

**Report of the**

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**THIRD FAO EXPERT ADVISORY PANEL FOR THE ASSESSMENT OF  
PROPOSALS TO AMEND APPENDICES I AND II OF CITES  
CONCERNING COMMERCIALY-EXPLOITED AQUATIC SPECIES**

**Rome, 7–12 December 2009**



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## **PREPARATION OF THIS DOCUMENT**

This is the report of the third FAO Expert Advisory Panel for the Assessment of Proposals to Amend Appendices I and II of CITES Concerning Commercially-exploited Aquatic Species, held at FAO headquarters from 7 to 12 December 2009. The meeting of the Panel was funded by the FAO Regular Programme and the Governments of Japan and the United States of America.

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Report of the third FAO Expert Advisory Panel for the Assessment of Proposals to Amend Appendices I and II of CITES Concerning Commercially-exploited Aquatic Species. Rome, 7–12 December 2009.

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### ABSTRACT

The third FAO Expert Advisory Panel for the Assessment of Proposals to Amend Appendices I and II of CITES Concerning Commercially-exploited Aquatic Species was held at FAO headquarters from 7 to 12 December 2009. The Panel was convened in response to the agreement by the twenty-fifth session of the FAO Committee on Fisheries (COFI) on the terms of reference for an expert advisory panel for assessment of proposals to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and to the endorsement of the twenty-sixth session of COFI to convene the Panel for relevant proposals to future CITES Conference of the Parties.

The objectives of the Panel were to:

- assess each proposal from a scientific perspective in accordance with the CITES biological listing criteria (Resolution Conf. 9.24 [Rev. CoP13]);
- comment, as appropriate, on technical aspects of the proposal in relation to biology, ecology, trade and management issues, as well as, to the extent possible, the likely effectiveness for conservation.

The Panel considered the following six proposals submitted to the CITES fifteenth Conference of the Parties:

1. **CoP15 Proposal 15.** Proposal to include *Sphyrna lewini* (scalloped hammerhead) in Appendix II in accordance with Article II paragraph 2(a), and to include *Sphyrna mokarran* (great hammerhead), *Sphyrna zygaena* (smooth hammerhead), *Carcharhinus plumbeus* (sandbar shark), and *Carcharhinus obscurus* (dusky shark) in Appendix II in accordance with Article II paragraph 2(b).
2. **CoP15 Proposal 16.** Proposal to include *Carcharhinus longimanus* (Oceanic whitetip shark) in Appendix II in accordance with Article II paragraph 2(a).
3. **CoP15 Proposal 17.** Proposal to include *Lamna nasus* (porbeagle) in Appendix II in accordance with Article II paragraphs 2(a) and (b).
4. **CoP15 Proposal 18.** Proposal to include *Squalus acanthias* (spiny dogfish) in Appendix II in accordance with Article II paragraphs 2(a) and (b).
5. **CoP15 Proposal 19.** Proposal to include *Thunnus thynnus* (Atlantic bluefin tuna) in Appendix I in accordance with Article II paragraph 1.
6. **CoP15 Proposal 21.** Proposal to include all species in the family Coralliidae (red and pink corals) in Appendix II of CITES in accordance with Article II paragraphs 2(a) and 2(b).

This report includes the assessment of each of the six proposals by the Panel.

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## **BACKGROUND AND PURPOSE OF THE EXPERT ADVISORY PANEL**

1. The third FAO Expert Advisory Panel for the Assessment of Proposals to Amend Appendices I and II of CITES Concerning Commercially-exploited Aquatic Species was held in response to the agreement by the twenty-fifth session of the FAO Committee on Fisheries (COFI), February 2003, on the Terms of Reference for an expert advisory panel for assessment of proposals to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and to the endorsement of the twenty-sixth session of COFI to convene the Panel for relevant proposals to future CITES Conference of the Parties.

2. The FAO Panel also falls within the agreement between CITES and FAO, as elaborated in the Memorandum of Understanding between the two organizations, for FAO to carry out a scientific and technical review of all relevant proposals for amendment of Appendices I and II. The results of this review are to be taken into account by the CITES Secretariat when communicating their recommendations on the proposals to the Parties to CITES.

3. The terms of reference agreed to at the twenty-fifth session of COFI are attached to this report as Appendix D. In accordance with those terms of reference, the Panel was established by the FAO Secretariat, according to its standard rules and procedures and observing the principle of equitable geographical representation, drawing from a roster of recognized experts. The task of the Panel was to:

- assess each proposal from a scientific perspective in accordance with the CITES biological listing criteria, taking account of the recommendations on the criteria made to CITES by FAO;
- comment, as appropriate, on technical aspects of the proposal in relation to biology, ecology, trade and management issues, as well as, to the extent possible, the likely effectiveness for conservation.

## **THE PANEL MEETING**

4. The Panel met in Rome, Italy, from 7 to 12 December 2009, hosted by FAO with funding from the FAO Regular Programme and the Governments of Japan and the United States of America. The agenda adopted for the meeting is included as Appendix A.

5. The Panel consisted of a core group made up of eight members, thirteen species and implementation experts covering corals, sharks and tunas, and a member of the CITES Secretariat (see Appendix B).

6. The meeting was opened by Mr Ichiro Nomura, Assistant Director-General, FAO Fisheries and Aquaculture Department, who welcomed the participants and provided some background information to the convening of the meeting of the Advisory Panel and the importance of its task. Mr Nomura pointed out that the participants of the Panel were selected based on their individual capacity and not as representatives of any country or organization. He stressed the big responsibility of the Panel to produce reliable, objective and thorough advice and justify the respect and trust that CITES Parties showed for the recommendations of the Panel. Mr Nomura also highlighted the good working relations with the CITES Secretariat. The text of his statement is reproduced in Appendix C.

7. Mr Arne Bjorge was elected Chairperson of the Panel and Ms Pamela Mace was elected Vice-Chairperson. Ms Ellen Kenchington and Messrs Doug Butterworth, Steven Campana, John Neilson, Howard Powles and Marcelo Vasconcellos were elected rapporteurs.

8. The agenda of the meeting was adopted as tabled.

9. The third meeting of the Advisory Panel differed from previous meetings in that representatives of the proponents of the six proposals for listing on CITES Appendices were invited to present the proposals in person to the Panel and to answer any questions of clarification by Panel participants. For this purpose, the proponents were represented by the following individuals:

- The European Union by Mr Gerhard Adams, Mr Ingo W. Stuermer and Ms Sarah Fowler (CoP15 Prop.17 – Porbeagle shark; CoP15 Prop.18 – Spiny dogfish);
- The United States of America by Mr John Carlson (CoP15 Prop.15 – Oceanic whitetip shark; CoP15 Prop.16 – Scalloped hammerhead) and by Ms Glynnis Roberts (CoP15 Prop. 21 – Coralliidae);
- The Principauté de Monaco by Ambassador Philippe Blanchi and Mr Justin Cooke (CoP15 Prop.19 – Atlantic bluefin tuna).

10. FAO also invited the International Commission for the Conservation of Atlantic Tunas (ICCAT), represented by Mr Victor Restrepo from the ICCAT Secretariat, to present the results of its most recent assessment on Atlantic bluefin tuna. The representatives of the proponents and ICCAT each joined the Panel for an initial session to present proposals and supplementary information, and for a second session to respond to any questions from Panel members following their initial discussions.

11. Initial discussions were held on interpretation of the CITES listing criteria as they relate to commercially-exploited aquatic species (CITES Resolution Conf. 9.24 Rev CoP14), and in particular on the interpretation of paragraphs A and B of Annex 2a of that document. It was clarified that FAO’s interpretation of the listing criteria for commercially-exploited aquatic species is that the two paragraphs are collectively addressed with respect to the application of biological listing criteria by the relevant sections of Annex 5 of Resolution Conf. 9.24 (Rev. CoP14) (see paragraph 14).

## OUTCOME OF THE MEETING

### Evaluation of the proposals

12. The Panel considered the following six proposals submitted to the fifteenth Conference of the Parties to CITES:

**CoP15 Proposal 15.** Proposal to include *Sphyrna lewini* (scalloped hammerhead) in Appendix II in accordance with Article II paragraph 2(a), and to include *Sphyrna mokarran* (great hammerhead), *Sphyrna zygaena* (smooth hammerhead), *Carcharhinus plumbeus* (sandbar shark), and *Carcharhinus obscurus* (dusky shark) in Appendix II in accordance with Article II paragraph 2(b). The proposal includes an annotation stating that “the entry into effect of inclusion of these species in Appendix II of CITES will be delayed by 18 months to enable Parties to resolve the related technical and administrative issues”.

**CoP15 Proposal 16.** Proposal to include *Carcharhinus longimanus* (Oceanic whitetip shark) in Appendix II in accordance with Article II paragraph 2(a), including an annotation stating that “the entry into effect of inclusion of *Carcharhinus longimanus* in Appendix II of CITES will be delayed by 18 months to enable Parties to resolve the related technical and administrative issues”.

**CoP15 Proposal 17.** Proposal to include *Lamna nasus* (porbeagle) in Appendix II in accordance with Article II paragraphs 2(a) and (b), including an annotation stating that “the entry into effect of the inclusion of *Lamna nasus* in Appendix II of CITES will be delayed by 18 months to enable Parties to resolve related technical and administrative issues, such as the possible designation of an additional Management Authority and adoption of Customs codes”.

**CoP15 Proposal 18.** Proposal to include *Squalus acanthias* (Spiny dogfish) in Appendix II in accordance with Article II paragraphs 2(a) and (b), including an annotation stating that “the entry into effect of the inclusion of *Squalus acanthias* in Appendix II of CITES will be delayed by 18 months to enable Parties to resolve related technical and administrative issues, such as the development of stock assessments and collaborative management agreements for shared stocks and the possible designation of an additional Scientific or Management Authority”.

**CoP15 Proposal 19.** Proposal to include *Thunnus thynnus* (Atlantic bluefin tuna) in Appendix I in accordance with Article II paragraph 1, including an annotation stating that “Appendix I listing would be accompanied by a Conference resolution that would mandate the Animals Committee of the Convention to review the status of the East Atlantic and Mediterranean stock and the West Atlantic stock of *Thunnus thynnus* in light of any intervening actions at ICCAT and, if warranted, ask the Depositary Government

(Switzerland) to submit a proposal to a subsequent CoP to downlist the species to Appendix II or remove it from the Appendices. A ruling to this effect by the Animals Committee only requires a simple majority of the Committee members and CoPs have a high rate of acceptance of proposals submitted by the depositary Government at the request of a relevant CITES Committee”.

**CoP15 Proposal 21.** Proposal to include all species in the family Coralliidae (red and pink corals) in Appendix II of CITES in accordance with Article II paragraphs 2(a) and 2(b).

The assessments prepared by the Panel on each of these Proposals are attached to this report as Appendixes E to J.

### **General comments and observations**

#### ***Comments from member countries received by the FAO Secretariat***

13. In accordance with the terms of reference for the Panel, FAO Members and regional fishery management organizations were notified of the proposals submitted that dealt with commercially-exploited aquatic species and were informed that FAO would be convening the Advisory Panel. They were invited to send any comments or relevant information to the FAO Secretariat, for consideration by the Panel. Two countries and three organizations responded to this request and provided information on management and trade of the proposed species.<sup>1</sup> In addition, two diplomatic representatives from the proponents, one from the European Union (represented by Germany) and the other from Monaco addressed the meeting and shared some interesting political views related to their proposals and the interpretation of the criteria.

#### ***Interpretation of the Annex 2a Criteria for inclusion of species in Appendix II in accordance with Article II, paragraph 2(a) of the Convention***

14. The Panel applied the CITES Res.Conf. 9.24 (Rev. CoP14) criteria interpreted in accordance with FAO’s initial advice to CITES on criteria suitable for commercially-exploited aquatic species<sup>2</sup> and as applied in the second Meeting of the Expert Advisory Panel in March 2007. Document CoP14 Inf. 64<sup>3</sup>, prepared by the FAO Secretariat and submitted to the fourteenth Conference of the Parties to CITES in 2007, also provides an explanation of the interpretation of the Annex 2a criteria for inclusion of species in Appendix II as applied by the Panel.

#### ***General comments by the Panel on the proposals***

15. The Panel welcomed the participation of representatives of the proponents of the six proposals during its meeting. Both the presentations of the proposals, and the opportunity to ask questions of clarification to the representatives of the proponents after initial Panel discussions, greatly improved the information available to the Panel and its ability to make informed assessments of the proposals.

16. The Panel considered that there had been some improvement in presentation of proposals over the set reviewed in 2007. Some proposals used tables to present indices of productivity and decline, and in some cases information was presented in such a way that it could be relatively easily reviewed and assessed. Nonetheless, the Panel’s comments in the 2007 report are still relevant for several proposals: presentation of reliable indices, quantitative wherever possible, is central to determining whether species meet criteria for inclusion in the Appendices, and the basis for such indices should be clearly and concisely presented. Even where information is difficult to quantify, all efforts should be made to present the information in a form that can be objectively assessed.

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<sup>1</sup> Comments were received from Italy, Monaco, the International Commission for the Conservation of Atlantic Tunas (ICCAT), the General Fisheries Commission for the Mediterranean (GFCM) and the Federation of European Aquaculture Producers (FEAP) Tuna Commission.

<sup>2</sup> Report of the second Technical Consultation on the Suitability of the CITES Criteria for Listing Commercially-exploited Aquatic Species. Windhoek, Namibia, 22–25 October 2001. FAO Fisheries Report. No. 667. Rome, FAO. 2002. 87p.

<sup>3</sup> “The interpretation of Annex 2a (criteria for the inclusion of species in Appendix II in accordance with Article II, paragraph 2(a), of the Convention) and Annex 5 (Annex 5 definitions, explanations and guidelines) of Resolution Conf. 9.24 (Rev CoP13) in relation to commercially-exploited aquatic species” available at: [www.cites.org/common/cop/14/inf/E14i-64.pdf](http://www.cites.org/common/cop/14/inf/E14i-64.pdf)

17. Most of the proposals relied to some extent on sources that are unpublished or difficult to access. Assessment of proposals would be facilitated if proponents provided copies of all source documents (pdf or other) along with listing proposals. The Panel gratefully acknowledges those proponents who provided copies of source materials during the Panel meeting.

18. For species that have been the subject of proposals at previous Conferences of Parties (CoPs), assessment would be facilitated if information sources which are new since the last proposal and any other relevant changes were identified in the proposal or in a cover note.

19. Assessing proposals against the listing criteria requires an assessment of the importance of international trade in driving exploitation and in affecting species status. In general little information on the relative importance of international trade in driving exploitation was presented in proposals. This is often due in part to the lack of information on this subject, resulting from the lack of species-level tariff codes for many species in trade (see below). However, in some cases available information on the importance of international trade was not used to best effect in the proposals.

20. Accurate recording of international trade in sharks is seriously hampered by the absence of any species-specific reporting mechanism. To address this, the Panel suggested that the CoP encourages the World Customs Organization to establish specific headings within the standardized tariff classification of the Harmonized System to record trade in sharks and their products at the species level.

21. Several proposals suggested that some populations of a species should be listed on Appendix II because of conservation concerns [in accordance with Article II paragraph 2(a)], while other populations of the same species should be listed because of inability to distinguish products from those listed for conservation reasons (in accordance with Article II paragraph 2(b)). While it is almost certainly true that differentiating products from different populations within a species would be difficult and frequently impossible for enforcement officers without specialized equipment or training, the approach of listing different populations of the same species under Article II, some under paragraph 2(a) and others under paragraph 2(b), needs careful consideration. Ultimately the result of adoption of this approach could lead to a situation whereby one (perhaps relatively small) population was listed under paragraph 2(a) and the rest of the species under paragraph 2(b) even though the species as a whole is in a healthy state. This could lead to imposition of administrative burdens and other restrictions on international trade that were excessive in relation to the risks to the species as a whole.

22. In evaluating such proposals, the Panel took note of the wording of CITES Resolution Conf. 9.24 (Rev. CoP14) indicating that Parties had resolved to adopt measures that are proportionate to the anticipated risks to the species when considering proposals to amend the Appendices. The Panel considered whether effectively listing the biological species as a whole would be proportionate to the risk to the species, in assessing whether some populations should be listed in accordance with Article II paragraph 2 (b).

23. The Panel thus took this approach when assessing whether the species as a whole should be listed when some populations meet the decline criterion for Appendix II and other populations do not. In these cases, an important consideration for the Panel was whether populations representing most of the historical abundance of the species globally meet the criteria for listing in accordance with Article II paragraph 2 (a).

24. In considering proposals to list species in accordance with Article II paragraph 2(b), the Panel noted that there is presently a lack of guidance or standards for assessing such proposals within CITES, concluding that development of such guidance would greatly facilitate future assessment of proposals of this kind. FAO's technical expertise in fish products and fish trade could help support development of such guidance for commercially-exploited aquatic species.

#### ***For consideration in reading the reports***

25. As was done in the previous Advisory Panel, in considering trends in abundance reported in the proposals, the Panel attempted to evaluate the reliability of each source of information. This was done by assigning a score between zero (no value) and five (highly reliable) to each item of information used to demonstrate population trends. The criteria used to assign a score are included in Table 1.

**Table 1.** Criteria used by the Panel to assign a measure of the reliability of information derived from different sources for use as indices of abundance. A score of zero indicates that the information was not considered to be reliable and a score of five indicates that it was considered to be highly reliable. Any information on abundance allocated a non-zero value was considered to be useful. These scores could be adjusted either up or down in any particular case, depending on the length of the time-series and the amount of information that was available on the sources and methods.

<b>Reliability index of population abundance information</b>	<b>Source of data or information</b>
<b>5</b>	Statistically designed, fishery-independent survey of abundance.
<b>4</b>	Consistent and/or standardized catch-per-unit effort data from the fishery.
<b>3</b>	Unstandardized catch-per-unit effort data from the fishery; scientifically-designed, structured interviews; well-specified and consistent anecdotal information on major changes from representative samples of stakeholders.
<b>2</b>	Catch or trade data without information on effort.
<b>1</b>	Confirmed visual observations; anecdotal impressions.
<b>0</b>	Information that does not meet any of the above, or equivalent, criteria; flawed analysis or interpretation of trends.

26. The details of references to other publications used in the Panel reports on each proposal can be found in the original proposals, unless otherwise indicated.

#### **ADOPTION OF THE REPORT**

27. The report, including all Appendixes, was adopted by the Advisory Panel on Saturday 12 December 2009.