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COMMITTEE ON FISHERIES

SUB-COMMITTEE ON FISH TRADE

Thirteenth Session

Hyderabad, India, 20-24 February 2012

Update on CITES related activities

Executive Summary

This document provides an updated overview of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) related activities undertaken by the FAO Fisheries and Aquaculture Department since the report of the Twelfth Session of COFI:FT in 2010. This includes work done on clarifying the different positions of FAO and of the CITES Secretariat regarding the application of the Appendix II listing criteria to commercially exploited aquatic species and the activities conducted to improve capacity and management of listed species, including the Introduction from the Sea issue.

The Sub-Committee is invited to:

1. Comment on FAO's position regarding the application of CITES criteria for including commercially exploited aquatic species on CITES Appendix II, and to consider any additional actions to be taken by FAO and by individual Members to ensure a satisfactory outcome to the consideration of the application of the criteria.
2. Consider the new proposed "Memorandum of Cooperation between FAO and CITES" (MoC) taking into account that the already existing *Memorandum of Understanding on commercially-exploited aquatic species* between CITES and the FAO Fisheries and Aquaculture Department remains valid and untouched (<http://www.cites.org/eng/com/sc/61/E61-15-05.pdf>).
3. Discuss the priorities for FI regarding its future work related to CITES within the framework of the existing MoU. In this context the Sub-Committee may consider the results of the FAO Council meeting in November 2011 (information in separate document) regarding funding of the CITES-related activities by FAO. Currently, nearly all of the work over the last six 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.

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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 subjected to protection 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, basking shark (*Cetorhinus maximus*), great white shark (*Carcharodon carcharias*), whale shark (*Rhincodon typus*), all species of sawfishes (Pristidae), sturgeons (*Acipenser brevirostrum* and *A. sturio*), European eel (*Anguilla anguilla*), Napoleon wrasse (*Cheilinus undulatus*), all species of seahorses (*Hippocampus spp.*), Caribbean queen conch (*Strombus gigas*), giant clams (Tridacnidae) and one species of sea cucumbers (*Isostichopus fuscus*).
3. A Memorandum of Understanding (MoU) from 2006 between the FAO Fisheries and Aquaculture Department and CITES formalizes the intentions of the two organizations in strengthening cooperation on common issues related to commercially-exploited aquatic species. The MoU has been considered an important achievement by many FAO Member Countries and Parties to CITES.
4. This report provides an updated overview of the CITES related activities undertaken by the FAO Fisheries and Aquaculture Department since the Twelfth Session of the Sub-Committee on Fish Trade (COFI:FT) in 2010, including work conducted under the work plan and the Trust Fund Projects on “*CITES and commercially-exploited aquatic species, including the evaluation of listing proposals (Phase I and Phase II)*”, funded by the Government of Japan.

THE APPLICATION OF CITES CRITERIA TO COMMERCIAL-EXPLOITED AQUATIC SPECIES

5. In April 2011, FAO convened a Workshop in response to a request by the Fifteenth Conference of the Parties (CoP) of the Convention on International Trade in Endangered Species (CITES) in 2010 that FAO assist CITES in the process of clarifying the interpretation of criteria for listing commercially-exploited aquatic species proposed on Appendix II. Specifically, the CoP15 requested the CITES Secretariat to “*a) prepare a report that will summarize the experience in applying criterion Annex 2 a B and the introductory text to Annex 2 a of Resolution Conf. 9.24 (Rev. CoP15) to some or all of the commercially exploited aquatic species that were proposed for inclusion on Appendix II at the 13th, 14th and 15th meetings of the Conference of the Parties, highlighting any technical difficulties or ambiguous issues encountered, including, where appropriate, illustrations of these matters by comparison with application of the criteria to other species; b) request IUCN/TRAFFIC¹ and the Food and Agriculture Organization of the United Nations to each prepare a report, subject to the availability of external funding, with the same requirements as the report referred to in paragraph a) above;*” (Dec. 15.28)².
6. The report of the Twelfth session of the Sub-Committee on Fish Trade (paragraph 44) “supported that the FAO Secretariat give active input to the inter-session process set up by CITES for the purpose of clarifying the interpretation of the Appendix II listing criteria, as applied to commercially-exploited aquatic species, stressing that a harmonized interpretation of these criteria is of key importance for the ongoing work of the FAO Expert Advisory Panel”³.

¹ IUCN: International Union for Conservation of Nature; TRAFFIC: The wildlife trade monitoring network.

² Criteria for the inclusion of species in Appendices I and II (CITES Dec. 15.28).

http://www.cites.org/eng/dec/valid15/15_28-30.php.

³ FAO Committee on Fisheries. Report of the twelfth session of the Sub-Committee on Fish Trade. Buenos Aires, Argentina 26–30 April 2010 (<http://www.fao.org/docrep/013/i1684t/i1684t00.pdf>).

7. The 2011 Workshop analysed the approaches used by the FAO Expert Advisory Panel in applying the criteria described in both paragraphs (A and B) of Annex 2 a of Resolution Conf. 9.24 (Rev. CoP15). The FAO view that for both paragraphs of Annex 2 a the definitions, explanations and guidelines in Annex 5 of the Resolution Conf. 9.24 (Rev. CoP15) apply was endorsed by the Workshop. In addition, the Workshop recommended that the distinction made by the CITES Secretariat between the terms “*decline*” and “*reduce*” be clarified, in particular whether some other measure of decline is intended to apply to Annex 2 a B compared to Annex 2 a A. Furthermore the Workshop observed that the FAO Expert Advisory Panel considered CITES Resolution Conf. 9.24 (Rev. CoP15) as a whole to provide adequate guidance for the determination, in a precautionary manner, of whether a species is at risk in the future as a result of international demand for trade.

8. The Report of the Workshop was presented at the 25th CITES Animals Committee (AC) in July 2011 where FAO made a statement (Annex 1) that also included an answer to the reports presented at the same meeting by the CITES Secretariat and by the IUCN/TRAFFIC (all these reports are included in AC25 Doc. 10⁴). The discussion following these presentations was short and an inter-session working group was set up to report to the next Animals Committee meeting in March 2012. The working group was mandated to develop guidance on the application of the listing criteria to commercially-exploited aquatic species and to recommend the best ways to apply such guidance without affecting the application of the criteria to other taxa for consideration by SC 62. The working group is currently exchanging views via a non-public electronic discussion forum set up by the CITES Secretariat.

9. The inter-session working group is chaired by AC Vice-Chair (Ms Caceres) and includes the representatives of Africa (Mr Zahzah), Asia (Mr Pourkazemi) and Europe (Mr Fleming), the Chair of the Plants Committee, Australia, Brazil, Canada, China, the Czech Republic, Germany, India, Indonesia, Japan, Mexico, New Zealand, the Republic of Korea, Spain, Thailand, the United States of America (USA), the European Union (EU), FAO, International Union for Conservation of Nature (IUCN), United Nations Environment Programme - World Conservation Monitoring Centre (UNEP-WCMC), Fundación Cethus, Humane Society International, International Environmental Law Project (IELP), World Conservation Trust (IWMC), Pew Environment Group, SWAN International, TRAFFIC International and World Wide Fund (WWF).

THE INTERPRETATION OF "INTRODUCTION FROM THE SEA"

10. At its Fifteenth meeting (CoP15, Doha, 2010), the Conference of the Parties adopted Decision 14.48 (Rev. CoP15) and 15.50⁵ that directed the Standing Committee to extend the operation of the Working Group on Introduction from the Sea, established at SC57, to consider among other matters the definition for ‘transportation into a State’ and the clarification of the term ‘State of introduction’. FAO participated at a meeting of the CITES Standing Committee “*Working Group on Introduction from the Sea*” in May 2011 (Bergen, Norway). Working Group members reached agreement on the general approach put forward by the Chair and Vice-Chair which proposed that introduction from the sea occurs when a ship registered in one State takes specimens in the marine environment not under the jurisdiction of any State and transports them into the same State. Members also agreed that, when a ship registered in one State takes specimens in the marine environment not under the jurisdiction of any State and transports them into another State, it should be treated as an export/import and not an introduction from the sea.

11. A number of specific implementation issues (origin of products, flow of products, chartering, differential treatment and WTO and determination of legal acquisition) were discussed by the Working Group as well as two other issues (i.e. reference to Regional Fisheries Management Organizations and timing of non-detriment findings and issuance of documents). Moreover the Working Group proposed a draft revision of Resolution Conf. 14.6 (Rev. CoP15) and adjusted the preamble and operative paragraphs to reflect the results of their discussions. Not reaching consensus

⁴ <http://www.cites.org/eng/com/ac/25/E25-10.pdf>

⁵ CITES Decision 14.48 (Rev. CoP15) and 15.50 (http://www.cites.org/eng/dec/valid15/15_50-14_48.php).

on the issue of chartering, the relevant text was moved from the discussion document to the revised draft resolution but kept in brackets, pending further consultation on a consensus text⁶.

12. FAO attended the CITES Standing Committee in August 2011 where the Working Group on Introduction from the Sea reached a consensus on the paragraph on “chartering” and agreed on a revised text for Annex 1 of SC61 Doc. 32⁷.

MEMORANDUM OF COOPERATION (MoC)

13. At the Sixty-first CITES Standing Committee meeting in August 2011, the CITES Secretariat presented Document SC61-15.5 related to a “*Memorandum of Cooperation*” (MoC) between the FAO and CITES Secretariats⁸, aimed at establishing a framework for cooperation in the area of biological conservation and sustainable resource use of relevance to food and agriculture, fisheries, forestry, and wildlife. The existing *Memorandum of Understanding (MoU) on commercially-exploited aquatic species* would be attached unchanged as an Annex. Mr José Antonio Prado, Director of the Forest Assessment, Management and Conservation Division of the FAO Forestry Department, gave a supporting intervention regarding the MoC on behalf of FAO.

14. Reception of the draft text by CITES Parties was mixed. While some Parties fully supported the wording of the presented draft, others expressed concerns in particular about the paragraphs G and H of Article IV of the draft, which were seen by those countries as opening the door for interference by FAO in CITES matters. Some countries also “strongly opposed” a general (“umbrella”) MoC with FAO (in contrast to MoCs with FAO Departments only). It was decided that the CITES Secretariat continues its negotiations with FAO to find more agreeable wording.

TIME BOUND LISTING

15. At the Sixty-first Standing Committee meeting in August 2011, the CITES Secretariat presented *Document SC61 Doc 53* recalling the discussion at CoP15 in 2010 on the difficulty, which is sometimes experienced in either down-listing or removing a species from the CITES Appendices. The Secretariat encouraged the Parties to have an open discussion on this issue and invited the Standing Committee to consider whether it wished to initiate a policy dialogue on measures that may be available to the Parties to enhance the complementarities of CITES with other management regimes - including through making use of time-bound listings - and establishing a working group for this purpose, to report at its Sixty-second meeting. FAO gave a supporting statement to this initiative by the Secretary General of CITES (Annex 2). However, only one CITES Party supported the proposal. All other Parties who asked for the floor were opposed to even discussing such an option and noted that instead the periodic reviews of species listed under CITES should be strengthened. This remained the final recommendation by the Standing Committee.

ASSISTANCE IN RELATION TO LISTED SPECIES

SHARKS

16. In 2011 FAO reported a “marked improvement in the conduct of assessments for the International Plan of Action (IPOA)-Sharks”⁹. There has been a common perception of slow progress in implementing the IPOA-Sharks by FAO Member countries, fuelled by a strong criticism from some NGOs and Parties on FAO’s role in fostering shark fisheries management internationally. The issue has received increased attention from CITES on the conservation of shark species affected by international trade.

⁶ Sixty-first meeting of the Standing Committee Geneva (Switzerland), 15-19 August 2011 Interpretation and implementation of the Convention Trade control and marking. Introduction from the Sea. (<http://www.cites.org/eng/com/sc/61/E61-32.pdf>).

⁷ Sixty-first meeting of the Standing Committee Geneva (Switzerland), 15-19 August 2011 Interpretation and implementation of the Convention Trade control and marking. Revised Annex (15 August 2011) Draft revision of Resolution Conf. 14.6 (Rev. COP15) (<http://www.cites.org/eng/com/sc/61/com/E61-Com-01.pdf>).

⁸ <http://www.cites.org/eng/com/sc/61/E61-15-05.pdf>

⁹ COFI/2011/2 <http://www.fao.org/docrep/meeting/021/k9050E.pdf>

17. FAO and CITES jointly convened a Workshop to “Review the application and effectiveness of international regulatory measures for the conservation and sustainable use of elasmobranchs” in Genazzano, Italy, July 2010. The Workshop was attended by experts from different geographic areas and sectors including scientific assessment, fisheries management, fishing industry, fish trade, monitoring and control, and government administration. The workshop described various fishery and trade regulations and discussed their effectiveness with regard to implementation and stock recovery, as well as their impact on fisheries, livelihood, food security, markets and trade, and government administrations. A key output of the workshop consists of a tabular summary of the discussed effects of different measures on various sectors. This table and the descriptions in the narrative part of the report, are designed to assist resource managers in their decision-making regarding appropriate management regulations for the conservation and sustainable use of sharks. The report of the Workshop will be available on the FAO website and as a made available document during the COFI:FT.

18. In August 2011, FAO participated in the CITES Animals Committee Working Group on Sharks. The group considered national reports and developed a questionnaire on the implementation of the IPOA Sharks. FAO was requested by the group to liaise with the CITES Secretariat regarding the questionnaire to be jointly sent to the main shark-fishing countries. The link to the report of the WG is: <http://www.cites.org/eng/com/ac/25/wg/E25-WG06.pdf>.

19. At the Twelfth Session of COFI:FT, the Sub-Committee requested that FAO “compile current regulations and activities by States and regional fisheries management organizations (RFMOs) related to the conservation of sharks independently of whether they have been formalized in a National Plan of Action (NPOA)”. This request was echoed by the Committee on Fisheries (COFI) at its Twenty-ninth session 2011. Accordingly, FAO is undertaking a comprehensive review of the implementation of the IPOA for the Conservation and Management of Sharks (IPOA Sharks) adopted under the FAO Code of Conduct for Responsible Fisheries (CCRF) to be presented at the next COFI meeting in 2012.

SEA CUCUMBERS

20. International trade in sea cucumber (*bêche-de-mer*) is considered by CITES to be a significant conservation issue, particularly due to 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.

21. In 2010 FAO published the technical paper “*Managing sea cucumber fisheries with an ecosystem approach*”¹⁰. This document presents a logical framework to assist fishery managers in choosing an appropriate suite of regulatory measures and management actions and elaborates on the uses, limitations and ways to implement them. Moreover, in 2011, FAO published the booklet entitled “*Putting into practice an ecosystem approach to managing sea cucumber fisheries*”. It is a simplified version of the fore-mentioned technical paper¹¹.

22. FAO has produced an identification guide on “*Commercially important sea cucumbers of the world*”¹². It provides comprehensive and illustrated information on sea cucumbers, both fresh (live) and processed, to support their identification in the field and as a trade product.

23. The manuals provide a useful working tool to assist fisheries agencies, particularly in low-income countries, for the design and implementation of new management plans to save or restore sea cucumber fisheries. For this purpose, FAO supported the organization of a regional workshop for the

¹⁰ Purcell, S.W. *Managing sea cucumber fisheries with an ecosystem approach*. Edited/compiled by Lovatelli, A.; M. Vasconcellos and Y. Yimin FAO Fisheries and Aquaculture Technical Paper; 520. Rome, FAO. 2010. 157p (<http://www.fao.org/docrep/012/i1384e/i1384e00.htm>).

¹¹ FAO. *Putting into practice an ecosystem approach to managing sea cucumber fisheries*. Rome, FAO. 2010. 81 pp (<http://www.fao.org/docrep/013/i1780e/i1780e.pdf>).

¹² FAO. *Commercially important sea cucumbers of the world*. Rome, FAO. 2011. xx pp. (<ftp://ext-ftp.fao.org/Fl/Data/FIRF/CITES/SCGuide.pdf>).

Pacific countries held in Nadi, Fiji from 15-18 November 2011. The workshop aimed at assisting managers in navigating through the many potential regulatory measures and management actions for ecologically sustainable, and socially accepted, fisheries for these species.

HUMPHEAD WRASSE

24. 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 these species. In 2010, two FAO circulars were published: 1) *Monitoring and management of the humphead wrasse, Cheilinus undulatus*¹³ discusses the core elements of a management system for humphead wrasse, considering fisheries management objectives, management measures, enforcement, monitoring and fisheries assessment; and 2) *Estimating reef habitat coverage suitable for the humphead wrasse, Cheilinus undulatus, using remote sensing*¹⁴ evaluates the use of satellite images for mapping shallow reef areas and the habitat of humphead wrasse.

STURGEONS

25. FAO participated in the Regional Fisheries Meeting of the CaspEco Project and delivered a statement emphasizing the need for cooperation in fisheries management at regional level, for openness and transparency, and for implementing an ecosystem approach to fisheries management in the Caspian Sea. The countries were also reminded about their commitment made at the FAO workshop in Turkey in 2009, to initiate the development of national and regional plans of actions to combat illegal, unreported and unregulated (IUU) fishing.

SEA HORSES

26. The FAO Fisheries Circular No. 1058 “A Case-study of the Impacts of the CITES Listing of Sea Horses on the Status of the Species and on Human Well-being in the Philippines” was published in 2011 and made available on the web¹⁵. This study identifies the legal and socio-economic implications of the 2002 CITES Appendix II listing of seahorses (*Hippocampus spp.*) in the Philippine context. Based on their analysis, the authors recommend that the development of balanced impact assessments for listings should not only consider ecological impacts on organisms, but also policy, legal, and socioeconomic implications in an integrated fashion, which would improve both understanding and practice.

FAO EXPERT ADVISORY PANEL FOR ASSESSMENT OF PROPOSALS TO AMEND APPENDICES I AND II OF CITES CONCERNING COMMERCIALY-EXPLOITED AQUATIC SPECIES

27. At its last meeting, the Sub-Committee recommended that “technical aspects related to trade and management should be considered by the FAO Expert Advisory Panel for Assessment of the CITES listing proposals for commercially-exploited aquatic species in accordance with the existing terms of reference”. This was adopted by COFI in 2011 and every effort will be made to respond to this decision and to strengthen the attention given to these aspects when organizing the next Expert Advisory Panel towards the end of 2012.

¹³ Gillett, R. Monitoring and management of the humphead wrasse, *Cheilinus undulatus*. FAO Fisheries and Aquaculture Circular. No. 1048. Rome, FAO. 2010. 62p (<http://www.fao.org/docrep/013/i1707e/i1707e00.htm>).

¹⁴ Oddone, A., Onori, R., Carocci, F., Sadovy, Y., Suharti, S., Colin, P. L., and M. Vasconcellos. Estimating reef habitat coverage suitable for the humphead wrasse, *Cheilinus undulatus*, using remote sensing. FAO Fisheries and Aquaculture Circular. No. 1057. Rome, FAO. 2010. 27p (<http://www.fao.org/docrep/013/i1706e/i1706e.pdf>).

¹⁵ Christie, P.; Oracio, E.G.; Eisma-Osorio, L. Impacts of the CITES listing of seahorses on the status of the species and on human well-being in the Philippines: a case study. FAO Fisheries and Aquaculture Circular. No. 1058. Rome, FAO. 2011. 44p (<http://www.fao.org/docrep/013/i2003e/i2003e00.pdf>).

FUTURE ACTIVITIES BY FAO

28. FAO will continue its efforts to cooperate with CITES to assist CITES Parties in the development of guidance on the application of CITES criteria for commercially-exploited aquatic species, in particular of criterion B and the introductory text of Annex 2 a of Resolution Conf. 9.24 (Rev. CoP15). Moreover, FAO will also continue to participate in the CITES Standing Committee Working Group on Introduction from the Sea to assist Member countries in the implementation of Resolution Conf. 14.6 (Rev. CoP15).

29. FAO is committed to strengthening the implementation of the IPOA Sharks by assisting Member Countries in the development and implementation of NPOAs for the conservation and management of sharks. In this regard, FAO will continue to liaise with the CITES Secretariat, UNEP and Convention of Migratory Species (CMS) on matters of common interest in relation to the conservation of sharks.

30. FAO is working 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.

31. FAO will produce an internal review on the stock status and exploitation of commercially-exploited aquatic species listed in the CITES Appendices.

32. Within the means and resources available, FAO will continue to provide assistance to Member Countries and regions to help improve their ability to implement CITES regulations for commercially-exploited aquatic species.

ANNEX I

CITES Animals Committee 18-22 July 2011

Criteria for the inclusion of species in Appendices I and II

Presentation by FAO

At CoP15, CITES Parties requested FAO to prepare a report summarizing its experience in applying criterion Annex 2aB and the introductory text to Annex 2a of the Resolution Conf 9.24. To assist us with this request, we invited eight experts to Rome who had each served at least once on the “FAO Expert Advisory Panel for the Assessment of Proposals to Amend Appendices I and II of CITES Concerning Commercially-exploited Aquatic Species” (in the following called simply the “FAO Panel”). During a three day workshop these experts and a number of FAO officers analysed the evaluations of past FAO Panels and discussed any difficulties or ambiguous issues encountered. The result was the report circulated by the CITES Secretariat as Annex 2 of Doc. 10, and also available as FAO Fisheries and Aquaculture Report No. 976.

Among other things, the Workshop conducted a detailed examination of how the past FAO Panels had evaluated the indicators given in the proposals, and found that not all of them followed appropriate scientific standards. In particular, the FAO Panels had had difficulties in dealing with anecdotal information, catch or landings data not standardized by effort, the implications of habitat degradation and the role of the species in its ecosystem.

Almost all proposals included time series of landings and interpreted them as reflective of population abundance. However, landings by themselves do not necessarily reflect abundance. For example, landings of a species can decline in response to reduced fishing quotas, changes in management plans, stock rebuilding efforts, changes in market demand or price, and other factors, even if population abundance is actually increasing. For this reason, catch or landings by themselves were given relatively low weight by the FAO Panels unless first standardized to effort (e.g. CPUE).

Another technical difficulty encountered by the FAO Panels involved dealing with the variation between heavily exploited populations (that meet the decline criteria) and more lightly exploited populations of the same species. The FAO Panels based their decisions as to whether the proposed species globally met the decline criteria on the proportion of populations with quantitative indices that met those criteria. Where the majority of the populations was deemed to meet or likely soon to meet the decline criteria, the FAO Panels concluded that the species met the biological CITES criteria for listing. The Workshop noted that guidance is required on what proportion of these populations need to satisfy the listing criteria for the global listing of the species.

The Workshop remarked on a potential for ambiguity resulting from the guidance that according to Annex 3 split listings should be avoided and according to Annex 4 measures adopted that are proportionate to the anticipated risk to the species. If to avoid split listing “healthy” populations of a partially troubled species are listed under the “look-alike” clause, the obviously sustainable fisheries of these “healthy” stocks will also (and unfairly) be affected by the bureaucratic burden and implementation costs of a CITES listing.

The FAO Panels considered information available on the nature and extent of trade, the impact of trade on the harvest, and management regimes in place for a species that may mitigate the need for trade to be regulated under CITES. Furthermore, these Panels addressed the likely effects of a CITES Appendix II listing for a species’ conservation and its value as a complement to existing fisheries management measures. Notwithstanding these considerations, to date the FAO Panels have supported all proposals to list a species where they found that the biological listing criteria had been met.

The Workshop endorsed the view that the intent of both paragraphs under Annex 2a are addressed operationally for commercially-exploited aquatic species by the relevant definitions, explanations and guidelines in Annex 5. It noted that these allow due account, incorporating precaution, to be taken of the possibility of “other influences” than harvesting such as environmental or demographic variability, disease and habitat perturbation reducing an otherwise stable population to a level at which its survival may be threatened. The Workshop emphasized the following paragraph of the footnote for

commercially exploited aquatic species in Annex 5 (in the following simply called “Footnote”) as being particularly pertinent to paragraph B:

Even if a population is not declining appreciably, it could be considered for listing in Appendix II if it is near the extent-of-decline guidelines recommended above for consideration for Appendix I listing. A range of between 5% and 10% above the relevant extent-of-decline might be considered as a definition of ‘near’, taking due account of the productivity of the species.

In addition, the Workshop questioned the distinction made by the CITES Secretariat between the terms “decline” and “reduce” and reported that this needs to be clarified, in particular whether in the view of the CITES Secretariat some other measure of decline is intended to apply to Annex 2a B compared to Annex 2a A. Furthermore the Workshop observed that the FAO Panels have considered CITES Resolution Conf. 9.24 (Rev. CoP15) as a whole to provide adequate guidance for the determination, in a precautionary manner, of whether a species is at risk in the future as a result of international demand for trade.

In its concluding paragraph, the workshop stated that there are two approaches to deal with potential risk to the species under the application of Annex 2a B. The approach taken by the CITES Secretariat can be seen as anticipating a possible impact across the global distribution of the species without requiring data-based evidence to project or infer the magnitude of such an impact. On the other hand, the FAO Panels have considered that there should be a demonstrable impact on the species to justify listing. The Workshop found that Resolution Conf. 9.24 (Rev. CoP15) as a whole, in particular the footnote for commercially-exploited aquatic species, sets an acceptable precautionary level of risk.

Therefore, an important question for CITES Parties is which, if either, of these two approaches is appropriate for commercially-exploited aquatic species in the context of the Convention, or whether further guidance is required. In considering this choice, the CITES Parties should take into account the extensive global experience and insight that determined the FAO recommendations on revisions to Resolution Conf. 9.24 prior to CoP13 and which were accepted by the CITES Parties at that stage.

Since the FAO report was drafted, we in the FAO have had the opportunity to read with interest the related reports of the CITES Secretariat and IUCN/TRAFFIC. We welcome that the reasons for the difference in interpretation between the CITES Secretariat and FAO are being explored in a systematic and participatory manner, and we would like to take this opportunity to share with you some important arguments and responses from a FAO perspective to the reports presented by the CITES Secretariat and IUCN/TRAFFIC.

IUCN/TRAFFIC draw our attention to the fact there is no explicit definition of “*commercially exploited aquatic species*” in Resolution Conf. 9.24. Within FAO, there is informal consensus that “*the term ‘commercially-exploited aquatic species’ in relation to CITES ... encompasses resources exploited by fisheries in marine and large freshwater bodies ... and comprises invertebrate and fish species, ...*”¹⁶ but not mammals, birds and reptiles.

We note that the CITES Secretariat continues to see a difference between the terms “decline” and “reduction” which we still fail to understand. In particular we cannot understand what is meant by the statement in paragraph 5 of its report “*i.e. before reduction engenders a decline*” and this needs to be explained by the CITES Secretariat with some relevant examples. Our viewpoint remains that the use of the term “*reduce*” in paragraph B is synonymous with “*decline*” and that therefore the decline criteria also apply to paragraph B. In particular we would like to bring to your attention the following arguments:

The chapeau of Annex 2 a says “*The following criteria must be read in conjunction with ... Annex 5, including the footnote ...*” We note the use of the plural *criteria* instead of the singular *criterion* which evidently means that the chapeau applies to both criteria paragraphs and not just to one. Furthermore,

¹⁶ See 2004 FAO Expert Consultation on Implementation Issues Associated with Listing Commercially-exploited Aquatic Species on CITES Appendices

Annex 5 states that "A 'decline' is a *reduction in the abundance ...*" Therefore, these two expressions are used as synonyms in Resolution Conf. 9.24.

Accordingly, the Footnote makes no distinction between the two criteria paragraphs and clearly intends to address both. This becomes apparent in paragraph 5 of the Footnote which refers to a situation where an Appendix II listing can be considered "*even if a population is not declining appreciably*". This paragraph introduces a precautionary buffer zone of 5 to 10% above the Appendix I abundance threshold of a species. Under this clause, as long as a commercially exploited aquatic species is found to currently be in this buffer zone, it could be considered for listing under Appendix II even if the projected evolution of abundance over the next decade would not lead it to reach the Appendix I threshold. Such a situation relates specifically to the paragraph B criterion, and would not be covered under paragraph A. We note that this option applies to commercially-exploited aquatic species ONLY and is NOT included in the decline definition for other species. So, while the interpretation of criterion paragraph B by the CITES Secretariat might be applicable to other species (such as terrestrial animals), it is not applicable for commercially exploited aquatic species.

The CITES Secretariat mentions that it undertakes assessments under paragraph B to determine whether a population is sufficiently robust to sustain the harvest being taken. This is exactly what the FAO Panel does. The FAO Panel is bound to FAO's commitment to strive for the best available scientific advice for management, and in this regard the CITES measures are not any different from other sets of management tools at the disposal of fisheries managers. Furthermore, we would like to note that scientific methods to assess the status and trends of fish populations exist for all types of data—qualitative or quantitative. Of course, different methods will result in different levels of uncertainty which need to be taken into account in the decision-making process. But this does not change FAO's view that adequate scientific analysis, reported in a way amenable to peer-review, should ALWAYS be at the heart of ANY management decision, to list, not to list, or to delist any commercially-exploited aquatic species.

We were interested to read about a new explanation of the difference between paragraphs A and B of Annex 2a which we had not encountered before, and which proposes that paragraph A deals with "*species which may qualify for inclusion in Appendix I in the near future (defined as 5-10 years in Annex 5)*", whereas paragraph B "*refers to a longer time-frame than this*". While we appreciate the precautionary intentions, we are concerned at the potential ramifications for CITES and for fisheries management if a CITES listing today can be justified by a possible but not yet manifest impact fifteen, twenty or more years in the future. Also, we consider that it does not make sense to have separate criteria dealing with short and longer time periods. A criterion for a longer time period would automatically encompass the shorter period as well, so paragraph A would be redundant if the CITES Secretariat interpretation of paragraph B was correct.

One of the motivations of FAO to become involved in the process of revising the CITES criteria for commercially exploited aquatic species is illustrated by the following quote from CoP12 in 2004: "*FAO suggested that the Appendix-II criteria were so broad and ambiguous that essentially any currently managed fish stock could meet these criteria and hence, under the current criteria, could be eligible for inclusion in the CITES Appendices. FAO argued that this could not possibly have been the intention of the CITES Appendix-II criteria*"¹⁷. Therefore, when the current Annex 2a criteria were adopted by CITES, FAO was satisfied that there was now a basis for a meaningful, scientific and precautionary process for the listing of commercially exploited aquatic species under Appendix II.

We are now concerned that using what is being described as "qualitative" and "flexible" listing criteria would not provide any guidance to CITES Parties on the purpose of Appendix II and would revert to the pre-CoP13 position. This would allow for indiscriminate listing of commercially exploited aquatic species under CITES Appendix II or conversely - as this can go either way - hinder the inclusion of species which according to scientific advice should be included on Appendix II. We strongly hold the view that the introduction of such "flexible" criteria would lead away from a scientifically defined and therefore transparent and objective basis for deciding on CITES listings. We are not disputing that

¹⁷ CoP 12 Doc. 58 Annex 1

qualitative criteria are admissible, particularly in data deficient situations. However, surely their INTENT and the rigour of their use must be identical to the quantitative guidelines that can be applied in more data-rich cases? There is a growing and rich body of literature dealing with the scientific analysis of qualitative and semi-quantitative data, and rigorous, scientifically-defensible methods have been developed to deal with this kind of data in fisheries.

The CITES Secretariat concludes that the adoption of “*measures that are proportionate to the anticipated risks to the species*” are a useful “*guide in cases of uncertainty*”. We would like to add that in every, not only some cases, is there a requirement that the measures adopted be proportionate to well-defined risks that must be assessed. FAO holds the view that this need is met by the application of Annex 2a A and B in conjunction with Annex 5. In addition, there always is uncertainty in the assessment of the status of a biological population, and more so in its projection into the future. The issue is the extent of this uncertainty. Scientific analysis can and should provide estimates for this uncertainty, so that management decisions can take into account the level of uncertainty in any particular analysis.

CITES undoubtedly has a role to play in helping to address the problem of increasingly over-exploited fish stocks. This issue is of great concern to FAO and to fishery managers worldwide, and a CITES listing can be helpful in some cases, but not necessarily in others. There are many instruments and tools available for the management of aquatic resources, and FAO is involved in a number of initiatives to improve the conservation of global fishery resources, such as the development of an ecosystem approach to fisheries, the battle against IUU fishing, the improvement of fisheries monitoring, and so on.

FAO recognizes that CITES can be a valuable instrument to help us achieve the goal of sustainable fisheries for future generations, and FAO has supported CITES for more than a decade through a number of relevant activities, not only through the FAO Expert Advisory Panel. Therefore, and in the spirit of good cooperation, FAO looks forward to the guidance of the CITES Parties regarding the interpretation and application of the CITES criteria for the listing of commercially exploited aquatic species under Appendix II.

ANNEX II

CITES Standing Committee 15-19 August 2011

TIME-BOUND LISTINGS OF SPECIES IN THE APPENDICES

Presentation by FAO

With great interest the FAO Secretariat has taken note of Document 53 on “Time-bound listings of species in the appendices”, in particular with regard to an application to commercially exploited aquatic species. The current inertia with regard to down-listing or de-listing a species from the CITES Appendices has always been a concern for FAO Members. The status of and risks to fisheries resources may change rapidly as a result of, for example, environmental shifts or improvement of management schemes. This means that fisheries management has to be an active process which requires a sufficiently responsive and flexible mechanism for listing and de-listing where a CITES listing is in place or being considered.

The option to list a species for only a defined period of time would be an important contribution to addressing such concerns without sacrificing precaution as CITES Parties could decide to continue the listing if the species still meets the listing criteria. It would also provide an incentive for regular rigorous review at the end of a listing period, which should facilitate the cooperation between CITES and fisheries management authorities, regional and national. Fishery conservation measures are normally reviewed at regular, mostly annual or bi-annual intervals and can react rather quickly to assessed changes in the stock status of fish.

As expressed by the CITES vision statement in Resolution 2 of CoP 14, CITES shares the objective of sustainable use of natural resources with FAO. This can be ensured through adequate application of relevant measures, and the regulation of international trade can be one of these. However, for species that are no longer endangered, in particular a prohibition of international trade may pose a barrier to their sustainable use which is not consistent with the objectives of both our organizations.

In view of this long-standing and constructive cooperation we are pleased to see this initiative from among CITES to address one of the issues connected to the listing of commercially exploited aquatic species.