**MODULE 4: APPENDIX I IMPORTS**

**(REVISED)**

1. **CONTEXT**

This module provides additional details to support the making of NDFs for imports of CITES Appendix I listed species.

1. **Relevant provisions in the Text of the Convention**

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 in Article III relating to the trade in specimens of species listed in Appendix I.

Article III of the Convention specifically addresses 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. A section on guidance for the Management Authority of the importing country is also included relating to additional pre-NDF considerations applicable to import of Appendix-I listed species.

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 Modules 1 and 2 for 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 advice 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. The following non-binding guidance is intended to fill this gap and include information relating to practices of some Parties.

**2. Key considerations and relevant provisions in Resolutions**

**(a) 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 requires consideration of information and processes beyond the provisions in the text of the Convention.

**(b) 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 **[trade / import and]** intended use of the specimen on conservation status. 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 Resolution Conf. 16.7 (Rev. CoP17) on *Non-detriment findings* may be largely applicable to non-detriment findings made for import permits.[[1]](#footnote-1)

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 **[trade and / import and]** intended use of the specimen and potential unintended consequences associated with the import of the specimen. 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. The country of import is not required to accept imports of Appendix-I species and has authority to reach conclusions independent of a non-detriment finding from the country of export. For example, the Scientific Authority of the country of import is not required to accept the finding of the Scientific Authority of the exporting country, should it be available, if its own analysis of the scientific or management data indicate that the **[trade or]** purpose of the import could be detrimental to the survival of the species.  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.)**](https://cites.org/sites/default/files/documents/COP/19/resolution/E-Res-02-11-R09.pdf) **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.*

**(ii)** [**Resolution Conf. 5.10 (Rev. CoP19)**](https://cites.org/sites/default/files/documents/COP/19/resolution/E-Res-05-10-R19.pdf) **on *Definition of ‘primarily commercial purposes’***

 The Conference of Parties recommends that for the purposes of Article III paragraph 3 (c) and 5 (c) of the Convention general principles and examples set out in the Resolution and the Annex respectively be used by Parties in assessing whether the import of a specimen of an Appendix-I species would result in its use for primarily commercial purposes. The first general principle is that trade in Appendix-I species must be subject to particularly strict regulation and authorized only in exceptional circumstances (linked to the fundamental principles of the Convention).

 In the Annex to the Resolution, the following guidance is provided: “In keeping with the provisions of Article II, paragraph 1, the import of specimens of Appendix-I species removed from the wild for one of the purposes set forth above should, as a general rule, not be allowed unless the importer has first demonstrated that:

a) he has been unable to obtain suitable captive-bred specimens of the same species;

b) another species not listed in Appendix I could not be utilized for the proposed purpose; and

c) the proposed purpose could not be achieved through alternative means.”

**(iii)** [**Resolution Conf. 9.21 (Rev. CoP18)**](https://cites.org/sites/default/files/documents/COP/19/resolution/E-Res-09-21-R18.pdf) **on *Interpretation and application of quotas for species included in Appendix I***

In paragraph 1. b) of Resolution 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 Resolution Conf. 16.7 (Rev. CoP17) on *Non-detriment findings*) from the exporting Party.

**(iv)** [**Resolution Conf. 12.3 (Rev. CoP19)**](https://cites.org/sites/default/files/documents/E-Res-12-03-R19.pdf) **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). 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 not supported, relevant 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.** **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 [Resolution Conf. 10.3](https://cites.org/sites/default/files/documents/COP/19/resolution/E-Res-10-03.pdf) and [Resolution Conf. 18.6](https://cites.org/sites/default/files/documents/COP/19/resolution/E-Res-18-06.pdf) 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 of an import permit.

This guidance addresses the primary role of the Scientific Authority in making a non-detriment finding for import of Appendix-I species. It is presented in the form of a table incorporating a decision tree with explanatory notes. Parties are advised that they should also consult Module 1 and 2 for more details on the types of information to be relied on in making NDFs.

**Note** that pre-NDF checks are addressed in Module 2. However, in the case of Appendix I imports an additional pre-NDF checks may apply to determine whether an NDF is required for a specific import. The remainder of the decision tree included in this module represent stages / steps for the Appendix-I NDF for import process itself.

1. **DECISION TREE**

The decision tree includes five stages with the first stage to be addressed by the Management Authority and the other four stages by the Scientific Authority.

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| **TO BE COMPLETED BY THE MANAGEMENT AUTHORITY** |
| **Stage 1: Determine whether an Import NDF is required (also refer to the pre-NDF checklist in Module 2).** |
| When an application is received by the MA of the country of import, it should make a preliminary assessment to determine:1. Is the species/ population listed in Appendix I (**Note 1**)? If YES, go to step 2); If NO, import permit not required under Article III of the Convention.
2. Are there any other non-CITES restrictions, including stricter domestic laws and regulations, that apply and that could prevent import (**Note 2**)? If YES, reject application; If NO, go to step 3)
3. Do any of the exemptions and other special provisions set out in CITES Article VII and recognized by the importing country apply to the specimen, so that an import permit is not required under Article III unless the specimen is subject to stricter domestic measures by country of import that require the issuance of an import permit (**Note 3**). If YES, import permit not needed; If NO, go to step 4)
4. Have the other requirements of Article III (Paragraphs 3b and 3c) been fulfilled (**Note 4**)? If YES, go to step 5; If NO, reject application
5. **Proceed to Stage 2**: The Management Authority requests the Scientific Authority to make a non-detriment finding on whether the import will be for purposes which are not detrimental to the survival of the species involved (**Note 5**)
 | **Note 1:** Due to split-listing of many Appendix I species, and to the possibility of misidentification or mislabelling of specimens, it is important to identify the population to determine if the specimen originates from an Appendix I population and to confirm that the specimen has been correctly identified. If the species / population is not listed in Appendix I, an import permit is not required under Article III of the Convention. Some Parties have stricter domestic measures and may require an import permit subject to a non-detriment finding for species / populations included in Appendix II.**Note 2:** For example: domestic laws or regulations related to species at risk status, invasive species, agricultural threats or disease concerns.**Note 3:** For example, exemptions for pre-Convention specimens or for household effects. Note, however, that some countries apply stricter domestic measures that do not recognize some of these exemptions, and in that case an import permit will still be required.Please advise permittees to check with the country of import to ensure that they do not require import permits as a consequence of a stricter domestic measures.**Note 4:** Paragraph 3b requires that the Scientific Authority of the country of import determine that the proposed recipient of a living specimen is suitably equipped to house and care for it. Paragraph 3c requires the Management Authority of the country of import to determine that the specimen is not to be used for primarily commercial purposes. Also see Resolution Conf. 5.10 (Rev. CoP19) on *Definition of ‘primarily commercial purposes’*. **Note 5:** CITES Article III paragraph 3 does not specify the order in which the findings required for an import permit are to be made. If any of the required findings cannot be made, the import permit must be denied, and the internal processes of the Party may allow for exiting the process without making the other required findings. For example, the making of an NDF or determining whether a facility for live specimens is suitably equipped to house and care for them may be a longer and more resource-intensive process than determining if the purpose of import is primarily non-commercial. No NDF will be needed under the Convention if one or more of the other required findings are not met, because the trade cannot be authorized. On the other hand, as permitting decisions may be subject to administrative appeals or other legal challenges, depending on domestic legal requirements, a Party may wish to make determinations with respect to some or all other required findings, even if it determines that one or more required conditions are not met. |

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| **DECISION TREE TO BE COMPLETED BY THE SCIENTIFIC AUTHORITY** |
| **Stage 2: Gather preliminary information to establish purpose of the import. In addition to the purpose of the import, information as set out in Module 2 of the guidance could be considered if a NDF is required.**  |
| 1. Has the purpose of import been correctly identified in the application (**Note 6**)?
* If YES, go to step 7) below;
* If NO, seek more information **or** go to step 7) if the purpose can be identified **or** reject the application.
1. Gather information relevant to the levels of risk to the species involved (from high to low) that relate to the species / specimens to be imported and the purpose of the import (**Note 7 and 8**). Is there enough information from a preliminary review to inform the advice to be made or are there identified gaps?
* If YES (there is enough information), proceed to **Stage 4**
* If NO (gaps in the data), proceed to **Stage 3** for a more detailed assessment, including consideration of information provided by the exporting country, if available and then proceed to **Stage 4.**
 | **Note 6**: Article III requires *inter alia* that before a Management Authority of the importing country issues a CITES import permit, the Scientific Authority of the importing country must find that a proposed import of an Appendix-I specimen is for purposes that would not be detrimental to the survival of the species. The importing country should establish the purpose of import based on the application received and assessment of information available. This determination could result in the purpose code assigned by importing country being different from the purpose code assigned by the exporting country. The purpose of the import should be established independently by the importing Party and should not be based solely on purpose codes assigned by an exporter.**Note 7:** Noting that not all of these categories may apply to a specific application, categories of risk could relate to the following (guidance on risk and impact evaluation is contained in the **Module 1 and 2)**: * 1. **Origin of the specimen:** Was the specimen wild-collected, born or propagated in a controlled environment, or bred in captivity or artificially propagated?
	2. **For plants, source of the propagule used**: Was the plant grown from a non-exempt seed or seedling?
	3. **Conservation status of the species**: From Critically Endangered to Least Concern/Data Deficient
	4. **Life History of the species:** Understanding the life history of a species can provide valuable information that can determine whether a particular harvest type/volume is sustainable.Aspects of a species’ life history that could indicate risk of detriment include low fecundity, slow individual growth rate, high age of first maturity, and long generation time. For example, species with a lower reproductive rate (e.g., turtles) are more likely to be more at risk of detriment that species with a higher reproductive rate. Management regimes that take vulnerable life stages of a species into account will be less likely to result in detriment than management that does not take these species-specific characteristics into account.
	5. **Harvest type:** From removal from the wild of living specimens or direct lethal harvest for trade to by-products of a harvest of another species, etc. The risk from harvest type also will depend on management practices and harvest volume. Concern about harvest management practices is a primary reason that a Stage 3 analysis is required.

Sources of information could include information available from the exporting Party, the CITES trade database, other reports, the scientific literature, IUCN and other organizations and stakeholders.**Note 8:** Examples of purpose of import could include (Resolution Conf. 12.3 (CoP19) on *Permits and certificates)*: i) hunting trophy; ii) personal; iii) scientific; iv) educational; v) medical; vi) breeding in captivity or artificial propagation; vii) zoo or botanical garden; viii) Introduction/re-introduction to the wild; ix) Law enforcement; x) circus or travelling exhibition; xi) reintroduction or introduction into the wild; xii) law enforcement / judicial / forensic.Additional considerations relating to the purpose of the import of Appendix I species could include the following:a. **Potential positive contribution to the survival of the species**, for example: research that will benefit the survival of the species in the wild; breeding for re-introduction; education and training: 1. **Known international trade patterns for the Appendix I species** based on the CITES trade database or other reports that may be relevant to the proposed import (historical market demand, incidents of illegal trade, commercial trade (not allowed for Appendix I species, unless the specimen if pre-Convention or bred in captivity / artificially propagated in accordance with the Convention), non-commercial/personal trade.
2. **Indicators of potential trade after import:** Indicators could include i) presence of a historical or current market in the country of import; ii) the importing country has trade in the species to other countries with a historical or current market; iii) there is known illegal trade in the species; **[iv) the importing Party is adjacent to a country with known trade restrictions[[2]](#footnote-2)].**
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| **Stage 3: Engage the country of export to address data gaps identified in Stage 2 (CITES Article III.2a)** |
| 1. Engage the country of export to obtain information relating to the assessments the exporting country may have made (**Note 9**).

Possible questions the Scientific Authority could consider – based on examples shared by Parties: * Has the country of export issued a permit for the export of the specimen, or is there indication that they will do so when an import permit is issued?
* Is legislation in place in the exporting country to protect the species based on the conservation risks to the species and to inform sustainable harvest?
* Is information available relating to the harvesting program (such as quotas – see **Note 10**) and trade controls in the exporting country?
* Is there evidence that this import would have conservation benefits for the species involved, either globally or in the country of export? (**Note 11**)

Is the information provided by the exporting country sufficient to assess whether the **[trade / import and]** purpose of the import will be detrimental? * If YES go to **Stage 4**
* If NO, either return to **Stage 3** or advice that a positive NDF cannot be made.
 | **Note 9:** As the import permit is required before an export permit can be issued, the NDF prepared by the exporting country may not be available at the time the importing country NDF is made. However, assessments done by the exporting country relating to the export of the species may be available and the importing could liaise with the exporting country to obtain information in this regard.**[However, it is the practice of some Parties to require the export permit before they issue the import permit, particularly if the import permit is issued as a stricter domestic measure, not as a basic requirement of the Convention. In this case, this task is probably assigned to the Management Authority. This is also useful information for the Scientific Authority to have when making the import NDF, as it will not be necessary to make the NDF if the exporting country is not planning to issue the export permit. The MA may also collect information via the permit application process that will be useful to the SA when making the import NDF]**Detrimental activities, depending on the species, could include, among other things, unsustainable use and any activities that would pose a net harm to the status of the species in the wild. For Appendix-I species, it also includes use or removal from the wild that results in habitat loss or destruction, interference with recovery efforts for a species, or stimulation of further trade. Sustainable use means the use of a species in a manner and at a level that maintains wild populations at biologically viable levels for the long term. Such use involves a determination of the productive capacity of the species and its ecosystem to ensure that utilization does not exceed those capacities or the ability of the population to reproduce, maintain itself, and perform its role or function in its ecosystem. (Refer to **Module 2** for further guidance relating to the Role of the species in the ecosystem).While an SA may collect information from reliable sources, including the country of export, as needed to base its decision on the best available scientific information, it is ultimately the applicant’s burden to provide sufficient information for the Scientific Authority of the importing country to make a finding of non-detriment. As with other required findings under CITES, a Party should deny an application for a permit if insufficient information is available to make a required finding of non-detriment. The Scientific Authority could consider with regard to the proposed activity with the Appendix I species whether: (1) Biological and management information demonstrates that the proposed activity represents sustainable use. (2) The removal of the animal or plant from the wild is part of a biologically based sustainable-use management plan that is designed to eliminate over-utilization of the species. (3) If no sustainable-use management plan has been established, the removal of the animal or plant from the wild would not contribute to the over-utilization of the species, considering both domestic and international uses. (4) The proposed activity, including the methods used to acquire the specimen, would pose no net harm to the status of the species in the wild. (5) The proposed activity would not lead to long-term declines that would place the viability of the affected population in question. (6) The proposed activity would not lead to significant habitat or range loss or restriction. (7) The proposed activity would not cause an increased risk of extinction for either the species as a whole or the population from which the specimen was obtained. (8) The proposed activity would not interfere with the recovery of the species.**Note 10**: When an export quota has been set by the CoP for an Appendix-I species - Resolution Conf. 9.21 (Rev. CoP18), “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”. **Note 11**: These could include the opportunity for scientific research that could assist in the conservation of the species, reintroduction including to a former range State, or the establishment or reinforcement of insurance populations. |
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| **Stage 4: Integrate and evaluate information gathered in Stages 2 and 3 to assess whether the [trade / import and] purpose of the import of the specimen will be detrimental to the survival of the species involved.** |
| 1. Taking into account information from Stage 2 and / or Stage 3 and the identified levels of risk associated with this information, assess overall associated risks (**Note 12**) and **proceed to Stage 5.**
 | **Note 12:** At this stage the importing Scientific Authority should take into account all of the information identified in Stage 2 and / or Stage 3 (as applicable) and the level of risk associated with the purpose of the import **[/ the level of risk associated with each category of information].** This section should examine the overall risk associated with allowing the import of the specimen for the purpose specified. If concerns with the [purpose of the] import are identified, these concerns should be discussed within the context of the overall risk/benefit to the species **[If appropriate, information collected in Stage 3 could be used to examine the overall risk related to harvest and export controls in the country of export].**  |
| **Stage 5 Make the final NDF recommendation**  |
| 1. Based on the assessment made in Stage 2 and / or Stage 3, make a determination as to whether the purpose of the proposed import would or would not be detrimental to the survival of the species (**Note 13**).
* If NOT DETRIMENTAL (positive NDF): Advise the Management Authority that the purpose of import **would not** be detrimental to the survival of the species involved. The Management Authority may grant the application for import permit if all other requirements are met.
* If DETRIMENTAL (negative NDF): Advise the Management Authority that the purpose of import **would** be detrimental to the survival of the species involved. The Management Authority should then reject the application for an import permit.
 | **Note 13:** The Scientific Authority should describe its analysis and provide the justification for its conclusion.In cases for which insufficient information is available or the factors above are not satisfactorily addressed, the Scientific Authority may recommend precautionary measures to the Management Authority that, if taken, could lead to a positive determination on a future application. The Management Authority, in rejecting the application, may choose to pass these recommendations on to the applicant and exporting country.  |

1. 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. [↑](#footnote-ref-1)
2. This could be a consideration if an import of a shared species from one country could stimulate demand that could be met by increased poaching in an adjacent range country.  In addition, there might be issues involving transboundary populations that may need to be considered. [↑](#footnote-ref-2)