

SPECIES SURVIVAL NETWORK (SSN)

BRIEFING FOR

THE EUROPEAN REGIONAL MEETING OF THE CITES PARTIES

30 JANUARY 2004 BRUSSELS, BELGIUM

MOU BETWEEN CITES AND FAO

Decision 12.7 directed the CITES Standing Committee (SC) to work with the Food and Agriculture Organization (FAO) to draft a Memorandum of Understanding (MOU) between CITES and FAO to be considered at the 25th Meeting of FAO's Committee on Fisheries (COFI) in February, 2003 and, if possible, by SC49 (April 2003). The SC was directed to elaborate provisions to guide FAO participation in the scientific evaluation of listing and delisting proposals for exploited aquatic species, establish a framework for cooperation in capacity building and law enforcement efforts, and develop workplans on issues of common interest to the two bodies.

Because the interval between CoP12 and COFI 25 was short, the SC Chair worked with the Secretariat to develop a draft MOU to be forwarded to FAO. This draft, which was presented at COFI 25, responds to the express requirements of Decision 12.7 by committing the Parties to jointly develop a procedure for FAO participation in the scientific evaluation of CITES listing proposals, identifying specific areas of future cooperation between the two bodies, and committing the two organizations to identify and address legal and technical issues of common interest.

Unfortunately, the draft MOU presented by CITES was not considered at COFI 25. COFI considered the matter of an MOU, but was unable to reach consensus on a draft agreement. Nonetheless, three non-consensus documents, including a possible MOU, were appended to the COFI report. **The representative of the CITES Secretariat was not allowed to participate** in the development of the FAO's draft MOU, and the completed document reflected that imbalance. **The draft MOU attached to the COFI 25 report effectively subordinates CITES to the FAO,** and relegates the Convention to a peripheral role in the conservation of marine wildlife. Its

substantive provisions leave key terms and processes undefined, and create substantial risks of increased friction between the two bodies.

Because no consensus document was available from FAO in time for SC49, the Chair convened a working group at SC49 to make further revisions to the draft MOU developed by the Chair and the Secretariat. The working group, chaired by Ecuador, produced a revised draft of the MOU. Because the SC was unable to reach consensus on the document, it was decided – by a vote of seven to six – that the draft MOU would be circulated to all Parties for comment, the Chair would communicate with FAO, and a new document would be produced for consideration at SC50.

The draft MOU was circulated to Parties in Notification 2003/030 (May 6, 2003). At the time of this writing, a revised text has not yet been circulated. FAO's subcommittee on fish trade will be meeting in Bremen in February, 2004, prior to SC50. The subcommittee will consider the matter of the CITES-FAO MOU, but has acknowledged that fundamental differences on the respective roles of the organizations remain. See ftp://ftp.fao.org/fi/document/COFI/cofift_9/3e.pdf.

SSN remains supportive of the draft MOU as presented to the Parties in Notification 2003/030. Unlike the documents produced by FAO, the Chair's draft MOU outlines a process for exploring synergies and resolving potential differences between the organizations in a spirit of cooperation and parity. It provides a solid foundation from which a balanced and productive agreement between the two bodies may be reached. SSN encourages the Parties to support this draft as the basis for future negotiations between CITES and FAO.

REVISION OF THE CRITERIA FOR LISTING SPECIES ON THE CITES APPENDICES

At CoP12, the European Region took a leading role in ensuring that the process of revising Resolution Conf. 9.24 would be carried forward to the next meeting of the Conference of the Parties. This proved an essential step in ensuring that the draft text prepared by the working group took into account many of the concerns raised by Parties over previous drafts, and that the process for dealing with this draft would be open and broadly consultative. The

European Region's action also allowed time to review the draft criteria against a broad range of taxa – one of the reasons for supporting the revision of the criteria in the first place.

These reviews have now been completed. Although most reviewers found that the criteria could be applied, many suggested further revisions to the draft text. Some of the

suggestions were broadly supported and deserve serious consideration by the European Parties. In particular, there was strong objection to the **use of specific numbers**, even as guidelines, in definitions of such terms as "decline" and "area of distribution". When Resolution Conf. 9.24 was adopted in 1994, there was also broad opposition, particularly from the scientific community, to the use of numerical guidelines on the grounds that any number that purported to be relevant to all animal and plant taxa would almost certainly be misleading and/or inapplicable in a vast number of cases. The comments from scientific reviewers of the current draft show that these objections are still valid and broadly held. **We strongly recommend that the advice of these reviewers be followed, and that numerical guidelines be removed from the criteria.**

Many of the reviewers recommended adding the word "**international**" before "trade" in the phrase "**affected by trade**". Although SSN recognizes the logic behind the suggestion, **we do not support it because it has the effect of making the resolution more restrictive than the treaty itself.** Listing criteria should not be used to narrow the scope of treaty language. For the same reason, we do not support passages in the current draft text that would restrict the application of the term "affected by trade" to detrimental effects only.

Though SSN regards the current draft text as a great improvement on earlier versions, we retain concerns about

some of the proposed changes. Since the purpose of the criteria is strictly to interpret the treaty, they should not be used to introduce concepts not reflected in treaty language. **We therefore do not support the addition of language referring to "socioeconomic factors"** to be taken into account when considering listing decisions, as there is nothing in CITES that requires such factors to be taken into account when determining whether to list a species on a given Appendix. We are also concerned that the reference, in Annex IV, to measures "**proportionate**" to risks **inserts inappropriate ambiguity into the standard and incorrectly assumes that the level of risk can be accurately identified** even when complete information is lacking. We further believe that the precautionary language in the current draft is not an improvement over the language in Resolution Conf. 9.24, language which we feel reflected more directly the concerns of CITES.

As the revision process continues, we look to the European Region to continue the leadership role it adopted at CoP12. **In whatever form revised criteria are finally adopted, it is vital for the reputability and effectiveness of CITES that all Parties feel that they have been adequately consulted and their views properly considered. Resolution Conf. 9.24 was adopted unanimously in 1994. Its successor, surely one of the most crucial resolutions to the operation of CITES, must also be in a form that all Parties can endorse.**

REVISION OF THE CITES ACTION PLAN: NATIONAL REPORTS

At CoP12, CITES directed the Standing Committee to undertake a review of reporting requirements under the Convention, including consideration of the "*sufficiency of the existing Guidelines for the preparation and submission of CITES annual reports*". SSN is concerned that plant and animal parts, such as horns, tusks and bones, are often more valuable when sub-divided, especially if the smaller pieces are then worked (e.g. carved into ornaments or jewelry), and that greater specificity is needed in recording their trade than the current Guidelines require.

For example, although the Guidelines state that non-standard units such as "boxes", "cartons" or "bales" should never be used in reports, **trade data from WCMC show that Parties often submit data in such non-standard measures.** For example, narwhal tusks are often recorded as 'sets of carvings', with no details of the number of carvings in the set, or the size or weight of those carvings. As a carving can be anything from a small item of jewelry to a worked whole tusk, this lack of specificity makes it

impossible to determine how many individual tusks (and animals) contribute to the trade.

The Guidelines state that the quantity of specimens traded should be recorded, along with a preferred or alternative unit of quantity (e.g. kg or metre). However, if neither can be obtained, the report may still be submitted with just a record of the quantity of specimens traded. **SSN believes that the high value of certain animal and plant parts makes it necessary for trade reports to record both the weight and size of each specimen** so that the extent of trade and its impact on the species concerned can be accurately determined.

SSN requests the European CITES Parties to urge the Standing Committee to ensure, through its Review of National Reports, that Parties report trade more accurately and comprehensively in products such as tusks, teeth, bones, carapaces and timbers, and carvings or pieces thereof.

ELEPHANTS AND IVORY TRADE

As a result of discussions at CoP12, there appear to be strict conditions that must be met before the Standing Committee approves the export of ivory from Botswana, Namibia and South Africa. However, in fact, very few of these "conditions" are meaningful, especially in light of similar conditions placed on the last "one-off sale" of ivory in 1999. For example, then, as now, one condition is that the funds accruing from ivory sales should be used for elephant conservation; yet, this cannot even be verified for the 1999 ivory export, since no official attempt has been made to elicit information on the use of these funds from

the relevant Parties. Another such condition requires that Parties importing ivory should not re-export it. However, since Japan, a major domestic ivory market that does not export significant quantities of ivory, is – and always has been – the likely destination for this ivory, this stipulation is meaningless in the current context.

It is therefore critical that the three meaningful conditions that do exist are fulfilled.

Re: Annotation ii and Decisions 12.36 and 12.39 on internal trade controls and the implementation of

Resolution Conf. 10.10 (Rev.CoP12)

“Only to trading partners that have been verified by the Secretariat, in consultation with the Standing Committee, to have sufficient national legislation and domestic trade controls to ensure that the imported ivory will not be re-exported and will be managed in accordance with all requirements of Resolution Conf. 10.10 (Rev.) concerning domestic manufacturing and trade”.

Japan has now come forward as a potential trading partner. At CoP12 the Japan Wildlife Conservation Society (JWCS) reported that, in Tokyo, **almost 40% of the 1,000+ hanko retailers listed in the telephone directory were not registered**. JWCS also reported that there were two separate government recording systems for the transfer of worked and raw ivory, thus making it impossible to trace the origin of worked ivory. Given the 2002 seizure in Singapore of six tonnes of illegal ivory destined for Japan, and information to the effect that numerous previous shipments may have entered Japan successfully, we urge the European CITES Parties **to ensure that Japan has a demonstrably effective method of tracing the origin of any piece of worked ivory back to the tusk from which it originated and**, indeed that it is already **managing ivory in accordance with all requirements of Resolution Conf. 10.10 (Rev.)**.

At the last Standing Committee meeting, Japan reported that it had sent information on the six-tonne seizure to the Secretariat. **We request that the European CITES Parties insist that Japan provide to the Standing Committee a detailed report on its investigation into all aspects of this case, including the professional standing of the intended recipient of the ivory and the current legal status of the case, as well as the investigations being carried out with regard to possible previous shipments.**

Re: Annotation vi

“Only after the Standing Committee has agreed that the above conditions have been met. On a proposal from the Secretariat, the Standing Committee can decide to cause this trade to partially or completely cease in the event of non-compliance by exporting or importing countries, or in the case of proven detrimental impacts of the trade on other elephant populations”.

PROPOSALS FOR THE AMENDMENT OF APPENDICES: SHARKS

The following two proposals to list certain species of sharks on appendix II may be submitted for consideration at CoP13:

SPINY DOGFISH (*Squalus acanthias*):

The IUCN Red List classification is Endangered for the NE Atlantic sub-population, Vulnerable for the NW Atlantic sub-population and Lower Risk/Near Threatened for the remainder. In the northeast Atlantic, several stock assessment models (including the length-slicing method, catch at size analysis and the Bayesian stock production model) have been applied to stocks of *S. acanthias*: the results of all these methods reveal severe declines. As can be seen in the graph to the right, the line for 0.05 falls from c. 2 million mature fish in the early 1980s to ~ 600,000 in 2000, a ~70% decline from an already depleted biomass.

The problem with a literal interpretation of this annotation is that by the time any non-compliance or detrimental impacts are detected, trade will already have taken place, thus rendering the annotation meaningless. **SSN recommends that the European CITES Parties give this annotation meaning by agreeing that no ivory export should take place until sufficient time has elapsed since CoP12 for non-compliance with, and detrimental impacts of, CoP12 decisions to be detected.**

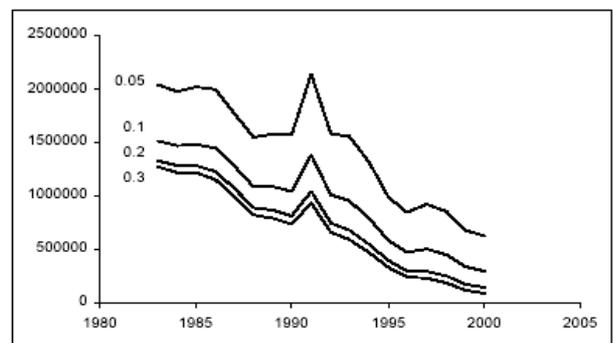
Re: Decision 12.34

“The Standing Committee shall determine how it would conclude that a detrimental impact on other elephant populations had occurred as a result of approved trade in ivory.”

There is general acknowledgement that a causal link between CITES decisions and illegal killing cannot be proven. Nigel Hunter, Director of MIKE (a CITES programme for Monitoring the Illegal Killing of elephants), has informed SSN that twenty factors influence elephant poaching levels: *Ecosystem type/habitat; elephant population levels; elephant/human conflict levels; adjacent land use; human access; human population pressure; availability of water; land tenure systems; development activities; tourism activities; history of illegal killing; proximity to international borders; cross-border incursions; civil/military conflict; law enforcement effort levels; judicial severity; corruption; illegal drug/arms trafficking; ivory trade patterns; CITES trade decisions.*

Given the large number of factors being presented to the Parties as influences on elephant poaching, we urge the European CITES Parties to take a precautionary approach to this Decision by considering time correlations observed between the CITES decisions and trends in illegal killing and trade to be a serious indication of a causal link, regardless of the presence of other influencing factors.

Previous time-correlated trends should also be recognized. At CoP13, TRAFFIC published a graph showing a steep and sudden upward trend in illegal trade in 1997, the year that CITES conditionally approved the one-off ivory sales. This was the first time that illegal trade had significantly increased since 1989, the year of the Appendix I listing.



Trends in total population numbers of mature fish estimated using a Separable Virtual Population Analysis of the catch numbers at age data. Each line represents a different assumption for terminal F (0.05 - 0.3) on the reference age in the final year. From Heessen, H.J.L. (ed) 2003. Development of Elasmobranch Assessments. DELASS.

The line for 0.3 declines from ~1,250,000 in the early 1980s to ~100,000 in 2000, a 92% decline.

Data from the US Atlantic indicate that **there has been a 75% decline in mature females since targeting began in 1989**. The number of pups has been at record low levels for seven years. Projections show that, even with stringent management measures, recovery of this stock could take two decades

The EU is the biggest market for meat: Germany, France, Italy, the UK, Belgium and the Netherlands import large quantities, both frozen and fresh, much of it from the USA. Despite serious stock declines, US exports of fresh dogfish rose from 1,163,145 kgs in 1998/99 to 2,203,881 kgs in 2000/2001. During this period, US exports of frozen dogfish rose from 879,186 to 3,043,953 kgs. Most of these exports were destined for Europe. The vast majority of these dogfish are assumed to have been *S. acanthias*.

PORBEAGLE SHARK (*Lamna nasus*):

The IUCN classification is Vulnerable for the NE Atlantic sub-population, Lower Risk/Conservation Dependent for the NW Atlantic and Lower Risk/Near Threatened for the remainder. The species is considered overexploited in the north Atlantic owing to overfishing in the latter half of the twentieth century. **In 2000, catch rates of mature porbeagle sharks were c. 10% of those in 1992, while catch rates of immature porbeagle sharks were c. 30% of those in 1991.**

In the northeast Atlantic, the porbeagle shark was intensively fished by Norway, as well as Denmark

(Faroes) in the first half of the 20th century. Catches peaked in 1947 and declined steadily thereafter, leading Norway to expand its fishery to the northwest Atlantic. These stocks, too, were quickly depleted.

In the northwest Atlantic, intensive fishing in the early 1960s led to the collapse of the fishery within six years. After two decades of slow recovery (when Canada closed its EEZ to foreign fisheries), catches intensified in the 1990s, leading to a second population decline and a dearth of mature females. Current stock size is estimated to be only 10–20% of the pre-exploitation size.

Porbeagle shark meat is rated highly for human consumption. The porbeagle shark is also used for its oil, for the manufacture of fishmeal and its fins are used for shark fin soup.

The porbeagle shark and the spiny dogfish both meet the CITES criteria for listing in Appendix II. In addition, listing them would assist in fulfilling the requirements of the FAO International Plan of Action (IPOA) for sharks, which stresses that harvesting should be “consistent with the principles of biological sustainability and rational long-term economic use” and that “management and conservation strategies should aim to keep total fishing mortality for each stock within sustainable levels by applying the precautionary approach”.

SSN urges the European Region to support the listing of spiny dogfish and porbeagle shark on Appendix II of CITES.

CITES NATIONAL LEGISLATION PROJECT

The effective implementation of CITES depends upon all Parties enacting adequate domestic legislation to implement the Convention. The failure of Parties to do so undermines not just CITES' management measures, but its credibility. SSN applauds the unique efforts made by CITES to establish and enforce qualitative and quantitative standards to be met by each Party's implementing legislation, as well as the process for evaluating national legislation and encouraging improvements. At the 49th meeting of the Standing Committee, a question was raised about the lack of implementing legislation in the Faroe Islands, a dependent territory of Denmark, which was planning to import whale meat from Norway in violation of the Convention. The Secretariat stated that it would check that the Faroe Islands, as well as dependent territories of other Parties, were covered by the National Legislation Project. However, in Document 29 for SC50,

the Secretariat notes the heavy workload of the National Legislation Project and suggests deferring this issue to its report to CoP13.

SSN believes that it is vital that the National Legislation Project evaluates the implementing legislation of all dependent territories of CITES Parties as soon as possible, so that it demands the same exacting standards of these overseas territories as it does of the Parties who ratified the Convention on their behalf. Failure to do so will continue to cause serious disparities in the implementation of the Convention.

SSN urges the European CITES Parties to urge the Standing Committee to formally extend the National Legislation Project to all Dependent Territories, and to conduct assessments, as a priority.

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