

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



Twenty-fifth meeting of the Animals Committee
Geneva (Switzerland), 18-22 July 2011

CRITERIA FOR THE INCLUSION OF SPECIES IN APPENDICES I AND II
PRESENTATION BY FAO

This document has been submitted by the Secretariat at the request of the Food and Agriculture Organization of the United Nations.¹

At CoP15, CITES Parties requested FAO to prepare a report summarizing its experience in applying criterion Annex 2aB and the introductory text to Annex 2a of the Resolution Conf 9.24. To assist us with this request, we invited eight experts to Rome who had each served at least once on the “FAO Expert Advisory Panel for the Assessment of Proposals to Amend Appendices I and II of CITES Concerning Commercially-exploited Aquatic Species” (in the following called simply the “FAO Panel”). During a three day workshop these experts and a number of FAO officers analysed the evaluations of past FAO Panels and discussed any difficulties or ambiguous issues encountered. The result was the report circulated by the CITES Secretariat as Annex 2 of Doc. 10, and also available as FAO Fisheries and Aquaculture Report No. 976.

Among other things, the Workshop conducted a detailed examination of how the past FAO Panels had evaluated the indicators given in the proposals, and found that not all of them followed appropriate scientific standards. In particular, the FAO Panels had had difficulties in dealing with anecdotal information, catch or landings data not standardised by effort, the implications of habitat degradation and the role of the species in its ecosystem.

Almost all proposals included time series of landings and interpreted them as reflective of population abundance. However, landings by themselves do not necessarily reflect abundance. For example, landings of a species can decline in response to reduced fishing quotas, changes in management plans, stock rebuilding efforts, changes in market demand or price, and other factors, even if population abundance is actually increasing. For this reason, catch or landings by themselves were given relatively low weight by the FAO Panels unless first standardized to effort (e.g. CPUE).

Another technical difficulty encountered by the FAO Panels involved dealing with the variation between heavily exploited populations (that meet the decline criteria) and more lightly exploited populations of the same species. The FAO Panels based their decisions as to whether the proposed species globally met the decline criteria on the proportion of populations with quantitative indices that met those criteria. Where the majority of the populations was deemed to meet or likely soon to meet the decline criteria, the FAO Panels concluded that the species met the biological CITES criteria for listing. The Workshop noted that guidance is required on what proportion of these populations need to satisfy the listing criteria for the global listing of the species.

The Workshop remarked on a potential for ambiguity resulting from the guidance that according to Annex 3 split listings should be avoided and according to Annex 4 measures adopted that are proportionate to the anticipated risk to the species. If to avoid split listing “healthy” populations of a partially troubled species are

¹ *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.*

listed under the “look-alike” clause, the obviously sustainable fisheries of these “healthy” stocks will also (and unfairly) be affected by the bureaucratic burden and implementation costs of a CITES listing.

The FAO Panels considered information available on the nature and extent of trade, the impact of trade on the harvest, and management regimes in place for a species that may mitigate the need for trade to be regulated under CITES. Furthermore, these Panels addressed the likely effects of a CITES Appendix II listing for a species’ conservation and its value as a complement to existing fisheries management measures. Notwithstanding these considerations, to date the FAO Panels have supported all proposals to list a species where they found that the biological listing criteria had been met.

The Workshop endorsed the view that the intent of both paragraphs under Annex 2a are addressed operationally for commercially-exploited aquatic species by the relevant definitions, explanations and guidelines in Annex 5. It noted that these allow due account, incorporating precaution, to be taken of the possibility of “other influences” than harvesting such as environmental or demographic variability, disease and habitat perturbation reducing an otherwise stable population to a level at which its survival may be threatened. The Workshop emphasized the following paragraph of the footnote for commercially exploited aquatic species in Annex 5 (in the following simply called “Footnote”) as being particularly pertinent to paragraph B:

Even if a population is not declining appreciably, it could be considered for listing in Appendix II if it is near the extent-of-decline guidelines recommended above for consideration for Appendix I listing. A range of between 5% and 10% above the relevant extent-of-decline might be considered as a definition of ‘near’, taking due account of the productivity of the species.

In addition, the Workshop questioned the distinction made by the CITES Secretariat between the terms “decline” and “reduce” and reported that this needs to be clarified, in particular whether in the view of the CITES Secretariat some other measure of decline is intended to apply to Annex 2a B compared to Annex 2a A. Furthermore the Workshop observed that the FAO Panels have considered CITES Resolution Conf. 9.24 (Rev. CoP15) as a whole to provide adequate guidance for the determination, in a precautionary manner, of whether a species is at risk in the future as a result of international demand for trade.

In its concluding paragraph, the workshop stated that there are two approaches to deal with potential risk to the species under the application of Annex 2a B. The approach taken by the CITES Secretariat can be seen as anticipating a possible impact across the global distribution of the species without requiring data-based evidence to project or infer the magnitude of such an impact. On the other hand, the FAO Panels have considered that there should be a demonstrable impact on the species to justify listing. The Workshop found that Resolution Conf. 9.24 (Rev. CoP15) as a whole, in particular the footnote for commercially-exploited aquatic species, sets an acceptable precautionary level of risk.

Therefore, an important question for CITES Parties is which, if either, of these two approaches is appropriate for commercially-exploited aquatic species in the context of the Convention, or whether further guidance is required. In considering this choice, the CITES Parties should take into account the extensive global experience and insight that determined the FAO recommendations on revisions to Resolution Conf. 9.24 prior to CoP13 and which were accepted the CITES Parties at that stage.

Since the FAO report was drafted, we in the FAO have had the opportunity to read with interest the related reports of the CITES Secretariat and IUCN/TRAFFIC. We welcome that the reasons for the difference in interpretation between the CITES Secretariat and FAO are being explored in a systematic and participatory manner, and we would like to take this opportunity to share with you some important arguments and responses from a FAO perspective to the reports presented by the CITES Secretariat and IUCN/TRAFFIC.

IUCN/TRAFFIC draw our attention to the fact there is no explicit definition of “commercially exploited aquatic species” in Resolution Conf. 9.24. Within FAO, there is informal consensus that “the term ‘commercially-exploited aquatic species’ in relation to CITES ... encompasses resources exploited by fisheries in marine and large freshwater bodies ... and comprises invertebrate and fish species, ...² but not mammals, birds and reptiles.

We note that the CITES Secretariat continues to see a difference between the terms “decline” and “reduction” which we still fail to understand. In particular we cannot understand what is meant by the statement in paragraph 5 of its report “i.e. before reduction engenders a decline” and this needs to be explained by the

² See 2004 FAO Expert Consultation on Implementation Issues Associated with Listing Commercially-exploited Aquatic Species on CITES Appendices

CITES Secretariat with some relevant examples. Our viewpoint remains that the use of the term “reduce” in paragraph B is synonymous with “decline” and that therefore the decline criteria also apply to paragraph B. In particular we would like to bring to your attention the following arguments:

The chapeau of Annex 2 a says “The following criteria must be read in conjunction with ... Annex 5, including the footnote ...” We note the use of the plural criteria instead of the singular criterion which evidently means that the chapeau applies to both criteria paragraphs and not just to one. Furthermore, Annex 5 states that “A 'decline' is a reduction in the abundance ...” Therefore, these two expressions are used as synonyms in Resolution Conf. 9.24.

Accordingly, the Footnote makes no distinction between the two criteria paragraphs and clearly intends to address both. This becomes apparent in paragraph 5 of the Footnote which refers to a situation where an Appendix II listing can be considered “even if a population is not declining appreciably”. This paragraph introduces a precautionary buffer zone of 5 to 10% above the Appendix I abundance threshold of a species. Under this clause, as long as a commercially exploited aquatic species is found to currently be in this buffer zone, it could be considered for listing under Appendix II even if the projected evolution of abundance over the next decade would not lead it to reach the Appendix I threshold. Such a situation relates specifically to the paragraph B criterion, and would not be covered under paragraph A. We note that this option applies to commercially-exploited aquatic species ONLY and is NOT included in the decline definition for other species. So, while the interpretation of criterion paragraph B by the CITES Secretariat might be applicable to other species (such as terrestrial animals), it is not applicable for commercially exploited aquatic species.

The CITES Secretariat mentions that it undertakes assessments under paragraph B to determine whether a population is sufficiently robust to sustain the harvest being taken. This is exactly what the FAO Panel does. The FAO Panel is bound to FAO’s commitment to strive for the best available scientific advice for management, and in this regard the CITES measures are not any different from other sets of management tools at the disposal of fisheries managers. Furthermore, we would like to note that scientific methods to assess the status and trends of fish populations exist for all types of data—qualitative or quantitative. Of course, different methods will result in different levels of uncertainty which need to be taken into account in the decision-making process. But this does not change FAO’s view that adequate scientific analysis, reported in a way amenable to peer-review, should ALWAYS be at the heart of ANY management decision, to list, not to list, or to delist any commercially exploited aquatic species.

We were interested to read about a new explanation of the difference between paragraphs A and B of Annex 2a which we had not encountered before, and which proposes that paragraph A deals with “species which may qualify for inclusion in Appendix I in the near future (defined as 5-10 years in Annex 5)”, whereas paragraph B “refers to a longer time-frame than this”. While we appreciate the precautionary intentions, we are concerned at the potential ramifications for CITES and for fisheries management if a CITES listing today can be justified by a possible but not yet manifest impact fifteen, twenty or more years in the future. Also, we consider that it does not make sense to have separate criteria dealing with short and longer time periods. A criterion for a longer time period would automatically encompass the shorter period as well, so paragraph A would be redundant if the CITES Secretariat interpretation of paragraph B was correct.

One of the motivations of FAO to become involved in the process of revising the CITES criteria for commercially exploited aquatic species is illustrated by the following quote from CoP12 in 2004: “FAO suggested that the Appendix-II criteria were so broad and ambiguous that essentially any currently managed fish stock could meet these criteria and hence, under the current criteria, could be eligible for inclusion in the CITES Appendices. FAO argued that this could not possibly have been the intention of the CITES Appendix-II criteria”³. Therefore, when the current Annex 2a criteria were adopted by CITES, FAO was satisfied that there was now a basis for a meaningful, scientific and precautionary process for the listing of commercially exploited aquatic species under Appendix II.

We are now concerned that using what is being described as “qualitative” and “flexible” listing criteria would not provide any guidance to CITES Parties on the purpose of Appendix II and would revert to the pre-CoP13 position. This would allow for indiscriminate listing of commercially exploited aquatic species under CITES Appendix II or conversely - as this can go either way - hinder the inclusion of species which according to scientific advice should be included on Appendix II. We strongly hold the view that the introduction of such “flexible” criteria would lead away from a scientifically defined and therefore transparent and objective basis for deciding on CITES listings. We are not disputing that qualitative criteria are admissible, particularly in data deficient situations. However, surely their INTENT and the rigour of their use must be identical to the

³ CoP12 Doc. 58 Annex 1.

quantitative guidelines that can be applied in more data-rich cases? There is a growing and rich body of literature dealing with the scientific analysis of qualitative and semi-quantitative data, and rigorous, scientifically-defensible methods have been developed to deal with this kind of data in fisheries.

The CITES Secretariat concludes that the adoption of “measures that are proportionate to the anticipated risks to the species” are a useful “guide in cases of uncertainty”. We would like to add that in every, not only some cases, is there a requirement that the measures adopted be proportionate to well-defined risks that must be assessed. FAO holds the view that this need is met by the application of Annex 2a A and B in conjunction with Annex 5. In addition, there always is uncertainty in the assessment of the status of a biological population, and more so in its projection into the future. The issue is the extent of this uncertainty. Scientific analysis can and should provide estimates for this uncertainty, so that management decisions can take into account the level of uncertainty in any particular analysis.

CITES undoubtedly has a role to play in helping to address the problem of increasingly over-exploited fish stocks. This issue is of great concern to FAO and to fishery managers worldwide, and a CITES listing can be helpful in some cases, but not necessarily in others. There are many instruments and tools available for the management of aquatic resources, and FAO is involved in a number of initiatives to improve the conservation of global fishery resources, such as the development of an ecosystem approach to fisheries, the battle against IUU fishing, the improvement of fisheries monitoring, and so on.

FAO recognizes that CITES can be a valuable instrument to help us achieve the goal of sustainable fisheries for future generations, and FAO has supported CITES for more than a decade through a number of relevant activities, not only through the FAO Expert Advisory Panel. Therefore, and in the spirit of good cooperation, FAO looks forward to the guidance of the CITES Parties regarding the interpretation and application of the CITES criteria for the listing of commercially exploited aquatic species under Appendix II.