

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA



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SHARK ISSUES

1. The attached document has been submitted by China.
2. The geographical designations employed in this document do not imply the expression of any opinion whatsoever on the part of the CITES Secretariat concerning the legal status of any country, territory, or area, or concerning the delimitation of its frontiers or boundaries.

Shark Issues at CoP14

At CoP14 Parties will consider issues concerning trade in sharks and other commercially exploited marine species.

The People's Republic of China (China) is a significant international trade centre for shark and other marine products, and is increasingly involved in importation for processing and re-export. China is concerned about excessive harvest of marine resources and supports improved management at national and international levels. Through its Memorandum of Understanding with FAO, CITES can and should play a supporting role in these efforts. CITES itself was not designed as a treaty for regulating commercial marine fisheries and has little experience in this area of resource management.

China is concerned that if CITES acts unilaterally and prematurely on fisheries issues, especially in contravention of the technical advice from FAO, Parties risk complicating international cooperation in fisheries management, for what may well be no tangible benefits to the *survival* of the species concerned.

Accordingly, China believes Parties should exercise great caution when assessing the following amendment proposals and draft decisions.

1. Proposed inclusion of Porbeagle shark (*Lamna nasus*) (CoP14 Prop. 15) and Spiny dogfish (*Squalus acanthias*) (CoP14 Prop. 16) in Appendix II

These proposals are a significant precedent in terms of bringing mainstream commercial fisheries species, with high volumes of trade, under CITES regulations that have not yet been tested for such species. China believes both proposals should be rejected:

- (a) The *survival* of neither species is threatened by harvest or trade, despite excessive fishing and reported population declines. *Commercial extinction* in some areas is the problem, not *biological extinction*. CITES focus should be to prevent international trade threatening survival, not optimising management to sustain commercial fisheries and profits from trade.
- (b) When comparing the extent of decline reported for some wild populations against general guidelines concerning decline in Resolution Conf. 9.24 (Rev CoP13 Annex 5), Parties are reminded that ample warning is given about the inability to generalise about decline criteria for all commercially exploited marine resources, and the ultimate decision about listing, regardless of the extent of decline, must be made on the basis of informed judgement about the likely impact on *survival* of the species.
- (c) The Secretariat's provisional advice to Parties on Porbeagle shark *Lamna nasus* and Spiny Dogfish *Squalus acanthias* emphasized the technical and implementation difficulties recognised by Animals Committee (CoP14 Doc. 59.1). However, the Secretariat's final recommendations largely ignored these difficulties, contradicted advice by FAO, and appears to be based on the unspecified belief that listing would be beneficial to conservation of the two species. The apparent reversal in the Secretariat's position has the potential to seriously undermine the cooperative spirit that should underpin the MOU with FAO. Furthermore, the Secretariat's recommendations do not constitute compelling evidence that any benefits to the survival of species would result from listing on CITES.
- (d) No mechanism for establishing non-detriment findings for these populations is agreed, yet they are required before Parties can issue an Appendix-II export permit or introduction from the sea certificate. An Appendix-II listing may well constitute a "de facto" trade ban until the technical aspects of "non-detriment" have been resolved. It is noted that the Appendix-II listing of great white sharks prompted a total export ban by Australia, even on by-catch specimens, because it was unable to make a non-detriment finding in compliance with CITES.
- (e) The obvious exception to a trade ban would be in the Northeast Atlantic, where improved management is needed most. Fishing here takes place by Member States of the European Union (EU) within their EEZ. As a consequence, Member States are not required to issue CITES

introduction from the sea certificates for trade amongst themselves. The domestic EU market is the principal destination for shark meat produced from these fisheries.

- (f) Listing the two species on Appendix II may thus be counterproductive to conservation principles. By restricting imports into the EU from international fisheries, and thereby reducing supply, increased prices for fish sourced by Member States of the EU from within their EEZ in the NE Atlantic would be expected. Furthermore, any shortfall in supply may be expected to stimulate increased catches to satisfy domestic demand.
- (g) That DNA techniques may allow parts of different shark species to be identified is of more forensic interest than practical value in controlling and regulating trade. Products such as shark fin are typically traded as mixed shipments involving many species.
- (h) On the basis of current technology and fishing practices it would seem impossible to regulate international trade in accordance with Article IV of the Convention, and impossible for most Parties to develop efficient domestic regulatory measures in order to complement international obligations if the species were listed in Appendix II.
- (i) In the absence of agreed procedures for establishing non-detriment, large volumes of low priced by-products such as Spiny Dogfish fins would be restricted from the market place. This can be expected to increase the demand and price for small fins from alternative shark species, which is not in the best interests of improved shark conservation.
- (j) The international and domestic trade routes of associated shark products (meat, fins, oil, cartilage, skins, etc.) are complicated to track. In China they involve fresh, frozen, dried, semi-processed and processed product, caught by local, national and foreign fisheries. Imports and domestic production are often received by traders as mixed shipments, which are then pooled, sorted and graded into products required by specific markets, and traded domestically and internationally. Maintaining the integrity of specimens from different sources, all subject to continual change by dynamic market forces, will not be possible to achieve.

2. Proposed inclusion of sawfishes, *Pristidae* spp. (CoP14 Prop. 17), in Appendix I

The proposal to list sawfishes in Appendix I is also a significant precedent, but in this case a different one. Sawfishes are caught almost exclusively as by-catch in other inshore fisheries, and thus controlling international trade, as a conservation measure, is unlikely to be effective in reducing the numbers of sawfishes killed.

China believes that the proposal should be rejected, but that the Parties should investigate ways in which sawfish conservation can be improved.

- (a) Sawfish do not represent a targeted fishery and the severe declines experienced in many parts of their range is a result of habitat loss and ongoing by-catch in a wide range of different domestic and export fisheries that use nets in inshore waters. No link between international trade in sawfish and their population declines has been established.
- (b) Strategies for improving the conservation status of sawfishes need action at the national rather than international level, to reduce the incidence of by-catch and more effectively protect areas of suitable habitat.
- (c) A meeting of range States and interested Parties may be able to: better define the problems associated with sawfish by-catch; foster the development of appropriate national management action; clarify for the Parties the true role of international trade, if any; and, therefore provide Parties with an objective basis for deciding whether listing on Appendix I would help or hinder conservation efforts.
- (d) Sawfish fins enter trade opportunistically in mixed shipments, and are not readily recognisable from the fins of other species. Thus listing on Appendix I or Appendix II at this stage would invoke the same practical implementation difficulties discussed in relation to Porbeagle shark

and Spiny Dogfish. No exporting or importing State can implement practical and effective measures to regulate trade in sawfish fins as distinct from the fins of other species. Indeed, at the point of export the identity of sawfish fins in a shipment may be unknown to the exporter.

3. Documents: CoP14 Doc. 59.1, CoP14 Doc. 59.2 and CoP14 Doc. 59.3

The three documents concerning sharks all propose an ongoing and extensive role for the CITES Secretariat and Animals Committee in assessing and researching issues related to shark species that are not listed on the Appendices of CITES. It is unclear why sharks have been singled out from all other commercial marine fisheries species, many of which are overexploited in parts of their range, and ideally require improved management at the national rather than international level.

Parties seeking amendments to the Appendices are normally expected to prepare appropriate supporting statements which address the justification for listing and the proposed regulatory procedures. If this responsibility is to be devolved to the Secretariat and Animals Committee, who have limited resources, then the obvious cost is that the Secretariat and Animals Committee will have diminished capacity to address issues associated with species in trade that are already listed on the Appendices, where arguably, the need for action is greatest.

CoP14 Doc. 59.3 requests Animals Committee to establish "... specific quotas or other trade restrictions for *Lamna nasus* and *Squalus acanthias*, in order to maintain the level of exports of the species below the level that would be detrimental to its survival in the wild." This takes away the right of sovereign Parties to determine what can be exported under Appendix II.

China believes Parties should be wary of mandating CITES to undertake specialist areas of status assessment and trade regulation with commercial fisheries resources, independent of FAO and RFMOs. A more fruitful approach would be to encourage FAO, CCAMLR and other bodies of specialised technical experts, to review matters of concern and identify areas where action by CITES would be beneficial.

4. Conclusions

The management of commercially exploited marine species is a highly specialized area of expertise, in which FAO is the world recognized authority. It has approached the problem of improving the management of shark fisheries through IPOA-Sharks and National Shark Plans. FAO has the mandate, technical skills, expertise and experience needed to rebuild commercial fisheries subjected to excessive harvest, and is best placed to determine where CITES may help or hinder management. Most management problems of commercially exploited fisheries do not involve the *survival* of the species being threatened, and are outside the mandate of CITES.

The immediate solution to overfishing by Member States of the EU is for the participating States to stop fishing the two sharks in the NE Atlantic. The proposals presented here (CoP14 Prop. 15 and Prop. 16) will have no effect on EU regulation of fisheries within their EEZ in the NE Atlantic, but would prevent other exporting Parties getting access to EU markets. Listing the two species would also seriously complicate trade in products such as shark fin for no conservation or economic benefit.

Sawfishes represent species depleted because of circumstances other than international trade. Conservation of sawfish is threatened by loss of habitat and incidental catch as a result of inshore netting. That some international trade occurs opportunistically in no way implicates international trade as a causal factor responsible for the decline.