

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



Sixty-sixth meeting of the Standing Committee
Geneva (Switzerland), 11-15 January 2016

Strategic matters

Cooperation with other organizations

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS
REPORT OF THE WORKING GROUP

1. This document has been prepared by the Chair of the Standing Committee Working Group on Cooperation with the Food and Agriculture Organization of the United Nations (FAO).
2. At its 14th meeting (the Hague, 2007) the Conference of the Parties adopted Decision 14.16 directed to the CITES Secretariat, which provides:

The Secretariat shall initiate discussions with the Food and Agriculture Organization of the United Nations (FAO) on how cooperation between the two organizations related to forestry and non-timber forest products might be enhanced.

3. At its 15th meeting (Doha, 2010) the Conference of the Parties adopted Decision 15.18, directed to the Standing Committee, which provides:

The Standing Committee shall analyse the current Memorandum of Understanding (MoU) between CITES and FAO, determine the cooperative scheme between CITES and FAO on forestry issues, and ensure that future cooperation between FAO and CITES is carried out under the framework of the MoU.

4. At its 61st meeting (Geneva, August 2011), the Secretariat presented document SC61 Doc. 15.5, the Annex of which included a draft Memorandum of Cooperation (MoC) between the Food and Agriculture Organization of the United Nations (FAO) and the CITES Secretariat. The draft memorandum was developed jointly by the FAO and CITES Secretariat.
5. The Standing Committee requested that the Secretariat invite further comments from Parties through a Notification and prepare a further document for consideration at SC62. In October 2011 the Secretariat circulated Notification No. 2011/041, which invited Parties to provide comments to the Secretariat on the draft MoC presented at SC61.
6. At its 62nd meeting (Geneva, July 2012), the Secretariat presented document SC62 Doc. 14.4, the Annex of which included a revision of the draft Memorandum for Cooperation (MfC) between the Food and Agriculture Organization of the United Nations (FAO) and the CITES Secretariat. The revision reflected comments received from Parties in response to Notification No. 2011/041, as well as amendments suggested by the FAO.

* *The geographical designations employed in this document do not imply the expression of any opinion whatsoever on the part of the CITES Secretariat (or the United Nations Environment Programme) concerning the legal status of any country, territory, or area, or concerning the delimitation of its frontiers or boundaries. The responsibility for the contents of the document rests exclusively with its author.*

7. After discussion, the Committee agreed to establish a working group with a mandate to “prepare a revised draft memorandum of cooperation, on the basis of document SC62 Doc. 14.4 Annex 1, for consideration at SC63.” The members of the working group were Canada (Chair), China, Japan, Peru, the United States, a Party representing the European Commission, Germany, Lewis and Clark College and WWF.
8. At its 63rd meeting (Bangkok, March 2013), the Standing Committee agreed to extend the mandate of the working group to SC65, understanding that if the working group could complete its work before that date, it should undertake to do so.
9. At its 65th meeting (Geneva, July, 2014) the Standing Committee agreed to extend the working group until SC66 with a mandate:

to consider all options for enhancing cooperation with FAO, including an overarching MoU on institutional cooperation, a subsidiary cooperative agreement regarding forestry resources and consideration of how those two instruments might work together.

10. The Committee also agreed that the Chair and members would remain as specified in paragraph 7 of document SC65 Doc. 16.3 and that the Secretariat should seek advice from FAO relevant to this work.
11. Following SC65, the working group initiated discussions regarding the acceptable scope and the required form an overarching Memorandum of Understanding might take. It was suggested that the working group, having already elaborated a draft MfC on forestry, could develop an overarching draft MfC based on the document contained in SC62 Doc. 14.4 Annex 1.
12. Working group members agreed that an umbrella-like MfC should be less prescriptive and detailed than the drafts originally put forward by the Secretariat at SC61 (SC61 Doc. 15.5 Annex) and SC62 (SC62 Doc. 14.4 Annex 1). It was further noted that any umbrella-like MfC should clearly articulate the oversight role of CITES Parties and FAO Member States.
13. Working group members also expressed concern that the proposed MfC text contained in SC62 Doc. 14.4 Annex 1 had been generated through editing of the existing CITES-FAO MOU on commercially-exploited aquatic species (SC63 Doc.10 Annex), the level of detail and prescriptiveness for which was considered inappropriate to an overarching agreement.
14. The working group agreed that to begin meaningful work, information was required outlining the current level of cooperation between the Secretariats of CITES and the FAO, the degree to which the current cooperative situation was deemed satisfactory and indicating the desired form of a formal bilateral arrangement between the two organisations.
15. To this end, the working group chair initiated an ongoing conversation with the CITES Secretariat, seeking information on possible consultations between CITES and the FAO and an indication as to the desired form for cooperation between the two organizations.
16. On October 22, 2015, the working group was informed by the CITES Secretariat that the FAO Secretariat had indicated that they agree with the following joint message of the CITES and FAO Secretariats to the SC working group:

Neither CITES Secretariat nor FAO 'need' a memorandum of understanding to cooperate. However, an overarching MoU may have the benefit of providing a stronger basis for broader collaboration, not reflected in the only existing agreement between CITES and FAO which is limited to formal collaboration on commercially-exploited aquatic species (CEAS). Such an overarching MoU would give FAO and CITES a better institutional framework for cooperation on other substantive issues of mutual interest and for UN to UN contribution agreements. Both CITES and FAO have considered as well that it would be useful to develop a separate agreement on forestry issues, which could complement the current agreement on CEAS, and which could be a supplementary agreement under a broader MoU. The CITES Secretariat finds it advantageous to work with FAO, as appropriate, to achieve both of these ends.

17. The working group has therefore developed a simplified overarching agreement using the document contained in SC62 Doc. 14.4 Annex 1 as a point of departure. The intent is to provide a non-prescriptive MfC, focused at a high level, that allows the two organizations to create more detailed agreements as

needed, noting the existing CITES-FAO MOU on commercially-exploited aquatic species and the draft CITES-FAO MfC on forestry issues (SC65 Doc. 16.3 Annex).

18. The Chair of the Working Group notes that comments regarding this report were received by the working group without time for thorough review and that, therefore, working group members may wish to provide additional comments at the Standing Committee's 65th meeting.

Recommendations

19. The Standing Committee is invited to take note of the draft Memorandum for Cooperation contained in the Annex to this document.
20. The Standing Committee is invited to determine the appropriate application of the draft Memorandum for Cooperation contained in the Annex to this document, including as currently drafted or as a starting point for further consultations, in light of the CITES Secretariat and FAO agreement on benefits of an overarching MfC expressed in paragraph 16 of this document.

**DRAFT MEMORANDUM FOR COOPERATION BETWEEN THE FOOD AND AGRICULTURE
ORGANIZATION OF THE UNITED NATIONS (FAO) AND THE SECRETARIAT OF THE CONVENTION ON
INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA (CITES Secretariat)**

This Memorandum for Cooperation is made by and between the Food and Agriculture Organization of the United Nations, hereinafter referred to as "FAO" and the Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora", hereinafter referred to as the "CITES Secretariat". FAO and the CITES Secretariat, hereinafter individually referred to as "Party", or jointly as "Parties".

INTRODUCTION

FAO and the CITES Secretariat consider it desirable to act in close cooperation, on matters of mutual interest, with a view to harmonizing the efforts of both secretariats towards greater effectiveness in their individual and joint areas of work, as far as possible, having due regard to their respective objectives, mandates and functions, as described below.

Therefore, the Parties agree as follows:

Article I

Purpose

The purpose of this Memorandum for Cooperation is to establish a framework for cooperation between the Parties in areas where their mandates intersect and where such cooperation is considered beneficial by the Parties and their member States.

Article II

Cooperation

Cooperation under this Memorandum for Cooperation should be on the basis of specific agreements in areas of common concern and common mandate, as agreed by both Parties and their respective memberships.

Article III

Financial implications

1. Any minor and ordinary expenditure relating to the implementation of this Memorandum for Cooperation should be borne by the respective Party.
2. Unless otherwise confirmed, neither Party will be legally or financially liable in any way for activities carried out jointly or independently under this Memorandum for Cooperation. If the cooperation proposed by one of the Parties to the other in accordance with this Memorandum of Cooperation entails expenditure beyond minor and ordinary expenditures, the two Parties shall consult to determine the availability of the resources required, the most equitable way of meeting such expenditure and, if resources are not available, the most appropriate ways to obtain the necessary resources. If necessary and if confirmed by the Parties' governing bodies or member States/Parties, the Parties may jointly seek in-kind and financial resources from other organizations and agencies, including funding agencies, for their joint activities and joint programmes of work. Separate letters of intent or other arrangements, with specific budgets and resource identification, may be formulated for individual activities involving the commitment of financial resources by either Party, subject to approval by the Parties' governing bodies or member States/Parties.

Article IV

Implementation

1. The Parties may make the arrangements necessary for ensuring satisfactory implementation of this Memorandum for Cooperation, including through the establishment of joint agreements covering specific areas of work or joint work programmes.
2. Both Parties will report to their governing bodies and subsidiary bodies on progress made in the implementation of this Memorandum for Cooperation and seek guidance and endorsement regarding new areas of cooperation.

Article V

Focal Points

The Director-General of FAO and the Secretary-General of CITES will act as the focal points for purposes of this Memorandum for Cooperation, in particular for official communications and the exchange of information. The Parties may, however, designate additional focal points in the case of joint activities and programmes of work, and in relation to specific legal and policy instruments.

Article IX

Commitments with other organizations

This Memorandum for Cooperation is without prejudice to commitments undertaken by either Party with other organizations, or programmes within or outside the United Nations System.

Article X

Modification

This Memorandum for Cooperation may be modified by written mutual consent of the Participants.

Article XI

Termination

This Memorandum for Cooperation will remain in force unless terminated by 90 days' written notice served by one Party upon the other, or replaced by another commitment.

Article XII

Privileges and Immunities, Settlement of Problems

1. Nothing in this Memorandum for Cooperation or in any document or activity related thereto should be construed as a waiver of the privileges and immunities of the Parties.
2. Any dispute relating to the interpretation or implementation of this Memorandum for Cooperation should be settled by consultations between the Parties.

Article XIII

Duration

This Memorandum for Cooperation is not limited in duration, unless modified or terminated, and will commence upon signature by the Director-General of FAO and the Secretary-General of CITES.

In witness whereof, the Parties have concluded the present Memorandum for Cooperation in two English-language original copies and appended their signatures thereto.

On behalf of the FAO	On behalf of the CITES Secretariat
Date:	Date: