CITES Electronic Permits and Certificates: Lessons Learned for the Development of a Permit or Certificate to Regulate Access to Genetic Resources

CITES Secretariat

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1 This paper was prepared as a background document to facilitate further discussion on ABS issues and for the special event organized by UNEP and CITES Secretariat during CBD COP 10 meeting held on 20th October 2010 in Nagoya, Japan.
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Introduction

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is an international agreement between governments. Its aim is to ensure that international trade in specimens of wild animals and plants does not put their survival at risk. In response to the recommendations of the United Nations Conference on the Human Environment (Stockholm, 1972), the Convention was negotiated and agreed at a plenipotentiary conference with representatives from 80 countries in Washington DC., United States of America, on 3 March 1973, and on 1 July 1975 CITES entered in force.

The Convention establishes an international legal framework together with common procedural mechanisms for the strictest control of international commercial trade in species threatened with extinction which are or may be affected by trade, and for an effective regulation of international trade in others. This framework and common procedural mechanism are now used by 175 countries to regulate and monitor international trade in listed species.

International commercial trade in 3% of CITES-listed species is prohibited but for 97% of CITES-listed species trade is allowed – provided it first satisfies the conditions established under the Convention (e.g. it is legal, sustainable and traceable). There have been over 10 million legal trade transactions recorded since 1975.2

The species covered by CITES are listed in three Appendices, according to the degree of protection they need.3 Appendix I includes species threatened with extinction. Trade in specimens of these species is permitted only in exceptional circumstances. Appendix II includes species not necessarily threatened with extinction, but in which trade must be controlled in order to avoid utilization incompatible with their survival. Finally, Appendix III contains species that are protected in at least one country, which has asked other CITES Parties for assistance in controlling the trade.

CITES regulates the export, re-export, import and introduction from the sea of live and dead animals and plants and their parts and derivatives (for listed species only) through a system of permits and certificates. These permits or certificates may only be issued if certain conditions are met and which must be presented when leaving or entering a country. For Appendix I and II species, the most important condition is that international trade must not be detrimental to their survival in the wild.

3 Parties to the Convention decide what species are included in Appendices I and II (over 99% of listed species), and any Party may include a species on Appendix III (less than 1% of listed species).
Where export or re-export is to, or import is from, a non-Party, comparable documentation issued by the competent authorities which substantially conforms with CITES requirements for permits and certificates may be accepted.

This system of permits and certificates is time-tested, stable and globally recognized. It includes:

- Export permits
- Import permits (Appendix I only)
- Introduction from the sea certificates
- Re-export certificates
- Certificates of Origin (Appendix III)
- Pre-Convention certificates
- Captive-breeding certificates (for animals)
- Artificial propagation certificates (for plants)

A number of developments, at the national and international levels, are impacting on the use of CITES permits and certificates. Many of these developments are related to the concept of trade facilitation\(^4\) and the automation of electronic trade procedures is viewed as one of the primary factors contributing to such facilitation\(^5\), particularly with regard to issues related to compliance and security.

Indeed, use of information and communication technologies is understood as being highly beneficial to governments (more effective and efficient deployment of resources, correct, and often increased revenue yield, improved trader compliance, enhanced security, and increased integrity and transparency) and trade (cutting costs through reducing delays, faster clearance and release, predictable application and explanation of rules, more effective and efficient deployment of resources and increased transparency)\(^6\).

For example, to better meet the objectives of trade facilitation and the advent of electronic trade documentation, governments are developing what is usually referred to as “Single Windows” which allows *parties involved in trade and transport to lodge*

\(^4\) Trade facilitation covers all the steps that can be taken to smooth and facilitate the flow of trade. The term has been used widely to cover all sorts of non-tariff barriers, including product testing and impediments to labour mobility, but in the WTO, discussions are limited to “the simplification and harmonisation of international trade procedures” covering the “activities, practices and formalities involved in collecting, presenting, communicating and processing data required for the movement of goods in international trade”. Organisation for Economic Co-operation and Development, Policy Brief: *Trade Facilitation: The Benefits of Simpler, more Transparent Border Procedures*, 2003.


standardized information and documents with a single entry point to fulfill all import, export and transit-related regulatory requirements\(^7\). Indeed, according to the World Customs Organization, the establishment of the Single Window Environment for border control procedures for conveyance, transport equipment, goods and crew is considered by Customs Administrations as the solution for the complex problems of border automation and information management involving multiple Cross Border Regulatory Agencies\(^8\).

Within this context, Parties to CITES recognized the need for reducing document and data requirements and aligning them to international standards and norms\(^9\). Indeed, simplified trade documents and procedures which are aligned to international standards facilitate and expedite trade transactions as they provide a common basis for similar measures applied by different countries and regions\(^10\). Similar to the above, CITES permit and certificates offer Parties a common procedural mechanism for comparable measures that are recognized globally. The need to adapt the CITES permit and certificate paper format to an electronic version was understood quickly by Parties.

**CITES electronic documentation**

CITES Resolution Conf. 12.3 (Rev. CoP15) on *Permits and certificates* describes a model format, paper and electronic, for export and import permits, re-export and pre-Convention certificates, certificates of origin and certificates of captive breeding and artificial propagation, as well as the minimum information to be contained in these documents, the preferred numbering systems and security methods, and the codes to be used to identify the source of the specimens and the purpose of the transaction.

In CITES Decision 12.76, the Conference of the Parties, in response to the view held by some Parties that the Internet represents a reliable, secure and accepted mechanism used by several countries to communicate rapidly among Management Authorities, directed the Secretariat to:

> ... study and evaluate the possibility of creating a future centralized system that would allow the establishment of a communications network through the CITES website that would make it possible to check the authenticity and veracity of permits and certificates issued and received by each of the Parties.

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\(^7\) Ibid., p. 7. (http://www.unece.org/cefact/recommendations/rec33/rec33_trd352e.pdf)

\(^8\) World Customs Organization. Website on Single Windows. (http://www.wcoomd.org/sw.htm)

\(^9\) It is estimated that an average international trade transaction involves 27 to 30 different parties (seller, buyer, carrier, etc.) and at least 40 documents. Approximately 200 data elements are typically requested. Of these, approximately 15 % are re-keyed into a computer up to 30 times and 60 to 70 % re-keyed at least once. *AD Transport newsletter*, no. 28, 2005, p. 8. (UNCTAD/SDTE/TLB/MISC/2005/3) (http://www.unctad.org/en/docs/sdtetlbmisc20053_en.pdf)

The CITES Conference of the Parties, at its 13th meeting (CoP13, Bangkok, 2004), discussed issues related to the use of computerized systems to meet obligations set out in the Convention and related Resolutions and Decisions. Some Parties expressed the view that the development of an electronic licensing system would greatly assist in the handling and processing of CITES applications, the issue of electronic permits and the collation and dissemination of CITES trade information.

Following these discussions, the Conference adopted Decision 13.70 which directed the Secretariat, subject to the provision of appropriate funding, to:

- a) advise the Parties on the work done by UNEP-WCMC in the development of simple Internet based software tools and provide recommendations based on experience and testing by Parties;
- b) evaluate the experience of other permit-based agreements or conventions, such as CCAMLR, in using electronic permitting systems;
- c) provide guidance to the Parties on the extent to which it may be practicable to make use of computerized systems to meet their obligations under CITES and on the extent to which this would be consistent with the obligations set out in the Convention and related Resolutions and Decisions of the Parties and subject to the direction of the Standing Committee; and
- d) engage the World Customs Organization on data harmonization and how it relates to the implementation of CITES and report on their efforts at the 54th meeting of the Standing Committee.

Electronic permitting was further discussed by the CITES Conference of the Parties at its 14th meeting (CoP14, The Hague, 2007), where Parties adopted Decision 14.56 directing the Secretariat, in cooperation with the Standing Committee Working Group on the Use of Information Technologies and Electronic Systems, to prepare a CD-ROM and Web-based toolkit on electronic permitting systems for consideration at the 57th meeting of the Standing Committee. The toolkit should include:

- a) advice on the use of common information exchange formats, protocols and standards for use with electronic permitting systems;
- b) advice on the use of electronic signatures and other electronic security measures;
- c) advice on the development and implementation of interoperable information exchange pilot projects on electronic permitting systems;
- d) a list of Parties willing to assist less developed countries in developing electronic permitting systems;
- e) a list of Parties currently using electronic permitting systems; and
- f) information on new developments in the use of electronic documents by relevant organizations.
At its 15th meeting of the Conference of the Parties (Doha, 2010), Parties adopted the CITES e-permitting toolkit\(^{11}\) and revised Resolution Conf. 12.3 (Rev. CoP15) to accommodate the development and implementation of CITES electronic permitting systems. In the planning and design phase of the toolkit, the Secretariat and the Working Group were presented with three primary challenges.

First, the toolkit had to be harmonized and compliant with paper-based permitting procedures, so that Parties would have the choice of using new electronic permitting systems or existing paper-based systems. Second, harmonization with international standards and norms, particularly those developed by United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT) and the World Customs Organisation (WCO)\(^{12}\) was necessary to allow integration with national projects establishing single-window initiatives. Last, the toolkit had to be designed with sufficient flexibility to accommodate future developments and updates to international standards and norms. Indeed, work achieved in the drafting of the CITES electronic permitting toolkit met a need expressed by Parties that have developed or are developing electronic permitting systems.

**CITES electronic permitting and the draft protocol on access to genetic resources and the fair and equitable sharing of benefits arising from their utilization**

The negotiation of an ABS protocol is a matter for the Parties to the CBD. The CITES Secretariat offers the benefit of lessons learned through its tried and tested system of permits and certificates to the Parties to CBD.\(^{13}\)

Reference to a possible permit or certificate to regulate access to genetic resources is made in two Articles of the draft protocol\(^{14}\). These discussions have also raised the issue that any such permit or certificate should be internationally recognized. The development of a permit or certificate available in electronic format may be required, particularly given many Parties have invested significant resources to establish Single Windows for trade-related documentation. International recognition, therefore, may entail adherence to international standards and norms related to electronic documentation.


\(^{12}\) The CITES e-permitting toolkit is compliant with UN/CEFACT standards and the WCO’s data model.

\(^{13}\) Offering such information is consistent with CITES Resolution Conf. 10.4 (Rev. CoP 14) on *Cooperation and synergy with the Convention on Biological Diversity*, and Resolution Conf. 14.2 on CITES Strategic Vision: 2008-2013, and in particular Goal 3 “Contribute to significantly reducing the rate of biodiversity loss by ensuring that CITES and other multilateral instruments and processes are coherent and mutually supportive.”

Recommendations on the development and implementation of electronic documentation found in the CITES e-permitting toolkit may have relevance to discussion related to the draft protocol on access and benefit sharing. First, the CITES electronic permitting toolkit provides guidance to Parties which have developed or are developing electronic permitting systems. This guidance facilitates interoperability of information among national electronic permitting systems and ensures compliance with international standards, namely standards developed by UN/CEFACT and the WCO. This will avoid duplication of effort and allow the exchange of electronic permit data to occur in a timely manner.

Second, Parties can immediately use the recommendations in the toolkit to exchange permit data electronically, should they wish to do so. At the international level, Parties can integrate CITES electronic permits in Single Window initiatives to facilitate trade procedures. For example, the International Air Transport Association (IATA) implemented a similar strategy and uses the same standards as those of the toolkit in its e-freight initiative. It would be possible, therefore, for Parties adhering to the recommendations in the toolkit to participate in the e-freight programme.

Third, the CITES electronic permitting toolkit also represents a new level of cooperation between international organizations and initiatives aiming to facilitate legal trade, ensure greater security, minimize fraud, and harmonize documentation in international commerce. UN/CEFACT, for example, contributed to the final recommendations in the toolkit. As more Parties adopt new initiatives such as single windows and require electronic documentation as a prerequisite for international trade, Parties adhering to these recommendations will be well poised to adapt quickly while continuing to contribute to these new developments and initiatives.

Given the above, cooperation between CITES and a possible new protocol on access and benefit sharing would be beneficial for several reasons. First, it would ensure that the development and implementation of a permit or certificate to regulate access to genetic resources would adhere to international standards on electronic documentation. After all, such a new permit will be one instrument among many regulatory instruments.

Second, Parties responsible for developing a new national permit can use the lessons learned gained from the use of CITES electronic permits and certificates. For example, the Management Authorities of Switzerland and of the United Kingdom of Great Britain and Northern Ireland, in collaboration with the CITES Secretariat, established a project on 28 August 2008 to exchange electronically information on CITES export permits and re-export certificates. The project adhered to the recommendations found in the CITES

15 IATA e-freight is an industry-wide program that aims to reduce the use of paper documents in the airfreight supply chain by moving to a simpler, paper-free, electronic environment. It involves among others: airlines, shippers, freight forwarders, ground handling agents, and customs authorities (http://www.iata.org/pressroom/facts_figures/fact_sheets/Pages/e-freight.aspx)

e-permitting toolkit. The project offers Parties a successful model for the implementation of similar electronic documentation exchange systems. This model can be modified to meet the unique needs of a possible new permit and certificate for regulation of access to genetic resources.

Third, some CITES Parties have used CITES documentation to control access to genetic resources. Brazil, for example, at times adds a proviso to CITES export permits regarding access to genetic resources:

This permit does not extend to the use of biological material to access genetic information contained in the whole or parts of plants, fungus, microorganisms or animal specimens, in substances derived from the metabolism of these living beings or from extracts obtained from live or dead specimens, occurring in situ conditions, including domestic ones, or kept in ex situ conditions, if obtained in situ conditions in national territory, the continental shelf or the exclusive economic zone aiming at prospecting for identification of components of the genetic patrimony and/or information about associated traditional knowledge with potential commercial use.\(^{17}\)

Fourth, the proposed required information on the draft permit or certificate on access to genetic resources is similar to information found in CITES permits or certificates, including:

<table>
<thead>
<tr>
<th>Draft permit/certificate on access to genetic resources(^{18})</th>
<th>CITES export/import permit (Resolution Conf. 12.3 (Rev. CoP15))</th>
</tr>
</thead>
<tbody>
<tr>
<td>[(a) Issuing national authority;]</td>
<td>b) The complete name and address of the Management Authority issuing the permit</td>
</tr>
<tr>
<td></td>
<td>m) The embossed seal or ink stamp of the Management Authority or its electronic equivalent</td>
</tr>
<tr>
<td>(b) Details of the provider;</td>
<td>d) The complete names and addresses of the exporter and importer</td>
</tr>
<tr>
<td>(c) [A codified unique alphanumeric identifier]</td>
<td>c) A unique control number</td>
</tr>
<tr>
<td>(d) [Details of the [relevant indigenous and local communities who are] [rights holders][rightful holder] of associated traditional knowledge [within indigenous</td>
<td></td>
</tr>
</tbody>
</table>

\(^{17}\) Arguably, the use of such a proviso indicates the possible complementarity between the CITES permit and certificate and the draft permit or certificate on access to genetic resources.

and local communities], as appropriate;

<table>
<thead>
<tr>
<th>(e) Details of the user;</th>
<th>d) The complete names and addresses of the exporter and importer</th>
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<tbody>
<tr>
<td>(f) [Subject-matter][Genetic resources and/or derivatives] covered by the certificate [or equivalent];</td>
<td>e) The scientific name of the species to which the specimens belong (or the subspecies when it is relevant in order to determine in which Appendix the taxon concerned is included) in accordance with the adopted standard nomenclature</td>
</tr>
<tr>
<td>(f) The description of the specimens, in one of the Convention's three working languages, using the nomenclature of specimens distributed by the Secretariat</td>
<td></td>
</tr>
<tr>
<td>(g) [Geographic location [and/or georeference] of the access activity;]</td>
<td>h) The Appendix in which the species or subspecies or population is listed. NB: This does not change even if the specimen concerned is deemed to be included in a different Appendix. For example, although specimens of Appendix-I species bred in captivity for commercial purposes are deemed to be specimens of species included in Appendix II, the species remains listed in Appendix I, and this should be specified on the permit or certificate.</td>
</tr>
<tr>
<td>(h) [Link to][Confirmation that mutually agreed terms [were entered into];</td>
<td></td>
</tr>
<tr>
<td>(h bis) [Confirmation that prior informed consent was obtained, where applicable;]</td>
<td>p) The actual quantity of specimens exported, certified by the stamp or seal and signature of the authority that carried out the inspection at the time of the exportation</td>
</tr>
<tr>
<td>(i) Uses permitted and restrictions of use[, where applicable];</td>
<td>Some CITES Parties have used CITES documentation to control access to genetic resources</td>
</tr>
<tr>
<td>(j) Conditions of transfer to third parties;</td>
<td></td>
</tr>
<tr>
<td>(k) Date of issuance.]</td>
<td>k) The date of issue and the date of expiry</td>
</tr>
</tbody>
</table>

This complementarity is important in light of efforts by Parties to eliminate duplication of work and facilitate compliance with regulatory procedures.
Conclusion

Whatever certificate or permit system may be adopted at Nagoya, it would make sense for it to comply with international standards regulating transboundary movement of biodiversity goods. CITES has a stable, mature, regulatory system using permits and certificates that is internationally recognized and well used. This system has been converted to be in full alignment and compliance with international standards and norms (UN/CEFACT and WCO).

The CITES e-permitting toolkit is based fully on international standards. Elements of this toolkit could be adapted for use with other permitting and certificate systems, the draft permit or certificate on access to genetic resources being a case in point. Such a collaborative non-duplicative approach would be in accordance with international trends that seek to facilitate compliance and legal trade.

Indeed, a collaborative approach between the CBD and CITES to ensure adherence to and use of international standards would facilitate implementation of the obligations under their respective Conventions and ensure that multilateral instruments and processes are coherent and mutually supportive.

For More Information

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