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[You Can't Take My Guitar! What Every Traveling Musician Should Know About CITES](#) ^[1]

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INTRODUCTION AND BACKGROUND

CITES is the acronym for the international treaty governing trade and transport of endangered species. The acronym stands for: Convention International on Trade in Endangered Species of Wild Flora and Fauna. What follows is a brief primer on what every traveling musician should know about this important international agreement and how it is implemented.

Protection of endangered species has become an important international priority over the past several decades as more and more species, both plant and animal, have come to face extinction or have become "endangered," "threatened" or "sensitive." An important underlying premise of the CITES treaty, accurate or not, is that if trade and transport of the products and parts of protected endangered species are strictly controlled the killing, harming or "taking" of such species will be reduced. The thinking goes that, for example, fewer endangered sea turtles will be captured and fewer walrus killed if it is against the law to sell tortoise shell guitar picks and walrus nuts end pins.

The treaty is the result of a resolution adopted in 1973 at a meeting of the World Conservation Union (IUCN). As of a few years ago approximately 33,000 species of plants and animals are affected by the CITES Treaty. In practice, penalties and enforcement vary widely from country to country. An important aspect of the treaty is establishing management and scientific authorities to determine what materials to seize and what to do with the confiscated products.

The final text of the treaty was determined at a meeting of representatives of 80 countries in Washington, D.C., held on March 3, 1973. The final draft of the treaty was then made available for signature by countries wishing to join the program through December 31, 1974. On July 1, 1975 the treaty became legally in force after ratification and signature by the 10th signatory country. As of June 17, 2008, 173 Countries had become parties to the convention.

WHAT DOES THE TREATY COVER

The treaty applies to controlled flora and fauna, their export, re-export, import and introduction from the sea. There are three appendices to the treaty establishing a hierarchy of protection for threatened species of plants and animals. As of a few years ago these appendices list approximately 28,000 plant species and 5,000 animal species. Fortunately, very few are used in instrument building. Here's the overall breakdown of what is addressed in the appendices:

Appendix I: "Threatened with extinction, which may be affected by trade."

Appendix II: "Species not necessarily now threatened with extinction but may become so unless trade in specimens of such species is subject to strict regulation."

Appendix III: "Species that are subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation."

Here is what is covered in each appendix likely to relate to musical instruments:
Appendix I includes:

Brazilian Rosewood (*Dalbergia nigra*) ? application date: 11/6/92

Mammoth ivory and elephant ivory ? application date: 6/1/47

Tortoise shell from the Hawksbill turtle (*Eretmochelys imbricata*) ? application date: 7/1/75

Appendix II includes:

Big leaf mahogany (*Swietenia macrophylla*) ? Honduran mahogany.

This only applies to export and import of raw wood, not completed instruments.

Appendix III includes:

South African abalone ? Perlemoen ? application date: 5/3/07

This is not used on American guitars but allows room for enforcement confusion. North American guitar makers use Mother of Pearl, pink, red or green abalone.

White abalone (*Haliotis sorenseni*) is not CITES listed but is listed in the US Federal statute called the Endangered Species Act and is subject to protection.

There are currently 173 country signatories to CITES. Reportedly, and perhaps not surprisingly, the strictest enforcement can be found in the U.S., Canada, European Union, Australia and Japan. Each of these countries has domestic laws in addition to, and stricter than, the basic CITES framework. In the USA the Federal Endangered Species Act applies, and some states, like California, also have applicable state laws protecting endangered species. So, for example, Brazilian rosewood is covered and restricted by the Endangered Species Act as well as by CITES.

TRAVELING WITH YOUR INSTRUMENT

To travel with an instrument with any of the controlled materials, you will need an export permit from the U.S. issued by the United States Fish and Wildlife Service (USFWS) which has jurisdiction under CITES and under the federal Endangered Species Act. Visit: http://www.fws.gov/le/ImpExp/Info_Importers_Exporters.htm [2]. And, you will need an import permit from the destination country. An export permit is granted if ?a scientific authority of the state of export has advised that such export will not be detrimental to the survival of that species? and the material ?was not obtained in contravention of the laws of that state for the protection of fauna and flora.? For the import permit, you will need proof that you are not importing the materials ?primarily for commercial purposes.?

EXEMPTIONS AND EXCEPTIONS

There are seven exemptions to the CITES rules. Most do not apply to musical instruments. There is one important exemption, however, that may apply: your instrument may be exempt if you can demonstrate that it was legally acquired before the materials were listed by CITES. To qualify for this exemption, you will need some form of written certification as to what materials comprise your instrument, when they were acquired and manufactured into your instrument.

There have been reports, however, that materials listed under Appendix I (the most protected materials) might be confiscated by zealous enforcement agents when you pass through customs even if you qualify for the exemption, forcing follow-up actions on your part to reclaim your wrongfully seized instrument. USFWS border agents have an identification guide /manual that they use to aid them in identifying protected endangered species. The first photo on their Timber Import / Export Requirements fact sheet is a shot of the back of a Brazilian rosewood guitar. The same photo appears on the cover for their Antiques Fact Sheets. These agents are trained to look for suspicious materials and to confiscate instruments that

appear to contain them. Given that it is often hard to tell the difference between, for example, Indian rosewood and Brazilian rosewood, the types of abalone or tortoise shell, or sometimes even the difference between ivory and quality plastic, or to distinguish the different types of mahogany, it is easy to imagine how confusion and mistakes can be made as one passes through customs in a busy port of entry. Unfortunately, such mistakes can result in the confiscation of your instrument. Be forewarned and be prepared, come with complete and definitive documentation to prove your claim of exemption.

In order to qualify for the "predate" exemption from USA CITES regulations, an instrument needs documentation (to the satisfaction of the USFWS) establishing that it predates the application dates of the controlled materials listed above. Check with the country of destination for any additional regulations or documentation that they may require. So, for example, if your instrument has ivory on it and was built before 1947 and you can document that fact, you should qualify for the exemption. The critical dates are determined by the manufacture of the materials, not the date of the protected material itself.

For example, if the replacement nut on your guitar was fashioned from fossilized mammoth ivory (more than 10,000 years old) but was formed into a guitar nut in January of 1993, for CITES purposes the nut was built in 1993 and is therefore a controlled material. Your exemption is not dependent upon, in this case, your certifying the age of the mammoth ivory. Rather, you must certify that the protected material was "manufactured" into your instrument before the cutoff date. If your instrument has a serial number you may want to check with its manufacturer to see if they can assist you in providing documentation to qualify for the exemption.

Border agents have broad authority to seize and confiscate whatever they suspect to be covered by the Endangered Species Act or CITES. While some such agents may have a pretty good understanding of musical instruments, some may not. Remember, these agents are looking at everything from rhino horn aphrodisiac, to leopard skin rugs, to old Martin guitars. Whether or not you are allowed to pass through customs with your instrument may well depend upon the quality of your documentation and on how well you can explain and verify what your instrument is made of and when its various components were manufactured. If you are going to [travel outside the US](#) ^[3] with an instrument that has any of the listed materials, it is recommended that you contact the USFWS for advice and direction before you go.

The U.S. government has reserved the right to seize musical instruments that it suspects do not comply with CITES or the Endangered Species Act. Importantly, the general rule is that once an agent seizes your instrument, you have to prove that the governmental seizure was improper in order to get it back. This can be difficult or impossible to do, particularly without the instrument! So, it is recommended that you have your paperwork in order before you go. Also, photo document your instrument including all its component parts with close-up pictures. This is a good idea for insurance purposes in any event, or for recovering it if it is stolen, and can be critical in reclaiming an instrument improperly seized by customs. Remember, as well, that there is no procedure for a retroactive permit. If the government confiscates your instrument on reasonable grounds and you are without the proper paperwork, you are considered to have violated CITES and have no right to prove up the validity of your case with documentation after-the-fact.

In addition, there are only 14 ports of entry to the U.S. authorized to handle CITES imports and exports. If you are traveling to or from the U.S. with an instrument with controlled materials, be sure to exit and return through one of these ports of entry: Anchorage, Atlanta, Baltimore, Boston, Chicago, Dallas-Fort Worth, Honolulu, Los Angeles, Miami, Newark-New

York, New Orleans, Portland, San Francisco or Seattle.

There are reports of instruments that have been seized and confiscated, so we know this is happening. Likewise, it has been reported that some U.S. dealers have stopped shipping instruments out of the country. Others report they have travelled with their instruments without problems. If you do plan to travel out of the country, we recommend you leave that vintage guitar or other vintage instrument at home and travel with a less expensive and clearly permitted instrument. If you simply must take that vintage instrument, then be prepared. Contact the U.S. Fish and Wildlife Service before you leave, obtain the necessary import and export permits, and if you believe you qualify for an exemption, be sure to have as much documentation and support for your exemption claim as possible.

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