

## **Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)**

### **Basis Instrument**

Convention on International Trade in Endangered Species of Wild Fauna and Flora (27 UST 1087, TIAS 8249)

### **Implementing Legislation**

Endangered Species Act (16 USC 1531-43)

### **Member Nations**

There are 180 Parties: Afghanistan, Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalem, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Central African Republic, Chad, Chile, China, People's Republic of, Colombia, Comoros, Congo, Congo, Democratic Republic of, Costa Rica, Cote d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Honduras, Hungary, Iceland, India, Indonesia, Iran, Iraq,\* Ireland, Israel, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Korea, Kuwait, Republic of, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Liechtenstein, Lithuania, Luxembourg, Lybian Arab Jamahiriya, former Yugoslav Republic of Macedonia, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Moldova, Monaco, Mongolia, Montenegro, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Palau, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tanzania, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom, United States, Uruguay, Uzbekistan, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia, Zimbabwe

\* The Convention will enter into force for Iraq on 6 May 2014.

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### **Budget**

The budget for the triennium 2014-2016 approved by the 16<sup>th</sup> meeting of the Conference of the Parties shall be covered by the Trust Fund budget in the amount of USD 5,836,735 for 2014, USD 6,018,089 for 2015 and USD 6,655,307 for 2016. According to United Nations scale, the U.S. contribution is 22%.

### **U.S. Representation**

The Endangered Species Act provides authority to the Fish and Wildlife Service of the Department of Interior to implement the Convention. FWS is also responsible for inspections of shipments of wildlife through designated ports of entry. The majority of CITES-listed species are under the management jurisdiction of FWS. However, many species are managed by NMFS, including all the great whales, all the dolphins, all the marine turtles, six seal species, coelacanths, some sturgeon species, basking sharks, great white sharks, whale sharks, seahorses, queen conch and all hard coral species listed either on Appendix I or II. NMFS also has management jurisdiction over several marine species that were included in the CITES Appendices at the most recent meeting of the Conference of the Parties to CITES (see “Recent Activities” below for more details).

The Animal and Plant Health Inspection Service of the Department of Agriculture inspects imports of plant species listed on the treaty.

### **Description**

#### **A. Mission/Purpose:**

Provides for international cooperation for the protection of certain species of wild fauna and flora against over-exploitation through international trade.

#### **B. Organizational Structure:**

The CITES framework includes a Standing Committee, which meets annually to conduct the administrative matters of the Convention and to recommend policy actions to the Parties. In addition, there are separate committees on Animals and Plants, which meet annually to review technical matters, including management questions, and make recommendations to the Standing Committee.

All the committees meet approximately once a year on their own schedules. Meetings of the Conference of the Parties (CoPs) are convened approximately every three years.

#### **C. Programs:**

Under CITES, species are listed in Appendices according to their conservation status. In addition, listed species must meet the test that trade is at least in part contributing to their decline. Appendix I species, for which there is no international trade permitted, are "threatened with extinction." Appendix II species are "not necessarily threatened with extinction," but may become so unless trade is strictly regulated. This regulation usually takes the form of a requirement for documentation from the country of export, monitoring of imports and, in some cases, export quotas. Imports from countries which are not CITES members still require what is called "CITES-equivalent documentation." Appendix III includes all species which any Party identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the cooperation of other Parties in the control of trade.

The Animals and Plants Committees of CITES may undertake reviews of Appendix II-listed species for which there are significant amounts of international trade. Based on these reviews, recommendations for conservation of the species are made in order that they might avoid being listed in Appendix I.

Of special interest to NMFS in the past have been proposals to list commercially exploited aquatic species in CITES, significant trade studies for queen conch and hard corals, discussion of the implementation of CITES Appendix II for commercially exploited aquatic species, cooperative efforts with the International Whaling Commission to control illegal trade in whales, the listing criteria for commercially exploited aquatic species, and resolution of the CITES provisions for regulation of trade in species taken on the high seas, referred to under the treaty as “introduction from the sea.”

### **Recent Activities**

The Sixteenth Meeting of the CoP (CoP16) met in Bangkok, Thailand, 3-14 March 2013. Delegations from over 170 Party countries came together to deliberate actions to address the international trade of polar bears, several shark species, manta rays, freshwater sawfish, freshwater stingrays, freshwater turtles, and many other species. The meeting was historic since

CITES Parties agreed to list several commercially harvested shark species in Appendix II of CITES for the first time: oceanic whitetip shark, three species of hammerhead sharks (scalloped, great, and smooth), and porbeagle shark. Manta rays were also included in Appendix II at CoP16. Freshwater sawfish and the West African manatee were transferred from Appendix II to Appendix I.

Other U.S. priorities related to marine issues considered at the meeting included a resolution regarding implementation of the permitting requirements for species that are taken on the high seas, proposals to improve transparency during meetings of the CoP through amendment to the use of secret ballots, and the criteria for listing commercially exploited aquatic species in CITES. Another issue of importance was the potential conflict of interest in the Animals and Plants Committees of CITES. More details on these issues can be found below.

**Sharks:** Several proposals to list shark species in Appendix II of CITES were considered at CoP16. These species were proposed for listing since they had experienced significant declines and international trade was considered to be driving their decline. The oceanic whitetip shark and the scalloped hammerhead shark were proposed for listing at CoP15 and were determined by the 2012 FAO Expert Advisory Panel to meet the biological criteria for listing commercially exploited marine species in Appendix II. Porbeagle shark was proposed for listing at CoP14 and CoP15, and a majority of the FAO Expert Advisory Panel agreed that the species meets the biological criteria for listing in Appendix II.

*Oceanic whitetip shark:* The United States joined Brazil in co-sponsoring a proposal by Colombia to list oceanic whitetip shark (*Carcharhinus longimanus*) in Appendix II of CITES with an annotation to delay the entry into effect by 18 months to resolve technical and administrative issues. The committee voted on the proposal by secret ballot, as requested by Japan and at least 10 other CITES Parties. The proposal passed with 92 votes in favor of the proposal, 42 against, and 8 abstentions. In Plenary, Japan (joined by Gambia and India) proposed to re-open discussion of the proposal (which would have required another vote to adopt the proposal by 2/3 of the CITES Parties) and requested a vote by secret ballot. Colombia, supported by Senegal, opposed re-opening the discussion since the proposal had been thoroughly addressed in committee and the decision to support the proposal reflected the will of the majority of CITES Parties. After several procedural issues were raised, the motion to re-open the debate on this proposal was rejected, with 44 CITES Parties voting yes, 93 voting no, and 4 abstaining. Subsequently, the proposal was adopted, and a large number of CITES Parties publicly announced their votes, with several citing transparency as their motivation for disclosing their positions.

*Hammerhead sharks:* Brazil, Costa Rica, and Honduras introduced a proposal (co-sponsored by Croatia, the EU, Mexico, and Ecuador) to list scalloped hammerhead shark (*Sphyrna lewini*) on Appendix II, with great hammerhead shark (*S. mokarran*) and smooth hammerhead shark (*S. zygaena*) included as look-alike species. The proposal included an annotation to delay the entry into effect by 18 months. The committee voted on the proposal by secret ballot at China's request. The proposal passed with 91 CITES Parties voting in favor of the proposal, 39 against, and 8 abstaining. In Plenary, Grenada (joined by China) proposed a motion to re-open discussion of the proposal and requested a secret ballot. Mexico and Honduras spoke against re-opening the discussion. The motion to re-open the debate on this proposal was rejected, with 40 CITES Parties voting yes, 96 voting no, and 6 abstaining. The proposal was adopted, and a large number of CITES Parties publicly announced their votes.

*Porbeagle shark:* The EU, joined by Egypt, Comoros, and Brazil as co-proponents, proposed to list porbeagle shark (*Lamna nasus*) in Appendix II of CITES with an annotation to delay the entry into effect by 18 months. The committee voted on the proposal by secret ballot, as requested by Guinea. The proposal passed with 93 CITES Parties voting in favor of the proposal, 39 against, and 8 abstaining. In Plenary, the proposal was adopted. Afterward, China requested the CITES Secretariat include a statement on the record that it had great concerns on the enforceability and implementation of the proposal. China stated that it would be extremely difficult to implement the proposal and requested that the proponents prepare and make available identification material to assist the CITES Parties.

Many CITES Parties who publicly supported one or more of the proposals to list sharks in Appendix II of CITES (including Australia, Bahamas, Brazil, Canada, Chile, Colombia, Comoros, Congo, Democratic Republic of the Congo, Ecuador, Egypt, El Salvador, Guatemala, Honduras, Ireland on behalf the EU and its Member States and Croatia, Liberia, Maldives, Mali, New Zealand, Niger, Norway, Panama, Paraguay, Peru, Senegal, Seychelles, Sierra Leone, Somalia, Switzerland, the United States, Yemen, and several Latin American countries) stated that the proposals were justified by scientific criteria; inclusion of these species in Appendix II of CITES would complement measures taken domestically and by Regional Fishery Management Organizations; and the findings required for a CITES listing would allow international trade in sharks to continue in a sustainable manner and help combat illegal, unreported, and unregulated (IUU) fishing of sharks. CITES

Parties who publicly opposed one or more of these proposals (including Iceland, Japan, China, Ghana, Guinea, India, Mozambique on behalf of the Southern African Development Community (SADC), Republic of Korea, Russia, Singapore, Saint Vincent and the Grenadines, and Thailand) stated that shark measures have already adopted by Regional Fishery Management Organizations; the proposals would be challenging to implement, particularly based on problems identifying shark products in trade and perceived difficulty making the necessary findings for export; and there would be negative consequences for the livelihoods of coastal communities.

#### **Other Species Proposals of Interest:**

*Manta rays:* Ecuador proposed to list manta rays (including *Manta birostris*, *Manta alfredi* and any other possible species of *Manta*) in Appendix II of CITES with an annotation to delay its entry into effect by 18 months. The proposal was brought forward due to concerns regarding the low rates of reproduction of manta rays and high vulnerability due to growing demand in international trade for the gill plates of these species. Countries that publicly supported the proposal included Ireland on behalf of the EU and its Member States and Croatia, Mozambique on behalf of the SADC, Uruguay, Liberia, and Thailand. Other CITES Parties (including Cambodia, China, and Japan) spoke out against the proposal, pointing to a lack of scientific data and failure of proponent countries to request conservation measures for the species by the relevant Regional Fishery Management Organizations. The committee voted by secret ballot, as requested by Cambodia. The proposal passed with 96 CITES Parties voting in favor, 23 votes against, and 7 abstaining. The proposal was subsequently adopted in Plenary.

*Freshwater sawfish:* Australia brought forward a proposal to transfer freshwater sawfish (*Pristis microdon*) from Appendix II to Appendix I. The proposal was brought forward to provide the same protection to freshwater sawfish provided to other species of the Pristidae family (which are already listed in Appendix I) and help facilitate enforcement due to look-alike issues. A study conducted by the Australian government in 2011 demonstrated that the species warrants greater protection under CITES. Many CITES Parties spoke in favor of the proposal, including India, Indonesia, Kenya, the United States, Samoa, and Sierra Leone. Japan explained that it doubts the benefits of the uplisting, but it did not want to block consensus. The proposal was accepted by the committee and adopted in Plenary.

*Freshwater Stingrays:* Colombia introduced a proposal to list the Ceja river stingray (*Paratrygon aiereba*) in Appendix II of CITES with an annotation to delay entry into effect by 18 months. Ecuador, Costa Rica, El Salvador, and Madagascar supported the proposal. Ireland on behalf of the European Union (EU) and its Member States and Croatia, opposed the proposal, based on a lack of information and recommended an Appendix III listing of the species. The committee did not accept the proposal with 51 CITES Parties voting in favor, 51 voting against, and 19 abstentions.

Colombia also introduced a proposal, which was co-sponsored by Ecuador, to list the Ocellate river stingray (*P. motoro*) and the Rosette river stingray (*P. schroederi*) in Appendix II of CITES. This proposal also had an annotation to delay the entry into effect by 18 months. Argentina, Brazil, Senegal, Uruguay, the United States, and Venezuela spoke publicly in support of the proposal. However, Guayana, Ireland on behalf of the European Union (EU) and its Member States and Croatia, and Paraguay opposed the proposal and recommended an Appendix III listing instead. The committee did not accept the proposal with 55 CITES Parties voting in favor, 52 voting against, and 25 abstaining.

The freshwater stingray proposals had been brought forward to help ensure that the growing international trade in these species for ornamental purposes and other commercial purposes was sustainable. Although there was recognition that a lack of data existed, the proponents cited the need for precautionary action and international controls on trade. In Plenary, Colombia noted that they did not wish to contest the committee's decisions. Colombia requested, however, that the CITES Parties adopt a decision that would help with data collection and advance progress in addressing the international trade of these species. A proposed decision, brought forward by Colombia, was presented directing the CITES Secretariat to establish a working group with the range States to gather information on the management status and trade of these freshwater stingrays, and encourage States to participate in research and monitoring programs. Several CITES Parties supported the proposed decision, including Brazil, Chile, Ecuador, Ireland on behalf of the European Union (EU) and its Member States and Croatia, Mexico, Paraguay, Peru, Senegal, the United States, Uruguay, and Venezuela. The decision was adopted by the CITES Parties.

**Introduction from the Sea:** The United States has been working with other CITES Parties for years to resolve the permitting requirements for CITES-listed species that are taken on the high seas, referred to as "introduction from the sea." A resolution, adopted at CoP14 and revised at CoP15, addressed some aspects of introduction from the sea. Since CoP15, a CITES Working Group on Introduction from the Sea developed an innovative framework for implementation. This overall

framework, which was agreed by the Working Group and endorsed by the CITES Standing Committee in 2011, was proposed as a revised resolution for consideration by the CITES Parties at CoP16.

Within the framework of the resolution considered at CoP16, if a vessel harvests CITES-listed specimens on the high seas and delivers them to the same country in which it is flagged, Parties will treat the transaction as an introduction from the sea and issue an introduction-from-the-sea certificate. Under this scenario, there is only one country involved in the trade. If there is more than one country involved in the trade (the vessel that harvests the specimens delivers them to a country other than the country to which it is flagged), CITES Parties will treat the transaction as an export and require the issuance of an export permit by the country to which the harvesting vessel is flagged.

Under an exception to accommodate some chartering arrangements, when one country chartered a vessel flagged to another country and that vessel harvests CITES-listed specimens on the high seas, the two countries involved could reach an agreement to allow the country that chartered the vessel to issue an introduction-from-the-sea certificate (instead of having the country to which the vessel is flagged issue an export permit). This narrow exception would only be allowed for chartering arrangements under specific conditions, including being consistent with the framework for chartering of a relevant Regional Fisheries Management Organization/Arrangement.

In addition to the revised resolution on introduction from the sea, the CITES Working Group on Introduction from the Sea proposed amendments to the resolution on permits and certificates that would create a source code for CITES listed specimens taken in the marine environment beyond the jurisdiction of any State and a draft decision that would require a report at the next two meetings of the CITES Standing Committee on implementation of the resolution as it relates to chartering arrangements. During CoP16, the EU proposed changes to the draft decision and developed alternative text in cooperation with the working group membership.

Despite substantial support for the resolution, China and India opposed adoption of the documents prepared by the working group, and Argentina objected to some of the text related to Regional Fisheries Management Organizations. When a vote was called in committee, the revised resolutions and draft decision were adopted with 56 CITES Parties voting in favor, 15 opposed, and 14 abstaining. These documents, which were adopted by the CITES Parties in Plenary, will help provide greater certainty and consistency in the permitting of several shark species that were listed in Appendix II at the meeting.

**Listing Criteria for Commercially Exploited Aquatic Species:** The United States worked with membership of the Animals Committee Working Group on Criteria to help provide guidance on the application of the CITES listing criteria. The Working Group's efforts were specially aimed at providing guidance on the application of Annex 2a criterion B and the introductory text to Annex 2a of the resolution on the criteria for the inclusion of species in Appendices I and II to commercially exploited aquatic species. The Animals Committee found that it was not possible to provide guidance on a single approach, and the Standing Committee concurred with this finding. The CITES Parties agreed with these outcomes and did not require that further actions be taken on the issue of the listing criteria as they apply to commercially exploited aquatic species.

**Transparency in Voting:** Ireland, on behalf of the European Union (EU) and its Member States and Croatia, introduced a proposal to improve transparency of voting during meetings of the CoP and help curb the increased use of secret ballots in non-administrative matters. The use of secret ballots has increased since CoP9 in 1994 when the pertinent rule over use of the secret ballot was amended from requiring a simple majority to requiring the support of only 10 countries. Votes on proposals to list commercially exploited aquatic species in CITES are frequently conducted by secret ballot. The EU proposal would have amended the rule on methods of voting (Rule 25) to require: (1) a simple majority of CITES Parties to support a vote by secret ballot, and (2) that a motion for a secret ballot not be decided by secret ballot. After substantial discussion, Colombia proposed an amendment to the EU proposal to increase the threshold of CITES Parties requesting a secret ballot from 10 to 40. Mexico and Chile also introduced a proposal to amend the rule on methods of voting and increase transparency. Their proposal would have increased the quorum requesting a secret ballot to one-third of CITES Parties and require that a motion for a secret ballot not be decided by secret ballot. The United States proposed an amendment to the Mexico-Chile proposal, which would have required 25 votes for use of a secret ballot. None of the proposals to amend the use of secret ballots was adopted at the meeting.

**Potential Conflicts of Interest in CITES Animals and Plants Committees:** Ireland, on behalf of the European Union (EU) and its Member States and Croatia, introduced a proposal stating that candidates to the CITES Animals and Plants Committees should disclose any current or past professional, financial, or other interest that could call into question their

impartiality, objectivity, or independence in carrying out their duties. This information would be made publicly available, and when a committee member or the Secretariat considers the candidate has an interest that could call into question their impartiality, the committee should be informed in advance, as the concerned member may participate in the discussion but not in decision making on that subject. The issue of conflict of interest arose after an investigative report was released in March 2012 and the CITES Secretariat was petitioned to remove an alternate Asian regional representative to the CITES Animals Committee who represents the shark fin trade industry and was viewed as having a conflict of interest.

A decision was adopted at CoP16 which, among other things, defines a conflict of interest as a current financial interest that could significantly impair the individual's impartiality, objectivity, or independence in carrying out his or her duties as a member of the CITES Animals or Plants Committee; requests candidates proposed as members or alternate members provide their curriculum vitae and a declaration of interest that discloses any current financial interest for circulation to the CITES Parties of the region prior to their election; if a member declares any interests that he or she thinks would call into question his or her impartiality, objectivity, or independence regarding any subject on the agenda for that meeting, he or she may take part in discussions but not in decision-making regarding the agenda item in question and may not chair the meeting for the agenda item. A decision was also adopted that calls on the CITES Standing Committee to assess the functioning of the conflict of interest policy and make recommendations for CoP17; and the CITES Secretariat to compile examples of conflict of interest procedures under other relevant agreements and organizations and to prepare a report for the next meeting of the CITES Standing Committee.

**Other Actions on Marine Issues of Interest:** Decisions were also adopted by the CITES Parties that will help advance regional cooperation in the management and trade of queen conch; direct the CITES Secretariat to collaborate with the Secretariat of the Inter-American Convention for the Protection and Conservation of Sea Turtles; help ensure that the international trade of sharks and rays is legal and sustainable; and call on CITES Parties to investigate reported violations in relation to the trade of humphead wrasse and take appropriate enforcement actions. A revised resolution was adopted by CITES Parties that calls on range States of sturgeon and paddlefish species to, among other actions, collaborate in the development and implementation of strategies for the conservation and management of shared stocks and help ensure sustainable fishing. A report of the Commission for the Conservation of Antarctic Marine Living Resources on toothfish was noted by the CITES Parties, and a decision was repealed that required the Animals Committee to evaluate an FAO report on the sustainable use and management of sea cucumber fisheries and recommend appropriate follow-up actions since this decision was deemed fulfilled.

**ICCAT-CITES Cooperation:** The International Commission for the Conservation of Atlantic Tunas (ICCAT) adopted guidelines to encourage information sharing between ICCAT and CITES and to foster better understanding of their respective work. These guidelines were endorsed and accepted by the CITES Standing Committee (SC62) at their meeting in July 2012.

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