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Demystifying CITES: UK museums and commercial use of Annex A specimens

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Abstract

CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora) aims to ensure that trade in wild animals and plants is sustainable and does not endanger wild populations. It is implemented through national legislation that regulates international trade and commercial use. Most museums with natural science collections will have some CITES-listed specimens. However, the available guidance for museums on how to comply with CITES is not always clear.

A CITES Article 10 or Article 60 certificate is required by EU scientific institutions that use their collections for commercial purposes; this includes charging fees for exhibitions, research visits, and corporate filming and photography. The Powell-Cotton Museum recently successfully applied for an Article 60 certificate. This article will describe the CITES Article 60 certificate application process and the Powell-Cotton's experience, and provide advice for other museums on preparing the application and supporting documentation, including where to find further guidance.

Keywords: CITES, Annex A, museums, commercial use, Article 60 certificate, Article 10 certificate, Article 30 certificate

Introduction

CITES is an international agreement that regulates the movement and trade in endangered species, living and dead, their parts and derivatives. It was drafted by the International Union for the Conservation of Nature (IUCN) and came into force on 1 July 1975. The Regulations aim to protect wild populations from over-exploitation by controlling trade. Species are listed in three appendices according to the degree of protection that they need Appendices I, II and III; CITES, 2019a). The website 'Species+' provides a searchable database of CITES-listed species (UNEP, 2019).

Becoming a Member State (or Party) is voluntary, and there are currently 183 Parties to the Convention (European Commission, 2019; JNCC, 2019). CITES provides a framework, and each Party has to adopt domestic laws that implement CITES nationally. It is legally binding to the Parties that have signed up, but other countries are not subject to it and are thus able to continue trading endangered species without controls. However, non-member states are now a tiny minority worldwide.



In the EU, CITES is legislated through the EU Wildlife Trade Regulations, and species are divided into four annexes (Annex A – D). In some cases, the EU Regulations apply stricter control measures than the CITES Appendices (European Commission, 2017a), and Annex D includes some non-CITES species that are subject to EU regulations for the protection of native species (European Commission, 2019). CITES is enforced through permits and certificates issued by the Management Authority in each State (CITES, 2019b), which controls activities such as import, export, commercial use, and sale of listed species. The UK CITES Management Authority is currently the Department for Environment, Food and Rural Affairs (Defra). The implementation of CITES in the UK is managed by the Animal and Plant Health Agency (APHA), an executive agency of Defra, which is responsible for the issue of guidance and certificates (APHA, n.d.).

In this article I will outline the EU regulations for commercial use of CITES-listed species by museums and discuss the issues with the guidance that is currently available. I will then present a brief case study of my own experience of preparing an Article 60 certificate application on behalf of the Powell-Cotton Museum, and provide some advice for other institutions planning to submit an application.

CITES: commercial use and museums

The commercial use of Annex A species is prohibited under CITES. Article 8(1) of Council Regulation (EC) No 338/97 defines commercial use:

“The purchase, offer to purchase, acquisition for commercial purposes, display to the public for commercial purposes, use for commercial gain and sale, keeping for sale, offering for sale or transporting for sale of specimens of the species listed in Annex A shall be prohibited.”

European Union, 1996: p.8.

This has implications for museums with endangered species and/or their derivatives in their collections. Holding Annex A specimens is not regulated within the EU, but any use of these specimens for commercial gain is not allowed under Article 8(1). This includes charging entry fees for permanent or temporary exhibitions, events in which Annex A specimens are used or displayed, and fees for research access and corporate photography or filming (AHVLA, 2011a).

No certificate or permit is required for commercial use of specimens that were captive bred, artificially propagated (in the case of plants), or that were acquired and worked before 3 March 1947

(commonly known as the ‘antiques derogation’) (European Commission, 1996: p.9). However, proof of provenance is required in these cases. Guidance on what is considered a ‘worked’ or ‘unworked’ specimen has been published by the European Commission (2017b). Many natural history specimens will be considered ‘unworked’, and thus subject to Article 8(1) as defined above.

A derogation of Article 8(1) for scientific institutions was introduced in 2006: Article 60 of Commission Regulation (EC) No 865/2006 exempts scientific institutions from the prohibition on commercial use of Annex A species, provided that this use contributes to conservation efforts or education relating to the protection of those species (European Commission, 2006: p.19). EU museums can apply for an Article 60 certificate, which covers all Annex A specimens in their collections and permits commercial use for the purpose of conservation-related research and education. The sale of specimens is only permitted to other scientific institutions holding an Article 60 certificate (European Commission, 2006: p.19). It should also be noted that prior to Article 60, Article 30 certificates were issued for the same purpose. Institutions holding an Article 30 certificate do not need to reapply for an Article 60 unless it has an expiry date (AHVLA, 2011a).

What constitutes a ‘scientific institution’ is not fully defined in available guidelines, although the following is included in the ‘Reference Guide to the EU Wildlife Trade Regulations’:

“Bone fide zoos, botanical gardens, museums or similar establishments, which are considered to be “scientific institutions” can be exempted from the prohibition on the use of specimens of Annex A species for commercial purposes...”

European Commission,
TRAFFIC Europe,
and WWF, 2017: p.110.

The European Commission’s online guidance about wildlife trade states that institutions must register as scientific institutions before they can obtain an Article 60 certificate (European Commission, 2016). However, this is not explicit in the wording of Article 60 itself (European Commission, 2016: p.19), and it has not been administered this way in the UK: the APHA grants certificates to museums without requiring them to register as scientific institutions.

Registration of scientific institutions with a CITES Management Authority serves a different purpose

in the Regulations: registered scientific instructions are exempt from the requirement for import and export permits for the purposes of non-commercial loan or transfer of specimens to other registered scientific institutions (Council of the European Union, 1996: p.8; CITES, 2000). In this case, import and export permits are replaced with labels issued by the Management Authority, removing the need to apply for a new certificate each time a specimen is transported.

This example demonstrates the difficulty for users in interpreting the complex EU Wildlife Trade Regulations and highlights a potential for inconsistency in the way they are applied by different Management Authorities. Clarification is required on how the Regulations should be enforced in the case of scientific institutions.

For purely commercial use of Annex A specimens, a second exemption to Article 8(1) exists: Article 10 certificates can be applied for by anyone owning Annex A specimens (not just museums or other scientific institutions) and are issued for single specimens rather than whole collections. These certificates can be issued for the whole 'life' of a specimen (Specimen Specific Certificate (SSC)) or for particular transactions only (Transaction Specific Certificate (TSC)). Examples of transactions in this case include sale, display, or breeding (APHA, 2013).

EU museums wishing to use a single Annex A specimen commercially (for example, in a charged temporary exhibition or commercial event) would require an Article 10 SSC or TSC certificate. While not explicit in the available guidelines, it can be inferred from the Regulations that an Article 60 certificate holder would additionally require an Article 10 certificate for any specimens used purely commercially (i.e. not for the purposes of research or education).

The situation for loans, outside of transfer between scientific institutions, is not covered in the EU Wildlife Trade Regulations or published guidance. However, recent advice from the APHA is that lenders require an Article 10 or Article 60 certificate only if they will commercially gain from a loan. The onus is on the borrower to have the appropriate certificate to cover any items borrowed from other institutions that they will be using commercially (for example, in a charged temporary exhibition) (Nicholls, 2019).

Applying for an Article 60 certificate

Currently, applications for both Article 60 and Article 10 certificates for commercial use are

made through the submission of form FED 1012 to the APHA's Centre for International Trade, based in Bristol (APHA, 2015a; APHA, 2019). Guidance on how to apply for an Article 10 certificate can be found on the UK Government's CITES webpage (APHA, 2013; APHA, 2017; APHA, 2019), but – despite requiring the same form - there is currently no guidance for Article 60 applications published here.

Published Article 60 guidance does exist, but is outdated and not easily accessible: documents GN20 and GN13 contain guidance notes for museums and herbaria, respectively (AHVLA, 2011a; 2011b). These documents were prepared by the predecessor of the APHA, the Animal Health and Veterinary Laboratories Agency (AHVLA), with advice from the Natural Sciences Collections Association (NatSCA). However, they have not been updated since 2011 and are not available on the current UK Government CITES guidance page (APHA, 2019). The documents can be found on a legacy webpage that was archived by National Archives in 2014 (AHVLA, 2013). This archived content is not well optimised for search engine use, and can therefore be hard to find. An older version of GN20 (Animal Health, 2010) was also available on the NatSCA website at the time of writing (June 2019). It should be noted that while much of the guidance in GN20 and GN13 does appear to still be relevant, the section on how to complete form FED 1012 no longer applies as all CITES permit application forms were updated in 2015 (APHA, 2015b).

Further information can be found in Attachment H of the 'Reference Guide to the European Union Wildlife Trade Regulations', which lays out the minimum standards required of scientific institutions holding an Article 60 certificate (European Commission, TRAFFIC Europe, and WWF, 2017: p.191). These standards align closely with best practice in collections management and documentation, and the application should demonstrate that the standards are being met.

The UK authorities (including Border Force and the National Wildlife Crime Unit) do not accept being unaware of guidelines as a reason to not comply with the EU Wildlife Trade Regulations. The APHA, as the relevant Management Authority, can be contacted directly for advice and information (APHA, 2019).

The Powell-Cotton Museum and Article 60

The Powell-Cotton Museum was created by Percy Powell-Cotton (1866-1940) in the grounds of his family home at Quex Park, Birchington, Kent.

Powell-Cotton travelled and hunted extensively in African countries and on the Indian subcontinent and amassed a large collection of animal specimens and ethnographic objects. He began building a museum in 1896 to house his 'sporting trophies' and expanded it by adding galleries over the years. The Natural History collections at the Powell-Cotton Museum largely reflect Percy Powell-Cotton's interests as a hunter: mainly comprising African mammals, 'big game' animals are well represented.

The natural history displays at the PCM consist of three galleries containing large-scale dioramas in naturalistic settings (Figure 1), created between 1896 and 1939. The taxidermy mounts were created by Rowland Ward Ltd., and Powell-Cotton was in constant correspondence with the firm to ensure that the animals were recreated in accurate anatomical detail and realistic poses.

In addition to these impressive displays, Powell-Cotton developed a large research collection containing flat skins and disarticulated skeletons, which he made available to visiting researchers and is still frequently used by academics and artists (Figure 2). The value of this collection for research lies not only in the large number of specimens available, but also the quantity and quality of data that accompanies it – Powell-Cotton recorded detailed field notes for the majority of his specimens, including accurate locations (with

coordinates and sometimes altitude) and dates of collection. The Museum archive also contains diaries, photographs, film footage, and correspondence.

Today, the Natural History collection comprises around 6,500 mammal specimens, plus smaller numbers of birds, reptiles, amphibians, and invertebrates. Over 1,000 of the mammal specimens are currently listed in CITES Annex A. The Museum uses these specimens commercially as defined in Article 8(1) of Council Regulation (EC) No 338/97, in several ways: fees are charged for Museum entry, and also for research access and teaching workshops. The Powell-Cotton Museum has successfully applied for a CITES Article 60 certificate.

Preparing the Powell-Cotton Museum application

The application process was begun by the Powell-Cotton Museum's Head of Collections and Engagement, Dr Inbal Livne, and completed by myself. Due to the lack of easily-accessible information online, my colleague had initially sought advice from a wildlife training consultant, Craig Fellowes, and also the Natural History Museum, London (NHM), who hold an Article 60 certificate. This was valuable in giving us both confidence in preparing the application, and the information provided formed the basis of the Powell-Cotton's supporting documentation. I then expanded on this with reference to Attachment H



Figure 1. Part of the large 'jungle' diorama in Gallery 3 of the Powell-Cotton Museum. Photo circa 1915. Image © The Powell-Cotton Trust.

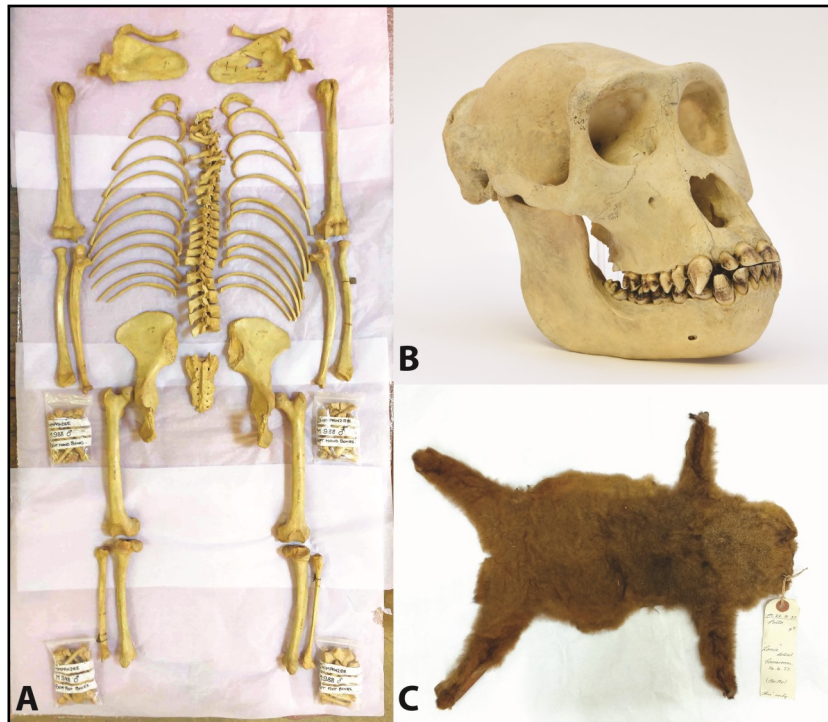


Figure 2. Examples of the Powell-Cotton Museum's extensive research collection. A) Adult male chimpanzee skeleton (*Pan troglodytes* Blumenbach, 1775; PCM NH.MER32.988). B) Adult female Western gorilla skull (*Gorilla gorilla* (Savage, 1847); PCM NH.MER35.57). C) Milne-Edwards's potto skin (*Perodicticus edwardsi* Bouvier, 1879; PCM NH.MER.T1). All images © The Powell-Cotton Trust.

of the 'Reference Guide to the European Union Wildlife Trade Regulations' (European Commission, TRAFFIC Europe and WWF, 2017: p.191).

Completing the application form FED 1012 itself was a challenge because, as mentioned above, the current guidance only applies to Article 10 applications (APHA, 2018). In my initial completion of the form, I provided detailed responses, but after submission the form was immediately returned with instructions to remove information from several sections; it is a legal requirement that the whole form (including signatures) fits onto one side of A4 paper, but our application had flowed over to a second page because some boxes had been expanded too far. Where names of countries and species were required, I had initially referred the reader to the supporting documentation submitted with the form (e.g. "See Appendix 1"), but was instructed that this was not necessary and that Box 16 (scientific name of species) should read "All Annex A dead specimens".

I had been advised by colleagues in other institutions that the APHA will often request additional information or clarification after the initial submission, but once these few issues with the form had been resolved I was not contacted further regarding the application. The Powell-Cotton Museum's application was successful, and the CITES Article 60 certificate arrived about eight weeks after submission.

Discussion

The EU Wildlife Trade Regulations are complex, and they can be daunting for museum professionals to engage with. For institutions considering an Article 60 application, it is advisable as an initial step to contact the APHA to discuss the situation at your institution and to confirm whether a certificate is required. This will provide you with a named contact in the Agency who should be able to supply additional guidance, and to whom you can submit the application. It will also give the Agency notice to expect an application, which may make the process smoother.

It can also be valuable to contact a wildlife consultant for advice and/or training about CITES, as they can provide information tailored to your collection and needs. Other institutions already holding an Article 60 certificate may also be willing to share their experiences.

My experience of the application process on behalf of the Powell-Cotton Museum demonstrates that the key to success with CITES Article 60 is to keep the application form brief, and make the supporting information detailed. I would suggest that it is a good strategy to refer to the standards provided in Attachment H of the 'Reference Guide to the European Union Wildlife Trade Regulations', and to address all of the criteria listed (European Commission, TRAFFIC Europe and WWF, 2017: p.191).

However, it is worth remembering that the submission opens a dialogue: if your application does not initially contain the details necessary to make an assessment, the APHA will request additional information.

Museums and herbaria are important repositories of scientific collections. It is vital to make these collections accessible to the public, researchers, and artists, and to do so in compliance with all relevant legislation. Article 60 allows museums to use their Annex A specimens commercially in ways that contribute to education and research that benefits conservation of species, but clearer published guidance is needed to facilitate museums in complying with the EU Wildlife Trade Regulations and CITES as a whole.

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