

April 2010

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COMMITTEE ON FISHERIES

SUB-COMMITTEE ON FISH TRADE

Twelfth Session

Buenos Aires, Argentina, 26-30 April 2010

**UPDATE ON THE 15TH CITES CONFERENCE OF PARTIES
13-25 MARCH 2010, DOHA, QATAR**

SUMMARY

The CITES CoP15 met in Doha in March 2010 and considered six proposals to list commercially exploited aquatic species on which a FAO Expert Advisory Panel had provided scientific recommendations in December 2009. The Panel had concluded that the species being proposed for listing met the relevant criteria in three cases and partly supported a fourth proposal which included five shark species. The Panel advised that the species addressed by the remaining two proposals did not meet the criteria. The CoP15 did not agree on listing any of these aquatic species. In addition, the Conference set up an intersessional process to resolve the issue of different interpretation of the CITES Appendix II listing criteria for commercially exploited aquatic species as well as an intersessional working group to discuss matters related to the "Introduction from the Sea".

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INTRODUCTION

1. During the 15th Conference of the Parties from 13-25 March 2010 in Doha (Qatar), the CITES Parties decided on 42 proposals to amend Appendices I and II of the CITES Convention and discussed administrative and strategic matters of the organization. The meeting was attended by delegates from over 150 Parties to CITES, as well as by several IGOs and a large number of NGOs.
2. Of particular interest to COFI:FT were the decisions regarding six proposals concerning commercially exploited aquatic species which had been assessed by a FAO Expert Advisory Panel in December 2009. The Panel had concluded that four of these proposals (including Atlantic bluefin tuna and three shark species) fulfilled the CITES listing criteria whereas two (Spiny dogfish and the coral family Coralliidae) did not.
3. Other matters directly relevant to COFI are also addressed in this information paper.

COOPERATION BETWEEN FAO AND CITES

4. In recent years the cooperation between FAO and CITES has been extensive and fruitful as reported by the CITES Secretariat to the CoP15¹. Its report was drafted with input by FAO and touches on areas of general collaboration and communication between the two organizations, the scientific and technical evaluation of proposals to amend CITES Appendices I and II, issues related to introduction from the sea, capacity building related to commercially-exploited aquatic species, and future activities. Under this agenda item at CoP15, the representative from FAO agreed with the information presented in CoP15 Doc. 10.2 and reported on some on-going and planned activities.
5. Also in relation to cooperation between FAO and CITES, CoP15 proposed an amendment to the MoU with FAO to include cooperation with the FAO Forestry Department.

DECISION ON LISTING PROPOSALS

6. A two-thirds majority of votes is required by CITES to accept a listing proposal; abstentions are not counted. This majority was not achieved for any of the listing proposals for commercially aquatic species and all were rejected after lively and controversial debate. The discussion was particularly divided with regard to Atlantic bluefin tuna; while many acknowledged the recommendations of the FAO Expert Advisory Panel and did not challenge the conclusions of the Panel that this species had fulfilled the listing criteria for CITES Appendix I, they argued that CITES was not the right instrument for regulating this species. In other proposals on commercially-exploited aquatic species, some extended this argument to food fishes in general and were of the view that they should rather be managed by Regional Fisheries Management Organizations or under the auspices of FAO.
7. The overall result meant that in all cases in which the Panel had concluded that a species met the relevant biological criteria, CoP15 nevertheless rejected the proposal. Nonetheless, the Panel recommendations were frequently referred to and appreciated by Parties and the actual voting did appear to have been influenced by the recommendations of the FAO Expert Advisory Panel. With the exception of Atlantic bluefin tuna, those proposals that the FAO Panel concluded had met the CITES listing criteria were supported by clear majorities ranging from 59 percent (Scalloped hammerhead shark) to 65 percent (Porbeagle shark) – whereas those that were rejected

¹ CoP15 Doc. 10.2 at <http://www.cites.org/eng/cop/15/doc/E15-10-02.pdf>.

by the FAO Panel received under (Spiny dogfish) or barely over (Red and Pink corals) 50 percent of the CITES votes².

THE ROLE OF THE FAO EXPERT ADVISORY PANEL

8. The terms of reference for the FAO Expert Advisory Panel, as adopted by the 25th Session of COFI in 2003, state that the Panel should “*assess each proposal from a scientific perspective in accordance with the CITES biological listing criteria, taking account of the recommendations on the criteria made to CITES by FAO and comment, as appropriate, on technical aspects of the proposal in relation to biology, ecology, trade and management issues, as well as, to the extent possible, the likely effectiveness for conservation*”.

9. In the three meetings of the Panel to date, considerable emphasis has been placed on evaluating the proposal in terms of the biological listing criteria. In the view of the FAO Secretariat, and evidenced by widespread support at CoP15 for the scientific conclusions of the Panel, it has been very proficient in this regard and has provided important advice to FAO Members and CITES Parties on whether or not the species being proposed meet the biological criteria.

10. At the same time, it appears that there is a need for the Panel to give greater attention to other components of the Terms of Reference, in particular trade and management issues as well as the likely effectiveness for conservation. The Panel has addressed these issues in its previous meetings and specialists in management and implementation were included in the Panel for CoP14 and CoP15, but from the interventions made at CoP15 and from informal discussions with a number of CITES Parties before and during the meeting, it was apparent that many Parties would welcome a more thorough assessment of, in particular, current national and regional regulations, the anticipated effectiveness of a CITES listing as well as possible impacts of a listing on the status and fishery of the species concerned. Therefore, it is suggested that FAO should strive to strengthen this aspect of the Panel’s evaluation. This could include: the development of a framework of factors that need to be considered and specific characteristics of the species and fisheries that need to be taken into account in evaluating these technical aspects of the proposal; the inclusion of additional experts on fisheries management and CITES implementation in the Panel; and that more time is dedicated by the Panel to the evaluation of the technical aspects.

CRITERIA

11. As presented in COFI:FT/XII/2010/7, there is disagreement between FAO, the CITES Secretariat and some CITES Parties on the interpretation of the criteria. This disagreement was reflected in the proposals to CoP15. The recommendations by the CITES Secretariat for proposals to CoP15 on commercially exploited aquatic species deviated in some cases from those of the FAO Expert Advisory Panel and the CITES Secretariat recommended that all proposed species be listed (see CoP15 Doc. 68 Annex 2, page 19 et seq.³). The CITES Secretariat reported that the differences arose from the different interpretation of the criteria for listing commercially exploited aquatic species in CITES Appendix II.

² The **final** votes regarding the six proposals for listing commercially exploited aquatic species were:

Atlantic bluefin tuna:	YES 20 (23%)	NO 68;
Scalloped hammerhead shark:	YES 76 (59%)	NO 53;
Oceanic whitetip shark:	YES 75 (60%)	NO 51;
Porbeagle shark:	YES 84 (65%)	NO 46;
Spiny dogfish:	YES 60 (47%)	NO 67;
Coralliidae:	YES 64 (52%)	NO 59.

³ <http://www.cites.org/eng/cop/15/doc/E15-68A02.pdf>.

12. Keen to overcome this problem, the CoP15 agreed to establish a process whereby the CITES Animals Committee shall ‘develop guidance on the application of criterion Annex 2 a B and the introductory text to Annex 2 a of Resolution Conf. 9.24 (Rev. CoP14) to commercially exploited aquatic species proposed for inclusion on Appendix II; b) recommend the best way to incorporate the guidance for use when applying Resolution Conf. 9.24 (Rev. CoP14) to commercially exploited aquatic species, without affecting the application of Resolution Conf. 9.24 (Rev. CoP14) to other taxa’ (CoP15 Com. I. 13)⁴. The guidance from the Animals Committee shall be directed through the CITES Standing Committee to the 16th CoP. FAO will be invited to participate in this process at various stages and, if so desired, will be able to submit its own comments or recommendations to the Standing Committee and to CoP16. In the view of the FAO Secretariat, the Organization should contribute to this process to try to ensure that the interpretation of the criteria for CITES Appendix II listing, if different in any way to the current FAO interpretation, remains consistent with best available scientific information and practices in fisheries management and conservation.

INTRODUCTION FROM THE SEA

13. Another subject of importance to FAO that was considered during this CITES Conference of Parties was related to the international trade of marine species taken from international waters (*introduction from the sea*⁵). In particular, CITES still needs to clarify whether the “State of Introduction” in these cases will be the Flag State of the fishing vessel or the Port State in which the catch is unloaded. There are a number of different legal implications connected to each of these scenarios and so far Parties have not reached a conclusion on a preferred option. Another matter of contention was possible cooperation with Regional Fisheries Management Bodies in cases of *introduction from the sea*. No agreement could be reached at CoP15 on this matter either and it was decided to extend the term of an intersessional working group established at SC 57 to clarify the issue; FAO was requested to participate.⁶

PLANNED FUTURE ACTIVITIES

14. In the future, FAO anticipates holding the next Expert Advisory Panel to inform the 16th CITES Conference of Parties in 2013 and to participate in the two intersessional processes of interest to FAO set up by the CoP15, i.e. the interpretation of the CITES listing criteria for Appendix II and the clarification of issues related to the *introduction from the sea* (see above). Furthermore, it is proposed that over the next five years FAO, in cooperation with CITES, should: assess the contribution and impacts which a CITES listing could have for commercially exploited aquatic species and their fisheries, taking note of differing characteristics and features that could occur in such proposals; conduct a training workshop on sea cucumber management; develop some guidance and tools to minimize the need for CITES listing of commercially exploited aquatic species as “look-alikes”; as well as assist with capacity-building for developing countries regarding the CITES regulations and required certificates (non-detriment findings). These activities will also be dependent on the availability of extra-budgetary funds.

⁴ <http://www.cites.org/eng/cop/15/ins/E15-Com-I-13.pdf>.

⁵ Convention on International Trade in Endangered Species of Wild Fauna and Flora, Article I(e): “*Introduction from the sea*” means transportation into a State of specimens of any species which were taken in the marine environment not under the jurisdiction of any State”.

⁶ See CoP15 Com. II. 35 (Draft Revision of Decision 14.48).

SUGGESTED ACTION BY THE SUB-COMMITTEE

15. The Sub-Committee may wish to consider:
 - The recommendations of the FAO Expert Advisory Panel and the role they played in the final decisions on the relevant listing proposals;
 - The means for strengthening of the FAO Expert Advisory Panel with regard to technical aspects of the proposal in relation to biology, ecology, trade and management issues, as well as, to the extent possible, the likely effectiveness for conservation, taking note of the likely implications in terms of an increase of costs as the number of experts and possibly the number of meeting days would probably have to increase;
 - In view of the emphasis by many CITES Parties on the leading role for FAO regarding the conservation of commercially-exploited aquatic species, the Sub-Committee may wish to consider the rising demands for greater progress in the implementation of the Code of Conduct for Responsible Fisheries and the associated International Plans of Action;
 - The Sub-Committee may also wish to consider priorities for future cooperation between CITES and FAO on matters other than listing proposals.