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**SECOND TECHNICAL CONSULTATION ON THE SUITABILITY
OF THE CITES CRITERIA FOR LISTING COMMERCIAL-
EXPLOITED AQUATIC SPECIES**

Windhoek, Namibia, 22-25 October 2001

DRAFT REPORT

**OPENING OF THE CONSULTATION, ADOPTION OF THE AGENDA AND
ARRANGEMENTS FOR THE CONSULTATION**

1. The Second Technical Consultation on the Suitability of the CITES Criteria for Listing Commercially-exploited Aquatic Species was held in Windhoek, Namibia, from 22 to 25 October 2001. It was attended by representatives from 24 Members of FAO and one non-Member Nation of FAO, by a representative from a specialized agency of the United Nations and by observers from five intergovernmental and international non-governmental organizations.
2. The list of delegates and observers is given in Appendix B to this report. The documents which were before the Consultation are listed in Appendix C.
3. The meeting was called to order by Mr Kevern Cochrane, Secretary of the Consultation, who on behalf of the FAO Fisheries Department, welcomed participants to the Consultation. He expressed particular appreciation for the presence at the opening of the Consultation of the Minister of Fisheries and Marine Resources of Namibia, The Hon. Mr Abraham Iyambo.
4. Mr Donovan Robinson, the FAO Representative in Namibia, then addressed the meeting. On behalf of the Director-General of FAO, Mr. Jacques Diouf, Mr Robinson expressed the

appreciation of FAO to the Republic of Namibia for their generous hospitality and the excellent preparations which had been made for the Consultation. He went on to summarize the background to the Consultation and the work that preceded it. He also expressed gratitude to the Governments of Japan, Norway and the United States of America for their financial support to the Consultation and related activities. The full text of this statement is reproduced in Appendix D.

5. The Hon. Abraham Iyambo, Minister of Fisheries and Marine Resources of the Republic of Namibia, in his opening speech welcomed the participants to Namibia. He stated that fishing was of crucial socio-economic importance to Namibia and therefore a central element in national development. He went on to describe the background to the convening of this Second Technical Consultation and stated that it was incumbent upon all concerned with rational fisheries management and conservation to try to ensure that the criteria used by CITES were appropriate. Of particular importance was the need to define clearly the roles and relationships between FAO, regional and national fisheries management bodies and CITES in any future arrangement concerning the listing of aquatic species. He also thanked FAO as well as the governments of Japan, Norway and the United States of America for co-sponsoring the Consultation. The full text of the Minister's speech is contained in Appendix E to this report.

6. Mr. B. Oelofsen, (Namibia), was elected Chairperson of the Consultation and Mr. A. Bjorge (Norway) Vice-Chairperson of the Consultation.

7. The Consultation agreed that the Secretariat should draft the report for adoption at the end of the meeting. It was not considered necessary to appoint a Rapporteur.

8. The agenda as adopted is contained in Appendix A.

REVIEW OF DOCUMENT FI:SLC2/2001/2 A BACKGROUND ANALYSIS AND FRAMEWORK FOR EVALUATING THE STATUS OF COMMERCIALY-EXPLOITED AQUATIC SPECIES IN A CITES CONTEXT

General Comments

9. At the invitation of the Chairperson to provide general comments on document FI:SLC2/2001/2, several delegations put forward their positions on the potential role of CITES in relation to resources commercially exploited by fisheries in marine and large freshwater

bodies, in particular invertebrate and fish species (hereafter referred to as “exploited fish species”). There were differences of opinion on this role.

10. It was suggested that a comprehensive framework already exists to manage fisheries nationally and internationally based on the United Nations Convention of the Law of the Sea of 1982 and the FAO Code of Conduct for Responsible Fisheries, and that the precautionary approach and the incorporation of ecosystem considerations had recently come to the forefront of fishery management. Some delegations considered that the UN Fish Stocks Agreement was also part of this comprehensive framework. It was also suggested by some delegates that the objectives and strategies of CITES are very different from those of fisheries management organizations: regional fisheries management organizations aim at sustainable use and they promote trade while CITES restricts trade in order to prevent extinction of wild animals and plants. Other delegates suggested that CITES regulated trade rather than restricted it. The need to assess implementation issues was also raised.

11. Other delegates suggested that CITES and regional fisheries management organizations could have complementary roles and the large membership of CITES could be useful and fill gaps where trade networks were complex. The objectives of preventing extinction and sustainable resource use were not to be considered mutually exclusive. Some parties considered that CITES could be particularly effective when there was no regional management programme in place for a marine species and there was a need to reduce and eliminate trade in products from illegal, unreported and unregulated (IUU) fishing.

12. Despite these different views on the role of CITES, there was widespread agreement that the Secretariat review was a useful document and that its proposals included some significant improvements over the existing CITES Criteria. Some of the specific points which were supported by many delegations included:

- support for the principle of using the best scientific information available;
- the need to compare the current stock status with an appropriate previous baseline rather than with an absolute value for population size; and
- the need that each proposal should be evaluated on a case-by-case basis by a transparent and neutral scientific process.

13. Some delegations expressed the strong view that national and regional fisheries management organizations have the responsibility for fisheries management and were of the view that these organizations should have a central role in consideration of proposals for listing exploited fishery resources on the CITES Appendices. Several delegations also referred to the need for FAO to be involved in the process of evaluating proposals for listing and de-listing.

14. Some delegations stressed the need to ensure that the FAO proposals for changes to the Criteria should be applicable to all exploited fishery resources and not just those subjected to large-scale exploitation for which there were normally considerable data available for assessment.

15. There was widespread agreement that the agenda item proposed for the Eighth Session of the COFI Sub-Committee on Fish Trade “Developing a work plan for exploring CITES issues with respect to international fish trade” would be addressing some fundamental issues in relation to the impact of CITES listings on exploited aquatic resources. Regret was expressed that these items could not be addressed simultaneously with this review of the biological criteria and evaluation process. The Consultation confirmed that this work plan should include issues of Annex 2b (“look alike”) and Annex 3 (split – listing).

16. At the first Technical Consultation, there were divergent views on the intention of listing on Appendix II. After discussion, the Technical Consultation considered that a primary intention of an Appendix II listing is to prevent a deterioration in population status that would lead to a listing on Appendix I within a given time frame. More specifically, a declining trend in population size (with trade contributing appreciably to the trend) which, if continued, would reach the appropriate extent-of-decline guideline for an Appendix I listing within approximately a 10-year period, should lead to consideration of an Appendix II listing. Furthermore, an extent-of-decline to near the guideline for an Appendix I listing should similarly lead to consideration of an Appendix II listing. Several delegations suggested that a range of 5% to 10% above the Appendix I guideline would be appropriate. The 10-year period was recommended to avoid a large number of listings of species, for which there was no short or medium term risk of extinction, that would eventuate if a longer period were to be specified.

Specific Comments on FI:SLC2/2001/2

Analysis of the Existing Criteria and Guidelines

17. Referring to Section 3.1, Resilience, Productivity and Life History Characteristics, caution was expressed that this field of investigation is developing rapidly and that words should be carefully chosen, and that allowance should be made for modifications in the future. Support was expressed for the three productivity classes proposed (low, medium, high). It was also suggested that generation time should be retained as an indicator of productivity. In response to concern about the application of the proposed criteria to species for which not much information is available, the Secretariat reminded the meeting that the focus at the review was on species harvested in large scale commercial fisheries, but that, as stated in Paragraph 12 of FI: SLC2/2001/2, the results are believed to be applicable in most cases where fewer data are available. In such cases, all other relevant sources of information, including information on other analogous species should be used.

18. With reference to Section 3.4 Population Decline, concern was expressed that the impact of natural fluctuations, regime shifts and planned declines should be taken into account in the proposed criteria. The Technical Consultation agreed that careful judgement was required in estimating the “baseline” population abundance and that due account should be taken of short- and longer-term variability; the importance of using the longest appropriate time-series in estimating the baseline and historical extent-of-decline was stressed. It was agreed that for exploited fish species an historical extent-of-decline range of 5-20% of the reference baseline should be used for consideration for listing on Appendix I, noting that the appropriate guideline percentage decline for some species may fall outside this range. The range of 5-10% should be used for species with high productivity, 10-15% for species with medium productivity and 15-20% for species with low productivity. The SADC countries, supported by other countries, expressed misgivings that the upper end of the 5-20% range for the extent-of-decline guideline for Appendix I listings for exploited fish species might prove to be somewhat too high, leading to false alarms with high-cost implications.

19. The Consultation agreed that a rate-of-decline necessary to reduce a population to the Appendix I extent-of-decline guideline within an approximately 10-year period was a useful guideline for consideration for an Appendix II listing. The recent rate-of-decline should only be considered when the historical extent-of-decline is below 50%, unless the rate-of-decline is very high. It was emphasized that each proposal should be evaluated on a case-by-case basis.

20. A number of delegates emphasised that down and de-listing criteria and procedures were of importance, particularly because of the need for rapidly responsive regulatory mechanisms in fisheries. Though insufficient time was available to discuss this matter in depth, the Consultation believed that its suggestions for criteria for Appendix II listings would enhance the framework within which down and de-listing proposals could be considered.

21. While accepting the Secretariat proposal that productivity as a whole was a good overall indicator of resilience, it was suggested that generation time could also be a useful indicator of resilience and reference to it should be retained in the criteria. However, it was agreed that a period of three generations, as suggested in the existing CITES criteria, would frequently be inadequate for evaluating declines especially in highly variable, short-lived species.

22. The Consultation agreed that the list of modifying factors (Section 3.5) was open-ended and not exhaustive, but some would need description in the text succeeding Annex 5 of CITES Resolution 9.24. Nevertheless, it was agreed that one of the factors that should be included was vulnerability to depensation.

23. Most delegations agreed that the existing Criterion D in Annex 1 would no longer be required given amendments suggested for Annex IIa.

Quantitative Assessments

24. The Consultation agreed that it was essential that reliable quantitative assessments (Section 3.7 of FI:SLC2/2001/2) be conducted when sufficient data were available. Even in data-poor situations, appropriate quantitative and qualitative analyses should be used to the extent possible in preference to application of single and simple indices. With regard to the issue of reliability of such assessments, it was agreed that this should be determined by an appropriate process of scientific review.

25. The case studies which had been presented in the report (Chapter 4) were subject to much scrutiny. It was explained that in practice the baseline would have to encapsulate the average carrying capacity over several years and take account of natural variability including factors such as regime shifts. It was agreed that the use of an appropriate baseline against which to compare current population size is conceptually valid but that deriving an appropriate value could be difficult in some cases and would require consideration of several factors. Notwithstanding the problems associated with estimating the appropriate baseline, extent-of-decline was considered to be the best measure of risk of extinction for exploited fish species.

There was a discussion on the assessment of risk of extinction of commercial species based on quantitative assessments. The Consultation was informed that, given suitable data and analyses, the probability of extinction could be assessed using stock predictions including estimates of uncertainty.

Process for Scientific Evaluation

26. The observer from the World Conservation Union (IUCN) explained the current process within CITES of scientific evaluation of listing proposals. In the ensuing discussion the Consultation noted that this process differed from the normal practice of regional fisheries management organizations where a scientific committee would meet to assess a management proposal and provide advice to the meeting of the management body. Some delegations acknowledged the value of impartial advice provided by IUCN on proposals made by parties. However, there was a wide expression of views to the effect that the evaluation process within CITES for some commercially exploited fish species had not gone far enough in providing quantitative assessments, reconciling conflicting views, and presenting these to the CITES Conference of the Parties. Some delegations expressed concern that certain consultation processes and analyses had been insufficiently objective and balanced in the past. The Consultation agreed that the most effective way of reconciling conflict is to get people around a table.

27. The Consultation considered the four options which were presented in the Secretariat's paper (paragraph 80) as possible mechanisms for the process of scientific evaluation:

- the appointment by CITES of a panel of specialists, probably including representatives from IUCN and the relevant fishery management organizations, as well as impartial experts in population assessment and conservation biology;
- special scientific reviews organized by CITES prior to each COP where all CITES Parties (and observer NGOs and IGOs) may participate if they wish and should include primarily technical experts on their delegations so as to be able to contribute to the scientific review;
- delegation by CITES of the scientific evaluation to the relevant fishery management organization or organizations;

- provision by CITES of greater support to IUCN to ensure they have the resources to undertake and/or coordinate the required review and provide the balanced and agreed report.

No firm recommendation was made on which of these was preferred but there was considerable support for an approach based on the first option, the convening of a panel of specialists, as well as some support for the third option of delegation of scientific evaluations to the relevant fishery management organization or organizations.

28. There was consensus that CITES should strengthen its existing process for scientific evaluation of proposals through more explicit involvement of fisheries agencies and Regional Fisheries Management Organisations (RFMOs) to ensure that decisions on amendments to the Appendices are informed by objective and comprehensive evaluations of the status of each population in relation to the biological criteria and guidelines. The Consultation agreed that FAO could perform an important coordinating function in the process of scientific evaluation through its relationship with regional fisheries management organizations. The Consultation, therefore, recommended that as part of its discussion of CITES issues with respect to international fish trade, the Eighth Session of the COFI Sub-Committee on Fish Trade should elaborate components of a Memorandum of Understanding or other mechanisms between CITES and FAO to strengthen the process of evaluation of proposals. The need for close communication between fisheries and CITES agencies within all member countries was again emphasized.

29. The Consultation noted that any formal relationship between FAO and CITES would have to be discussed and agreed upon by the governing bodies of FAO and CITES. Any evaluation that would be the outcome of such an agreement and process should receive due weight for decisions on proposals on exploited fish species, but final decisions would obviously have to remain the responsibility of the CITES Conference of the Parties.

Comments on CITES Notification No. 2001/037

30. The Consultation adopted a document to be submitted to the Eighth Session of the Sub-Committee on Fish Trade for decision and approval on behalf of COFI prior to their formal transmission to the CITES Secretariat. In accordance with the decision made at the Twenty-fourth Session of COFI, it was also to be transmitted informally to the CITES Secretariat by early November 2001. The document consists of a summary of FI:SLC2/2001/2 the main

discussion paper, incorporating the views of the Consultation, and the agreed detailed comments responding to CITES Notification to the Parties (FI:SLC2/2001/Inf.5), and is included as Appendix F to this report.

CONCLUSIONS AND RECOMMENDATIONS

31. The recommendations on the CITES Criteria for listing exploited fish species (as defined in Paragraph 9) are included as Annex F to this report.

32. The Technical Consultation emphasized:

- a) the need for the existing process within CITES for scientific evaluation of proposals for listing, transfer and de-listing to be strengthened through more explicit involvement of fisheries agencies and RFMOs. The process should allow for the reconciliation of conflicting views and the continued preparation of an objective and comprehensive report on each proposal to inform the Conference of the Parties;
- b) that regional fisheries management organizations should be more involved in scientific evaluation of proposals concerning species falling within their mandates;
- c) that FAO could perform an important coordinating function in scientific evaluation of proposals for exploited fish species and that a Memorandum of Understanding should be developed between the governing bodies of FAO and CITES for this purpose ;
- d) CITES member nations should encourage close communication between the fisheries and the CITES agencies within their countries.

33. The importance was stressed of the Agenda item proposed for the Eighth Session of the COFI Sub-Committee on Fish Trade “Developing a work plan for exploring CITES issues with respect to international fish trade” which would be addressing some fundamental issues related to listing exploited fish species on the CITES Appendices. Amongst the topics which needed to be discussed under this item are:

- a) Article II, Paragraph 2b, the “look-alike” clause;
- b) Annex 3 which deals with split-listing;

- c) The administrative and monitoring implications of listing and down-listing, including the implications of Annex IV for this;
- d) The applications of the phrase “introduction from the sea” in the definition of Trade in Article I;
- e) Analysis of the legal implications of the existing CITES listing criteria in relation to the UN Convention of the Law of the Sea and related international law covering fisheries, and of any changes in those implications resulting from adoption of the proposals included in Appendix F of this report. This was seen by some members as being urgent.

34. The report of the Consultation was adopted on Thursday 25 October 2001. The Consultation expressed its thanks to the Chair, Vice-chair, Secretariat, interpreters, the Namibian hosts and the governments of Japan, Norway, and the USA for their financial assistance to the Consultation.