptions) is prohibited, and a CITES permit or certificate should not be issued unless it meets those narrow exemptions (which do not include commercial trade). There are CITES-listed marine species included on CMS Appendix I and CITES Parties that are also CMS Parties should be particularly vigilant therefore, in the making of Legal Acquisition Findings and issuance of subsequent CITES certificates or permits.

Question 7: What is the relationship between illegal, unreported, unregulated (IUU) fishing and CITES? – Can a CITES document be issued to authorize trade in specimens of CITES-listed species that have been caught as IUU?

7.1 Trade under CITES can be authorized by relevant competent authorities only when the following main conditions are met:

- a) Legal acquisition: the specimens have been obtained in conformity with all applicable legislation;
- b) Sustainable harvesting: trade is not detrimental to the survival of the species in the wild; and
- c) For living specimens: the MA is satisfied that they will be prepared and shipped as to minimize the risk of injury, damage to health or cruel treatment. For live Appendix-I specimens being imported, the SA has to be satisfied that the facility they are going to is suitably equipped to house and care for it.

If these conditions are met, a CITES document may be issued by the relevant competent authority.

7.2 For CITES-listed species, CITES Parties must use the criteria outlined in under 7.1 to evaluate whether trade in a given species should be authorized. For the conditions to be met, the specimens of CITES-listed species cannot be illegal or unreported. Valid CITES documentation cannot authorize trade in specimens of CITES-listed species caught by vessels engaged in illegal or unreported fishing.

Question 8: CITES trade from the marine environment beyond national jurisdiction – what is the flag State's responsibility?

8.1 Whether a Flag State is aware of CITES requirements or not, or a vessel flies a flag of a country other than where the vessel is owned or based, the obligations of all Flag States that are CITES Parties are the same. The Secretariat received some questions from States with large fleets about their obligations to issue CITES documents considering that they are not always aware of the CITES-related activities undertaken by vessels flying their flags. The responsibilities of the State of introduction, export, import or re-export for regulating trade in CITES Appendix I and II marine species are well defined in Articles III and IV of the Convention. The State where a vessel is registered is obligated to comply with all CITES requirements, if that State is a CITES Party.

Flag States must implement those obligations under CITES by monitoring, regulating and controlling the activities of all vessels flying their flag.

Question 9: Transit and transshipment – can customs authorities seize specimens that are in transit or being transhipped and were declared as harvested in international waters but are not accompanied by a CITES document?

9.1 Yes and they should. The Secretariat received some questions from customs officers about seizing CITES shark specimens that were in transit without CITES documents. For the purpose of Article VII, paragraph 1, of the Convention, paragraph a) of Resolution Conf. 9.7 (Rev. CoP15) on *Transit and transshipment* states that 'transit or transshipment of specimens' be interpreted to refer only to: i) specimens that remain in customs control and are in the process of shipment to a named consignee when any interruption in the movement arises only from the arrangements necessitated by this form of traffic'.

9.2 For sharks in particular, Parties are reminded that paragraph 1 b) of Resolution Conf. 9.7 (Rev. CoP15) on *Transit and transshipment* recommends that 'Parties inspect, to the extent possible under their national legislation, specimens in transit or being transhipped, to verify the presence of a valid CITES permit or certificate as required under the Convention or to obtain satisfactory proof of its existence'.

9.3 The Secretariat advised customs officers that contacted the Secretariat with specific questions on how to deal with cases where CITES-listed specimens are declared to customs or detected during an inspection. In those cases, the customs officers should verify the presence of valid CITES documents. Depending on the State of introduction or the State of import of those specimens, they may also need to verify if that country had entered reservations.

9.4 If the shipment does not have CITES documentation and the State has not entered a reservation, the specimens should be seized in accordance with procedures established in national legislation, and the Secretariat and the country of destination should be informed. As explained in question 1 above, the documents should be issued prior to the transit of the specimens and the argument that the documents are being requested upon arrival to the port is not admissible.

Question 10: Can a Party that has entered a reservation with respect to a marine species included in CITES Appendix I request an authorization to transit or trans-ship specimens of such species harvested in the marine environment not under the jurisdiction of any State through ports of other CITES Parties without any CITES document?

10.1 No, see question 9. If the shipment that is in transit or being trans-shipped through a Party does not have valid CITES documentation, then the specimens should be seized. The Convention stipulates that Parties that have entered a reservation shall be treated as a State not a Party to the Convention with respect to trade in the species concerned (Article XV, paragraph 3). Trade with States not a Party to the Convention is regulated by Article X of the Convention. This stipulates that for Parties to trade with non-Parties, Parties should demand comparable documentation to the CITES documents.

10.2 Secondly, CITES Parties have adopted Resolution Conf. 4.25 (Rev. CoP19) on *Reservations* that recommends that Parties that have entered a reservation with regard to a species in Appendix I treat that species as if they were included in Appendix II for all purposes, including documentation and control. This means that a Party that has entered a reservation with respect to a species included in Appendix I can export this to another Party that has made a reservation with respect to the same species (including subspecies and population) using the provisions of Article IV of the Convention. The list of Parties that have entered reservations can be found here: <https://cites.org/eng/app/reserve.php>.

Question 11: Are scientific biological samples taken from CITES-listed species in the marine environment not under the jurisdiction of any State covered by CITES?

11.1 Yes. CITES covers any specimen taken from a species included in the Appendices, even for non-lethal or non-destructive sampling, such as the collection of DNA samples from skin biopsies.

Question 12: Can CITES simplified procedures be applied to biological samples taken in the marine environment not under the jurisdiction of any State?

12.1 Yes. The simplified procedures contained in Resolution Conf. 12.3 (Rev. CoP19) on *Permits and certificates*, section XIII, may be applied to any species and specimen where trade is considered to have none or negligible impact on the conservation status of the species. See the CITES webpage on the CITES permit system at https://cites.org/eng/prog/Permit_system.