



# Stockpiles and confiscation of illegal specimens

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

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# The issue of stocks or stockpiles

- NDF and LAF are two of the pillars of trade under CITES trade. They are designed to ensure that trade in CITES-listed species is **sustainable, legal, and traceable**.
- They are a condition for the issuance of export permits (and re-export certificates for LAF).
- Pursuant to the Convention, and in order to ensure that trade is **sustainable, legal, and traceable**, NDF and LAF should therefore be issued prior to the species being traded.

For any CITES species, creating a stockpile without having an NDF or LAF in place for trade is therefore creating issues for the future.

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# Stockpiles in the context of the expedited application of Article XIII

## Three scenarios:

- **Stockpiles existing prior to the listing of the species concerned under the Convention:** the MA should be satisfied (legal finding) that the specimens were acquired before the provisions of the Convention applied to the specimens.
- **For other stockpiles:** for some Parties, the expedited application of Article XIII (and in some cases RST recommendations) involve a trade suspension for *Pterocarpus erinaceus* until the Parties present a) an NDF to the satisfaction of the Secretariat and the Chair of the Plants Committee; and b) an LAF to the satisfaction of the Secretariat and the Chair of the Standing Committee.
- For standing/living trees, the NDF should normally be conducted before the harvest (on a species/population level) and the LAF before the issuance of the export permit, i.e. after the harvest (on the specific shipment presented for export) to ensure that trade is **sustainable, legal, and traceable**.
- In the case of stockpiles, the NDF needs to demonstrate that **at the time of the harvesting, the harvesting was sustainable** and the LAF needs to demonstrate that the specimens were **acquired legally** and that **there was proper chain of custody** of the specimens since the time of the harvesting.

**In other words, we are looking back.**



# Stockpiles in the context of the expedited application of Article XIII

- **NDF and LAF developed for stockpiles should therefore be kept separate from NDF and LAF developed for living/standing trees as they address two distinct situations.**
- **Additionally, since there are ongoing recommendations to implement under the expedited application of Article XIII and under the RST, it is important to maintain maximum clarity on the timber being traded, and the stocks covered by a given NDF and LAF.**



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# Confiscation and disposal of illegal traded specimens

- **Article VIII of the Convention** requires that national legislation include the authority to confiscate illegally traded or possessed specimens.

**Note:** These rules apply to specimens illegally traded or possessed that have been confiscated, but also to specimens that have not yet been illegally traded but have been presented for export, and found to be illegal.

- **Resolution Conf. 17.8 on *Disposal of illegally traded and confiscated specimens of CITES-listed species*** provides further guidance on confiscation and on ways for Parties to dispose of confiscated specimens.
- **It is the Party that confiscated the specimens that makes the final decision on the disposal. No obligation to return to the country of origin.**
- **The CoP recommends that importing Party consider that the seizure and confiscation of such specimens are generally preferable to the definitive refusal of the import of the specimen and return to the country of origin.**
- **Parties take the measures necessary to ensure that such specimens are not reentered into illegal trade, including monitoring their return to the country and providing for their confiscation.**

# Disposal of illegal traded / possessed specimens

- Different recommendations for disposal of specimens of species in App. I and in App. II-III. For App. I, limited options.
- The specimens must be disposed of in the best manner possible to achieve the **purposes of the Convention**.
- Steps should be taken to ensure that
  - the person responsible for the offence **does not receive financial or other gain from the disposal**;
  - and that such **disposal does not stimulate further illegal trade or re-enter illegal trade**.
- Disposal options for timber listed in Appendix II:
  - Auction
  - Transformation/use in-country
  - Destruction.



# Questions

- **What experience have you had with preparing NDF or LAF for existing stocks?**
- **What successes or challenges have you been facing?**
- **What are the causes of potential challenges?**
- **What needs to be done to address such challenges?**

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