

January 2006



منظمة الأغذية  
والزراعة  
للأمم المتحدة

联合国  
粮食及  
农业组织

Food  
and  
Agriculture  
Organization  
of  
the  
United  
Nations

Organisation  
des  
Nations  
Unies  
pour  
l'alimentation  
et  
l'agriculture

Organización  
de las  
Naciones  
Unidas  
para la  
Agricultura  
y la  
Alimentación

E

## COMMITTEE ON FISHERIES

### SUB-COMMITTEE ON FISH TRADE

#### Tenth Session

Santiago de Compostela, 30 May – 02 June 2006

### CITES ISSUES WITH RESPECT TO INTERNATIONAL FISH TRADE AND THE CITES/FAO MOU

#### EXECUTIVE SUMMARY

This paper provides an overview of the CITES related activities undertaken by the FAO Fisheries Department since the last session of the Sub-Committee on Fish Trade. A copy of the draft text for an MOU between FAO and CITES, as approved by CITES, is also included. The Sub-Committee is invited to consider the draft MOU and to provide guidance on future CITES related activities.

#### INTRODUCTION

1. A substantive workplan on CITES in relation to commercially-exploited aquatic species was approved by the Twenty-fifth Session of COFI in 2003. The Workplan included holding two Expert Consultations, one on implementations issues related to the listing of a commercially-exploited aquatic species and the second on legal issues. In addition, COFI agreed on terms of reference for an FAO ad hoc Expert Advisory Panel for the Assessment of Proposals to Amend Appendices I and II of CITES Concerning Commercially-exploited Aquatic Species. The Workplan was welcomed by the 9th Session of the COFI Sub-Committee on Fish Trade (Bremen, Germany, February 2004) and it was agreed that FAO should convene an ad hoc Expert Advisory Panel to review any proposals to the 13<sup>th</sup> Conference of the Parties (CoP-13) for listing or delisting commercially-exploited species in accordance with those terms of reference. The 9th Session of the Sub-Committee on Fish Trade (COFI:FT) also drew attention to the importance of participation by FAO in the on-going CITES review of the Conference Resolution 9.24 listing

For reasons of economy, this document is produced in a limited number of copies. Delegates and observers are kindly requested to bring it to the meetings and to refrain from asking for additional copies, unless strictly indispensable.  
Most FAO meeting documents are available on Internet at [www.fao.org](http://www.fao.org)

W0000

criteria in order to promote the adoption by CITES of the FAO recommendations on listing criteria and evaluation of proposals.

2. With reference to a Memorandum of Understanding (MoU) between FAO and CITES, the 9th Session of COFI:FT adopted a text as the FAO proposal for a MoU and outlined a process for further negotiation with CITES.

3. This report presents the work undertaken and progress made in implementation of the Workplan and development of a MOU between FAO and CITES and outlines some of the other activities undertaken by FI since the 9th Session of COFI:FT.

## THE WORKPLAN

4. Financial support for implementing the Workplan was received from the Governments of Japan, Norway and the USA and is gratefully acknowledged.

### AD HOC EXPERT ADVISORY PANEL TO REVIEW AMENDMENT PROPOSALS TO COP-13

5. The ad hoc Advisory Panel, consisting of 14 invited experts, a representative of the CITES Secretariat and members of the FAO Secretariat, met in July 2004 to consider the following proposals submitted to the CITES Secretariat by Parties to CITES for decision at CoP-13 (Bangkok, Thailand in October 2004):

- *Carcharodon carcharias* (white shark) to be included in Appendix II with a zero annual export quota;
- *Cheilinus undulatus* (humphead wrasse) to be included in Appendix II;
- *Lithophaga lithophaga* (Mediterranean date mussel) to be included in Appendix II;
- Helioporidae spp., Tubiporidae spp., Scleractinia spp., Milleporidae spp. and Stylasteridae spp.; an amendment of the annotation to these taxa to exclude fossils from the provisions of the Convention.

6. The report of the Panel was forwarded to the CITES Secretariat and made available to the Parties to CITES in accordance with Article XV of the CITES convention. The recommendations were noted and widely welcomed by CoP 13 although they were not consistently adhered to in the final decisions, in which it was agreed to list white sharks (without the constraint of a zero quota), humphead wrasse and Mediterranean date mussel in Appendix II.

### EXPERT CONSULTATIONS ON IMPLEMENTATION AND LEGAL ISSUES

7. In accordance with the Workplan from the 25th Session of COFI, Expert Consultations on “Implementation Issues Associated with Listing Commercially-exploited Aquatic Species on CITES Appendices” and “Legal Issues Related to CITES and Commercially-exploited Aquatic Species” were held during 2004.

8. The **Expert Consultation on implementation issues** agreed on a number of key recommendations, some of which are presented here. The recommendations included the need for States to improve communication and coordination between their national governmental agencies responsible for CITES implementation and those responsible for natural resource management, including fisheries. Addressing the concern of many FAO members that the CITES mechanism for listing and de-listing is not sufficiently responsive and flexible, it was suggested that FAO could raise this concern with CITES. The Consultation also raised the need to examine alternative approaches to those presently used within CITES to assist in identifying specimens in trade that

---

would avoid unnecessary listing of look-alike species while still effectively addressing enforcement and identification issues. Similarly, the potential problems that could arise for fisheries if there was inflexible adherence by CITES Parties to the guidance on split-listing were considered. The Consultation raised the need for capacity-building to assist States to meet their obligations under CITES. Attention was drawn to the fact that implementation of the FAO Code of Conduct for Responsible Fisheries and the associated international plans of action should help to reduce the incidence of listing proposals for commercially-exploited aquatic species.

9. While recognizing a divergence of views on the respective roles of the different bodies, the **Expert Consultation on legal issues** agreed that it was necessary to look for synergies between FAO, regional fishery management organizations (RFMOs) and CITES with respect to commercially-exploited aquatic species. It further considered it important to look at the general relationship between CITES, the 1982 United Nations Convention on the Law of the Sea and related international fisheries law as background to considering the legal implications of CITES in relation to commercially-exploited aquatic species including the term "introduction from the sea". In relation to that term, the Consultation elaborated firstly on the term "introduction" and secondly on the term "from the sea". The Consultation agreed on a list of recommendations that draws attention to actions that it considered would lead to improvements in the legal interpretation and implementation of CITES in relation to commercially-exploited aquatic species. The recommendations emphasize close consultation between FAO and CITES to address the issues and possible actions highlighted by the Consultation.

10. Copies of the draft reports<sup>1</sup> from those Consultations were made available to CoP 13 and helped to inform discussions on relevant issues. They were widely welcomed by CoP 13. The reports were also made available to participants at the 26th Session of COFI in 2005.

### **FAO INPUT ON THE CITES LISTING CRITERIA**

11. FAO had formulated recommendations on the CITES listing criteria and process for evaluation of proposals at the **Second Technical Consultation on the Suitability of the CITES Criteria for Listing Commercially-exploited Aquatic Species** (Windhoek, Namibia, 22-25 October 2001). These had been endorsed by the Eighth Session of COFI:FT (Bremen, Germany, February 2002) and submitted to CITES for their consideration. No final agreement had been reached by CITES on amendment to the Conference Resolution 9.24 listing criteria at the 12th Conference of the Parties (Santiago, Chile, November 2002). After further discussion within CITES, in which FAO participated, CoP 13 adopted by consensus revised listing criteria that included the key recommendations from FAO related to commercially-exploited aquatic species.

### **CITES FAO/MOU**

12. There was consensus at the 9th Session of COFI:FT to adopt an FAO proposal for a CITES/FAO MOU and on a process to reach agreement with CITES on the text of the MOU. This was referred to the FAO Secretariat for appropriate action. In accordance with these decisions, the FAO's Assistant Director-General for Fisheries negotiated a compromise text with the Chair of the CITES Standing Committee, based on the FAO proposal. The negotiated text was presented to the Fifty-first Meeting of the CITES Standing Committee on 1 October 2004 but no agreement

---

<sup>1</sup> i) Report of the Expert Consultation on Implementation Issues Associated with Listing Commercially-exploited Aquatic Species on CITES Appendices. Rome, 25–28 May 2004. FAO Fisheries Report. No. 741. Rome, FAO. 2004. 24p; and

ii) Report of the Expert Consultation on Legal Issues Related to CITES and Commercially-exploited Aquatic Species. Rome, 22-25 June 2004. FAO Fisheries Report. No. 746. Rome, FAO. 2004. 21p.

---

was reached there or at the Fifty-second Meeting of the Standing Committee two weeks later. The matter was referred to the Fifty-third Meeting of the Standing Committee scheduled for mid-2005.

13. There was no consensus at the 26th Session of COFI on the wording of a draft MOU. Some Members were of the view that the only approved FAO text for the FAO/CITES MoU was the text that was agreed during the 9th Session of COFI:FT. Others were of the opinion that the compromise subsequently agreed to between the FAO Secretariat and the Chairperson of the CITES Standing Committee was the appropriate text to be referred to CITES. COFI decided that, with feedback from CITES being expected in the interim, the matter of the MOU should be reconsidered at the 10th Session of COFI:FT, which could potentially agree to an MoU.

14. At the Fifty-third Meeting of the Standing Committee (Geneva, Switzerland, June 2005) a draft text of a Memorandum of Understanding was approved and has been forwarded to FAO for consideration. The draft text is included in this document as Appendix 1. The preambular text in earlier versions, developed by both organisations, had tended to be the more contentious part of the MOU and, in order to try to avoid those differences, the CITES draft included in Appendix 1 no longer contains a preamble. In the discussions at the Standing Committee meeting, several Parties to CITES made statements that are reflected in the summary record of the meeting.<sup>2</sup>

## ASSISTANCE IN RELATION TO LISTED SPECIES

### *SHARKS*

15. Many Members at the 26th Session of COFI recommended that FAO follow-up on the request from CITES for FAO to convene a workshop on shark management to promote the development and implementation of national plans of action for shark conservation and management. In response to this request, the Fisheries Department of FAO undertook an **Expert Consultation to Review Implementation of the International Plan of Action (IPOA) for Sharks at National Levels**, in Rome 6 – 8 December 2005. The purpose of the Consultation was to advise FAO on matters relevant to the implementation of IPOA-Sharks. The focus of the meeting was to identify how countries have responded to the FAO IPOA-Sharks. The following elements were addressed:

- Institutional and Governance Issues;
- Resource (Stock) Assessment Activities and Issues;
- Provision of Resource Management Advice;
- Compliance with Management Regulations;
- Strategic Planning Process;
- Conservation;
- The Planning Process and Social Issues and National Assessments.

The results of the consultation will be published as a FAO Fisheries Report in 2006.

---

<sup>2</sup> Can be found in the record of the Fifty-third Meeting of the Standing Committee on the CITES website <http://www.cites.org/> (specific address for the record is <http://www.cites.org/eng/com/SC/53/sum/E53-SumRec.pdf>).

---

### CARIBBEAN QUEEN CONCH

16. During 2005, FAO provided advice and assistance to Caribbean countries exporting queen conch and to the CITES Secretariat on sustainable use of this regionally important resource. These actions coincided with and contributed to efforts to implement recommendations arising from a second review of trade in Queen Conch *Strombus gigas*, initiated by the CITES Animals Committee in 2001-2003 because of concerns that the levels of authorized exports might not be sustainable. That second review had concluded that the trade situation was of 'urgent concern' in the Dominican Republic, Haiti and Honduras, and of 'possible concern' in 13 other conch producing countries. The situation was not considered to be of concern in the remaining 12 countries involved in the review. In August 2003, a comprehensive set of recommendations was sent to the 16 range countries where problems had been identified. Some of those recommendations required action to have been taken by September 2005.

17. In order to assist the countries, FAO initiated the development of a '**Manual for the monitoring and management of queen conch**' in consultation with a number of local agencies and in cooperation with the CARICOM Regional Fisheries Mechanism and the Caribbean Fisheries Management Council. A working version of the manual was published in 2005.<sup>3</sup> It is intended to provide guidelines on the requirements for responsible management of the queen conch fisheries and will be reviewed and possibly expanded in further consultation with those organizations and the queen conch producing countries.

18. In the last quarter of 2005, CITES considered the responses of the countries to the recommendations of August 2003 at a workshop held in the Dominican Republic, 13-15 December 2005, to check whether they had been satisfactorily implemented. FAO participated in the workshop at the invitation of CITES. The CITES Secretariat had also requested the assistance of FAO in evaluating the national responses to the August 2003 recommendations. FAO provided detailed technical comments to each country and to the CITES Secretariat on the actions taken by countries and advice, where required, on additional action that should be taken to ensure sustainable use of the resource. This advice was taken into account in deciding on future actions to be taken to conform to the CITES regulations.

### CASPIAN SEA STURGEON

19. The FAO is planning to fund a regional Technical Cooperation Project that will embrace Azerbaijan, Khazakstan, Turkmenistan and the Islamic Republic of Iran starting in 2006. The project title will be "Assistance in Technical Capacity Building in the Regional Management of Sturgeon Stocks of the Caspian Sea and Management Practices at the National Level". It is planned that this 2-year project will provide much in the way of insitutional support to working groups of the Commission on Aquatic Bio-resources of the Caspian Sea. How these modalities will be developed is to be undertaken during the beginning of 2006.

## OTHER DEVELOPMENTS WITHIN CITES SINCE COP 13

20. In May 2005, the 21st Meeting of the CITES Animals Committee took place in Geneva, Switzerland. The meeting considered CITES activities on a number of exploited marine species including Caribbean queen conch, paddlefish and sturgeons, sea cucumbers and sharks. The conservation and management of sharks was considered by a working group at the meeting.<sup>4</sup> The

---

<sup>3</sup> Manual for the Monitoring and Management of Queen Conch. FAO Fisheries Circular No. 1012. Rome, FAO.2005. 58p.

<sup>4</sup> The report, AC21 WG6 Doc. 1 (Rev. 1), of the shark working group from the Animals Committee meeting can be found at <http://www.cites.org/common/com/AC/21/X21-WG6.pdf>.

group placed considerable emphasis on cooperation between FAO and CITES and also considered how to follow up on the Decisions of CoP12 and CoP13 related to sharks, including the following.

- How best to fulfil the instruction from the 13th meeting of the Conference of the Parties to CITES to "review implementation issues related to sharks listed in the CITES Appendices with a view inter alia to sharing experiences that may have arisen and solutions that may have been found;" The shark species currently listed on CITES Appendices, all on Appendix II, are white shark *Carcharodon carcharias*, whale shark *Rhincodon typus* and basking shark *Cetorhinus maximus*.
- A process to fulfil the task of "Identification of specific cases where trade is having an adverse impact on sharks, and those key shark species threatened in this way".

21. Later in the year, CITES convened a workshop on the implementation and technical issues related to the term 'introduction from the sea' that is used in the definition of trade in Article I of the CITES Convention text (Geneva, 30 November – 2 December 2005). A member of the FAO Development Law Service and Mr Erik Franckx, Directeur, Centre de Droit International et Européen, Vrije Universiteit Brussel attended on behalf of FAO. The issues under discussion were based on the definition in the Convention of 'introduction from the sea' and consisted of clarification of the phrases 'marine environment not under the jurisdiction of any State' and 'introduction into a State'. After extensive discussions, the workshop agreed on the following definition of 'marine environment not under the jurisdiction of any State':

'those areas beyond the waters and the continental shelf, comprising the seabed and subsoil, subject to the sovereign rights or sovereignty of any State consistent with international law, as reflected in the United Nations Convention on the Law of the Sea'.

22. While some progress was made at the workshop on reaching agreement on the definition of the phrase 'transportation into a State', it was agreed that more work was still required. The workshop recommended that no additional workshops should be held before the next Standing Committee meeting or Conference of the Parties but that discussion and information exchange should continue through email. The report of the workshop will be sent to all Parties and to FAO when it has been completed. It will provide the basis for the Secretariat to prepare a discussion paper and draft resolution for consideration at the 54th meeting of the Standing Committee (Geneva, October 2006) and at the 14th meeting of the Conference of the Parties (tentatively June 2007).

23. It was apparent from the workshop and the value given to the report of the FAO Expert Consultation on legal issues, that FAO can provide a neutral forum for such discussions and was able to make a significant contribution to the discussions at the Workshop.

## **FUTURE ACTIVITIES BY FAO**

24. The report from the 26th Session of COFI welcomed the implementation of the FAO ad hoc Expert Advisory Panel for the Assessment of Proposals to Amend Appendices I and II of CITES Concerning Commercially-exploited Aquatic Species and implicitly endorsed convening the Panel for relevant proposals to future CoPs. The 14th Meeting of the CITES Conference of the Parties is scheduled to be held in the Netherlands from 3 - 15 June 2007. The deadline for the submission to the CITES Secretariat of proposals to amend Appendices I and II is 4 January 2007, at which time FAO will know whether any proposals relevant to commercially-exploited aquatic species will be considered by COP 14. Any responses received on proposals, including a report

---

---

from the FAO ad hoc Expert Advisory Panel, will have to be sent to the CITES Secretariat before 4 May 2007. The Panel will therefore need to meet in the first quarter of 2007.

25. At the 26th Session of COFI, several Members suggested that it would be beneficial for FAO to develop a sea cucumber management strategy and to review the global status of that taxonomic group and one Member offered to provide funding for such an activity. Following-up on that offer, the Government of Japan has made funding available for that activity and other matters related to CITES, including a contribution towards the costs of the next ad hoc Advisory Panel meeting. Those funds are being directed through an FAO Trust Fund Project "CITES and Commercially-exploited Aquatic Species, Including the Evaluation of Listing Proposals". The project was initiated in September 2005 and is scheduled to run for five years. It includes activities on the collection and dissemination of information on the global status of selected commercially-exploited fishery stocks that may be considered for listing by CITES in the future. This will include a review and analysis of the available information on the global status of commercially-exploited sea cucumber stocks and on any 'hot spots' where management action may be particularly urgent. Other activities intended to facilitate regulation and implementation related to CITES and commercially-exploited aquatic species across a broad front have also been planned for the project.

26. Support to the conch producing countries in the Western Central Atlantic will be continued and a workshop to provide training in the fisheries management process and the use of scientific advice in sustainable use of queen conch is planned for the first half of 2006 in collaboration with UNEP-CEP. This workshop will include consideration of means to address the recommendations and decisions made by CITES and the range states at the meeting held in the Dominican Republic in December 2005.

27. Under the Trust Fund Project funded by the Government of Japan, approaches to addressing enforcement and identification issues in order to avoid unnecessary listing of look-alike species and to facilitate the implementation of split listing of species will be considered. This is consistent with one of the key recommendations from the 2004 FAO Expert Consultation on implementation issues. A workshop to address this topic is scheduled for 2007.

### **ACTION BY COFI:FT**

28. Members may wish to consider the draft text for an MOU between FAO and CITES approved at the Fifty-third Meeting of the CITES Standing Committee (Appendix 1) and to endorse it if appropriate.

29. Members may wish to send names of suitable experts to be added to the roster of recognized experts, consisting of scientific and technical specialists in commercially-exploited aquatic species, from which the FAO Secretariat will select the members of the Expert Advisory Panel for the Assessment of Proposals to Amend CITES Appendices I and II, to be convened to assess proposals to CoP14.<sup>5</sup>

30. COFI:FT may wish to consider the following topics in deliberating possible recommendations to the 27th Session of COFI for ongoing work on CITES in relation to commercially-exploited aquatic species.

- i) The need for FAO to be informed on discussions and activities in CITES concerning legal matters related to commercially-exploited aquatic species and to identify areas where the Organization can contribute effectively, in collaboration with the CITES.

---

<sup>5</sup> See Appendix E, TERMS OF REFERENCE FOR THE AD HOC EXPERT ADVISORY PANEL FOR ASSESSMENT OF PROPOSALS TO CITES. Report of the twenty-fifth session of the Committee on Fisheries. Rome, 24–28 February 2003. FAO Fisheries Report. No. 702. Rome, FAO. 2003. 88p.

- ii) Any follow-up activities that should be undertaken arising from the recommendations of the Expert Consultations on implementation and legal issues, in addition to the work already planned on addressing concerns about possible unnecessary listing of look-alike species and to facilitate the implementation of split listing of species.
- iii) Further activities that may be desirable on implementation of the IPOA for the Conservation and Management of Sharks in relation to CITES activities on sharks.

It should be noted that if any activities outside the approved Programme of Work and Budget are proposed, consideration will need to be given to the source of funding for such work.



---

---

**ANNEX I**

---

SC53 Doc. 10.1

(English only / Únicamente en inglés / Seulement en anglais)

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

---

Fifty-third meeting of the Standing Committee  
Geneva (Switzerland), 27 June-1 July 2005

Strategic and administrative matters**COOPERATION WITH THE FOOD AND AGRICULTURE ORGANIZATION OF THE  
UNITED NATIONS**

This document has been prepared by the Chairman of the Standing Committee.

**FAO AND CITES IN ORDER TO STRENGTHEN THE COOPERATION  
BETWEEN THEM HAVE DECIDED AS FOLLOWS:**

1. The signatories will communicate and exchange information regularly and bring to each other's attention general information of common interest and areas of concern where there is a role for the other to play. The signatories will be invited as observers to meetings under their respective auspices where subjects that are of common interest will be discussed.
2. The signatories will cooperate as appropriate to facilitate capacity building in developing countries and countries with economies in transition on issues relating to commercially-exploited aquatic species listed on the CITES Appendices.
3. FAO will continue to provide advice to CITES on, and be involved in any future revision of, the CITES listing criteria.
4. The FAO will work together with CITES to ensure adequate consultations in the scientific and technical evaluation of proposals for including, transferring or deleting commercially-exploited aquatic species in the CITES Appendices based on the criteria agreed by the Parties to CITES, and both signatories will address technical and legal issues relating to the listing and implementation of such listings.
5. As is required by the Convention, the CITES Secretariat will continue to inform FAO of all relevant proposals for amendment of Appendices I and II. Such information shall be provided to FAO to allow FAO to carry out a scientific and technical review of such proposals in a manner it deems appropriate and for the resulting output to be transmitted to the CITES Secretariat. The CITES Secretariat shall communicate the views expressed and data provided from this review and

---

its own findings and recommendations, taking due account of the FAO review, to the Parties to CITES.

6. In order to ensure maximum coordination of conservation measures, the CITES Secretariat will respect, to the greatest extent possible, the results of the FAO scientific and technical review of proposals to amend the Appendices, and technical and legal issues of common interest and the responses from all the relevant bodies associated with management of the species in question.
7. The Secretariats to CITES and FAO will periodically report on work completed under the MoU to the Conference of the Parties to CITES and the FAO Committee on Fisheries, respectively.
8. This MoU will take effect on the date of signature by both signatories. It will 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.
9. Unless otherwise agreed, neither signatory will be legally or financially liable in any way for activities carried out jointly or independently under this MoU. 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 signatory.

---

Director General, FAO

---

Secretary-General, CITES Secretariat

Date \_\_\_\_\_

Date \_\_\_\_\_