

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

Joint sessions of the 29th meeting of the Animals Committee and
the 23rd meeting of the Plants Committee
Geneva (Switzerland), 22 July 2017

Strategic matters

NON-DETRIMENT FINDINGS

1. This document has been prepared by the Secretariat.
2. At its 17th meeting (CoP17, Johannesburg, 2016), the Conference of the Parties maintained Decision 16.53 on *Non-detriment findings*, which reads as follows:

Directed to the Secretariat

16.53 *The Secretariat shall:*

- a) *invite Parties to submit their experiences and the results from work shops, projects or publications related to the making of non-detriment findings for inclusion in the CITES website; and*
 - b) *ensure this information is available in other formats (e.g. CD-ROM) where appropriate.*
3. To implement this Decision, the Secretariat issued Notification to the Parties [No. 2017/019](#) on 13 March 2017. The Notification reminded Parties that Resolution 16.7 (Rev. CoP17) on *Non-detriment findings* outlines concepts and non-binding guiding principles for Scientific Authorities to consider when determining whether trade would be detrimental to the survival of a species. The Resolution encourages Parties to share experiences and examples of ways of making non-detriment findings, including, where they exist and if possible, written records of the science-based rationales and scientific information used for non-detriment finding assessments, and communicate them to the Secretariat, who should maintain a prominent section for non-detriment findings on the CITES website, that should be updated regularly with information from the Animals and Plants Committees, Parties and other sources. Parties were therefore encouraged in the Notification to provide relevant information on the making non-detriment findings (NDFs), including any capacity building materials, to the Secretariat for inclusion on the website by 27 May 2017.
 4. At the time of writing of this document (May 2017), Australia had responded to the call for NDF information in the Notification. Its response is presented in the Annex to the present document. A number of other Parties submitted information on NDFs independently, or in response to other Notifications. For example, the United States of America submitted information on NDFs for trade in porbeagle (*Lamna nasus*) and hammerhead sharks (*Sphyrna* spp.), and Malaysia for trade in reticulated python (*Python reticulatus*). The Secretariat sincerely thanks the Parties for their submissions, and all this information will be made available on the NDF portal on the CITES website.
 5. Resolution Conf. 16.7 (Rev. CoP17) notes “that because of the great variety of taxa, life forms and biological characteristics of species included in Appendices I and II, there are various ways a Scientific Authority can make non-detriment findings;” and states that the Conference of the Parties is “aware of the challenges that Parties face when making scientifically-based non-detriment findings, and that the sharing of guiding principles and experience for making such findings would improve implementation of Articles III and IV of the Convention”. It further recognizes the outputs of national, regional and international workshops on CITES

non-detriment findings (in China, the Dominican Republic, Indonesia, Kuwait, Mexico, Nepal, Peru and other countries), the guidance for CITES Scientific Authorities produced by the International Union for Conservation of Nature (IUCN), and other capacity-building workshops.

6. The Secretariat observes that specific guidance on the making of NDFs has been made available to the Parties since 2000¹. The demand for, and the development of additional or more specific support for making NDFs has gained significant momentum since then. One of the more comprehensive initiatives in this regard was the hosting by Mexico of an *International Expert Workshop on CITES Non-Detriment Findings* in Cancun in 2008. It generated guidance on NDFs for a wide range of CITES-listed taxa, and outputs were discussed at the 15th meeting of the Conference of the Parties (Doha, 2010; see documents [CoP15 Doc. 16.2.2](#) and [CoP15 Doc. 16.3](#)). Since that time and the adoption of Resolution Conf. 16.7 in 2013, Parties have frequently decided that further species- and taxon-specific guidance for the making of NDFs was needed (e.g. for trade in queen conch, sharks, snakes, tortoises and freshwater turtles, timbers and agarwood). An increasing number of research projects have been undertaken aimed at assisting in the making NDFs. A growing number of Parties have started to share national or (sub-)regional NDFs for trade in a variety of species, and several Parties actively engaged in the development and dissemination of generic guidance for certain taxa and species groups. In the revised Resolution Conf. 12.8 (Rev. CoP17) on *Review of Significant Trade in specimens of Appendix-II species*, the Conference of the Parties expects “that the implementation of recommendations and actions resulting from the Review of Significant Trade process will improve the capacity of the Scientific Authorities to carry out their non-detriment findings”, and its implementation may therefore enhance case study-information on NDFs that can be of support to other Scientific Authorities and Parties.
7. All these initiatives and activities are resulting in a good range of examples, case studies and guides concerning NDFs. In recent years, the Secretariat collated 369 NDF reports on trade in various plant species, and 36 on animal species, reflecting outputs from workshops, projects and publications relating to NDFs. They can all be found on the NDF page on the CITES website. But there are at the same time new needs and requests for support as more species are included in the Appendices, fisheries and forestry sectors are increasingly involved in CITES, the number of Parties raises, and the demands by Parties for assistance in the making of sound, scientifically robust NDFs is rapidly growing.
8. In light of these developments, the Secretariat is of the view that it would be timely and useful to fully inventory the available NDF guidance; evaluate content and different approaches proposed; assess where coverage is adequate or lacking in terms of taxonomic groups, geographical spread or up-to-date scientific information; consider strengths, weaknesses, distribution and uptake of the existing information and materials; undertake a gap analysis; and, in consultation with the Parties and other stakeholders, identify priorities for additional or improved NDF guidance and support. These priorities could be further addressed by targeted research projects, or bringing together experts to shape new guidance as needed. A dedicated, multi-taxon expert workshop on NDFs, similar to Cancun 2008, could be envisaged to boost NDF capacity across a range of taxa, increase visibility, and promote commitment and distribution of NDF guidance.
9. As outlined in paragraph 8 above, the Secretariat proposes that work is undertaken to systematically review the NDF materials and guidance that are currently available to the Parties, identify gaps and needs, and organise one or more expert workshops to develop any new or updated materials required. The Secretariat intends to develop draft decisions in this regard for consideration by the Conference of the Parties at its 18th meeting (CoP18, Sri Lanka, 2019). The Secretariat would appreciate the opinion and views of the Animals and Plants Committees for such an initiative.

Recommendation

10. The Animals and Plants Committees are invited to provide their views on the issues outlined in this document, including the proposals articulated in paragraphs 8 and 9. They are also invited to identify ways to further encourage Parties to share their experiences in making non-detriment findings for CITES listed species.

¹ See <https://cites.org/eng/cop/11/info/03.pdf>

Australian response: CITES Notification 2017/019: Non-detriment findings

Australia is grateful for the opportunity to respond to Notification 2017/019, particularly in light of the amendments to Resolution Conf. 16.7 (Rev CoP17) proposed by Australia and adopted by the Parties at the 17th Conference of the Parties to CITES (CoP17) in 2016.

Australia is committed to encouraging the publishing of existing science that underpins non-detriment findings. Australia is also interested in building on and extending the collaboration and cooperation shown between Parties in implementing the CoP16 and CoP17 shark and rays listings. This has been an excellent example in how sharing science can benefit Parties and the implementation of the Convention.

Not having access to existing science-based assessments affects the capacity of Scientific Authorities to make informed non-detriment findings, especially for shared or migratory populations. It may also lead to non-detriment findings being data deficient due to the absence of access to neighbouring, regional or international information. Australia considers that the publication of existing science based assessments of non-detriment findings will lead to improved outcomes in implementing Resolution Conf. 16.7 (Rev CoP17) including more consistent non-detriment findings for similar species.

The publication of the scientific assessments will facilitate the sharing of scientific data amongst Parties and the scientific community more generally. Further, non-detriment findings involving shared or common populations and migratory species will be better informed by local, regional and international information and context.

In support of these priorities, Australia is committed to providing to the Secretariat information on the development of non-detriment findings and capacity building as it becomes available. We are also committed to providing clarity around the non-detriment finding process and demonstrating that these findings can take varied forms, as long as they adhere to the recommendations set out in Resolution 16.7 (Rev CoP17). In this light, we also consider that it would be useful for Parties to see other examples of the way Australia implements CITES and applies non-detriment findings, and thereby encouraging Parties to explore methods for making non-detriment findings.

We would welcome the Secretariat publishing on the CITES website any of the below information for the benefit of Parties.

Implementation of CITES and Australian non-detriment findings

CITES is given effect in Australia through Australia's national environment law, the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act). Part 13A of the EPBC Act provides for the assessment of the ecological sustainability of trade in regulated species, as well as the permitting and enforcement functions of CITES.

In accordance with Resolution 16.7 (Rev Cop17), export permits for specimens of species included in Appendices I and II may be granted only when a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of the species (following a determination known as a 'non-detriment finding').

A non-detriment finding is therefore required prior to all exports of CITES-listed specimens, regardless of the purpose of trade. In Australia, a decision on what form the non-detriment finding should take is made on a case-by-case basis largely based on the conservation needs of the taxon, the management arrangements, and the scale of harvest and trade. This flexibility allows Australian authorities to apply the best format of non-detriment finding to the individual case.

Non-commercial exports

Where trade is for primarily non-commercial purposes, such as live animals for display in a zoo, or research specimens for scientific use, the non-detriment finding is made in each individual case of proposed export, based on information about the source of the specimen and an assessment that the export will not be

detrimental to (or contribute to trade which is detrimental to) the survival of any taxon to which the specimen belongs, to the recovery in nature of any taxon to which the specimen belongs, or to any relevant ecosystem.

Commercial exports

All specimens of CITES species exported from Australia for commercial purposes must be sourced from a harvest or propagation program approved by Minister for the Environment (or delegate) under the EPBC Act. The EPBC Act sets out step-by-step the sustainability considerations for approval of harvest for export. Having this requirement embedded in national legislation provides for consistent regulation of export trade, embeds the qualities of the non-detriment findings in the legislative process, and sets out clear expectations for exporters. The CITES Scientific Authority of Australia can therefore make non-detriment findings based on the legislative process.

Most non-detriment findings take the form of a sustainability assessment of the individual harvest or propagation program against legislative requirements. The EPBC Act sets out various program types based on the scale of harvest or management arrangements. Once the program is approved, the operator may then harvest and apply for export permits for their specimens within the boundaries defined by the approved program.

Wildlife trade management plans are generally large scale harvest programs which are developed by the Australian state or territory government agency responsible for managing the species. Wildlife trade management plans may be approved for up to five years. In approving these operations, the approver (the Minister for the Environment or delegate) must be satisfied that there has been an assessment of the environmental impact of the activities covered by the plan, including but not limited to

- an assessment of the status of the species to which the plan relates in the wild;
- the extent of the habitat of the species to which the plan relates;
- the threats to the species to which the plan relates; and
- the impacts of the activities covered by the plan on the habitat or relevant ecosystems.

The approver must also be satisfied that the plan includes management measures directed towards ensuring that the impacts of the activities covered by the plan on the taxon, any other affected taxa, or a relevant ecosystem are ecologically sustainable and will not be detrimental. Finally, the approver must be satisfied that the plan includes measures to

- mitigate and/or minimise the environmental impact of the activities covered by the plan;
- monitor the environmental impact of the activities covered by the plan; and
- respond to changes in the environmental impact of the activities covered by the plan.

If the plan relates to the taking of live vertebrate specimens (except fish) the approver must also be satisfied that the animal will be taken, transported and held in a way that is known to result in minimal stress and risk of injury to the animal, and that if it is killed, it is killed in a way that is generally accepted to minimise pain and suffering.

Example: The Government of the Northern Territory of Australia has fostered the crocodile farming industry, and the industry has grown in conjunction with the crocodile population to the point where the Northern Territory leads the world in the production of high quality saltwater crocodile skins. Crocodile skins are the number one CITES product exported from Australia. A Wildlife Trade Management Plan developed by the Northern Territory Department of Land Resource Management for saltwater crocodiles was re-approved in 2016. This management plan covers the management of the saltwater crocodile (*Crocodylus porosus*) in the Northern Territory. The management plan is available at <http://www.environment.gov.au/biodiversity/wildlife-trade/publications/mgt-plan-saltwater-crocodile-nt-2016-2020>

All wildlife trade management plans on which non-detriment findings are made are publicly available. A full list of approved wildlife trade management plans (including for non-CITES Australian native species) can be found at <http://www.environment.gov.au/biodiversity/wildlife-trade/trading/commercial/management-plans>

Wildlife trade operations are operations taking specimens, generally from the wild, and can be market testing operations, small-scale operations, developmental operations, commercial fisheries, or existing stocks operations. Wildlife trade operations may be approved for up to three years. In approving such an operation, the Minister (or their delegate) must be satisfied that the operation will not be detrimental to the survival or conservation status of a taxon to which the operation relates; and that the operation will not be likely to threaten any relevant ecosystem, habitat, or biodiversity.

If the plan relates to the taking of live vertebrate specimens (except fish) the approver must also be satisfied that the animal will be taken, transported and held in a way that is known to result in minimal stress and risk of injury to the animal, and that if it is killed, it is killed in a way that is generally accepted to minimise pain and suffering.

Most wildlife trade operations on which non-detriment findings are made are publicly available. A full list of approved wildlife trade operations (including for non-CITES Australian native species) can be found at <http://www.environment.gov.au/biodiversity/wildlife-trade/trading/commercial/operations>.

Artificial propagation programs are generally small-scale operations that propagate CITES-listed plant specimens in accordance with the CITES definitions. Generally, artificial propagation programs are valid for five years. See <http://www.environment.gov.au/biodiversity/wildlife-trade/trading/artificial-propagation>

Captive breeding programs are also usually small-scale operations that breed animals in captivity in accordance with the CITES definitions. Generally, captive breeding programs are valid for five years. See <http://www.environment.gov.au/biodiversity/wildlife-trade/trading/commercial/captive-breeding>

Some non-detriment findings also take the form of a public published report on the sustainability of trade in a particular taxon. This is the case for the shark species listed at CoP16, and the freshwater sawfish:

- Australia has previously provided to the CITES Secretariat the *Non-detriment finding for the export of shark species listed on CITES and harvested from Australian waters*, published in 2014 and available at <http://www.environment.gov.au/biodiversity/wildlife-trade/publications/non-detriment-finding-five-shark-species>. Australia's non-detriment finding for the five listed shark species is based on many sources of information including current and available information on each species' range, population structure, status and stock assessments in Australian waters; an analysis of Australian commercial fisheries interacting with the listed species, including an assessment of existing management measures; and consideration of regional and global management measures, threats, stocks and harvests. Australia also published the *Scientific information for the development of this non-detriment finding* (<http://www.environment.gov.au/system/files/resources/39c06695-8436-49c2-b24f-c647b4672ca2/files/cites-listed-sharks.pdf>) and *Advice on CITES Appendix II shark listings* (<http://www.environment.gov.au/system/files/resources/39c06695-8436-49c2-b24f-c647b4672ca2/files/cites-appendix-ii-shark-listing-advice.pdf>). This non-detriment finding is due for review in 2017. Should any changes be made, Australia will provide the updated version to the Secretariat.
- Australia has also made public the non-detriment finding for the freshwater sawfish *Pristis microdon* (*Pristis pristis*) developed in 2011 which is available at <http://www.environment.gov.au/biodiversity/wildlife-trade/publications/non-detriment-finding-freshwater-sawfish-pristis-microdon>.

Some non-detriment findings are made on the basis of exports from a particular jurisdiction or operation - this is particularly the case for trade in marine and fisheries species. While some current non-detriment findings produced by Australia cannot be published in full due to commercial-in-confidence considerations, formal assessment reports detail the consideration of the non-detriment finding and how it was reviewed in making the decision that trade is not detrimental. General information on fisheries management is provided at <http://www.environment.gov.au/marine/fisheries>, where the individual assessments are set out by jurisdiction. As an example, the Western Australian Marine Aquarium Fish Fishery's assessment report can be found at <http://www.environment.gov.au/system/files/pages/137ec212-4ab0-4a3a-b5a8-b8d8e3958693/files/wa-marine-aquarium-assessment-report-2016.pdf>. This report discusses and provides context for the application of the non-detriment finding for the fishery. More assessment reports will be published as they

become available, and Australia is working towards compartmentalising commercial-in-confidence issues to facilitate the wider publishing of non-detriment findings in the future.

Workshops and capacity building

A capacity building project on shark non-detriment findings was completed by James Cook University in mid-2016, through funding by the EU-CITES capacity building project. The project engaged Pacific CITES members, Regional Fisheries Management Organisations and NGOs active in shark conservation.

Outcomes of the project include:

- A workshop in Nadi, Fiji on 11-13 April, 2016 to build capacity for Oceania CITES Parties to better understand the non-detriment finding (NDF) process.
- A capacity building workshop was held in Fiji in April 2016 attended by five Pacific countries. This workshop focused on:
 - building capacity to make NDFs;
 - use of the 6 step process of the TRAFFIC Mundy-Taylor et al. (2014) NDF Guidance for Sharks;
 - a regional NDF template pre-populated with common information for scalloped, great and smooth hammerheads and giant and reef manta rays (these NDF pre-populated templates were considered beneficial to start the NDF process);
 - a potential framework for cooperation on shared stocks; and
 - identification of data gaps and issues.

The workshop also examined the issues with shared stocks of the CITES Appendix II listed hammerheads and manta rays, the potential for NDF collaboration through a regional framework, and synergies with existing projects.

Australia is participating in the Oceania CITES Regional Workshop held from 29 May – 2 June 2017 in Fiji. We expect that one focus of this meeting will be the development of a priority list of non-detriment findings required in the Oceania region, and assessment of the non-detriment finding capacity-building needs of the region.