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**Report of the**

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**FIRST FAO EXPERT WORKSHOP FOR THE ASSESSMENT OF  
PROPOSALS ON IMPLEMENTING THE CONVENTION ON  
INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD  
FAUNA AND FLORA (CITES) THROUGH FISHERIES LEGAL  
FRAMEWORKS**

**Rome, 6–8 May 2019**



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## PREPARATION OF THIS DOCUMENT

This is the report of the First FAO Expert Workshop for the Assessment of Proposals on Implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) through Fisheries Legal Frameworks, held at FAO headquarters from 6 to 8 May 2019. The meeting of the Expert Workshop was funded as a product of the collaboration between the CITES Secretariat and FAO under Project EP/INT/334/UEP *CITES-FAO Collaboration to Strengthen the Capacity of Developing Countries to Ensure the Sustainability, Legality and Traceability of International Trade in CITES-listed Species, with a Focus on Commercially-Exploited Aquatic Species..* The figures presented in this document are reproduced as they appear in the source materials from which they were obtained: there is thus some variability in terms of languages, image quality and labelling styles.

## **ABSTRACT**

The Expert Workshop on Implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) through Fisheries Legal Frameworks was held in Rome, Italy from 6 to 8 May 2019. The Expert Workshop was held as a result of the continued collaboration between the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and FAO.

The objectives of the Expert Workshop were:

- 1) To collect information on CITES implementation, in particular in the fisheries sector, in different countries and from the experience of the CITES Secretariat,
- 2) To facilitate the understanding of the key issues challenging the enhanced implementation of CITES through the fisheries sector, and
- 3) To identify ways to enhance implementation through fisheries legal frameworks by developing the concepts and options explored in the study which served as the background document for the workshop.

This report of the Expert Workshop includes:

- 1) Summaries of presentations on the implementation of CITES in a geographically diverse cross section of countries,
- 2) Summaries of the analytical exercises to explore CITES implementation through fisheries legal frameworks, and
- 3) Summaries of the main findings from the workshop.

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## **BACKGROUND AND PURPOSE OF THE EXPERT WORKSHOP**

1. The Expert Workshop was held as a result of the continued collaboration between the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and FAO – through its Department of Fisheries and Aquaculture (FI) as well as the Development Law Service of the FAO’s Legal Office - to explore the implementation of CITES through fisheries legislation. The CITES-FAO collaboration is facilitated under Project EP/INT/334/UEP CITES-FAO Collaboration to Strengthen the Capacity of Developing Countries to Ensure the Sustainability, Legality and Traceability of International Trade in CITES-listed Species, with a Focus on Commercially-Exploited Aquatic Species. The Expert Workshop aimed to 1) collect information on CITES implementation, in particular in the fisheries sector, in different countries and from the experience of the CITES Secretariat, 2) facilitate the understanding of the key issues challenging the enhanced implementation of CITES through fisheries sector, and 3) identify ways to enhance implementation through the fisheries legal frameworks by developing the concepts and options explored in the study that served as the background document for the Expert Workshop. In addition to the objectives of the Workshop, the findings of this Workshop, and other products of the collaboration between CITES and FAO, aim to contribute to the Sustainable Development Goal 14, especially 14.4 and 14.A.

## **EXPERT WORKSHOP**

2. The Expert Workshop was held in Rome, Italy, from 6 to 8 May 2019. The Programme of the workshop is included as Annex 1.

3. The Workshop was attended by 26 experts reflecting a diverse geographic balance, with expertise covering the terms of reference for the Workshop, including FAO staff and members of the CITES Secretariat. The list of participants is attached as Annex 2.

4. The meeting was opened by Mr Blaise Kuemlanguan, Chief of the Development Law Service (LEGN) of the Legal and Ethics Office of FAO and Mr Kim Friedman, Senior Fisheries Resources Officer of the Fisheries Department, who welcomed the participants and provided the context and background for the workshop. They highlighted the aims of the Workshop and that the developments from this Workshop should result in the elaboration of the ideas stated in the study that served as the background document for the workshop. The study will be finalized to provide the elements needed to develop a guidance document on enhancing the implementation of CITES in the fisheries sector, in particular through fisheries legal frameworks.

5. Mr Fabio Hazin was elected, by acclamation, as Facilitator of the Expert Workshop.

## **OUTCOME OF THE MEETING**

### **A) PRESENTATIONS**

6. The Expert Workshop was divided into two parts – presentations and analytical group exercises; both parts were interspersed with discussions from the experts. The first day of the Workshop was dedicated to presentations and discussions of the study that served as the background document for the workshop and the experience of countries in the implementation of CITES with particular focus on CITES implementation in the fisheries sector and supporting or related legal frameworks.

***Overview of the Background Paper, Julia Nakamura, FAO Legal Consultant***

7. Ms Julia Nakamura presented the study entitled ‘Background Paper for the Workshop on Implementing CITES through fisheries legal frameworks’ and its annexes. The study provided an overview of the Convention, explained the relevance of CITES for the fisheries sector, the general implementation of CITES and the specific cooperative activities performed by States through international organizations such as the FAO and Regional Fisheries Management Organizations/Arrangements (RFMOs) in the implementation of the Convention. The objective of the study is to provide a foundation for the development of a guidance document for the implementation of CITES through legal frameworks in the fisheries sector. Ms Nakamura emphasised the importance of CITES implementation, the relevance for the fisheries sector and the possible options for legislative and policy implementation.

***General Introduction of CITES Implementation, Sofie H. Flensburg, Legal Advisor, CITES Secretariat***

8. Ms Flensburg provided an overview of CITES and how it works. She emphasized that CITES does not promote nor prohibit trade, but it regulates and monitors trade in listed species, ensuring that trade is legal, sustainable and traceable. CITES permits and certificates provide information for the legality (Legal Acquisition Findings - LAF), sustainability (Non-Detriment Findings - NDF) and traceability (trade data – purpose, quantity, etc.). The listed species are either in Appendix I (3 percent), where trade is generally prohibited, in Appendix II (97 percent), where trade is regulated and controlled, and in Appendix III (less than 1 percent), where trade is permitted and controlled.

9. Ms Flensburg also provided information on the National Legislation Project (NLP), including on the four minimum requirements of national legislation: 1) Designation of authorities, 2) Prohibition of trade in violation of the Convention, 3) Penalizing trade in violation of the Convention, and 4) Confiscation of illegally traded or possessed specimens. National legislation that does not meet these minimum requirements is placed in Category 2 or 3 under the NLP. With respect to the first requirements, she noted the importance of ensuring a clear delineation of mandates where several Management Authorities are designated. It was also important to put in place mechanism(s) for coordination between relevant authorities. An example of a successful legislation transition was Angola, whose legislation was recently placed in Category 1.

***FAO, CITES and Governance of Fisheries, Kim Friedman, Project Coordinator, FAO Fisheries and Aquaculture Department***

10. Mr Friedman focused on the changes within the fish trade and the continuing nature and significance of these changes. Much of the data shows increasing fish trade from developing countries, which raises questions about operations, fish stock and trade management. Some concerns include the need to support countries to make relevant shifts in fishery governance and practices to adapt to these changing paradigms, especially for vulnerable species. Due to the complex socio-ecological nature of fisheries, such change requires work on more than just governance, it must also consider the changes on fishers, fishery stocks, trade chains and socio-cultural issues, including community awareness and interlinkages across these different sectors. Mr Friedman discussed the current situation through two lenses - fisheries management frameworks and through a CITES framework. Mr Friedman also discussed the differences between fisheries and environment controls and the need for collaboration for positive changes in the fisheries of vulnerable species. The presentation also outlined the process of including commercially exploited aquatic species in a CITES Appendix and highlighted FAO’s role under the MOU with the CITES Secretariat

signed in 2006. FAO's assessments revealed the potential for the Convention to prompt changes in fisheries management. At the national level, there is a need for a more holistic approach in improving the interactions between fishery managers, fishers, traders and the operation of the Convention requires cooperation across both private and public sectors. Mr Friedman suggested that an ecosystem approach to governance would improve international efforts to support conservation of vulnerable aquatic species.

***UNEP support to developing national legislation for the implementation of CITES, Sylvia Bankobeza, Legal Officer, United Nations Environmental Program***

11. Ms Bankobeza informed the group about the collaboration between the CITES Secretariat and UNEP, which started in 2014, to support countries with legislation in categories 2 and 3 to improve to category 1. There were 17 countries with category 3 legislation that requested legislative assistance. Most of these countries were in Africa, so the region was prioritized for receiving such assistance. This collaboration between CITES and UNEP has resulted in the adoption of legislation (e.g. Angola's 2018 Regulation on Import and Export of Endangered Species of Wild Fauna and Flora). Draft CITES implementation laws are still being processed in Eritrea, the Gambia and the Solomon Islands. There is also ongoing work on CITES legislation in the Kingdom of Lesotho and the Republic of Somalia. The approach to supporting countries is based on the legislative plan that the country agrees to with the CITES Secretariat. UNEP, in collaboration with the CITES Secretariat, supports the country using national legal experts to review existing legislation and institutional frameworks to identify gaps before proposing a draft law or amendments. Draft laws are reviewed through inter-agency consultations in government and relevant institutions followed by consultation and validation through national stakeholders' consultative workshops. The lessons learned from the UNEP-CITES collaboration are 1) the value of needs assessment meetings to engage countries in both capacity building and in reviewing the country's needs and 2) the opportunities of jointly strategizing to support countries in a cost-effective way. In a recent review of this program by both UNEP and CITES, overall, the collaboration of supporting countries was found to be successful in assisting countries with legislation in Categories 2 and 3 to move towards Category 1.

***CITES implementation in Malaysia, Ganesan Vethiah, Fisheries Law and Enforcement Consultant***

12. Mr Vethiah introduced the Malaysian International Trade in Endangered Species Act 2008 as the specific law related to the general implementation of CITES. Part I of the Act specifically allows the law to be read with other Malaysian laws related to CITES. The law provides for legal interpretation of the terms "Introduction from the Sea" and "animals" based on the interpretations of these terms in CITES. The Act creates relevant authorities and assigns enforcement powers to various federal and state government agencies. The Act also creates rescue centres to safeguard and secure seized aquatic species as evidence and to ensure the return of these specimens to their country of origin. Penalty provisions provide for fines, imprisonment or both for serious offences; less serious offences are punishable by administrative fines. A notable problem area in implementing the Act is false declarations among importers and exporters of aquatic species. Although there is a provision in the Act for rewarding informants, it is not implemented effectively. The Malaysian Fisheries Act 1985 (the Fisheries Act) controls the conservation, management and development of fisheries and has provisions related to trade of live fish. The Act provides a broad definition of "fish" which includes aquatic mammals, crustacea, mollusca, plant life, etc. except for marine turtles. The

Fisheries (Control of Endangered Species of Fish) 1999 provides for both full and partial trade protection of endangered species of fish thus making the Fisheries Regulations 1999 a good regulatory framework for CITES implementation. However, penalties imposed under the Fisheries Act are less stringent than the CITES implementing Act. Moreover the Fisheries Act does not provide for mandatory imprisonment of foreign fishermen consistent with Article 73 of the Law of the Sea Convention. It was opined that CITES can be implemented through the Fisheries Act as a complementary framework.

***CITES implementation in Italy, Federico Castrogiovanni, Fisheries and CITES Consultant***

13. Mr Castrogiovanni presented relevant aspects of the Italian implementation of CITES. The European Union (“EU”) regulation is the legal framework that all member States have to apply. The main regulation is the EC 338/97. The implementing regulation 865/2006 provides detailed rules and other requirements. The design regulation 792/2012 includes examples of standards of documents. Differently from CITES, the EU provisions include 4 annexes that do not fully correspond to CITES Convention Appendices but require import permits for its Annex B species which are primarily species listed in Appendix II of the Convention (but do not require an import permit under CITES). There are three bodies at the EU level: the Committee on Trade in Wild Fauna and Flora, the Scientific Review Group and the Enforcement Group, which meet at least four times per year and decide how to implement CITES in the EU through non-binding recommendations. The Member States determine what a violation is and how it is punished including whether a CITES violation is punished criminally. The main Italian law on CITES is the N. 150/1992. In Italy there are three CITES Management Authorities (Ministry of Environment and for the Protection of Land and Sea; Ministry of Economic Development; and Ministry of Agricultural, Food, Forestry Policies and Tourism), one Scientific Authority, and two enforcement authorities. The Common Fisheries Policy guides fisheries management because fisheries falls under the exclusive jurisdiction of the EU. Implementation of the EU’s Common Fisheries Policy (CFP) is under the aegis of the Ministry of Agricultural, Food, Forestry Policies and Tourism. CITES is under the Ministry of Environment and Protection of Land and Sea. In general, when a legislation touches more than one ministry’s area, the authorities hold a meeting and draft the implementing law/regulation together. Similarly, meetings are also called whenever the potential adoption of a measure will affect another authority’s area of competence. An example of this collaboration occurred when the Ministry of Environment and Protection of Land and Sea and the Ministry of Agricultural, Food, Forestry Policies and Tourism held meetings together to discuss and draft the National Management Plan on the harvest of red coral (“*corallium rubrum*”) in national marine waters and the requirements for a study on red coral in Italian waters.

***Introduction from the Sea Issues and Brazil’s experience on CITES implementation, Fabio Hazin, Professor, Federal Rural University of Pernambuco***

14. Mr Hazin explained the concept of *Introduction from the Sea* (IFS) and the background of CoP Resolution 14.6 which provides advice on operationalizing this provision of CITES. Depending on different scenarios this involves a one-State transaction or multiple States transaction. Mr Hazin also stressed the importance of ensuring that marine species are caught in conformity with obligations and requirements to fight illegal, unreported and unregulated (IUU) fishing for States implementing IFS as recommended in the same Resolution. In Brazil, the CITES law is a good example of the obligation to not acquire fish from IUU fishing. Currently, in Brazil, the MA & the SA are solely under the authority of the environmental government agencies. In Brazil, there has been confusion concerning the management of fisheries since 1998 when the government divided certain fisheries management responsibilities between the Fisheries Authority and the Environment Authority. Presently, the

Ministry of Agriculture and Livestock, which houses the Secretary of Aquaculture and Fisheries and its full competences over fisheries is the exclusive authority for fisheries management. Mr Hazin noted that CITES implementation is outside the scope of the fisheries management institution and suggested that the National Fisheries Authority should be designated as the MA and the SA, in the cases of commercially exploited marine fish species, since it is responsible for the management of such species.

***CITES and Tuna RFMOs, Shelley Clarke***, Shark and Bycatch Expert, FAO Fisheries and Aquaculture Department

15. Ms Clarke presented on the interaction between CITES and the tuna RFMOs. Several CITES-listed species interact with tuna fisheries, but sharks and rays are inherently different from the other species because they may have high commercial value and are more likely to be internationally traded. It was noted that shark and ray products can take a variety of forms including meat, fins, gill rakers, cartilage, liver and skin, and may be difficult to identify as shark, and even more difficult to identify to the species. According to the LOSC, art. 61(4), the States have a duty to maintain or conserve dependent or associated species above levels at which their reproduction may become seriously threatened. In order to accomplish this, tuna RFMOs undertake data collection, analyse stock status, specify mitigation measures, and monitor compliance with those measures. Ms Clarke provided the group with scenarios illustrating how the LAF, NDF and IFS documents relate to various types of tuna fishing vessels. Ms Clarke also noted that tuna RFMOs may provide a variety of resources to inform LAFs including information on compliance with finning and no-retention prohibitions, catch documentation schemes (if any pertain to the CITES-listed species), vessel authorizations to fish, transshipment rules and monitoring, vessel monitoring scheme data, and reports from high seas boarding and port State measures inspections. However, it was noted that much of this information flows to the tuna RFMOs from their member States and thus the member States are likely to be a better source. Tuna RFMOs may be in the best position to make NDFs for certain species for which they have been conducting assessments, such as the migratory shark and ray species under their jurisdiction, but this would require authorization from national authorities of CITES signatories. Areas where improved coordination between tuna RFMOs and CITES would be useful, include: 1) determining the priority of conducting stock assessments for certain species; 2) formalizing consultation on listing proposals and NDFs; and iii) active cross-checking of catch and trade figures.

***CITES implementation in Sri Lanka, Vikum De Abrew***, Senior Deputy Solicitor General, Attorney General's Office, Sri Lanka

16. Mr De Abrew presented on the implementation of CITES in Sri Lanka. The legal regime in Sri Lanka on international trade in threatened animals, plants and specimens is mainly regulated under the Flora and Fauna Protection Ordinance while fisheries is regulated under the Aquatic Resources Act. The Ordinance, prohibits any importation or exportation of any fauna or part thereof without a permit from the Director General of Wildlife. However, a permit is not required for the importation of identified domestic animals or any tropical aquarium fish. The export of any indigenous dead or live species is only permitted for the promotion of scientific knowledge including supplies to foreign museums or zoological gardens. The Fisheries and Aquatic Resources Act contains provisions for management, regulation, conservation and development of fisheries and aquatic resources in Sri Lanka. In terms of the regulations made under the Fisheries and Aquatic Resources Act, it is prohibited to catch shark species specified in the schedules to the respective Regulations except for the collection by museums, biological sampling of taxonomic study and research purposes. It is also prohibited under the regulations to retain, transship, land and or sell the said species of

sharks. Any export, import or re-export of fish and fishery products are subject to the terms and conditions imposed by the Director-General in accordance with international obligations undertaken by Sri Lanka. It is imperative for an exporter, importer or re-exporter of any fish or fishery products to comply with the requirements of CITES. Due to the above reasons, Mr De Abrew stated that there is substantial compliance of the provisions of CITES in Sri Lanka.

***CITES implementation in South Africa, Kevin Pretorius***, Specialist Criminal and Environmental Law Lawyer

17. Mr Pretorius presented on the implementation of CITES in South Africa. He provided the view from a prosecutor and litigator's perspective based on his experience as a former senior prosecutor and as a practicing attorney. He noted that there has been considerable work done on the legal framework. A possible improvement to the existing framework could be integrated permits which would involve both exporters and importers working cooperatively and collaboratively. In South Africa, there are working groups with the Directors-General and heads of Ministries dealing with the environment which meet at the technical and management authorities' levels. This is an important part to avoid the silos effect in the area of compliance and enforcement. In South Africa, all law must be read in terms of the Constitution. However, the control of export and import of wild fauna and flora stretches beyond national concerns to ensure coordination for the implementation of CITES; the ecosystems must also be considered. South African legislation provides for very high penalties. All legislation must be practical and implementable. To ensure compliance, Mr Pretorius suggested the use of stricter measures to enforce CITES measures, for example, the prohibition of trade in the species in the Convention's Appendices and seizure or forfeiture of the relevant specimens.

***CITES implementation in Liberia, Elizabeth-Rose Amidjogbe***, Legal Consultant, FAO Legal and Ethics Office

18. Ms Amidjogbe presented a brief overview of the CITES implementation in Liberia and its interaction with the fisheries management legal framework. Liberia acceded to CITES in 1981 but the act of legislature that gave CITES the force of law was passed in 2006. In Liberia, CITES is implemented through two legislations – the National Forestry Reform Law (2006) and the National Wildlife Conservation and Protected Area Management Law (2016). In Liberia, CITES has historically been interpreted as only applicable to wildlife conservation, without any consideration of the marine species included in the Appendices of the Convention. As evidence of this, the National Forestry Reform Law limited its applicability to only wildlife within a forest ecosystem and the National Wildlife Conservation and Protected Area Management Law defined animals to exclude fish unless in a national park or game reserve. Similar to the CITES implementing legislation, fisheries management exists within a framework composed of several laws, including the Fisheries Regulations 2010. Although the Legislature and the Fisheries Authorities created these laws after the initial CITES implementing legislation, there is no reference to CITES in the fisheries management legal instruments. Furthermore, due to the narrow interpretation of CITES, there is no overlap between fisheries management and CITES implementation. This interpretation, limited definitions, and lack of vital CITES provisions prevents the CITES implementing legislation from being compatible with the implementation of CITES. As a result, the CITES Standing Committee recommended a suspension of commercial trade with Liberia because its legislation does not meet the minimum criteria of CITES legislation. Liberia is currently working with the CITES Secretariat to improve its legislation to meet the minimum requirements and lift the suspension.

## Other information

19. A summary of a note by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) on its experience with CITES implementation was provided to the Workshop by the Development Law Service of FAO Legal Office (LEGN), in particular the experience relating to implementation of Resolution Conf. 12.4 on Cooperation between CITES and CCAMLR. The conclusion was that although Resolution Conf. 12.4 was adopted 17 years ago, it has not resulted in increased cooperation with CCAMLR's catch documentation scheme from States engaged in the trade in toothfish who are contracting parties to CITES but non cooperating Parties (NCP) to CCAMLR. Cooperation between CCAMLR and CITES is carried forward mostly at the Secretariat level. Deeper cooperation is hampered by the concerns expressed in 2002 that CCAMLR has primacy in the Convention Area. Despite the lack of effectiveness of Resolution Conf. 12.4, the level of IUU fishing in the Convention Area has continued to drop as a result of the actions of CCAMLR.

20. At the invitation of the Facilitator, Mr Matthew Camilleri provided an overview of the Port State Measures Agreement (PSMA) which aims to combat IUU fishing on foreign vessels seeking entrance into ports. The PSMA requires Parties to include inspections of documents required by CITES to ensure that vessels are not engaged in IUU fishing and not carrying CITES-listed species without proper documentation. Mr Camilleri noted that a foreign vessel landing fish in another country's port is international trade and where CITES listed species are harvested and traded, the CITES documentation must be considered. Mr Camilleri stressed the importance of coordination across the policy, legislative, and institutional framework among the agencies. The capacity-building efforts for implementation of the PSMA have not focused on CITES specifically, but there are opportunities for the CITES Secretariat to be involved in the capacity-building measures to implement PSMA. His intervention concluded with examples of existing collaboration on the implementation of the PSMA, in particular with the IMO and the ILO.

## B) DISCUSSIONS

21. There were several rounds of interventions and discussions between the presentations. The questions, answers, comments, discussions and issues raised are summarised as follows:

- The experts noted and discussed the differences and similarities between the objective of fisheries management and that of CITES. For some experts, the purpose of CITES is to prevent the extinction of endangered species through regulating trade which, sometimes, overlaps with the conservation and management objectives of fisheries. Although there is some overlap of objectives, this does not warrant the use of CITES as a fisheries management tool. Other experts noted that CITES should not replace fisheries management measures and tools but the Convention could contribute to the development of new approaches or to complement fisheries management.
- A concern was raised about the notable lack of coordination between fisheries and CITES authorities in general and the importance of both communities understanding the concepts, approaches and terms used in the implementation of CITES. Without proper communication and collaboration, terms such as NDFs may be interpreted stricter than is required.

- It was acknowledged that the CITES-UNEP collaboration has supported 11 countries to improve their legislation for less than USD 200,000 and has resulted in the adoption of legislation in two countries – Angola and Mauritania. It is also noted that it is important to emphasize enforcement powers of authorized officers in legislation.
- The experts observed that the process of listing species on CITES Appendices is separate from implementing the provisions of the Convention. It was also noted that the listing process involves a sovereign decision by Parties which could have a political dimension. Focusing on implementation questions may be more useful than focusing on the listing process although it should be noted that a lack of trust in the listing process by fisheries stakeholders may lead to a lack of support and may pose challenges in the coordination and cooperation in implementing the Convention. It is important to be aware of any perception of mistrust and to address it, especially now that several marine species have been listed.
- The group agreed that there is no single approach to design the legislative framework for the implementation of CITES. Different scenarios in different countries exist. Each institution and each legal system should be studied carefully to create a pragmatic system that is suitable to the reality of a country. There are pros and cons of designating one CITES Management Authority and one CITES Scientific Authority in a country and different countries have chosen different modalities. Relatively few countries have involved their fishery management authorities in the implementation of CITES – although this might change in the future.
- The discussions in the area of enforcement highlighted the need to include the often neglected enforcement community in the discussions on the implementation of CITES and fisheries laws. In relation to effective approaches to enforcement, the option of providing a range of penalty and charging options from which prosecutors and enforcement officers could choose the most appropriate option for a situation was considered the more effective approach compared to uniformly enacting and imposing higher penalties. Some options could include provisions for low and frequent penalties, which have a deterrent effect. The experts noted the importance of regularly updating relevant legal frameworks to facilitate effective enforcement such as the rules of evidence, particularly the collection and presentation of evidence i.e. the admissibility of electronic evidence in certain jurisdictions.
- Different enforcement mechanisms were discussed with particular reference made to the use of asset seizure as an effective tool in South Africa and Malaysia. Another effective option discussed was the confiscation of specimens, regardless of the outcome of the underlying case. In Italy, confiscation is an effective and strong deterrent to harvesting or capturing prohibited species, especially because where the specimens is held or destroyed is decided by the MA and not the Courts.
- There was a discussion on the use of market measures for enforcement of CITES. Specifically, there was consideration of whether the use of market State jurisdiction to encourage non-Party States to enhance their performance on regulating international trade in CITES listed species would improve compliance, similar to the use of market State jurisdiction by the US and the EU to encourage third country States to enhance their performance in combating IUU fishing.

- The presentations on IFS and the sometimes complex chains of custody illustrate some of those challenges that some CITES Parties have highlighted, particularly at the CITES Standing Committee. Although IFS has been in the Convention since its negotiation in 1973, it was only operationalized in 2013 with Resolution Conf. 14.6 (Rev. CoP16). Shark species that are caught or in larger volumes of by-catch, especially high seas fisheries, have only been included on CITES Appendix II since 2013 and those listings did not enter into force until September 2014.
- The responses and results to a questionnaire circulated by the CITES Secretariat to understand how Parties are implementing IFS indicated that a limited number of countries have legislation or regulations in place to implement IFS and there is still a lack of experience, in particular, with regards to commercial transactions of this type. Although experts have observed a lack of trade records on IFS of CITES-listed specimens for commercial purposes, it may not reflect the reality due to a possible gap in reporting those transactions that may need to be addressed. Parties of the Convention have also identified areas where further guidance by the CITES Standing Committee may be helpful to assist in the implementation of CITES for sharks, in particular IFS. Additional guidance and education on IFS may be helpful for resolving these challenges.
- The Workshop reiterated that countries will determine how to implement CITES, taking into account the country's situation, but the legislation must meet CITES minimum requirements to ensure the country has the framework from which to operate. The Model Law is a proposition and the Parties have the option of using all or some of its provisions. Additionally, the CITES website has a wealth of information listing the MAs and SAs for each Party. Finally, the option to protect a species by national legislation and in Appendix III still exists, because it may not meet the biological and trade criteria for inclusion in the Appendices I and II.
- Trade with non-Parties is regulated by Article X which requests comparable documentation from Parties of the Convention to demonstrate fulfilment of their CITES obligations. It is relevant in this context because Parties may make reservations to the inclusion of marine species on the Appendices in which case they shall be treated as non-Parties with respect to that species.
- Given the overarching goal of conservation and management, there must be more discussion about NDFs, such as a consultation process between CITES and RFMOs, as well as monitoring, control and surveillance (MCS) considerations.
- The concept that the fisheries authority should act as the SA was reiterated. In some countries, there is tension between the environmental community and the fisheries community. Nonetheless, the fisheries authority should be considered as an SA for making NDFs for the fisheries activities – or otherwise ensure consultation with the fisheries authorities in relevant processes.
- Given the trend in tuna RFMOs towards the ecosystem approach, organizations should improve their information sharing efforts.
- It was noted that the Port State Measures Agreement (PSMA) makes direct reference to CITES, which could be used as an example of using CITES measures for the purpose of sustainable fisheries and ensuring that the fight against IUU fishing is comprehensive and effective. The capacity-building efforts of PSMA have not focused on CITES specifically, but there are opportunities for the CITES Secretariat to be involved in the capacity-building measures to implement PSMA.

### C) ANALYTICAL GROUP EXERCISES

22. On the second day, the experts were divided into three groups based on their areas of expertise to undertake the analytical exercises. These analytic exercises included a tranche of questions to consider. Each group offered responses to help the development of a guidance document for the implementation of CITES in the fisheries sector, in particular through fisheries legislation. The list of participants and the analytical questions are in Annexes 2 and 3 respectively.

23. Group A, the group responsible for the ‘preliminary’ provisions suggested the following:

- a. Scope/application sections,
  - i. Fisheries legislation should refer to the complementary nature of fisheries to CITES.
  - ii. Drafters of legislation must pay special attention to potential conflicts, especially 1) competing or conflicting mandates between fisheries management and the Scientific Authority or Management Authority of CITES, and 2) instances in which the fisheries legislation contradicts the CITES legislation.
  - iii. Fisheries legislation must clearly extend to the State’s maritime zones and to its flagged vessels wherever operating as well as to species that are caught or species that are landed on the CITES Appendices.
  - iv. Fisheries managers must understand that Introduction from the Sea occurs once the CITES listed species is landed in the State’s port.
- b. Definitions section,
  - i. Fisheries legislation should not define terms found in the CITES legislation, instead the fisheries legislation can refer to the definitions in CITES. Nonetheless, specific terms such as IFS or NDF should be highlighted. Also, referencing the CITES legislation in lieu of defining terms should be done only if the CITES legislation has all relevant provisions well defined.
  - ii. Cooperation and collaboration between authorities is vital.
  - iii. In instances when the fisheries authority does not serve as the MA or SA for commercially exploited fisheries species, there must be coordination between CITES authorities and the fisheries authorities.
- c. Institutional arrangements section,
  - i. All the relevant fisheries related authorities must also interact with CITES, including those that conduct port and at sea inspections.
  - ii. Fisheries managers and CITES managers should include all relevant stakeholders in the process of listing CITES species through effective mechanisms that ensure access to info.

24. Group B, the group responsible for the ‘management’ provisions, suggested the following:

- a. Management objective and principles section,
  - i. The management objectives specifically mentioned should include 1) sustainable use of marine living resources, 2) the need to protect biodiversity,

3) the need to minimize pollution, and 4) the importance of fulfilling international obligations.

- b. Catch/output controls section,
  - i. To ensure the sharing of scientific data, there must be coordination, communication, and information sharing between the Fisheries Management Authority (FMA) and the CITES Authorities.
- c. Input/effort controls section,
  - i. International trade and fisheries management are separate and international trade should not factor into the granting of fishing licenses.
  - ii. It is important to ensure that vessels fishing on the High Seas should report the location of the catch to allow for fisheries management to make IFS reports. Similarly, foreign fishing vessels should also report the catch of CITES listed species in the same manner as national vessels.
- d. Moratoria, prohibitions and other controls section,
  - i. Ghost fishing is not directly relevant to CITES, although NDFs should ideally consider all sources of mortality.
  - ii. Other requirements that could be imposed for the export of CITES listed species include imposing requirements from RFMOs and other stricter measures.
  - iii. Other requirements that could be imposed for the import of CITES listed species include imposing stricter domestic measures based on applicable laws.
  - iv. Other requirements that could be imposed for the re-export of CITES listed species include imposing requirements of original source tracing.
- e. Fisheries management plans section,
  - i. Sharing information between the FMA and CITES Authorities to support NDFs and LAFs include informing the FMA of developments from the COP meetings of CITES.
- f. Fisheries monitoring and research section,
  - i. To improve CITES implementation, domestic research on CITES listed species should be encouraged.

25. Group C, the group responsible for the ‘enforcement’ provisions suggested the following:

- a. Observer programme section,
  - i. Observer training should include CITES specific training including CITES listed species.
- b. Inspection scheme section,
  - i. For the purpose of using authorized officers, which are not already included in the existing CITES implementation, the fisheries legislation must expand to provide for such powers.
- c. Reporting section,

- i. Although fisheries is not the first line of investigation or action, improved coordination and collaboration should include lines of communication and information sharing.
- d. Offences and penalties section,
  - i. Given the differences in jurisdictions, the State's legal framework and policies may dictate how serious an offense is considered and whether criminal sanctions are the most appropriate.

## **MAIN ISSUES AND FINDINGS**

26. The main issues and findings that may be drawn from the discussions are summarized as follows:

- There are differences between the objectives of fisheries management and CITES which should be remembered by States when determining how the fisheries sector and fisheries legislation can contribute to or enhance the implementation of CITES.
- Fisheries legislation can and should assist the implementation of CITES.
- Due to commercially exploited aquatic species being listed in the CITES appendices, there is interaction between fisheries management and the implementation of CITES, therefore it is important that fisheries managers and CITES authorities cooperate, coordinate, and share information.
- The domestic institutional arrangements for CITES implementation and fisheries management must ensure that the mandates of the designated authorities are clearly delineated, compatible and harmonious, with mechanisms in place to enable and promote coordination and cooperation.
- The implementation of CITES traverses other international instruments. For example, the Port State Measures Agreement (PSMA) directly refers to CITES. Therefore, there should be appropriate links between CITES legislation and the fisheries legislation, particularly on the control of landing CITES-listed aquatic species by foreign vessels into a port. States should have procedures to allow the issuance of IFS certificates or export permits for vessels flying their own flag, depending on the destination of the CITES-listed specimen, in accordance with the provisions of the Convention. States should further ensure an appropriate level of control of landings by vessels flying their own flag that engage in fishing in the high seas or in cases where due to their intended fishing areas or gear type are likely to catch CITES-listed species, whether targeted or incidental.
- To avoid duplication of provisions and conflicting or contradictory provisions in fisheries legislation that supports the implementation of CITES, fisheries legislation should cross-reference the CITES-implementing legislation. This approach would directly guide the legal practitioner to the relevant legislation for the implementation.
- In implementing CITES through fisheries legal frameworks, it is important that the legislation provides for effective enforcement mechanisms with options of penalties broad enough to allow the prosecutor and judge to apply the most appropriate penalty for the case, including but not limited to confiscation of species, fishing gears and vessels as well as imprisonment and asset seizure.

**CLOSING**

27. Mr Hazin expressed his appreciation to the participants for their contribution and closed the workshop.



## ANNEX 1 – WORKSHOP PROGRAMME

### Monday 6 May 2019

**08.45** Registration / meet and greet, Mexico Room D273

**09.00** Welcome and Opening remarks

**Blaise Kuemlangan**, Chief of the FAO Development Law Service

**Kim Friedman**, Project Coordinator, FAO Fisheries and Aquaculture Department

**09.15** – Overview of the Background Paper

09.30

**Julia Nakamura**, University of Strathclyde PhD Researcher/FAO Legal Consultant

**09.40** – General introduction of CITES implementation

09.55\*

**Sofie Flensburg**, CITES Secretariat

**10.00** – UNEP support to developing national legislation for the implementation of CITES

10.15\*

**Sylvia Bankobeza**, UNEP

10.20 Coffee Break

**10.35** – CITES implementation in Malaysia

10.50\*

**Ganesan Vethiah**, Fisheries Law and Enforcement Consultant

**10.55** – CITES implementation in Italy

11.10\*

**Federico Castrogiovanni**, Fisheries and CITES Consultant

**11.15** – CITES implementation in the US

11.30\*

**Alexa Cole**, Deputy Chief, Enforcement Section at NOAA Office of General Counsel

**11.35** – Introduction from the Sea Issues

11.50\*

**Fabio Hazin**, Professor of the Federal Rural University of Pernambuco

**11.55** – CITES and Tuna RFMOs

12.10\*

**Shelley Clarke**, FAO Fisheries and Aquaculture Department

**12.15** – Further discussions

12.30

12.30 Lunch Break

**13.30** – CITES implementation in Sri Lanka

13.45\*

**Vikum De Abrew**, Senior Deputy Solicitor in Sri Lanka

**13.50** – CITES implementation in South Africa

14.05\*

**Kevin Pretorius**, Specialist Criminal and Environmental Law Practicing Attorney

**14.10** – CITES implementation in Liberia  
14.25\*

**Elizabeth-Rose Amidjogbe**, FAO Legal and Ethics Office

**14.30** – Further discussions  
15.30

**15.30** Coffee Break

**15.45** – Preparation of Groups for considerations for CITES implementation in fisheries  
17.00 legislation  
and 1<sup>st</sup> Breakout groups exercise

**Group A** Preliminary (Scope, principles, objectives and institutional arrangements)

Mexico Room D273

**Group B** Management (Planning, management, conservation, rights, licensing)

LEG Meeting Room A451

**Group C** Enforcement (Monitoring, control, surveillance and enforcement)

OSP Meeting Room B444

### Tuesday 7 May 2019

**Group A**, Mexico Room D273

**Group B**, LEG Meeting Room A451

**Group C**, DPS Meeting Room B425

**09.00** – 2<sup>nd</sup> Breakout groups exercise  
10.30

10.30 Coffee Break

**10.45** – 3<sup>rd</sup> Breakout groups exercise  
12.30

12.30 Lunch Break

**13.30** – Plenary discussion, Mexico Room D273  
15.15

15.15 Coffee Break

**15.30** – Plenary discussion, Mexico Room D273  
17.00

### Wednesday 8 May 2019

**09.00 – 10.30** Plenary discussion, Mexico Room D273

10.30 Coffee Break

**10.45 – 13.00** Wrap up and close, Mexico Room D273

**ANNEX 2 – LIST OF PARTICIPANTS**

|                                 |   |
|---------------------------------|---|
| <b>BRAZIL</b>                   | Fabio Hazin<br>Associate Professor<br>Department of Fishing and Aquaculture<br>Universidade Federal Rural de Pernambuco |
| <b>FRANCE</b>                   | Philippe Cacaud<br>Fisheries and Legal Expert   |
| <b>ICELAND</b>                  | Stefán Ásmundsson<br>Head of International Affairs Office<br>Ministry of Fisheries, Iceland                             |
| <b>ITALY</b>                    | Federico Castrogiovanni<br>Legal Advisor<br>CITES Management Authority<br>Ministry of the Environment, Italy            |
| <b>MALAYSIA</b>                 | Ganesan Vethiah<br>Maritime Legal Consultant  |
| <b>NETHERLANDS</b>              | Erik Molenaar<br>Deputy Director of the Netherlands Institute<br>for the Law of the Sea<br>Utrecht University           |
| <b>SOUTH AFRICA</b>             | Johann Vermeulen<br>Nature Conservator<br>Green Law Foundation  |
| <b>SOUTH AFRICA</b>             | Kevin Pretorious<br>Criminal law and environmental lawyer<br>Green Law Foundation                                       |
| <b>UNITED STATES OF AMERICA</b> | Alexa Cole<br>Deputy Chief<br>Enforcement Section at NOAA Office of<br>General Counsel                                  |
| <b>CITES SECRETARIAT</b>        | Daniel Kachelriess<br>Marine Species Officer<br>CITES Secretariat   |
|                                 | Sofie H. Flensburg<br>Legal Officer<br>CITES Secretariat  |

**FAO EXPERTS**

Blaise Kuemlangan  
Chief  
Development Law Service (LEGN)

Elizabeth-Rose Amidjogbe  
Fisheries and Port State Measures Legal  
Specialist Advisor  
Development Law Service (LEGN)

Kim Friedman  
Senior Fisheries Officer  
Marine and Inland Fisheries  
Fisheries and Aquaculture Department

Julia Nakamura  
Legal Consultant  
Development Law Service (LEGN)

Minmin Lei  
Associate Professional Officer  
Development Law Service (LEGN)

Nicola Ferri  
Fishery Officer (on Institutional and Legal  
matters)  
General Fisheries Commission for the  
Mediterranean

Shelley Clarke (Dr.)  
Shark and Bycatch Expert  
FISHCODE Programme  
Fisheries and Aquaculture Department

Yoon Jee Kim  
Fishery and Aquaculture Officer  
Product, Trade and Marketing  
Fisheries and Aquaculture Department

**UNODC**

Giovanni Broussard  
Regional Programme Coordinator  
Global Programme for Combating Wildlife  
and Forest Crime

### ANNEX 3 – ANALYTICAL EXERCISES FOR THE EXPERT WORKSHOP

*“Implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) through Fisheries Legal Frameworks”*

The Background Paper prepared by FAO-LEGN for the workshop provides the participants with an overview of the main issues concerning CITES, highlighting the importance of national implementation of the Convention, and the possible contribution that the fisheries sector, particularly fisheries legislation, may make towards CITES implementation. Notably, Part 4 and Annex E of the Background Paper provided information on potential approaches, options and considerations (elements) for implementing CITES through fisheries legal frameworks and examples of legislation or other sources that demonstrate the use of such options. The presentations and discussions of the workshop have added to the matters for consideration if it was agreed at the national level that the fisheries sector or fisheries legal frameworks were to contribute to the implementation of CITES.

The purpose of this analytical exercise is to:

1. reflect, review and build on the potential approaches, options and considerations for implementing CITES through fisheries legal frameworks highlighted and discussed in the Background paper and workshop; and,
2. verify, add to or elaborate the elements in a way which will allow them to be components or guidelines in a guidance document for the implementation of CITES through fisheries and fisheries related legal frameworks.

Participants are divided into three different groups (A,<sup>1</sup> B<sup>2</sup> and C<sup>3</sup>), each tasked to undertake the analytical exercise for different clusters of elements grouped under A (preliminary provisions), B (Management Provisions) and C (Enforcement Provisions) representing components of the typical structure of fisheries legislation. For each cluster, a number of questions are presented to stimulate discussion and further elaboration on what elements are relevant when reviewing or developing fisheries and fisheries related-legislation that promote sustainable fisheries and contribute to the conservation objectives of CITES. It is important to note that the clustering of components of fisheries legislation and the formation of the groups are merely for convenience in light of the constraints imposed by limited time and space and to facilitate collective analyses. They are by no means rigid and should not discourage participants from creating, renaming or changing the components, sections, sub-sections, terms used etc. It is also important to bear in mind that the ultimate objective of the Analytical Exercises, study and their outcomes which could be morphed into a guidance document, is to create opportunities for enhancing fisheries legal frameworks while providing the means for improved implementation of CITES in the fisheries sector.

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<sup>1</sup> Group A: Fabio Hazin, Daniel Kachelriess, Elizabeth-Rose Amidjogbe, Nicola Ferri, Julia Nakamura and Erik Molenaar.

<sup>2</sup> Group B: Kim Friedman, Shelley Clarke, Philippe Cacaud, Sofie Flensburg, Stefán Ásmundsson, Sylvia Bankobeza, Johann Vermeulen and Minmin Lei.

<sup>3</sup> Group C: Blaise Kuemlangan, Alexa Cole, Kaluhath Vikum Priyantha De Abrew, Kevin Pretrorius, Federico Castrogiovanni, Ganesan Vethiah, Giovanni Broussard and Yoon Jee Kim.

| FISHERIES<br>LEGISLATION  | QUESTIONS  |
|---|--|
| <b>PART I<br/>PRELIMINARY</b>   |  |
| Scope / Application   | <ul style="list-style-type: none"> <li>Should there be, in the scope or application of the fisheries legislation, any reference to the complementary/reinforcement nature of the fisheries legislation with respect to CITES?</li> </ul>   |
|   | <ul style="list-style-type: none"> <li>What potential conflicts of application of the legislation should be addressed?</li> </ul>  |
|   | <ul style="list-style-type: none"> <li>Should the scope/application include non-applicability provisions where the country has made reservations to the listing of species in one of CITES Appendices?</li> </ul>  |
|   | <ul style="list-style-type: none"> <li>Should there be specific considerations with respect to extraterritorial application and ability to exercise jurisdiction in areas beyond national jurisdiction?</li> </ul>   |
|   | <ul style="list-style-type: none"> <li>Please include additional relevant questions which must be answered by members of the Group where possible.</li> </ul>  |
| Definitions / Interpretations   | <ul style="list-style-type: none"> <li>Which terms or concepts of the CITES Model Law should be defined in fisheries legislation?</li> </ul>   |
|   | <ul style="list-style-type: none"> <li>Which of the terms and concepts of the CITES Model Law could be more appropriately defined or interpreted in a better way in the context of the fisheries sector?</li> </ul>  |
|   | <ul style="list-style-type: none"> <li>What other terms or concepts not mentioned in the CITES Model Law should be defined or interpreted in fisheries legislation?</li> </ul>   |
|   | <ul style="list-style-type: none"> <li>Should there be reference to the any fisheries authority or entity in the definition of MA?</li> </ul>  |
|   | <ul style="list-style-type: none"> <li>Should there be reference to the any fisheries authority or entity in the definition of SA?</li> </ul>  |
|   | <ul style="list-style-type: none"> <li>What concepts or terms are already defined in existing CITES specific legislation, which need not be re-defined in fisheries legislation and need only be referred to as being applicable for the purposes of the fisheries legislation?</li> </ul> |
| <ul style="list-style-type: none"> <li>Please include additional relevant questions which may be answered by members of the Group.</li> </ul> |  |

| FISHERIES<br>LEGISLATION   | QUESTIONS  |
|--|--|
| Objective / Purpose<br><br>Principles /<br>Approaches                            | <ul style="list-style-type: none"> <li>• What should the objectives of fisheries legislation include to reflect or implement CITES?</li> </ul>   |
|  | <ul style="list-style-type: none"> <li>• Which principles from general Environmental Law are relevant to or reflect CITES implementation in the fisheries sector and should be included in fisheries legislation?</li> </ul>                           |
|  | <ul style="list-style-type: none"> <li>• Other possible questions? Which considerations from <b>Trade Law</b>, if any, can assist the implementation of CITES in the fisheries sector and/or should be included in fisheries legislation?</li> </ul>   |
|  | <ul style="list-style-type: none"> <li>• Other possible questions? Which considerations from <b>Customs Law</b>, if any, can assist the implementation of CITES in the fisheries sector and/or should be included in fisheries legislation?</li> </ul> |
|  | <ul style="list-style-type: none"> <li>• Please include additional relevant questions which may be answered by members of the Group.</li> </ul>  |
| <b>PART II<br/>ADMINISTRATION</b>  |  |
| Institutional<br>arrangements<br><br>(Mandates and<br>Powers of<br>Institutions) | <ul style="list-style-type: none"> <li>• In addition to the specific duties of the MA and SA outlined in the CITES Model Law, what other relevant duties should be included?</li> </ul>  |
|  | <ul style="list-style-type: none"> <li>• What other fisheries-specific authorities and offices are engaged in practice with CITES issues and should be expressly considered in this subsection?</li> </ul>   |
|  | <ul style="list-style-type: none"> <li>• What are their mandates?</li> </ul>   |
|  | <ul style="list-style-type: none"> <li>• Please include additional relevant questions which may be answered by members of the Group.</li> </ul>  |
| Institutional<br>arrangements<br>(Stakeholder<br>Participation)                  | <ul style="list-style-type: none"> <li>• Which stakeholders should be involved in the process (e.g. consultation, participation, awareness, information-sharing, etc.) for the listing of species in CITES appendices?</li> </ul>                      |
|  | <ul style="list-style-type: none"> <li>• Which mechanisms or measures should be provided to engage the interests of relevant stakeholders?</li> </ul>  |
|  | <ul style="list-style-type: none"> <li>• What mechanisms should be provided to ensure all relevant stakeholders, including lower level authorities and small-scale fishers' participation?</li> </ul>  |

| FISHERIES<br>LEGISLATION  | QUESTIONS   |
|---|---|
|   | <ul style="list-style-type: none"> <li>Please include additional relevant questions which may be answered by members of the Group.</li> </ul>   |
| Institutional arrangements<br>(Coordination, Cooperation at national, regional and international levels, Integration) | <ul style="list-style-type: none"> <li>Which relevant regional entities, such as RFBs, should be expressly mentioned for cooperation purposes?</li> </ul>   |
|   | <ul style="list-style-type: none"> <li>Which relevant matters concerning legislations, plans and policies should be expressly mentioned for coordination and integration purposes?</li> </ul>       |
|   | <ul style="list-style-type: none"> <li>What mechanisms should be provided to ensure all relevant stakeholders, including lower level authorities and small-scale fishers' participation?</li> </ul> |
|   | 28. Please include additional relevant questions which may be answered by members of the Group.   |

### Group B 'Management' provisions

| FISHERIES<br>LEGISLATION             | QUESTIONS  |
|--------------------------------------|--|
| <b>PART III<br/>MANAGEMENT</b>       |  |
| Management objectives and principles | <ul style="list-style-type: none"> <li>Should there be separate management objectives/principles from the general objectives and principles for fisheries legislation?</li> </ul>      |
|                                      | 29. Please include additional relevant questions which may be answered by members of the Group.  |
| Catch/output controls                | <ul style="list-style-type: none"> <li>How to ensure that scientific data based on which catch limits are established is coordinated with the NDFs of a given species?</li> </ul>      |
|                                      | <ul style="list-style-type: none"> <li>Please include additional relevant questions which may be answered by members of the Group.</li> </ul>  |
| Input/effort controls                | <ul style="list-style-type: none"> <li>Should there be pre-conditions based on CITES which will make a potential applicant qualified or not to apply for a fishing licence?</li> </ul> |

| FISHERIES<br>LEGISLATION   | QUESTIONS   |
|--|---|
|  | <ul style="list-style-type: none"> <li>• What conditions could be placed in licensing schemes to ensure protection of CITES-listed species?</li> </ul>  |
|  | <ul style="list-style-type: none"> <li>• Should there be any specific considerations for IFS with respect to licensing of foreign fishing vessels?</li> </ul>   |
|  | <ul style="list-style-type: none"> <li>• Please include additional relevant questions which may be answered by members of the Group.</li> </ul>   |
| Moratoria, prohibitions and other controls on fishing gears, method, spatial and temporal controls | <ul style="list-style-type: none"> <li>• How to address the problems of bycatch and ghost fishing of CITES-listed marine species?</li> </ul>  |
|  | <ul style="list-style-type: none"> <li>• Please include additional relevant questions which may be answered by members of the Group.</li> </ul>   |
| Trade in Fisheries and Aquaculture Products  | <ul style="list-style-type: none"> <li>• In addition to the requirements detailed in the CITES Model Law, what other conditions could be imposed for the export of species included in each of the CITES appendices?</li> </ul> |
|  | <ul style="list-style-type: none"> <li>• And for the import of species included in each of the CITES appendices?</li> </ul>   |
|  | <ul style="list-style-type: none"> <li>• And for the re-export of species included in each of the CITES appendices?</li> </ul>  |
|  | <ul style="list-style-type: none"> <li>• And for the introduction from the sea of species included in each of the CITES appendices?</li> </ul>  |
|  | <ul style="list-style-type: none"> <li>• What would be improved was of legislating for export quotas?</li> </ul>  |
|  | <ul style="list-style-type: none"> <li>• Please include additional relevant questions which may be answered by members of the Group.</li> </ul>   |
| Fisheries management plans / Listing of species  | <ul style="list-style-type: none"> <li>• What CITES-related issues should be included within the content of FMPs?</li> </ul>  |
|  | <ul style="list-style-type: none"> <li>• How to ensure NDFs and LAFs are included and provided in FMPs?</li> </ul>  |

| <b>FISHERIES LEGISLATION</b>      | <b>QUESTIONS</b>   |
|-----------------------------------|--|
|                                   | <ul style="list-style-type: none"> <li>• How could States provide for the listing of species in alignment with CITES?</li> </ul>                                   |
|                                   | <ul style="list-style-type: none"> <li>• How often should the list of protected marine species be reviewed?</li> </ul>   |
|                                   | <ul style="list-style-type: none"> <li>• Please include additional relevant questions which may be answered by members of the Group.</li> </ul>                    |
| Conservation measures             | <ul style="list-style-type: none"> <li>• What other conservation measures should be considered in addition to those outlined in the Background Paper?</li> </ul>   |
|                                   | <ul style="list-style-type: none"> <li>• Please include additional relevant questions which may be answered by members of the Group.</li> </ul>                    |
| Fisheries monitoring and research | <ul style="list-style-type: none"> <li>• What are the issues that need further research with respect to CITES implementation in the fisheries sector?</li> </ul>   |
|                                   | <ul style="list-style-type: none"> <li>• Which other implications exist of having commercially-exploited marine species listed in Appendix II of CITES?</li> </ul> |
|                                   | <ul style="list-style-type: none"> <li>• Please include additional relevant questions which may be answered by members of the Group.</li> </ul>                    |

### Group C 'Enforcement' provisions

| <b>FISHERIES LEGISLATION</b> | <b>QUESTIONS</b>   |
|------------------------------|--|
| <b>PART IV MCS</b>           | <b>ARE THERE LAWS IN PLACE THAT SPECIFICALLY CONCERN TO FISHERIES LEGISLATION/LEGAL FRAMEWORK?</b>   |
| Observer programme           | <ul style="list-style-type: none"> <li>• Which specific responsibilities and training should the observer have with respect to assisting in ensuring CITES implementation and what information should they be collecting?</li> </ul> |

| FISHERIES<br>LEGISLATION  | QUESTIONS  |
|---|--|
| Inspection scheme   | <ul style="list-style-type: none"> <li>• Which authorized officers, besides customs and quarantine officers, and which agencies should be involved in CITES implementation?</li> <li>• Are the inspection officers trained accordingly and are trained/competent officers present and available?</li> <li>• Which other enforcement powers/authorities should the authorised officer have in order to combat illegal fisheries trade?</li> </ul> |
|   | <ul style="list-style-type: none"> <li>• Should the provisions of hot pursuit, if any, expressly refer to violation of CITES?</li> </ul>   |
|   | <ul style="list-style-type: none"> <li>• How does the authorized officer determine whether the case is IFS or import/export operation?</li> </ul> <p>30. Should there be any reference to IFS issues in the mandates of authorised officers in exercising power for CITES implementation?</p>  |
| Reporting   | <ul style="list-style-type: none"> <li>• Is there a mechanism in place for reporting to MA? Who does the reporting and was there delegation of authority/power?</li> </ul> <p>31. Is there a direct line of communication, prompt/timely information sharing and coordination mechanisms?</p>  |
|   | <p>32. Are there applicable anti-corruption provisions or provisions addressing cases of non-reporting for CITES cases?</p>  |
| Catch<br>Documentation<br>Schemes   | <ul style="list-style-type: none"> <li>• Are there timeframes or time limits within the laws for documentation submission, review and validation?</li> </ul> <p>33. What other documentation schemes should be considered in addition to those outlined in the Background Paper?</p>   |
| Controls on<br>transshipment and<br>landing [Drafting<br>consideration:<br>Need to consider<br>IFS and its<br>parameters;<br>definition of IFS<br>under national law] | <p>34. How should the interpretative issues on IFS be addressed by the legislation? [This question should not be in this section]</p>  |
| Registration and<br>marking [Drafting<br>consideration: if  | <ul style="list-style-type: none"> <li>• Which other registration provisions should be considered in addition to those outlined in the Appendix E of the Background Paper?</li> </ul>  |

| FISHERIES<br>LEGISLATION   | QUESTIONS  |
|--|--|
| the national law already includes general fisheries registration and vessel/gear marking provisions separate CITES-focused registration and marking provisions might be redundant] | <ul style="list-style-type: none"> <li>• And with respect to marking?</li> </ul>   |
| <b>PART V<br/>ENFORCEMENT</b>  | <p><b>DO THE ENFORCEMENT BODIES HAVE THE FULL AUTHORITY AND POWERS NECESSARY TO ACT AND INVESTIGATE?</b></p> <p><b>DOES THE FISHERIES LAW INCLUDE PROVISIONS DELEGATING AUTHORITY TO LAW ENFORCEMENT OFFICERS?</b></p> <p><b>DOES THIS AUTHORITY COVER THE FULL SCOPE OF CITES-RELATED OFFENCES THAT THIS LAW WOULD RELATE TO?</b></p> <p><b>DO THE OFFICERS HAVE ADEQUATE TRAINING AND CAPACITY TO CARRY OUT THEIR RESPONSIBILITIES?</b></p>  |
| <b>INFORMATION<br/>SHARING/<br/>COORDINATION</b>   | <ul style="list-style-type: none"> <li>• Are there specific information sharing provisions in place? Do these provisions cover information sharing amongst domestic agencies and also with foreign governments and other entities? Do these provisions include references to: sharing of MCS data, DNA sampling information, etc.?</li> <li>• Are there specific coordination mechanisms in place concerning the MA and other authorities to ensure legality of the trade activity?</li> </ul>   |
| Offences /<br>Penalties  | <ul style="list-style-type: none"> <li>• Does the law prohibit importing from the sea without proper documentation?</li> <li>• Does the law include all possible CITES-related offences?</li> <li>• Are the penalties appropriate to the nature of the violation?</li> <li>• Does the law make reference to the schedules of appendices of species as regards to marine/aquatic species? How are changes to the appendices of species captured within the laws? How are the changes notified to the public?</li> <li>• Does the fisheries law articulate specific offences concerning CITES-related violations and provide for flexibility to determine administrative and criminal penalties? Are the penalties linked to the value of the consignment?</li> <li>• What other offences should be considered in addition to those outlined in the Appendix E of the Background Paper?</li> </ul> |

| FISHERIES<br>LEGISLATION                   | QUESTIONS  |
|--|--|
|  | <ul style="list-style-type: none"> <li>• Does the law consider</li> <li>• What linkages could be made with respect to compounding of offences and CITES?</li> </ul>  |
|  | <ul style="list-style-type: none"> <li>• Other possible questions? Which considerations from <b>Criminal Law</b>, if any, can assist the implementation of CITES in the fisheries sector and should be include in fisheries legislation?</li> <li>• In default of an offence that attracts a penalty of a fine, does the law provide for imposing a custodial sentence (in cases that are appropriate, in accordance with international law)?</li> </ul> <p>35. Should acts of participation relevant to the offence (i.e. conspiracy, failure to give information, false information to authorized officers) be made criminally liable?</p> |
| Administrative/<br>Judicial<br>proceedings | <ul style="list-style-type: none"> <li>• Should there be specific special proceedings for the court to follow in evaluating offences concerning marine species included in CITES appendices? [NO!]</li> </ul>  |
| <b>PART VI<br/>REGULATIONS</b>             |  |
| Miscellaneous<br>matters                   | <ul style="list-style-type: none"> <li>• Which other matters should be the subject of regulations?</li> </ul>  |
|  | <ul style="list-style-type: none"> <li>• Please include additional relevant questions which may be answered by members of the Group.</li> </ul>  |

This is the report of the First FAO Expert Workshop for the Assessment of Proposals on Implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) through Fisheries Legal Frameworks, held at FAO headquarters from 6 to 8 May 2019. The meeting of the Expert Workshop was funded as a product of the collaboration between the CITES Secretariat and FAO under Project EP/INT/334/UEP CITES-FAO *Collaboration to Strengthen the Capacity of Developing Countries to Ensure the Sustainability, Legality and Traceability of International Trade in CITES-listed Species, with a Focus on Commercially-Exploited Aquatic Species*. The figures presented in this document are reproduced as they appear in the source materials from which they were obtained: there is thus some variability in terms of languages, image quality and labelling styles.

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