



## MODULE 4: APPENDIX I IMPORTS

### Contents

1. What is in this module? ..... 1
2. Relevant provisions in the text of the Convention ..... 1
3. Key considerations and relevant provisions in the text of the Convention ..... 2

### 1. What is in this module?

This module provides additional details to support the making of NDFs for imports of CITES Appendix I listed species. It is complementary to the generic guidance contained in [modules 1](#) and [2](#).

### 2. Relevant provisions in the text of the Convention

The Preamble to the Convention contains the following paragraphs:

*Recognizing that peoples and States are and should be the best protectors of their own wild fauna and flora;*

*Recognizing, in addition, that international co-operation is essential for the protection of certain species of wild fauna and flora against over-exploitation through international trade;*

Article II of the Convention sets out the Fundamental Principles of the Convention. Paragraph 1 specifically address Appendix I as follows:

1. *Appendix I shall include all species threatened with extinction which are or may be affected by trade. Trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances.*

This article should be taken into consideration when implementing the provisions of Article III relating to the trade in specimens of species listed in Appendix I.

According to Article III, paragraph 3, the import of any specimen of a species included in Appendix I shall require the prior grant and presentation of an import permit and either an export permit or a re-export certificate. An import permit shall only be granted when specific conditions are met, including as specified in paragraph 3 (a):

*a Scientific Authority of the State of import has advised that the import will be for purposes which are not detrimental to the survival of the species involved.*

This guidance deals specifically with the NDF to be made by the Scientific Authority of the *importing* country.

The provisions in the text of the Convention relating to the non-detriment finding to be made for the import and the export of Appendix I listed species differ slightly from one another: Article III, paragraph 2, sets out the requirements for issuance of an export permit. Paragraph 2 (a) sets out the non-detriment finding that must be made before granting an *export* permit. That paragraph states:

*“a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species”* (Articles III.2(a)).

The difference is that while the Scientific Authority of an *exporting* country must determine that the *export* is not detrimental to the survival of the species, the Scientific Authority of the *importing* country must determine that the *purpose of the import* is not detrimental (not the purpose of the export, which may be different from the purpose of the import and would be considered by the Scientific Authority of the *exporting* country when making their NDF). The essential language of these provisions of the Convention is that the activity, whether the export or the purpose of the import, must not be detrimental to the survival of the species. Please see [module 1](#) and [2](#) for generic guidance to Scientific Authorities of countries of export that are required to make export permits in accordance with Article III, Paragraph 2 of the Convention.

Scientific Authorities in importing countries have limited guidance on how to advise that an import will be for *purposes* which are not detrimental to the survival of the species involved or on the information they need in order to give appropriate advice.

### 3. Key considerations and relevant provisions in the text of the Convention

#### 3.1. Stricter domestic measures

Article XIV of the Convention addresses domestic legislation and international conventions. Paragraph 1. a) specifically address stricter domestic measures:

*1. The provisions of the present Convention shall in no way affect the right of Parties to adopt:*

*(a) stricter domestic measures regarding the conditions for trade, taking, possession or transport of specimens of species included in Appendices I, II and III, or the complete prohibition thereof;*

It is important to note that Parties may have stricter domestic measures in place that require consideration of information and processes beyond the provisions in the text of the Convention.

#### 3.2. Guidance in resolutions

When making a determination on whether the purpose of the import is or is not detrimental to the survival of the species, the country of import should consider the intended use of the specimen, how it will be used upon import. This determination by the country of import should be based on the best available scientific and management data of the species (including, as may be needed, information obtained from the exporting Party), as well as an assessment of the potential impacts of the purpose of import of the specimen on the survival of that species. The importing Party should also determine whether the effect of allowing imports for a particular purpose can be separated from other potentially detrimental impacts on the species, including trade for other purposes. Therefore, while similar types of information are required to make findings for both import and export, the realisation of an NDF by the importing country might also require specific data and analysis. However, the concepts and non-binding guiding principles provided in [Res. Conf. 16.7 \(Rev. CoP17\)](#) on *Non-detriment findings* may be largely applicable to non-detriment findings made for import permits. For example, to avoid redundancy in their implementing regulations, some Parties combine their regulations for non-detriment findings for both import and export, but outline separate additional factors used in making non-detriment findings for Appendix-I and -II species.

The country of import should base its non-detriment finding on the best available scientific and management information as well as information relating to the potential impacts of the purpose of import of the specimen on the survival of that species. The wording of Article III requires complementary control of trade in Appendix-I species by both the importing and exporting countries. Accordingly, the findings of the Scientific Authority of the exporting and importing countries may be carried out independently and may arrive at different determinations. The Conference of the Parties adopted guidance relating to some of these elements in a number of Resolutions and these are reflected on in the following paragraphs.

#### (i) [Resolution Conf. 2.11 \(Rev.\)](#) on *Trade in hunting trophies of species listed in Appendix I*

In paragraph 1. b)-c) of Resolution Conf. 2.11 (Rev.), on *Trade in hunting trophies of species listed in Appendix I*, the Conference of Parties recommends that:

- b) *in order to achieve the envisaged complementary control of trade in Appendix-I species by the importing and exporting countries in the most effective and comprehensive manner; the Scientific Authority of the importing country accept the finding of the Scientific Authority of the exporting country that the exportation of the hunting trophy is not detrimental to the survival of the species, unless there are scientific or management data to indicate otherwise; and*
- c) *the scientific examination by the importing country in accordance with paragraph 3 (a) of Article III of the Convention be carried out independently of the result of the scientific assessment by the exporting country in accordance with paragraph 2 (a) of Article III, and vice versa.*

Parties maintain the ability to evaluate independently scientific and management data to determine whether the import of the hunting trophy is for purposes not detrimental to the survival of the species. This can be in the form of an NDF. The importing Party could require relevant information (as per Resolution Conf. 16.7 (Rev. CoP17) on *Non-detriment Findings*) from the Exporting Party.

**(ii) [Resolution Conf. 9.21 \(Rev. CoP18\)](#) on *Interpretation and application of quotas for species included in Appendix I***

In paragraph 1. b) of [Res. Conf. 9.21 \(Rev. CoP18\)](#) on *Interpretation and application of quotas for species included in Appendix I*, the Conference of the Parties agrees that:

- b) *whenever the Conference of the Parties has set an export quota for a particular species included in Appendix I, this action by the Parties satisfies the requirements of Article III regarding the findings by the appropriate Scientific Authorities that the export will not be detrimental to the survival of the species and that the purposes of the import will not be detrimental to the survival of the species, provided that the quota is not exceeded and no new scientific or management data have emerged to indicate that the population of the species in the range State concerned can no longer sustain the agreed quota;*

Parties maintain the ability to independently evaluate scientific and management data to determine whether the quota adequately ensures the sustainability of the species. The Scientific Authority of an importing country could for example make its own non-detriment finding if “the quota is... exceeded” or “new scientific or management data have emerged to indicate that the species' population in the range State concerned can no longer sustain the agreed quota.”

The importing Party could require relevant information (as per [Res. Conf. 16.7 \(Rev. CoP17\)](#) on *Non-detriment findings*) from the exporting Party.

**(iii) [Resolution Conf. 12.3 \(Rev. CoP19\)](#) on *Permits and certificates***

This resolution provides guidance to Parties relating to the purpose of transaction codes (see section *I. Regarding standardization of CITES permits and certificates* paragraphs 3 j) to q):

T Commercial

Z Zoo

G Botanical garden

Q Circus or travelling exhibition

S Scientific

H Hunting trophy

P Personal

M Medical (including biomedical research)

E Educational

N Reintroduction or introduction into the wild

B Breeding in captivity or artificial propagation

L Law enforcement / judicial / forensic.

The Management Authority of the country of import should determine the purpose of the import and the Scientific Authority could indicate if this purpose is supported or appropriate based on the assessment it undertakes to determine whether the proposed purpose of the import is not detrimental to the survival of the species. A possible consideration for the Scientific Authority of the importing country would be if the intended purpose of the import could be achieved by other means, e.g., blood samples that could be obtained from captive populations rather than wild populations.

### **3.3. Roles of the Scientific and Management Authorities**

Resolutions on the designation and role of the Scientific Authority and the Management Authority have been adopted by the Conference of the Parties in [Res. Conf. 10.3](#) and [Res. Conf. 18.6](#) respectively. All NDFs required by CITES, including the importing country NDF, must be made by the Scientific Authority, which is to act independently from the Management Authority.

A Management Authority may seek the advice from the Scientific Authority on any proposed trade transaction when considering the application for an import permit.

Parties are advised that [module 1](#) and [2](#) provide more details on the types of information to be relied on in making NDFs.