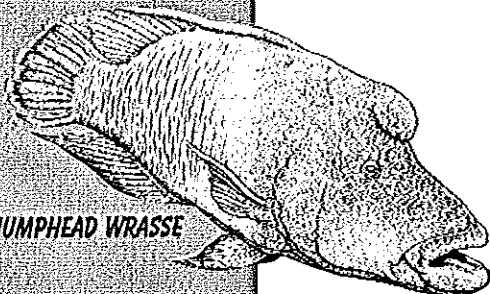


A CITES PRIORITY:

MARINE FISH AND THE TWELFTH MEETING OF THE CONFERENCE OF THE PARTIES TO CITES, SANTIAGO, CHILE 2002

IUCN, WWF AND TRAFFIC BRIEFING DOCUMENT
OCTOBER 2002

AT THE TWELFTH MEETING OF THE CONFERENCE OF THE PARTIES TO CITES (COPI2), PARTIES WILL CONSIDER FIVE PROPOSALS TO LIST MARINE FISH SPECIES IN APPENDIX II; NAMELY PATAGONIAN TOOTHFISH *DISSOSTICHUS ELEGINOIDES* AND ANTARCTIC TOOTHFISH *D. MAWSONI*, WHALE SHARK *RHINCODON TYPUS*, BASKING SHARK *CETORHINUS MAXIMUS*, HUMPHEAD WRASSE *CHEILINUS UNDULATUS* AND SEAHORSES *HIPPOCAMPUS* SPP.



HUMPHEAD WRASSE

Consideration of the marine fish proposals at CoP12 will bring into sharper focus some broader issues relating to the application of CITES provisions to marine fish species¹. International and regional measures and numerous conservation and management regimes are already well-developed for many marine species, particularly in relation to high seas fisheries, and co-ordination will be required to ensure that CITES trade regulations usefully complement such measures.

Existing conservation and management of marine fish species

Key international legal instruments

The United Nations Convention on the Law of the Sea (UNCLOS) deals with virtually all matters of law relating to the seas, and entered into force in November 1994. It has been ratified by 138 countries to date. UNCLOS establishes the broad legal regime for the marine environment, including where and over what a State may exercise sovereign rights as well as the rights and obligations of States whose vessels fish on the high seas. UNCLOS also obliges States to co-operate for the conservation and management of marine resources that (i) occur on the high seas, (ii) straddle the high seas and the waters of coastal States, and (iii) migrate between these areas.

The co-operative management of straddling and highly migratory fish stocks is provided for in the United Nations Fish Stocks Agreement² (UNFSA) which entered into force on 11 December 2001. The Agreement provides for the establishment of regional fisheries organisations or arrangements to ensure co-operation in conservation and management between States whose vessels fish for a straddling or migratory fish stock on the high seas, and coastal States in whose waters those same stocks occur. As well as applying to straddling and highly migratory stocks, the Agreement also embodies principles that apply to the conservation and management of all marine resources, including the application of the precautionary approach. There are currently 32 ratifying and acceding States to UNFSA.

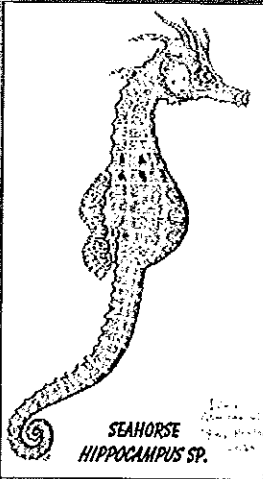
Food and Agriculture Organisation of the United Nations and Regional Fisheries Organisations

The Food and Agriculture Organisation of the United Nations (FAO) is the primary international organisation mandated to promote sustainable development of responsible fisheries and co-operation between countries towards this objective. FAO does not itself manage fisheries or regulate international trade.

In addition, Regional Fisheries Organisations (RFOs) have been established both under the auspices of FAO and independently. RFOs generally provide for the application of agreed measures to specific geographical areas and / or species to ensure the management and conservation of stocks that are targeted

¹ A more general discussion of CITES and marine fish is provided in the joint WWF, TRAFFIC and IUCN briefing document 'Regulating international trade in commercial marine fisheries products' February 2002.

² The full title is 'Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks'



by a number of States. RFOs have generally implemented measures designed to control the activities of vessels when they are at sea, such as limiting the number of boats that can fish and / or the amount of fish that can be caught. However in the last decade, a number of RFOs have moved to develop and implement trade-related measures to complement existing controls.

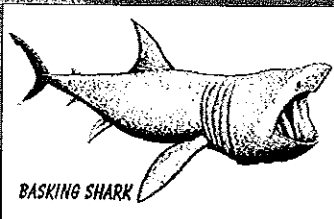
The potential role of internationally agreed trade- or market-related measures in the management of large-scale commercial fisheries has been recognized in the FAO International Plan of Action (IPOA) on Illegal, Unreported and Unregulated (IUU) Fishing, which was adopted by FAO members in March 2001. Further, FAO's IPOA for Sharks, which provides the basis for improved conservation and management of shark species, also recognizes that 'other forms of co-operation' besides regional and subregional fisheries organisations or arrangements may be applied when implementing the Shark IPOA.

The increased consideration of trade-related measures highlights the need for strengthened cooperation between CITES and FAO, as well as, potentially, between CITES and individual RFOs. CITES, as the international instrument with the mandate to monitor and regulate international trade in wildlife products, has well-established processes that may readily complement and strengthen broader fisheries management objectives.

The need for close collaboration between FAO and CITES has been acknowledged by both organisations. At CoP12, CITES Parties will discuss a proposal to develop a Memorandum of Understanding for such collaboration to ensure that the respective expertise of the two organisations can best contribute to fisheries conservation and management.

Key implementation issues for marine fish listings under CITES

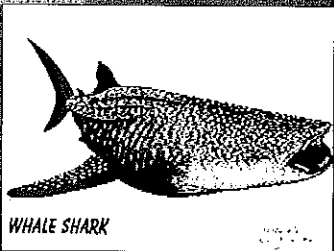
Introduction from the Sea



The main factor that differentiates CITES implementation for some marine fish species is the provisions for fish harvested from high sea areas where no one State can determine the impacts of harvests on populations. In such cases, the term 'introduction from the sea' refers to the transportation into a State of a marine species taken in an area that is not under the jurisdiction of any State; that is, fish harvested on the high seas. For a CITES Party to grant an introduction from the sea certificate its Management Authority must receive advice from its Scientific Authority that the introduction will not be detrimental to the survival of the species involved (usually referred to as a non-detriment finding).

Making non-detriment findings for fish introduced from the sea

Non-detriment findings are based on scientific consideration as to whether the level of trade in a species is biologically sustainable. For marine fish that are widely distributed in coastal and high sea areas, accessing sufficient information to make such findings may prove challenging. However, a wide range of marine fish that are commercially harvested from high sea areas is managed by RFOs. These organisations undertake scientific research and assessment of the status of the main stocks under their mandate and this provides the most comprehensive information on which a non-detriment finding under CITES could be based. Furthermore, the CITES treaty allows for non-detriment findings to be accepted from "international scientific authorities", and as such the RFO itself could be recognized as the scientific authority for the species in question. So, for example, much of the high sea areas in which the Patagonian Toothfish occur are within the Convention Area of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR). CCAMLR has long-established research and scientific processes through which it undertakes annual assessments of the status of toothfish and establishes annual harvest limits.



A number of fish species harvested from the high seas are considered to be highly migratory by UNCLOS, in that they move between the waters of coastal States and high sea areas. Some of these species are not subject to any specific management measures, and in such cases CITES may be of particular relevance. The Whale Shark and Basking Shark are examples of two such species; both may be taken on the high seas and both are considered to be highly migratory. There are no specific management arrangements in place for either of these species on the high seas, mainly because they are not currently targeted in these areas for trade. However the potential for catches to be taken from these areas, and the fact that the species move between the waters of

different coastal States, means that a non-detriment finding by a CITES Party (either for purposes of export or introduction from the sea) should be made in the context of the conservation status of the species and the overall level of trade in it. Clearly co-ordination between States harvesting these species will be necessary, and this is already envisaged under current international fisheries law. For marine species whose conservation status is impacted by international trade, but for which there may be no management arrangements in place, CITES can highlight the need to develop coordinated conservation measures, and act as a first step towards these.

The CITES provisions relating to introduction from the sea are not relevant to coastal, inshore fish species such as the Humphead Wrasse and seahorses as these are harvested from waters that are under the jurisdiction of a State.

Potential benefits of listing a marine fish in the CITES Appendices

Given the web of existing management institutions and regimes for marine resources, the question arises as to the role of CITES in sustainable fisheries management. The CITES treaty explicitly envisages its application to marine species and, as noted by recent FAO Technical Papers, commercial fisheries can pose risks of long-term detrimental impacts to, or extinction of, certain marine species. CITES can provide a range of conservation benefits to marine fish species that are or may be threatened by demand for international trade. In broad terms, such benefits can include:

- providing support to national, bilateral and multilateral fisheries management measures;
- providing a tool to combat IUU fishing, where this targets fish that primarily enter international trade
- providing a standardised global monitoring system for application of trade-related measures to marine fish

More specifically, CITES fulfils these roles in the following ways:

i) safeguarding sustainability:

- international trade under CITES Appendix II is conditional on the making of non-detriment findings
- where trade in listed species occurs at high volumes, the species can enter a "significant trade review" in which trade is reviewed under the auspices of the CITES Animals Committee, which may make recommendations about trade and management.

ii) monitoring:

CITES provides a system for monitoring international levels of trade in listed species. This supplements the detail available from Customs codes (where they exist) for fisheries products, enables identification of legitimate sources of fish at the export and import stage, enables greater transparency, and provides better information flow to inform fisheries management decisions.

iii) facilitating collaborative management of shared resources:

where resources are shared between several States, CITES can assist range States to work together to develop collaborative management of the shared stocks. For instance, CITES has, through recommendations to individual Parties, assisted Caspian Sea sturgeon range States to develop the process of initiating collaborative management plans for the sustainable use of this shared commercial fishery resource.

iv) coverage:

there are currently 160 Parties to CITES, representing a far greater membership than any one RFO. Implementing management measures within RFOs is often hampered by a lack of membership by countries that participate in the fishery, or trade in products arising from that fishery. Further, unlike most RFOs that are area-specific in their scope, CITES is global in its coverage of species. CITES could therefore assist in "plugging the gaps" in both RFO membership and their limited areas of application.

v) compliance measures:

CITES maintains a watching brief on compliance with and implementation of the Convention by its Parties. Where a Party has failed to implement the Convention effectively, the Standing Committee, on behalf of all Parties, can recommend a suspension of trade in CITES species with that country.



Conclusions

There is already a well-developed framework of international laws and regimes governing the conservation and management of marine fish. CITES is well placed to contribute to the effectiveness of this framework.

CITES can fulfill a complementary role where the monitoring and regulation of trade in marine fish species will strengthen existing management arrangements. The role of trade-related measures in strengthening fisheries conservation and management regimes, particularly in relation to combating IUU fishing on the high seas, has already been recognised by FAO. In regard to marine fish for which there are no specific management measures in place, yet where the impact of trade is of concern, CITES may provide the first step towards the development of co-operative arrangements for that species

The effectiveness of CITES in contributing to the conservation and management of marine fish will be enhanced through complementary relationships with FAO and, as relevant, with individual RFOs. Such relationships will ensure that the respective expertise of the organisations is used in a way that maximises the contribution of each to fisheries conservation and management. The clarification of a number of implementation issues will provide for the consistent application of CITES provisions across a range of marine fish. Implementation of 'the introduction from the sea' is foremost among these issues, particularly in relation to ensuring the validity of scientific non-detriment findings for fish harvested for trade from high sea areas, as well as in supporting the management measures of relevant RFOs.

Consideration at CoP12 of issues relating to marine fish, including the five proposals and various discussion papers, will provide Parties with an opportunity to clarify implementation issues concerning marine fish as well as to consider the broader framework within which CITES can contribute to conservation and management of marine fish species.

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