



# NOTIFICATION TO THE PARTIES

No. 2023/079

Geneva, 11 July 2023

CONCERNING:

Feedback on the ten most frequently asked questions  
on introduction from the sea

1. In accordance with Decision 19.140, the Secretariat invites Parties and other relevant stakeholders to provide comments on the ten most frequently asked questions on introduction from the sea as contained in the Annex to this Notification. Any consideration of the pertinence of adding new questions and/or including these questions and their responses in a new annex to Resolution Conf. 14.6 (Rev. CoP16) on *Introduction from the sea* would be welcome.
2. The Secretariat also invites Parties to provide information on their implementation of Resolution 14.6 (Rev. CoP16) on *Introduction from the sea*. This includes among other things information on progress made and main challenges faced regarding the main text of the Resolution and feedback on the clarity and usefulness of the four sections contained in the Annex providing the explanatory notes, namely: I. Introduction from the sea [under paragraph 2 a)]; II. Export / import / re-export, occurring after an IFS; III. Export / import / re-export, not occurring after an IFS [under paragraph 2 b)]; IV. Transshipment.
3. Comments should be sent to [juan.vasquez@cites.org](mailto:juan.vasquez@cites.org) by **31 July 2023** with the aim of presenting a revised version of these ten most frequently asked questions to the 77th meeting of the Standing Committee (Geneva, 6-10 November 2023).

## 10 MOST 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 The IFS certificate could be issued after the specimen has been caught as long as the specimen is not yet transported into the State. 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 NDF and if the conditions in Article IV are fulfilled, the MA may issue the IFS certificate before the catch is landed. Parties would need to anticipate what would happen in an instance where the specimens are obtained in the high seas 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 high seas boundary and the port of landing. Presumably, the MA would not be able to issue a certificate and the specimen would be confiscated.
- 1.3 In the case of a species included in CITES Appendix I, there will most likely be binding fisheries measures in place prohibiting the capture of such species for commercial purposes. For introduction of biological samples of species in Appendix I for scientific purposes, the researcher/scientist should normally 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 on the high seas and CITES-listed specimens were obtained unexpectedly.

*Question 2: Is a specimen caught as by-catch (i.e. sharks) covered by CITES provisions?*

- 2.1 All parts and derivatives of CITES-listed marine species 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 whether the specimen was caught intentionally or as by-catch. The CITES provisions on trade from the high sea apply, irrespectively. In other words, there is no by-catch exemption in CITES.

*Question 3: Whose responsibility - Can a Regional Fisheries Management Organization (RFMO) issue a CITES document?*

- 3.1 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.
- 3.2 Paragraphs 4 and 5 of Article XIV suggest that there may be another type of certificate for trade in Appendix-II specimens taken by ships registered by a Party to CITES that is also party to any other treaty, convention or international agreement which was in force before 1 July 1975 and under the provisions of which protection is afforded to marine species included in Appendix II. In those cases, a certificate is required from a MA of the State of introduction to the effect that the specimen was taken in accordance with the provisions of the other treaty, convention or international agreement in question.

*Question 4: If national fisheries legislation – or RFMO measures – include a “no-retention” obligation for a species in CITES Appendix II, can trade still be authorized?*

4.1 If a Party has adopted stricter domestic measures or is a member of an RFMO that prohibit the take 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 could not make a Legal Acquisition Finding. However, other Parties to CITES that are not bound by such stricter measures may authorize trade in the species concerned. The Secretariat understands that an RFMO requirement, just like CITES, will have national implementing legislation and requirements on its Parties/Members. For instance, if an RFMO is banning retention of shark species, then, if one of the members of that RFMO wished to retain and trade, they would not be able to do so as they also could not make a LAF. Management Authorities are invited to verify if “participating territories” and “co-operating non-members” are also bound by specific RFMO conservation and management measures.

*Question 5: 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?*

5.1 Trade under CITES can be authorized only when four main conditions are met:

- a) Legal acquisition: the specimens have been obtained in conformity with applicable legislation;
- b) Sustainable harvesting: trade is not detrimental to the survival of the species in the wild; and
- c) Traceable: a valid CITES document has been issued by the relevant competent authority.
- d) 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.

5.2 If these conditions are met, it is not possible that the specimens are also IUU: by definition they cannot be illegal or unreported. If the species is included in the CITES appendices, it is by definition not unregulated either. In other words, a CITES document cannot authorize trade in IUU specimens.

*Question 6: CITES trade from the sea under flags of convenience (FOC) – what is the flag State’s responsibility?*

6.1 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 Appendix I and II marine species are well defined in Articles III and IV of the Convention. Flag States shall assume those responsibilities by monitoring, regulating and controlling the activities of vessels flying their flag.

6.2 The Standing Committee may consider instructing the Secretariat to explore the feasibility of having a register with the list of flag-of-convenience States and territories. The list could include the vessels which are authorized to take CITES-listed species in the respective zones. If such a list is created, it could be used to improve the matching between declared catches and reported trade involving vessels that are registered in the States and territories which appear on that list.

6.3 In this regard, the Standing Committee may also wish to consider instructing the Secretariat to approach and work with the States and territories in question with a view to encouraging them to fulfil their CITES responsibilities as a flag State.

*Question 7: 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?*

- 7.1 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, the 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’.
- 7.2 For sharks in particular, paragraph d) of Decision 19.222 encourages the Parties to ‘inspect, to the extent possible under their national legislation, shipments of shark parts and derivatives in transit or being transhipped, to verify presence of CITES-listed species and verify the presence of a valid CITES permit or certificate as required under the Convention or to obtain satisfactory proof of its existence’.
- 7.3 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 need to verify if that country had entered reservations.
- 7.4 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 8: 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 tranship specimens of such species harvested in the high seas through ports of other CITES Parties without any CITES document?*

- 8.1 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.
- 8.2 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 9: Are scientific biological samples taken from CITES-listed species in the high seas covered by CITES?*

- 9.1 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 10: Can CITES Simplified procedures be applied to biological samples taken in the high seas?*

10.1 Yes. The simplified procedures contained in Resolution Conf. 12.3 (Rev. CoP19) on *Permits and certificates*, section XIII, applies 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](https://cites.org/eng/prog/Permit_system).