



LEGAL BRIEFING

Sharing the Club's legal expertise and experience

Update on the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)

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Sharing expertise

This briefing is one of a continuing series which aims to share the legal expertise within the Club with our Members.

A significant proportion of the expertise in the Managers' offices around the world consists of lawyers who can advise Members on general P&I related legal, contractual and documentary issues.

These lawyers participate in a virtual team, writing on topical and relevant legal issues under the leadership of our Legal Director, Chao Wu.

If you have any enquiries regarding the issues covered in this briefing, please contact the team via Chao Wu (chao.wu@thomasmiller.com or +44 20 7204 2157) and we will be pleased to respond to your query. The team also welcomes suggestions from Members for P&I related legal topics and problems which would benefit from explanation by one of these briefings.

Previous issues

Copies of previous briefings are available to download as pdfs from our website. Visit www.ukpandi.com/publications. ■



Know your CITES

CITES is one of the largest and oldest conservation and sustainable use agreements in existence. It works by subjecting international trade in specimens of selected species to certain controls. All import, export and introduction of species covered by the Convention has to be authorised through a licensing system.

Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is an international agreement to regulate the trade of wild animals, plants and plant products. Over 180 countries are today signatories to this Convention which lists some 30,000 species of animals and plants as protected under CITES. Problems arise when attempts are made to transport many seemingly innocuous products such as food products, exotic leather goods, wooden musical instruments, timber, tourist curios and medicines across borders and these products are found to fall within this Convention.

For Members, it is important that their customers are aware of the implications of this Convention. Breaches may lead to fines or penalties, customs seizures and a forced return of specimens to exporting States, all of which will involve financial costs and delay.

The Convention divides species into

three different categories under Appendices I, II and III depending upon their endangered status.

Appendix I: Species threatened with extinction

A trade in species under Appendix 1 will only be permitted if the trade will not be detrimental to the survival of the species or specimens for the trade have not been obtained illegally; a living specimen will be transported and cared for with minimum risk of damage to its health and the specimen will not be used for primarily commercial purposes; specimens for re-export were imported in accordance with the provisions of CITES.

Both an export permit (or re-export certificate) and an import permit are required.

Appendix II: Species where if trade is not controlled could be threatened with extinction

A trade in species under Appendix II will only be permitted if the trade will not be detrimental to the survival of the species in the wild or its role in the ecosystems in which it occurs; specimens for the trade are not obtained illegally; a living specimen will be transported with minimum risk of damage to its health; specimens for re-export were imported in accordance with the provisions of CITES.

An export permit (or re-export certificate) is required but no import permit is necessary.

Appendix III: Species already protected under the national law of a State but the cooperation of other States is needed to prevent the unsustainable or illegal exploitation of the species

A trade in specimens/species listed in Appendix III will only be permitted on presentation of the appropriate permits or certificates.

Overview of CITES categories				
Appendix	Permit conditions	Export permit required?	Re-export certificate required?	Import permit required
I	Not for commercial trade; trade not detrimental to the species; trade is legal; avoids cruel or injurious shipping of live specimens	Yes, but granted only if import permit already in hand	Yes, but granted only if in accordance with CITES and there is a valid import permit	Yes
II	Trade not detrimental to the species; trade is legal; avoids cruel or injurious shipping of live specimens	Yes	Yes, but granted only if import was in accordance with CITES	No, but requires prior presentation of the export permit, certificate of origin, re-export permit or re-export certificate (whichever applies)
III Party has listed the species	Trade is legal; trade avoids cruel or injurious shipping of live specimens	Yes	Yes, but granted on the basis that the specimens were processed in/ re-exported from that State	No
III State has not listed the species	Specimen originated from that State	No, but need certificate of origin	Yes, but granted on the basis that the specimens were processed in / re-exported from that State	No

CITES

The ivory trade is a good example of CITES in operation. Traditionally, ivory has been used for cultural and decorative purposes and this trade is one of the main causes for the decline of the African elephant. The African elephant was originally listed under Appendix II of CITES. When this proved to be ineffective, the African elephant was re-listed by CITES under Appendix I in 1989. Today, many States have a stringent ban on ivory to avoid possible laundering of ivory products. Under CITES, only pre-Convention (1976) ivory, including antiques may be traded. It is prohibited to export raw ivory.

New CITES trade controls came into effect on 14th September 2014, which gives stronger protection to five shark species and all manta rays. International trade in specimens of five shark species and all manta ray species, including their meat, gills and fins, will need to be accompanied by permits and certificates confirming that they have been harvested sustainably and legally. New controls adopted by the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) will apply to the oceanic whitetip shark (*Carcharhinus longimanus*), scalloped hammerhead shark (*Sphyrna lewini*), great hammerhead shark (*Sphyrna mokarran*), smooth hammerhead shark (*Sphyrna zygaena*), porbeagle shark (*Lamna nasus*) and manta rays (*Manta spp.*) as they are now included in CITES Appendix II.

The CITES Secretary-General, John E. Scanlon, said: "Regulating international trade in these shark and manta ray species is critical to their survival and is a very

tangible way of helping to protect the biodiversity of our oceans. The practical implementation of these listings will involve issues such as determining sustainable export levels, verifying legality, and identifying the fins, gills and meat that are in trade. This may seem challenging, but by working together, we can do it and we will do it."

CITES is an international agreement between governments that aims to ensure that international trade in specimens of wild animals and plants does not threaten their survival.



A scalloped hammerhead shark

For our Members and their customers, the most important part of CITES is arguably that part listing the exceptions to Appendices I, II and III. The exceptions usually fall into one of the following categories:

- plants which have been artificially propagated or animals from

- authorised captive breeding sources;
- plants or animals for scientific research;
- specimens which were acquired before CITES provisions applied to them;
- specimens which are personal or household effects;
- plants or animals forming part of a travelling collection or exhibition.

To avoid contravening this Convention, it would be good practice to ask the following questions when customers wish to book cargoes which may potentially be caught by this Convention:

1. Do the goods fall within the ambit of this Convention?
2. Have the appropriate Export/Import permit and all other necessary documents been obtained and presented for clearance at the port of entry and/or exit?
3. Have checks been carried out for any additional domestic law requirements which may apply?

The checklist of CITES species allows the exploration of more than 35,000 species of animals and plants and their degree of protection. The checklist is online at <http://checklist.cites.org/#/en> and provides the official list of CITES-listed species (scientific names) and their associated scientific synonyms; common names in English, French and Spanish (where available) and the CITES Appendix in which they are currently listed.

For more information, please go to the CITES website: www.cites.org. ■

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