

## **LEGAL FRAMEWORK FOR INTERNATIONAL TRADE IN FAUNA & FLORA**

### **1. POLICY AND LAWS CONCERNING CITES IN INDIA**

International trade in all wild fauna and flora in general, and the species covered under CITES in particular, is regulated jointly through the provisions of, the Foreign Trade (Development Regulation) Act 1992, the Foreign Trade Policy of Government of India and Customs Act, 1962 and the Wild Life (Protection) Act 1972 is main legislation to protect the Wild Life in India. The Director of Wild Life Preservation, Government of India is the Management Authority for CITES in India.

#### **1.1 Wild Life (Protection) Act, 1972**

Hunting of wild animals has been prohibited under Sec. 9 of the Wild Life (P) Act, 1972. No person is allowed to hunt any wild animal specified in Schedule I, II, III and IV except as provided under sections 11 and 12 of the Act. The Act also prohibits under section 17A, the collection or the trade in specified plants (whether alive or dead or part or derivative) i.e. those listed in Schedule VI of the Act, from any forest land and any area specified by notification by the Central Government. The Schedule VI of the Act lists all the six plants of Indian origin included in CITES appendices. Trade in Scheduled animals / animal article i.e. animals/animal articles covered under Schedule I and Part II of Schedule II which also include some invertebrate such as insects, corals, molluscs and sea cucumber are prohibited under the said Act. Similarly, the Act disallows trade in all kinds of imported ivory, including that of African elephant. Export or import of wild animals and their parts and products is, however, allowed for the purpose of scientific research and exchange of animals between Zoos and is subject to licensing by the Director General of Foreign Trade (DGFT), Government of India. The Act has been amended in 2006 leading to the establishment of the National Tiger Conservation Authority and the Wildlife Crime Control Bureau (WCCB) with a statutory backing.

#### **1.2 Foreign trade (Development and Regulation) Act 1992**

This Act replaces the earlier Imports and Exports (Control) Act, 1947. The Foreign Trade Policy incorporating the export and import policy is formulated and announced by the Central Govt. under section 5 of this Act. As per section 8 (1) no export or import shall be made except in accordance with the provisions of this Act, the rules and orders made there under. As per section 3(1) the Central Govt. makes provisions for the development and regulation of foreign trade by facilitating imports and exports. As per section 3(2) the Central Govt. may also by order published in the official gazette, make provision for prohibiting, restricting or otherwise regulating in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the order the import or export of goods. As per section 3(3) all goods to which any order under sub - section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962, and all the provisions of that Act shall have effect accordingly.

#### **1.3 Foreign Trade Policy**

Foreign Trade Policy announced periodically by the Ministry of Commerce contains, inter alia, information regarding the Wildlife and Wildlife products which are either prohibited or permitted for the purpose of import or export. It also contains the conditions (which include compliance with CITES) governing import and export of permissible species of Wildlife and Wildlife products. The policy is decided in consultation with the Management Authority for CITES in India as far as matter relating to wild fauna and flora are concerned and is enforced through the Customs Act, 1962. The Foreign Trade Policy is brought out under the provisions of the Foreign Trade (Development & Regulation) Act 1992, and it regulates the import and export of all goods including Wild Life. The Foreign Trade Policy of the Ministry of Commerce and Industry is available on DGFT website : <http://dgft.delhi.nic.in>

##### **1.3.1 Import policy**

Import of animals and their parts and products for zoological parks and circuses or for research purpose may be permitted subject to the provisions of CITES and on recommendations of the Chief Wild Life Warden of the States and Union Territories under license from DGFT. Import of plants is also subject to the provisions of CITES. The current policy does not permit commercial import of African ivory in view of the ban imposed by CITES. Import of other derivatives of Wild Life is restricted and can be made only with prior permission of DGFT, subject to the conditions prescribed. Import of wild animals as pets in the personal baggage of a passenger is also subject to the provisions of CITES in accordance with the Ministry of Commerce's Public Notice No. 27ITC (PN) 180. dated 15.7.80.

### 1.3.2 Export Policy

The Export Policy permits re-export of commodities except to the extent such exports are regulated by any other provisions of this Policy or any other law for the time being in force. Items prohibited for export are not permitted to be carried in the personal baggage also.. It is worth mentioning that all forms of Wild Life including their parts and products are prohibited for export except in cases where it is specifically allowed under different parts of ITC (HS) classification of Export & Import items. Peacock tail feathers which were earlier allowed for Export under a limited ceiling are now prohibited for export. Export of exotic birds except 6 species listed under Table 'B' of Schedule 2 is also prohibited at present. Further the Ministry of Commerce vide public notice no. 47 (PN) 92-97 dt. 30-3-94 had prohibited the exports of a number of plants, plant portions and their derivatives if obtained, from wild. This list has been amended from time to time.

### 1.3.3 Conditions for Import & Export of Flora & Fauna and their derivatives:

**Two essential conditions governing the import and export of Flora & Fauna and their derivatives are:**

#### **(i) Compliance with the provisions of CITES and the Wild Life (Protection) Act, 1972:**

CITES is an International Convention for regulating the International Trade in endangered species of wild flora & fauna. The convention was signed on 3rd March 1973. India is a signatory to the Convention and in India the provision of the CITES is enforced through the Customs Act 1962. The Regional Deputy Directors of the Wildlife Crime Control Bureau (WCCB) located at Mumbai, Chennai, Kolkata & New Delhi have been designated as CITES Assistant Management Authorities and have been empowered to issue CITES export, import & re-export permits to regulate the international trade of the species which are included in the CITES. The Regional Deputy Directors also assist the Customs Department in pre/post shipment examination of the consignments proposed to be exported /imported to/from India.

The species of flora & fauna which are included in the CITES have been categorized into Appendix-1, Appendix-2 and Appendix-3, having different regulatory requirements for their import and export into and from India. The details of the text of the convention, the regulatory requirements, the notifications issued by the CITES secretariat to different parties, decision taken by the parties, notification regarding trade regulations including trade suspensions etc. are available on the CITES web-site: [www.cites.org](http://www.cites.org).

The trade of the wild animals as defined in the Wild Life Protection Act, 1972, is generally prohibited except as provided in the Act itself. Necessary stipulations have accordingly been inserted in the Export & Import Policy of the Govt. of India to regulate/prohibit the trade of such wild animals. The Ministry of Environment Forest & Climate Change also issues notifications/guidelines from time to time to regulate the trade of flora & fauna.

As already stated above, CITES permits are required for import, export, re-export of consignments of flora & fauna and their derivatives which are included in the CITES. Such CITES permits are issued by the Regional Deputy Directors of Wildlife Crime Control Bureau (WCCB) located at Chennai, Mumbai, Delhi & Kolkata. The application format for obtaining CITES Permit, contact details of the concerned Regional Deputy Directors, CITES F.A.Q., related advisories and circulars etc. are available on the WCCB web-site <http://wccb.gov.in>.

#### **(ii) Pre/Post shipment inspection of export/ import consignment by CITES Assistant Management Authority:**

The Regional Deputy Directors of WCCB are designated as Assistant CITES Management Authorities. These offices assist and advise the Customs authorities in inspection of consignments of flora and fauna as per the provisions of Wild Life Protection Act, 1972, CITES and EXIM Policy governing such an item. Accordingly, the Customs authorities refer consignments of flora & fauna to the Assistant Management Authorities for inspection and verification of the species which are proposed to be exported or imported. Such consignments are inspected by the official of WCCB Regional / Sub – Regional Offices either by visiting the Customs ports or by examining sealed samples sent by Customs authorities to these offices. . The Regional offices of the Bureau are located at Mumbai, Chennai, Kolkata & New Delhi; and the Sub – Regional Offices are at Kochi, Amritsar and Guwahati. If after inspection it is found that the species which is proposed to be traded is not included in the Wild Life Protection Act 1972 and/or in the CITES, No Objection Certificate is issued in favor of the concerned importer/exporter. The application format for obtaining No Objection Certificate is available in the WCCB web-site <http://wccb.gov.in> under the heading CITES.

### 1.4. Customs Act, 1962

Section 3(3) of the Foreign Trade (Development and Regulation) Act 1992, provides that all items (including wild Fauna & Flora) covered in the Import & Export policy will be deemed to be covered under Section 11 of the

## 2. QUARANTINE REGULATIONS

The Livestock Importation Act 1898 empowers the Central Government to regulate, restrict or prohibit the import into India or any specified place therein, of any livestock which may be liable to be affected by infectious or contagious disorders. The Central Government has notified poultry, parrots, pigeons, canaries and finches as livestock for the purpose of the said Act. The Foreign Trade (Development and Regulations) Act 1992 also empowers the Central Government to regulate import and export of birds and animals with a view to control the spread of communicable diseases. The Ministry of Agriculture has appointed Animal Quarantine officers at Delhi, Mumbai Chennai and Kolkata to verify the health of animals and birds before export and after import and to issue Quarantine Clearance Certificates. The Animal Quarantine Officer may, if needed, cause for the detention of any animal or bird to be imported at a quarantine station for observation and prevent the entry of such birds and animals as are diseased. The import of plants is also regulated under the provisions of the Destructive Insects and Pests Act, 1914, and the notifications issued there under i.e. the Plant Quarantine (Regulation of Import into India ) Order 2003. All imported plant consignments should be accompanied by :

(i) The import permit issued by the Issuing Authority is listed in schedule X of the Plant Quarantine (Regulation of Import into India) Order-2003 for the Jurisdiction specified.

(ii) The official Phyto-Sanitary Certificate from the country of origin with an additional declaration, wherever specified. All imported materials are inspected and, if necessary, fumigated or otherwise disinfected at the port of entry by the Plant Quarantine Officer.

As per section 3(14) of the aforesaid order, all consignment of seeds and plants for propagation and regulated articles such as live insects, microbial cultures, bio-control agents and soil shall only be imported into India through regional plant quarantine stations of Amritsar, Chennai, Kolkata, Mumbai or New Delhi or through any other points of entry as may be notified from time to time for this purpose, provided that no import of germplasm/transgenic plant material and genetically modified organisms shall be permitted through New Delhi Airport.

As per section 6(1), no consignment of germplasm/transgenics/Genetically Modified Organisms(GMOs) shall be imported into India for research/experimental purpose without valid permit issued by the Director, National Bureau of Plant Genetic Resources, New Delhi-110012.

## 3. MANAGEMENT AUTHORITIES-CITES:

India is a signatory to CITES since 1976. The Additional Director General (Wild Life) cum Director, Wild Life Preservation, MoEF&CC, Govt. of India is the Management Authority, CITES in India. There are 4 functional Assistant Management Authorities (AMA-CITES) working on behalf of MA-CITES at Delhi, Kolkata, Chennai and Mumbai. Regional Deputy Directors of WCCB at these locations are designated as AMA – CITES.

### 3.1 Scientific Authorities

Following are the Scientific Authorities to deal with the CITES related matter in the country.

- (i) Director, Zoological Survey of India, Kolkata (West Bengal)
- (ii) Director, Botanical Survey of India, Kolkata (West Bengal)
- (iii) Director, Central Marine Fisheries Research Institute, Cochin (Kerala)
- (iv) Director, Wild Life Institute of India, Dehradun (Uttarakhand)
- (v) Director, Institute of Forest Genetics and Tree Breeding (IFGTB), Coimbatore.

### 3.2 ENFORCEMENT

- 3.2.1 Wildlife Crime Control Bureau (WCCB) has been established in the year 2007, under the Ministry of Environment, Forests and Climate Change, Government of India, as a statutory multi – disciplinary body under section 38 Y of the Wild Life Protection Act, 1972, to combat organized Wildlife Crime in the country. The Headquarters of the Bureau is situated at New Delhi. Consequent to its establishment, the erstwhile Regional Wild Life Preservation offices have been designated as Regional Offices of the Bureau. These offices are located at New Delhi, Kolkata, Mumbai and Chennai. The Bureau has one more Regional Office at Jabalpur, Madhya Pradesh. Wildlife Crime Control Bureau is designated nodal agency for CITES related enforcement in the country. The Bureau is mandated with the following powers and functions under section 38 Z, of the Wild Life Protection Act, 1972:

**38 Z (1)** Subject to the provisions of this Act, the Wildlife Crime Control Bureau shall take measures with respect to –

- (i) Collect and collate intelligence related to organized Wildlife Crime activities and to disseminate the same to State and other enforcement agencies for immediate action so as to apprehend the criminals and to establish a centralized Wildlife Crime databank;
- (ii) Co-ordination of actions by various officers, State Governments and other authorities in connection with the enforcement of the provisions of this Act, either or through regional and border units set up by the Bureau;
- (iii) Implementation of obligations under the various International Conventions and protocols that are in force at present or which may be ratified or acceded to by India in future;
- (iv) Assistance to concerned authorities in foreign countries and concerned International organizations to facilitate co-ordination and universal action for Wildlife Crime control;
- (v) Develop infrastructure and capacity building for scientific and professional investigation into Wild Life crimes and assists State Government to ensure success in prosecutions related to Wild Life crimes;
- (vi) Advise the Government of India on issues relating to Wild Life crimes having national and international ramifications, and suggest changes required in relevant policies and laws from time to time;

**(2)** The Wildlife Crime Control Bureau shall exercise –

- (i) Such powers as may be delegated to it under sub-section (1) of section 5, sub-section (1) & (8) of section 50 and section 55 of this Act ; and
- (ii) Such other powers as may be prescribed.

**4. Nodal Officer for queries related to CITES and Wild Life Protection Act 1972 :**

For any query/doubt related to applicability of CITES and Wild Life Protection Act 1972 with respect to import & export of fauna and flora consignments , the following nodal officer may be contacted for advice/ opinion :

Assistant Director (CITES)

Wildlife Crime Control Bureau

2nd Floor, Trikoot-1

Bhikaji Cama Place Tel: +91 (11) 26 18 24 84 / [adadm@wccb.gov.in](mailto:adadm@wccb.gov.in)

(Opinion tendered /advice given by nodal officer is for the guidance purpose only and has no legal binding on any enforcement authority)

## ORGANISATION AND ENFORCEMENT

### MANAGEMENT AUTHORITY

**Addl. Director General of Forests and Director, Wildlife Preservation,  
Ministry of Environment , Forests & Climate Change, Government of India.**

**Tel: 011-24695416  
Fax: 011-24695417  
E-mail: [adgwl-mef@nic.in](mailto:adgwl-mef@nic.in)**

### Assistant Management Authorities

**1. Deputy Director, Wildlife Crime Control Bureau (Northern Region), New Delhi.**

Jurisdiction: All Wild Life items originating from the States/Union Territories of Uttar Pradesh, Uttaranchal, Punjab, Haryana, Jammu & Kashmir, Chandigarh, Delhi, Himachal Pradesh and Rajasthan.

**2. Deputy Director, Wildlife Crime Control Bureau (Southern Region), Chennai.**

Jurisdiction: All Wild Life items originating from the States/Union Territories of Tamil Nadu, Karnataka, Andhra Pradesh, Kerala, Pondicherry, Lakshadweep and Andaman & Nicobar Islands.

**3. Deputy Director, Wildlife Crime Control Bureau (Eastern Region), Kolkata.**

Jurisdiction: All Wild Life items originating from the States/Union Territories of West Bengal, Assam, Nagaland, Meghalaya, Arunachal Pradesh, Sikkim, Jharkhand, Bihar, Tripura, Mizoram, Manipur and Orissa.

**4. Deputy Director, Wildlife Crime Control Bureau (Western Region), Mumbai.**

Jurisdiction: All Wild Life items originating from the States/Union Territories of Maharashtra, Gujarat, Madhya Pradesh, Chhattisgarh, Goa, Dadra and Nagar Haveli.



### ENFORCEMENT AUTHORITY

Nodal Agency

**Additional Director,  
Wildlife Crime Control Bureau  
2nd Floor, Trikot-1  
Bhikaji Cama Place  
NEW DEHLI - 110 066**

**Tel: +91 (11) 26 18 24 84  
Fax: +91 (11) 26 16 07 51  
E-mail: [addldir-wccb@gov.in](mailto:addldir-wccb@gov.in)**