

Japan

Explanation of proposed amendments to the CITES Secretariat's draft MOU between CITES and FAO

(General)

1. Japan, on behalf of more than 20 co-sponsors, presented a draft MOU to the Twenty-fifth Session of FAO's Committee on Fisheries (COFI, 24-28 Feb. 2003). Considerable progress was made towards finalizing a draft text for presentation to the Standing Committee of CITES. However, the drafting was not completed, and the work of the so-called friends of the chair on this matter is scheduled to continue.
2. It is also regrettable that the 49th Standing Committee did not complete its work for the draft text of the MOU. Japan is still in the position that the draft MOU should be acceptable to FAO, taking account of the work of COFI on this matter.
3. Japan has therefore suggested a number of amendments to the CITES Secretariat's draft MOU that we believe takes account of COFI's work on this issue. The proposed amendments also provide a more focused approach and clearer definition of the scope and methods of cooperation between the two organizations.

(By paragraph)

1. The 1st and 2nd paragraphs of the preamble

Japan has suggested changes that highlight the roles of FAO and CITES relevant to the subject of this MOU. For FAO it is "to facilitate and secure the long-term sustainable development and utilization of the world's fisheries and aquaculture resources" and for CITES, the regulation of international trade in endangered species of wild fauna and flora. These proposed amendments are in accordance with the title of the MOU given by the Secretariat in its draft.

2. The 3rd paragraph

The first part of this paragraph is a subjective evaluation that does not need to be expressed. Such subjective evaluations should not be included in the preamble unless they will be uncontested. The point here is that strengthened cooperation may, in some cases, better ensure the achievement of the aims of both CITES and FAO.

3. The 3rd paragraph (bis)

Japan has proposed an additional new paragraph to the preamble following the 3rd paragraph of the Secretariat's draft. We believe this is a fundamental point that needs to be stated. It is the primary reason why the COFI Sub-Committee on Fish Trade made its recommendation that an MOU should be negotiated between FAO and CITES which is referred to in the following paragraph of the preamble that begins with the word RECALLING.

4. The 4th paragraph

With regard to the 4th paragraph beginning with the word RECALLING, Japan has proposed additional words that come directly from the report of the February 2002 meeting of the COFI Sub-Committee on Fish Trade. This wording remains as one of the unresolved matters from the recent discussions in the COFI friends of the chair discussions however, it reflects the very strongly held views of many of the members of the Sub-Committee and COFI.

For this reason, we have proposed to include this wording in what we believe is a non-confrontational and non-committal way. Firstly, it is in the preamble only. It is not in the Articles of the MOU. And secondly, it is in a paragraph that begins with the word RECALLING so all we are doing is recalling a matter of fact.

5. The 5th paragraph

Japan has suggested additional words. These additional words come directly from the decision of the COP 12 so they should not be problematic. In our view they represent an important focus for defining the cooperation between CITES and FAO.

6. Article 1

This Article is the most substantive however, we are concerned that as drafted by the Secretariat, it does little more than is already provided for by the Convention itself. In other words, it does little to further the cooperation that is the whole basis for the MOU. We do not need an MOU if it means that with respect to scientific and technical evaluation of proposals, FAO does not have a process to provide advice and that the CITES Secretariat just continues to carry out its obligations to consult in the same manner as in the past.

This, and the strongly held view of COFI that there is a need to strengthen the process in CITES as referred to in the additional paragraph we have proposed for the preamble, is the reason for our suggested changes to Article 1. In essence these changes mean that FAO will set up a procedure to provide advice – (COFI agreed at its last meeting to such a process) - and CITES will incorporate that advice to the greatest extent possible in its recommendations to the Parties.

7. Article 2

With regard to Article 2 a), Japan believes that the text as drafted by the Secretariat is too broad and that it should be focused on those issues that are the subject of this MOU, specifically, relating to commercially-exploited aquatic species listed on CITES appendices. That is the purpose of the changes we are proposing.

We believe that these changes more accurately reflect the intention of item b) of the terms of reference given to the Standing Committee by the COP in its decision. We also believe that the examples cited in relation to the work of FAO are inappropriate for inclusion in this MOU and that they should be deleted.

8. Article 4

Japan has made two proposed changes to Article 4. Firstly, we believe that joint work plans should only be prepared “if required” and secondly, that work plans developed by the Secretariats of CITES and FAO should be subject to approval.

DRAFT submitted by CITES for consideration by the
25th session of the FAO Committee on Fisheries
(Rome, 24-28 February 2003)

MEMORANDUM OF UNDERSTANDING

Between

The Convention on International Trade in
Endangered Species of Wild Fauna and Flora
(CITES or the Convention)

and

The Food and Agriculture Organization of the United Nations (FAO)

Concerning

Commercially-exploited aquatic species

February 2003

NOTING that the Food and Agriculture Organization of the United Nations (FAO) was founded in 1945, *inter alia*, to ~~promote and recommend international action with respect to the conservation of natural resources and the adoption of improved methods of agricultural production and to furnish such technical assistance as Governments may request;~~facilitate and secure the long-term sustainable development and utilization of the world's fisheries and aquaculture resources;

FURTHER NOTING that the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) was adopted in 1973, *inter alia*, to ~~regulate bring about~~ international trade cooperation essential for the protection of certain endangered species of wild fauna and flora against over-exploitation through international trade;

RECOGNIZING that ~~the aims and purposes of CITES and FAO are related and in conformity with each other and that~~ strengthened cooperation between CITES and FAO ~~would~~may in some cases better ensure the achievement of the ~~esseir~~ aims and purposes;

BELIEVING that there is a need to strengthen the process in CITES for scientific evaluation of proposals for amendment of Appendices I and II concerning commercially exploited aquatic species;

RECALLING the recommendation in February 2002 of the COFI Sub-committee on Fish Trade, a subsidiary body to the FAO Committee on Fisheries, that a Memorandum of Understanding (MoU) be established between FAO and CITES; and the view that CITES listings of commercially exploited aquatic resources should be limited to exceptional cases only and when all relevant bodies associated with the management of the species in question agree that such a listing would be advantageous; and

FURTHER RECALLING the decision of the Conference of the Parties to CITES at its 12th meeting in November 2002 directing the Standing Committee to conclude an MoU with FAO to establish a framework for cooperation recognizing the primary role of FAO and regional fisheries management organizations in fisheries management and the role of CITES in regulating international trade;

CITES and FAO agree on the following scope and methods of cooperation.

Article 1

Scientific and technical evaluation of CITES listing proposals

~~CITES and~~ FAO shall develop a procedure for ~~providing ensuring future FAO involvement in the~~ scientific and technical evaluation of proposals for listing, de-listing or transferring commercially-exploited aquatic species in or from the CITES Appendices as well as draft resolutions and decisions related to commercially exploited aquatic species. The results of such evaluations shall, to the greatest extent possible and, in accordance with the spirit of Article XV, paragraphs 1 and 2(b) of the Convention, be incorporated in the advice and recommendations of the CITES Secretariat to the Parties. ~~Once agreed, the procedure shall be annexed to and considered part of this MoU.~~

Article 2

Capacity building for natural resource management

- a) CITES and FAO shall cooperate as appropriate to promote capacity building in developing countries on issues relating to commercially-exploited aquatic species listed on CITES appendices. ~~facilitate the provision of advice, technical assistance and training to developing countries and countries with economies in transition concerning the implementation of the Convention and FAO Codes or Plans of Action concerning the management of commercially-exploited aquatic species and related law enforcement efforts, for example in connection with the CITES Review of Significant Trade pursuant to Resolution Conf. 12.8, the making of non-detriment findings under the Convention, the FAO Code of Conduct for Responsible Fisheries and the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU).~~

- b) CITES and FAO shall communicate and exchange information regularly and bring to each other's attention areas of concern where there is a role for CITES or FAO to play or where there are implementation difficulties that need to be taken into consideration and addressed.

Article 3
Technical and legal issues of common interest

CITES and FAO shall identify and work together to address technical and legal issues of common interest.

Article 4
Coordination of work

- a) The Secretariats of CITES and FAO shall meet annually to discuss implementation of this MoU and [if required](#), to prepare joint work plans for carrying out specific activities. The results of these meetings shall be provided to the CITES Standing Committee and the FAO Sub-committee on Fish Trade for review and input [and approval of any workplans](#).
- b) The Secretariats of CITES and FAO shall periodically report on work completed under the MoU to meetings of the Conference of the Parties to CITES and the FAO Committee on Fisheries.

Article 5
General provisions

- a) This MoU shall take effect on the date of signature by both CITES and FAO. It shall remain in force unless terminated by 90 days' written notice served by one upon the other, or replaced by another agreement. It may be amended by written mutual agreement of CITES and FAO.
- b) Neither CITES nor FAO shall be legally or financially liable in any way for activities carried out jointly or independently. Separate letters of agreement or other arrangements, with specific budgets and resource identification, will be concluded for individual activities involving the commitment of financial resources by either CITES or FAO.

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Ken Stansell
Chairman, Standing Committee
CITES

Date:

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Chairman of the Council
FAO

Date: