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COMMITTEE ON FISHERIES

SUB-COMMITTEE ON FISH TRADE

Eleventh Session

Bremen, Germany, 2 – 6 June 2008

CITES ISSUES WITH RESPECT TO INTERNATIONAL FISH TRADE

SUMMARY

This document provides an updated overview of the CITES-related activities undertaken by the FAO Fisheries and Aquaculture Department. These include the outcome of the second ad hoc Advisory Panel that evaluated proposals to amend CITES Appendices with commercially-exploited aquatic species, and the work conducted by FAO to improve capacity in the assessment and management of listed species.

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INTRODUCTION

1. The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is an international agreement established with the objective to protect and conserve endangered species by ensuring that their survival is not threatened by international trade. Roughly 5000 species of animals and 28000 species of plants are protected by CITES against over-exploitation through international trade. Those species are listed in one of three Appendices, and international trade in these species is controlled according to the degree of protection they require.
2. The CITES Appendices currently include close to 100 commercially-exploited aquatic species of fish, molluscs and echinoderms, including amongst others, sturgeons (*Acipenseriformes*), whale shark (*Rhincondon typus*), Napoleon wrasse (*Cheilinus undulatus*), Caribbean queen conch (*Strombus gigas*), giant clams (*Tridacnidae*) and sea cucumber (*Isotichopus fuscus*).
3. The increased involvement of CITES in aquatic species exploited by fisheries raised several concerns by FAO Member Countries on the application of the Convention to commercially-exploited aquatic species. A substantive workplan for FAO on CITES in relation to commercially-exploited aquatic species was approved by the 25th Session of the Committee on Fisheries (COFI) in 2003. This report provides an updated overview of the CITES related activities undertaken by the FAO Fisheries and Aquaculture Department since the 10th Session of the Sub-Committee on Fish Trade (COFI:FT) in May 2006, including work conducted under the workplan and a subsequent Trust Fund Project on “CITES and commercially-exploited aquatic species, including the evaluation of listing proposals” funded by the Government of Japan.
4. A Memorandum of Understanding (MoU) between FAO and CITES was adopted by the 10th Session of the COFI Sub-Committee on Fish Trade in 2006 and signed by FAO and CITES during the 54th Meeting of the Standing Committee of CITES, in October 2006. The MoU formalizes the intentions of the two organizations in strengthening cooperation on issues related to commercially aquatic species listed in CITES Appendices and has been considered an important achievement by many FAO Member Countries and Parties to CITES.
5. The Organization has held two ad hoc Panels to evaluate listing proposals submitted to the last two Conferences of the Parties to CITES (CoP-13 in 2004 and CoP-14 in 2007). This report presents a brief summary of the outcomes of CoP-14 in relation to the FAO Panel recommendations. FAO has also been addressing legal and implementation issues associated to the application of CITES to commercially-exploited species. The legal interpretation of the term “Introduction from the Sea” of the Convention has received particular attention in recent years. Despite the fact that no commercially important species fished in the high seas has yet been listed in CITES Appendices, the lack of a clear understanding of the meaning of “Introduction from the Sea” and of the responsibilities of Parties with regards to species caught beyond national jurisdictions precludes the proper application of this part of the Convention. Recent advances in the interpretation of the term are described in this report. Further, FAO has been playing an active role in promoting capacity building of Member Countries on issues related to commercially-aquatic species listed in CITES Appendices. This report provides a brief description of the work undertaken on sharks, queen conch, sea cucumbers and humphead wrasse.

FAO AD HOC EXPERT ADVISORY PANEL FOR THE ASSESSMENT OF PROPOSALS TO AMEND CITES APPENDICES

6. The 25th Session of COFI (2003) established the Terms of Reference (ToR) for an ad hoc Expert Advisory Panel for assessment of listing proposals to CITES concerning commercially-

exploited aquatic species. The ToR defined the process and composition of a technical panel, which should be established by the FAO Secretariat in advance of each Conference of the Parties to CITES (CoP), with the main task to assess proposals from a scientific perspective and in accordance with CITES biological listing criteria. The Panel was also responsible for commenting on technical aspects of the proposals in relation to biology, ecology, trade and management issues. The first ad hoc Advisory Panel met in July 2004 to consider proposals submitted to the CoP-13.

7. Following the endorsement of the 26th Session of COFI, the 10th Session of the COFI:FT agreed that FAO should convene an ad hoc Expert Advisory Panel to assess listing proposals made to the CoP-14 and for subsequent meetings of the CITES CoPs. It was also agreed that the Sub-Committee should evaluate, after each CITES CoP, whether the Panel recommendations had been taken into account and, if not, why they had not been.

8. The second ad hoc Advisory Panel met in Rome, Italy, from 26 to 30 March 2007, hosted by FAO with funding from the FAO Regular Programme and the Trust Fund Project “CITES and commercially-exploited aquatic species”. The Panel consisted of a core group made up of nine members, thirteen species and implementation experts, a member of the CITES Secretariat, and members of the FAO Secretariat. The Panel considered the following seven proposals submitted to the CoP-14 (The Hague, 3 – 15 June 2007):

- *Lamna nasus* (porbeagle shark) to be included in Appendix II;
- *Squalus acanthias* (spiny dogfish) to be included in Appendix II;
- all species of the family Pristidae (sawfishes) to be included in Appendix I;
- *Anguilla anguilla* (European eel) to be included in Appendix II;
- *Pterapogon kauderni* (Banggai cardinalfish) to be included in Appendix II;
- *Panulirus argus* and *P. laevicauda* of the Brazilian lobster population to be included in Appendix II;
- all species in the genus *Corallium* (red/pink corals) to be included in Appendix II.

9. The Panel supported the inclusion of European eel (*Anguilla anguilla*) in Appendix II (controlled trade) and of all species of sawfishes (Pristidae) in Appendix I (no commercial trade allowed). It did not support the remaining five proposals to include species in Appendix II because, according to the Panel evaluation of the proposals, the species did not meet the biological criteria for listing commercially-exploited aquatic species in Appendix II specified in CITES Res. Conf. 9.24 (Rev. CoP-13).

10. Contrary to the assessments of the FAO ad hoc Panel, the recommendations produced independently by the CITES Secretariat on the listing proposals proposed that, with the exception of lobsters, all other 6 listing proposals be accepted by CITES Parties. In the view of the FAO Secretariat, the divergent recommendations from the CITES Secretariat were inconsistent with the agreed biological criteria for listing commercially-exploited species contained in CITES Res. Conf. 9.24 (Rev. CoP-13). After failed attempts to resolve the divergences by means of exchange of letters between the two Secretariats prior to the CoP meeting, the issue was brought to the attention of COFI members and CITES Parties¹ independently by each Secretariat.

11. After considerable discussions during the CoP-14 meeting, decisions made by Parties on the proposals for listing commercially-exploited aquatic species were all in line with the FAO ad hoc Panel recommendations. Two proposals were accepted (European eel and sawfishes) and five were rejected (spiny dogfish, porbeagle, red/pink corals) or withdrawn by proponents (cardinalfish and Brazilian lobster populations).

¹ Copies of two of the three letters exchanged between FAO and CITES Secretariats were made available as an Information Document in the CoP-14 meeting.

THE INTERPRETATION OF “INTRODUCTION FROM THE SEA”

12. In accordance with a decision adopted at the CoP-13 and the guidance provided by the Standing Committee at its 53rd meeting (Geneva, June – July 2005), a CITES workshop on “Introduction from the Sea” issues was held in Geneva in 2005. The workshop report, which included a draft resolution with a definition of the term “marine environment not under the jurisdiction of any State”, was submitted to the 54th Meeting of the Standing Committee for endorsement as a discussion paper for CoP-14. Due to disagreements among Parties on the definition of the term, a Working Group was established to elaborate a revised definition to be submitted for consideration of Parties at CoP-14.

13. The revised definition of the term “marine environment not under the jurisdiction of any State”, adopted by consensus at CoP-14, states:

‘the marine environment not under the jurisdiction of any State means those marine areas beyond the areas subject to the sovereignty or sovereign rights of a State consistent with international law, as reflected in the United Nations Convention on the Law of the Sea.’

14. The CoP-14 also adopted a resolution that directed the Standing Committee to establish a Working Group on “Introduction from the Sea” to prepare a discussion paper and draft a revised resolution for consideration at CoP-15. The discussion paper and draft resolution will consider the term ‘transportation into a State’, clarification of the term ‘State of introduction’, the process for issuing an introduction from the sea certificate as well as other issues identified for further consideration in the final report of the CITES Workshop on Introduction from the Sea Issues. FAO is a member of the Working Group and is currently developing a study on the application of the term “Introduction from the Sea”, which is expected to contribute to the discussion paper and draft resolution.

ASSISTANCE IN RELATION TO LISTED SPECIES

SHARKS

15. With the slow progress in the implementation of the IPOA-Sharks by FAO Member countries, and fuelled by a strong criticism from NGOs and Parties on the lack of a stronger role of FAO in fostering shark fisheries management internationally, there has been an increasing level of attention from CITES on the conservation of shark species affected by international trade.

16. In the above context, CITES requested FAO to convene a workshop on shark management to promote the development and implementation of national plans of action for shark conservation and management. In response to this request, and with the endorsement of the 26th Session of COFI, FAO undertook an Expert Consultation to Review Implementation of the International Plan of Action (IPOA) for Sharks at National Levels, in Rome 6 – 8 December 2005.

17. The results of the consultation, published as a FAO Fisheries Report in 2006² and forwarded to the CITES Secretariat, indicated several problems that were hampering the implementation of the IPOA-Sharks. These included: 1) the lack of information on population biology and catch and effort data needed to inform management decision; 2) the low political priority to shark fisheries resulting in a lack of effective policy and institutional practice; and 3) a basic lack of funds and human resources to manage shark fisheries at the national level. It was

² Report of the FAO Expert Consultation on the Implementation of the FAO International Plan of Action for the Conservation and Management of Sharks. Rome, 6–8 December 2005. FAO Fisheries Report. No. 795. Rome, FAO. 2006. 24p.

also concluded that the voluntary basis of the IPOA-Sharks did not provide the necessary incentives to increase political attention to shark fisheries management.

18. Informed by the results of the Expert Consultation and based on the work of the Sharks Working Group of the CITES Animals Committee, the Animals Committee elaborated draft decisions concerning future activities of CITES on sharks. At CoP-14 the draft decisions were revised and adopted by Parties. Of the adopted decisions directed to CITES Parties, Secretariat and Animals Committee, the following have direct relevance to FAO³:

- to refine the list of shark species of concern because of the effect of international trade;
- to organize a regional workshop on trade and sustainable management of South American freshwater stingrays;
- to organize a capacity building workshop on the conservation and management of sharks (using the coastal sharks *Galeorhinus galeus* as a case study);
- to encourage Parties “through their delegations to COFI, to call on FAO to facilitate greater support for countries whose capacity to assess and manage their shark fisheries is limited, and to provide the resources necessary for FAO to undertake this work”;
- to encourage top shark fishing nations to implement the FAO IPOA-Sharks as a matter of priority;
- to examine and report on linkages between the trade in shark fins and meat and IUU shark fishing activities.

19. The shark species currently listed on CITES Appendices are the white shark *Carcharodon carcharias*, whale shark *Rhincodon typus* and basking shark *Cetorhinus maximus*, all three listed in Appendix II. In addition, at CoP-14 it was decided to include all seven species of sawfishes (family *Pristidae*) in Appendix I.

20. The 27th Session of COFI in 2007 concurred that efforts towards implementing the IPOA-Sharks were improving, but that further intensive work was required. Noting the concerns being expressed in CITES and FAO about the short-comings in management of shark fisheries in many areas of the world, and the significant international trade in shark products (e.g. meat and fins), it is likely that there will be strong incentives for Parties to propose listing more commercially-exploited species of shark in CITES Appendices in the future, unless FAO Member Countries that have not already done so take firm steps towards the implementation of the IPOA-Sharks. It is noteworthy that during the CoP-14 meeting a flier was distributed to participants by the Species Survival Network (a coalition of over 80 NGOs) calling attention to the fact that only six of the top 20 shark fishing nations had developed NPOAs for sharks and proposing an increasing role for CITES in shark conservation. A copy of the flier is attached to this report as an Annex. The limited progress by FAO Member Countries is providing a justification for some CITES Parties and Observers to call for a greater role for CITES.

21. FAO is currently undertaking a study on the assessment of the biological status of sharks species threatened by international trade, funded by the Trust Fund project “CITES and commercially-exploited aquatic species”. The study will provide a focus for further activities of the Organization on the development of capacity for the conservation and management of shark species most affected by international trade.

CARIBBEAN QUEEN CONCH

22. Considering the need to improve capacity in the wider Caribbean region for the management of queen conch fisheries, a Regional Workshop on the Monitoring and Management of Queen Conch, *Strombus gigas*, was held in Kingston, Jamaica, 1 – 5 May 2006. The workshop was jointly organised by FAO WECAFC and UNEP Caribbean Environment Programme (UNEP-CEP) and sponsored by the FAO Project GCP/INT/987/JPN “CITES and Commercially-exploited

³ Decisions 14.101 to 14.117 (available at http://www.cites.org/eng/dec/valid14/14_101-117.shtml).

Aquatic Species”, UNEP-CEP, the Caribbean Fishery Management Council (CFMC) and the Caribbean Regional Fisheries Mechanism (CRFM). The workshop was attended by most queen conch range States in the wider Caribbean and led to several recommendations for improving queen conch fisheries management at national and regional levels. The results of the workshop were published as a FAO Fisheries Report in 2007⁴.

SEA CUCUMBERS

23. International trade in sea cucumber (beche-de-mer) is considered by CITES to be a significant conservation issue, particularly considering the poor status of sea cucumber fisheries management worldwide. Ecuador is currently the only country that has listed a species of sea cucumber (*Isostichopus fuscus*) in CITES Appendix III, in an attempt to control the overfishing of the species resulting from illegal international trade.

24. CITES held, in March 2004, a technical workshop to consider and review biological and trade information to assist establishing conservation priorities for sea cucumbers. Results from the workshop on the value of a CITES listing were not conclusive because of insufficient information available at that stage, on which to base an evaluation of the conservation benefits of such listing. It was, however, recommended that further CITES considerations for certain species and countries be examined. Attention by CITES since then has been on the development of recommendations for Parties to improve the conservation of sea cucumber stocks. At CoP-14, Parties adopted a decision that brings to the specific attention of FAO the need to increase efforts to address current challenges in the sustainable management of sea cucumber fisheries.

25. At the 26th Session of COFI in 2005, several Members suggested that it would be beneficial for FAO to develop a sea cucumber management strategy and to review the global status of that taxonomic group. Through the Trust Fund Project "CITES and Commercially-exploited Aquatic Species", FAO has initiated several activities aimed at improving knowledge and capacity for the management of commercially-exploited sea cucumber species. The activities include the review and analysis of the available information on the global status of commercially-exploited sea cucumber stocks and on any "hot spots" where management action may be particularly urgent, the production of guides to facilitate the identification of sea cucumber species and products in trade, and the development of technical guidelines for the sustainable management of sea cucumber fisheries. Draft technical guidelines were developed during a technical workshop in the Galapagos Islands, from 19 to 23 of November 2007. The final guidelines are expected to be finalized and distributed during the course of 2008.

HUMPHEAD WRASSE

26. Since the listing of humphead (Napoleon) wrasse, *Cheilinus undulatus*, on CITES Appendix II in 2004, FAO has been actively involved in the development of approaches and guidelines for the assessment and management of the species. In collaboration with IUCN Groupers and Wrasses Specialist Group, and funded by the Trust Fund Project "CITES and commercially-exploited species", a stock assessment approach⁵ was developed to assist range States in the evaluation of non-detrimental findings for the species. The approach has been used by Indonesia, the main exporter of humphead wrasse, to evaluate sustainable export quotas for the species. In addition, FAO is currently preparing technical guidelines for the monitoring and managing of live reef fish fisheries targeting the species. The development of the guidelines was

⁴ Report of the Regional Workshop on the Monitoring and Management of queen conch, *Strombus gigas*. Kingston, Jamaica, 1 – 5 May 2006. FAO Fisheries Report No. 832. Rome, FAO.2007. 174 p.

⁵ Sadovy, Y; Punt, A.E.; Cheung, W.; Vasconcellos, M.; Suharti, S.; Mapstone, B.D. 2007. Stock assessment approach for the Napoleon fish, *Cheilinus undulatus*, in Indonesia. A tool for quota-setting for data-poor fisheries under CITES Appendix II, Non-Detriment Finding requirements. FAO Fisheries Circular. No. 1023. Rome, FAO. 2007. 71pp. Contains a CD-ROM.

identified as a priority by range States during the Western Pacific Workshop on Policy, Enforcement and Sustainable Trade for the CITES Appendix II – listed Humphead (Napoleon) Wrasse, *Cheilinus undulatus*, held in Hong Kong, 5 – 7 June, 2006, and jointly organized by CITES, IUCN, TRAFFIC and WWF.

FUTURE ACTIVITIES BY FAO

27. Within the means and resources available to it, FAO will continue to provide assistance to Member Countries and regions to improve their ability to implement CITES regulations concerning commercially-exploited species that have been listed in CITES Appendices. In this regard, the Government of Japan is thanked for the funds provided for the implementation of the Trust Fund Project “CITES and commercially-exploited species”, which has enabled many of the recent activities of FAO on CITES issues reported in this report.

28. FAO is also committed to strengthening the implementation of the IPOA-Sharks by assisting Member Countries in the development and implementation of National Plans of Action for the conservation and management of sharks. Through the Trust Fund Project “CITES and commercially-exploited species” efforts will be directed to evaluate potential management measures to improve the status of the shark species considered most threatened by international trade.

29. Finally, FAO is also planning to work on approaches to address enforcement and identification issues in order to avoid unnecessary listing of look-alike species and to facilitate the implementation of split listing of species in CITES. This is consistent with one of the key recommendations from the 2004 FAO Expert Consultation on implementation issues. A workshop to address this topic is scheduled for 2008.

ACTIONS BY COFI:FT

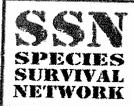
30. The Sub-Committee may wish to consider the process and the outcomes of the second meeting of the FAO ad hoc Advisory Panel and the response of CITES CoP-14 to its recommendations. Based on this, the Sub-Committee may wish to advise COFI on whether any changes to the Terms of Reference or other aspects of the implementation of the Panel may be desirable.

31. COFI:FT may wish to consider how best to address the justified criticisms by some CITES Parties and Observers concerning slow progress in implementation of the IPOA-Sharks. Concerns related to the progress of the IPOA-Sharks were also expressed at the 27th Session of COFI. The Committee concurred that, despite progress made in recent years, further intensive work was required to improve the implementation of the programme.

32. The Sub-Committee may wish to comment on priorities for FI for future work with CITES within the framework of the MOU. In doing so, consideration should be given to the fact that nearly all of the work over the last two to three years by the Fisheries and Aquaculture Department on CITES-related issues has only been possible because of the funds provided by the Government of Japan through the Trust Fund project on CITES. That project is due to come to an end in December 2010. Consideration will need to be given to locating the resources necessary to undertake any substantive work beyond the scope of the existing project or after it has come to an end.

Flier distributed to participants of the CoP-14 by the Species Survival Network⁶ on the role of FAO on shark fisheries management.

ANNEX



"Working within CITES for the protection and conservation of species in international trade"
Prepared by the Species Survival Network and the Shark Alliance

DOES FAO MANAGE SHARKS?

No. FAO is not a fisheries management body, nor does it manage trade in sharks.

According to the FAO website: "The mission of the Fisheries and Aquaculture Department of FAO is to facilitate and secure the long-term sustainable development and utilization of the world's fisheries and aquaculture." To fulfill this mission, FAO provides **technical assistance** on fisheries management and development **"on the request of Members."**

FAO does not manage fisheries and has no jurisdiction over trade:

- FAO does not set or enforce quotas for any fish or invertebrate species or stock, including sharks
- FAO does not regulate international trade in any fish or invertebrate species or stock
- FAO cannot sanction noncompliance with its guidelines

What FAO does:

- FAO collects, analyzes and disseminates information and statistics
- FAO assesses and monitors the state of resources and "elaborates" management advice
- FAO provides socio-economic analysis of fisheries and assists in the elaboration of management policies, strategies and institutions
- FAO supports and assists regional fishery commissions
- FAO monitors and advises on fish trade

SHOULD REGIONAL FISHERIES MANAGEMENT ORGANIZATIONS (RFMOs) MANAGE SHARKS?

Yes, but they have not done so. Nor do they have a mandate to regulate trade.

No RFMO has implemented a binding quota on any shark species (there is one RFMO quota for one species of skate, a relative of sharks)

ARE SHARKS ADEQUATELY PROTECTED BY IPOA-SHARKS?

FAO's International Plan of Action for Sharks (IPOA-Sharks) is a **voluntary guidance document**.

Countries have no legal obligation to implement or comply with IPOA-Sharks. Its recommendations cannot be enforced and violations cannot be sanctioned.

Only 6 of the 20 largest shark fishing nations have adopted National Plans of Action.

2100 L Street NW, Washington, DC 20037 USA
Tel: +1 301-548-7769 Fax: +1-202-318-0891 Email: info@ssn.org website: www.ssn.org

LACK OF PROGRESS ON IPOA SHOULD NOT DELAY ACTION BY CITES

In Resolution Conf. 12.6, on Conservation and management of sharks, the CITES Parties:

- Noted the significant lack of progress with the development and implementation of NPOAs;
- Expressed concern that insufficient progress has been made in achieving shark management through the implementation of IPOA-Sharks except in States where comprehensive shark assessment reports and NPOA-Sharks have been developed;
- Agreed that a lack of progress in the development of the FAO IPOA-Sharks is not a legitimate justification for a lack of further substantive action on shark trade issues within the CITES forum;
- Directed the Animals Committee to make species-specific recommendations at the 13th meeting and subsequent meetings of the Conference of the Parties if necessary on improving the conservation status of sharks and the regulation of international trade in these species;
- Recommended that Parties continue to identify endangered shark species that require consideration for inclusion in the Appendices, if their management and conservation status does not improve.

Additional information on the role of FAO in managing shark fisheries and evaluating CITES listing proposals is contained in Document Inf. 48, distributed by Germany on behalf of the EC. All Parties are encouraged to review that document for further detail.

⁶ SSN is an international coalition of over eighty non-governmental organizations (NGOs), including, for example, International Fund for Animal Welfare (IFAW) and Greenpeace. The SSN is "committed to the promotion, enhancement, and strict enforcement of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)" (www.ssn.org).