



CITES Legal Acquisition Findings

**Regional Workshop for range States of African rosewood
(*Pterocarpus erinaceus*) - September 2024**

Thomas Deleuil – Legal Unit, CITES Secretariat

CITES Legislation - minimum requirements - Convention Art. XIII

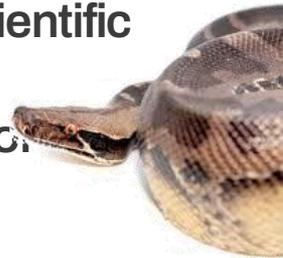
- **CITES Article VIII** provides, inter alia, that:

The Parties shall take appropriate measures to enforce the provisions of the present Convention and to prohibit trade in specimens in violation thereof. These shall include measures:

(a) to penalize trade in, or possession of, such specimens, or both; and

(b) to provide for the confiscation or return to the State of export of such specimens.

- **Article VIII and Resolution Conf. 8.4 (Rev. CoP15)** National laws for the implementation of the Convention develops the four minimum requirements to be included in national legislation for the implementation of the Convention. The legislation must provide the Party with the authority to:
 - i. Designate at least one Management Authority and one Scientific Authority;
 - ii. Prohibit trade in and possession of specimens in violation of the Convention;
 - iii. Penalize such illegal trade and illegal possession; and
 - iv. Confiscate specimens illegally traded or possessed



CITES Legislation - minimum requirements - Convention Art. XIII

- National laws for implementing CITES are critical to ensure that trade in protected species is **legal, sustainable and traceable**.
- This is in line with the objective of the Convention to ensure that international trade in specimens of wild animals and plants **does not threaten the survival of the species**.

Let us move on to the question of Legal



Legal Acquisition Findings (LAF) – Legal basis



- **Legal Acquisition Findings (LAF)** are mentioned in:

- Article III para. 2 (b) and 4 (a) : for Appendix I species
- Article IV para. 2 (b) and 5 (a) : for Appendix II species
- Article V para. 2 (a) and 4 : for Appendix III species.

[Also note Article VII paras 4 and 5: legal acquisition of founder stocks]

*As **Pterocarpus erinaceus** is listed in Appendix II of the Convention, under the listing **Pterocarpus spp.**, we will concentrate on Article IV of the Convention. However, these developments on LAFs are applicable to trade in all CITES-listed species*

- **Article IV para. 2 (b)**: The export of any specimen of a species included in Appendix II shall require the prior grant and presentation of an export permit. An export permit shall only be granted when the following conditions have been met: (...)
(b) a Management Authority of the State of export is satisfied that the specimen was not obtained in contravention of the laws of that State for the protection of fauna and flora;

Legal Acquisition Findings (LAF) – Legal basis

- **Article IV para. 5 (a) :** The re-export of any specimen of a species included in Appendix II shall require the prior grant and presentation of a re-export certificate. A re-export certificate shall only be granted when the following conditions have been met: (...)
(b) a Management Authority of the State of re-export is satisfied that the specimen was imported into that State in accordance with the provisions of the present Convention;



Legal Acquisition Findings (LAF) – Definition



Examination conducted by a Management Authority prior to issuing a CITES export permit...

..to satisfy itself that the specimen was not obtained in contravention of the laws and regulations of that State for the protection of fauna and flora (= it was legally acquired).

Should take into account the **whole series of actions** through which the specimen is brought from its source into the possession of an exporter



LAF – Guiding principles – Resolution Conf 18.7 (Rev. CoP19)

- Resolution Conf. 18.7 (Rev. CoP19) is the resolution of reference concerning [Legal acquisition findings](#).

- **Guiding principles of Resolution Conf. 18.7 (Rev. CoP19) include:**

- a Procedures to conduct LAF should be sufficiently flexible to allow for a risk assessment approach;
- b Procedures should be publicly available to facilitate the collection of required information and provide clarity to applicants requesting export permits;
- c The applicant is responsible for providing sufficient information for the Management Authority to determine that the specimen was legally acquired :

statements made under oath, licenses or permits, history of transfers of ownership (invoices, receipts), forestry concession numbers, hunting permits or tags, identification records (marks);

*on the entire chain of custody
back to the source of the specimen*



LAF – Guiding principles – Resolution Conf 18.7 (Rev. CoP19)

- d The information required to make a LAF should be proportionate with the likelihood that a specimen of a CITES-listed species was not legally acquired;
- e To maintain records of permits issued.

LAFs are based on information provided by the applicant, but it is indeed the Management Authority that shall determine whether the specimen was legally acquired.



Unlike NDF that can be made for a species or a species population, LAF is specifically related the specimen(s) presented for export. Therefore, LAF is made post-harvest whereas NDFs are ideally made pre-harvest.

LAF – Recommendations– Resolution Conf 18.7 (Rev. CoP19)

- **Resolution Conf. 18.7 (Rev. CoP19)** contains various recommendations on how to make LAFs (Resolution + Annex 1).

- These recommendations are:

- 1 **Include in the national legislation the obligation of a Management Authority to verify, prior to issuing any CITES export permit, whether a specimen of CITES-listed species to be exported was legally acquired;**
- 2 **Prepare general written instructions regarding the information required of an applicant and make that information publicly available;**
- 3 **Verification based on a risk assessment approach taking into account and balancing the following factors:**



LAF – Recommendations– Resolution Conf 18.7 (Rev. CoP19)

Factor	Higher risks	Lower risks
Appendix	Appendix I	Appendix II or III
Source	wild, unknown	ranching, bred in captivity or artificially propagated
Occurrence in a controlled environment	No occurrence	Widely occurring
Geographical factors	Territory affected by armed conflicts etc	No conflicts
Illegal trade	documented illegal harvest or illegal trade	No illegal harvest or trade documented
History of applicant	Past non-compliance	Past compliance
Monetary value	High value species	Low value species
Look-alike species	Existence of look alike	No look-alike species

LAF – Recommendations– Resolution Conf 18.7 (Rev. CoP19)

RISK ASSESSMENT

HIGH RISK
of illegal acquisition

The MA should
require additional information
and
engage in further scrutiny of the chain of
custody

LOW RISK
of illegal acquisition

The MA should
engage in less scrutiny
and
require less information of the applicant



LAF – Practical steps – Resolution Conf 18.7 (Rev. CoP19)

The Management Authority :

- Must be aware of and understand their relevant laws for the protection of fauna and flora.
- Should review all the documentary and other information presented by the applicant. Where the MA considers that the evidence is incomplete, it should provide the applicant with an opportunity to produce additional information.

MA **satisfied**
that the specimen was legally
acquired

LAF ✓

If all other conditions are met
(NDF, transport conditions,
import permit for App. I) MA
issues the CITES document

The MA may choose to share relevant information about the legal acquisition of the specimen in Box 5 (or another location). Ex.: import or export permit numbers, forestry concession numbers, hunting permit or tag numbers...

CITES CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA		PERMIT/CERTIFICATE No.	Original
1. Scientific name of the specimen		(1) EXPORT	(2) Import and
2. Authority		(3) RE-EXPORT	(4) EXPORT
3. Date of issue		(5) OTHER	
4. Description of the specimen			
5. Details of the acquisition of the specimen			
6. Details of the proposed trade			
7. Details of the proposed trade			
8. Details of the proposed trade			
9. Details of the proposed trade			
10. Details of the proposed trade			
11. Details of the proposed trade			
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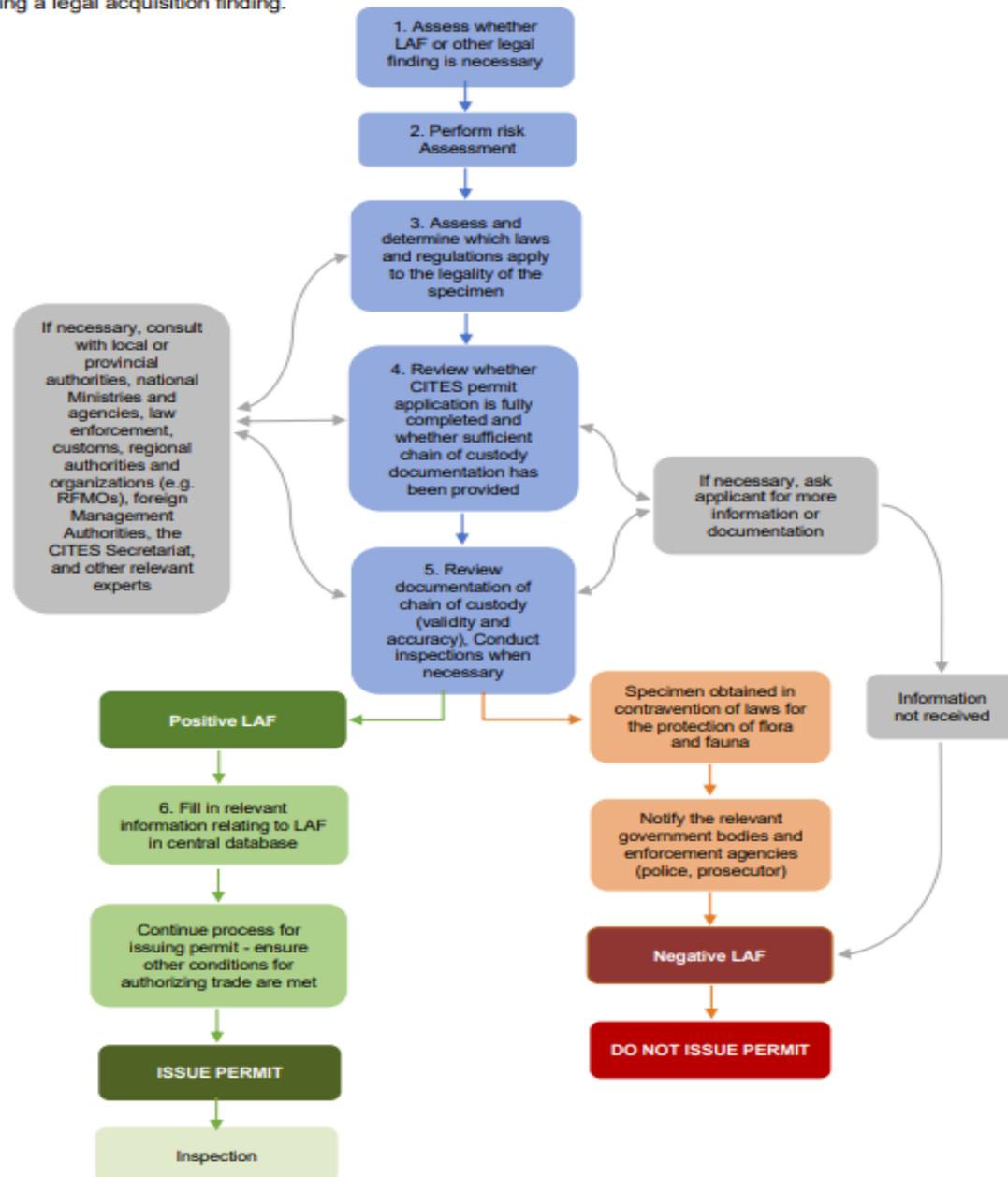
MA **NOT satisfied**
that the specimen was
legally acquired

LAF ✗

MA doesn't issue the
CITES document

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.



LAF – Summary

WHAT : Examination

WHO: Management Authority

WHEN: Prior to issuing a CITES permit

HOW: Risk assessment

BASED ON : Information provided by the person applying for a CITES permit or certificate and verified by the Management Authority.

Note: this is the normal LAF procedure. Under Article XIV of the Convention, Parties remain free to adopt stricter domestic measures.



LAF – Obligations / recommendations to importing Parties

General obligations of importing Parties : importing Parties should:

- Verify that all of the information listed in Annex 1 of Resolution Conf. 12.3 (Rev. CoP18) is included on the document,
- Ensure that they do not accept export or re-export documents issued by any authority other than the Management Authority officially designated and duly notified to the Secretariat,
- Exercise due diligence when presented with a CITES permit or certificate.



In case of suspicion :

- Immediately consult with the Management Authority of the country of export/re-export,
- Uncertainty with regard to the legal acquisition finding, the required non-detriment finding, or other CITES requirement(s) : request the basis for the relevant determination,
→ *call upon the assistance of the Secretariat, in the context of its responsibilities in Article XIII of the Convention and Resolution Conf. 14.3 (Rev. CoP18)*
- Make use of the provisions of Article XIV, paragraph 1. a), of the Convention to take stricter domestic measures.

Facilitating the making of LAFs

- Guidance and Rapid Guide for the making of legal acquisition findings (Resolution 18.7 Annexes 1 and 3)
- Information systems and traceability tools
- Mechanisms of inter-agency cooperation + Resolution Conf. 12.3 (Rev. CoP18) on *Permits and certificates* in paragraph 24 l) and m) on verification of authenticity and validity of CITES documentation between Parties
- International legal databases (CITES-LEX, FAOLEX, ECOLEX, InforMEA, World Legal Information Institute...)
- Forensic tools (DNA testing, stable isotope analysis, radiocarbon dating)

Guidance

www.cites.org

CITES virtual college: www.ciates.unia.es

CITES Secretariat / Legal Unit (info@cites.org)

[Resolution Conf. 18.7 Legal Acquisition Findings](#)



Questions

- What successes or challenges have you been facing when working on LAFs?
- What are the causes of potential challenges?
- What needs to be done to address such challenges?

CITES Secretariat Geneva

