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COMMISSION STAFF WORKING DOCUMENT

Commission Services' assessment of CITES CoP 15 proposals submitted by EU Member States and of proposals for co-sponsorship tabled by third States

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A. INTRODUCTION

- (1) The 15th meeting of the Conference of Parties (CoP15) to CITES (Convention on International trade in endangered species of wild fauna and flora) will be held in Doha (Qatar) from 13 to 25 March 2010. The aim of CITES is to ensure that international trade in wild animals and plants is not a threat to the survival of the species in the wild. The Convention is implemented in the European Community through Council Regulation (EC) No 338/97 and Commission Regulation (EC) 865/2006.
- (2) CoP15 will discuss and decide on the interpretation and implementation of the Convention and on proposals for amendments to the appendices I and II. Species under CITES are listed in Appendices based on their conservation status and levels of international trade. Appendix I contains species threatened with extinction for which commercial trade is prohibited. Appendix II includes species in which trade must be controlled in order to avoid utilization incompatible with their survival.
- (3) The Commission Services have assessed the draft proposals submitted by the Member States, as well as proposals for which the EU has been invited by third States to act as co-proponent for their own proposals. The result of this assessment is reflected in this working document.

B. DRAFT RESOLUTIONS AND DRAFT DECISION

(1) Identification of worked specimens of black coral (*Antipatharia*) and parts thereof in trade (proposed by UK)

- Overview

The entire order of black corals (*Antipatharia*) is listed under Appendix II of CITES. International trade in black corals is substantial and much of it is in worked specimens. Resolution Conf. 12.3 (Rev. CoP14) requires Parties to refuse permits which do not indicate the scientific name of the species concerned. Nevertheless, due to the extreme difficulty in the identification of worked specimens to species level, a significant proportion of specimens in trade is identified only at genus level.

In order to find a way out to this confusing situation, the UK proposes 2 possible solutions to be adopted by CoP15:

- a. Agree that worked specimens of black coral (*Antipatharia*) in trade may be identified to the taxonomic level of Order for the purpose of reporting and for the issuing of CITES permits and amend Res. 12.3 (rev. CoP14) and Notification 2006/030 (annual reports) consequently.
- b. direct the Standing Committee and the Animals Committee to provide advice on the practicality of identifying worked specimens of black coral (*Antipatharia*) in trade to species, genus or higher taxonomic level and make recommendations to the sixteenth Conference of Parties.

- Comments

The Commission Services support that there is a need to clarify this issue and to assist Parties in the identification of worked specimens of black corals in trade. Nevertheless, they do not think that one option should exclude the other but rather that they are complementary to each other.

- Commission Services' assessment

Favourable, subject to the following considerations:

the proposal should be amended to make clear that, instead of two exclusive options, the changes provide for the adoption of two steps:

- the possibility to issue permits for worked specimens of black corals identified at genus level would be provided by means of amendment of Res. 12.3.:
- the Decision directed to the Standing Committee and Animals Committee calling for the development of new keys to identify worked specimens at species level, which could result in a further amendment of Res. 12.3 (Rev. CoP14) at CoP16.

(2) Proposed revisions to Resolution Conf. 12.3 (Rev. CoP14) on permits and certificates (proposed by UK)

- Overview

The proposal aims at enabling the electronic exchange of CITES permits and certificates. Resolution Conf. 12.3 (Rev. CoP14) outlines the procedures to be followed by Parties in relation to CITES permits and certificates. However, currently it does not allow for the electronic exchange of such permits and certificates between Parties for the purpose of trade in CITES-listed species. The UK suggests to amend this Resolution in such a way that would enable those countries that so wish to use electronic data exchange rather than, or in combination with paper based systems.

- Comments

Electronic information management systems provide for greater speed and efficiency and reduced costs in the exchange of data. This corresponds to a global trend towards the use of such systems in international trade. The Commission Services consider that the suggested amendment of Res. Conf. 12.3 (Rev. CoP14) would represent an important progress for the functioning of CITES, insofar as it allows Parties which so wish to use electronic permits and certificates.

- Commission Services' assessment

Favourable, subject to the following considerations:

- it should be clearer from the proposed amendment to Res. Conf. 12.3 (Rev. CoP14) that it is only intended to enable those countries that so wish to use electronic data exchange rather than paper based systems, without obliging any other Party to make use of this possibility if it does not wish to do so;

- any reference in the proposed amendment to the standards according to which the system for electronic exchange of information would function should be either better detailed or deleted; there is currently mention of the "standards recommended under the Electronic CITES permit toolkit"; such toolkit is still under development within the CITES working group on the use of information technologies and electronic systems. If the toolkit is endorsed at CoP15, it should be referred to in the amended Resolution and be integrated as an Annex to

the Resolution. If the toolkit is not endorsed at CoP15, it would not be appropriate to include a reference to it at this stage;

- the proposed amendment should guarantee that traders can rely on a paper version of their permits and certificates as this might be required from them if they engage in trade operations in countries for which such electronic exchange of information is not available.

(3) Proposed amendments to Resolution 11.3 (Rev. CoP14) (Compliance and Enforcement) to increase the use of wildlife detector dogs (proposed by IT)

- Overview

Detector dogs are successfully used by wildlife enforcement and customs officers to detect items that can not be detected by other tools and to check luggage and people within short deadlines. As there is a constant need for enhanced methods for the enforcement of wildlife trade regulations and as wildlife detector dogs have proved to be effective and flexible means to this end where they are in use, Italy proposes to modify Res. 11.3 (Rev. CoP14) on CITES enforcement methods in order to encourage Parties to train and use detector dogs to combat illegal wildlife trade.

- Comments

Some Member States already use detector dogs to fight illegal wildlife trade and consider that they are very useful means. Also, experiences in the training and use of these animals have proved very promising. For this reason, the Commission Services consider positively this proposal to amend Resolution 11.3 (Rev. CoP14) aimed at encouraging the training and use of wildlife detector dogs.

- Commission Services' assessment

Favourable

(4) Proposed amendments to Resolution Conf. 12.15 on Conservation and trade in tigers and other Appendix-I Asian big cat species (proposed by UK)

- Overview

Tiger is listed in CITES Appendix I. This means that no commercial trade is allowed for wild specimens. According to the Convention, specimens of Appendix I listed species can be traded if they are bred in captivity under certain conditions. Particular concern has been expressed by CITES Parties on trade in tiger products, notably skins as well as other parts used in Traditional Asian Medicine (TAM). In some tiger range states, breeding facilities have been established with the aim to supplying the market with tiger products. In the case of bones, used in TAM, no traceability is possible, and therefore bones derived from wild taken specimens can enter in trade as derived products of captive bred specimens. For this reason, CoP14 issued Decision 14.69 stating that "Parties with intensive operations breeding tigers on a commercial scale shall implement measures to restrict the captive population to a level supportive only to conserving wild tigers; tigers should not be bred for trade in their parts and derivatives". Furthermore, despite Decision 14.65 calling range states to report on progress achieved in conservation of Asian big cats, at the last Standing Committee a general lack of reporting from range states was noted. Only China responded, but the data provided did not contain any information on tiger breeding operations nor on any measures to restrict the captive population.

Resolution 12.5 calls Parties to actively act in regard of conservation of Asian big cats (tiger, leopard, snow leopard, clouded leopard, Asiatic lion). The proposed amendment to Resolution

12.5 aims to integrate the text of the Decisions 14.65 and 14.69 into the Resolution and to consider the lack of reporting under Resolution 12.5 as a failure under the compliance procedures (reference to Res. 11.3 Rev. CoP14).

- Comments

Tiger populations have experienced a dramatic decline over the last years. They face across the whole range of distribution a number of threats, such as loss of habitat, poaching, and conflict with humans. Tiger farming remains a problem, as it may encourage traders to engage in illegal killing and trade of wild specimens, and demand remains high for TAM and skin. The amendment to Resolution 12.5 can contribute to address one of the points of major concern with regard to tiger conservation, by gaining more information on what is happening in range States (in particular on tiger farming) and providing for the activation of compliance procedure in case of lack of reporting.

- Commission Services' assessment

Favourable subject to some relatively minor amendments on:

- the reference to the global expansion of the EU database for exchange of information on enforcement of wildlife trade rules (EU-TWIX), which should be deleted as this Resolution is not the appropriate place to deal with that matter and this expansion should not be limited to tigers (working is ongoing on this initiative);

- reference to reports by TRAFFIC as the main source of information on tiger conservation and trade, which should be deleted or shortened; indeed, many other elements entered into consideration in the decision-making process for previous CITES Resolution and Decisions on the issue.

C. DRAFT PROPOSALS SUBMITTED BY EU MEMBER STATES TO AMEND APPENDICES I AND II

Germany proposed the inclusion of two shark species (*Lamna nasus* and *Squalus acanthias*) in CITES Appendix II. The Commission did not receive any proposal for Appendix I listing from EU Member States.

(1) *Lamna nasus*

Inclusion of *Lamna nasus* (porbeagle) in Appendix II in accordance with Article II 2(a), with an annotation that the entry into effect will be delayed by 18 months (proposed by DE)

- Overview

This shark species occurs in temperate waters of the North Atlantic and Southern Oceans. The species is highly vulnerable to over-exploitation in fisheries and very slow to recover from depletion due to its biological characteristics (slow growing, late maturing, long generation period and bearing slow numbers of young). The meat and the fins of the species are of high value and enter international trade, although the lack of records at species level makes it difficult to get reliable information on the scale of this trade. Unsustainable direct fisheries targeting *Lamna nasus* in the North Atlantic, resulting in a severe depletion of stock, are well documented. Fewer data are available for Southern Hemisphere stocks, but most available data show declining trends. Appendix II listing would be necessary to ensure that international trade is, in the future, supplied by sustainably managed and accurately recorded fisheries that are not detrimental to the status of the wild populations that they exploit. The listing of this species in CITES Appendix II was already proposed at CoP14 in 2007. The

proposal was rejected with 54 votes in favour, 39 votes against, and 12 abstentions (a 2/3 majority is required to adopt a listing proposal).

- Comments

This proposal is solid on scientific data. The species stocks are generally in very poor state (decline in stocks and landings), and the conservation status is of serious concern. The IUCN Red List status assessment for Porbeagle is Vulnerable globally and Critically Endangered in the Northeast Atlantic and the Mediterranean (past, ongoing and estimated future reductions in population size exceeding 90%), Endangered in the Northwest Atlantic and Near Threatened in the Southern Ocean.

Landings in the North Atlantic (the major reported source of world catches, with detailed long-term fisheries trend data recorded) have exhibited marked declining trends over the past 60–70 years. Fewer Southern Ocean data are available, but these also show declines. Even if the species is mostly caught within Exclusive Economic Zones (EEZs), by-catches of porbeagle in high seas areas are registered for pelagic Japanese, Korean and Taiwanese vessels, making it unclear to what extent introduction from the sea will be a significant issue for this species. The data available, together with the consideration that meat and fins of this species enter the international trade, suggest that the criteria for listing in Appendix II to CITES could be fulfilled.

The proposal should be completed with the results of Range States consultations (ongoing at the moment) and information on the outcome of the joint ICCAT-ICES porbeagle shark stock assessment meeting held in Copenhagen in June 2009.

The Commission Services Assessment was unfavourable at the time of the CoP14 due to the lack of data on the occurrence of international trade. In addition, one of the main arguments tabled by third Parties during CoP14 against the proposal was that conservation and management measures applying to the species were insufficient at EU level. There are still few data on international trade but there is no doubt that the meat and the fins of *Lamna nasus* are internationally traded. In addition, the EU Council of Ministers endorsed in March 2009 the EU Shark Action Plan tabled by the European Commission in February 2009¹; this plan lays down a comprehensive policy to better conserve shark species in EU and international waters. Porbeagle fishery in the EU has been subject to a Total Allowable Catch (TAC) management system since 2008; this TAC was set at 581 tons in 2008, which was reduced by 25% in 2009 to 436 tons. A maximum landing size (210 cm) has also been introduced in 2009. A joint declaration by the Commission and the Council issued in December 2008 foresees that the TAC for 2010 should be set on the basis of the ICES-ICCAT meeting which took place in June 2009.

- Commission Services' assessment

Favourable subject to the following considerations:

- it is necessary to indicate more clearly in the document how the concerns expressed by other Parties at the latest CoP on the previous proposal have been addressed in this proposal, in particular stressing which new elements compared to the proposal tabled at CoP14 allow to address those concerns;

¹ Cf. COM(2009)40 final

- the implications on a listing under CITES Appendix II of the measures adopted under ICCAT and applying to *Lamna nasus* should be analysed, in view of Article XIV(4) and (5) of the CITES Convention;
- the proposal should be redrafted in order to clarify (in line with the Decision taken during the 58th meeting of CITES Standing Committee) how the listing criteria for commercially exploited aquatic species laid out in Res. Conf. 9.24 (Rev. CoP14) were interpreted.

(2) *Squalus acanthias*

Inclusion of *Squalus acanthias* (spiny dogfish) in Appendix II in accordance with Article II 2(a) and (b) with an annotation that the entry into effect will be delayed by 18 months (proposed by DE)

• Overview

This shark species occurs in northern and southern temperate and boreal waters, mostly in coastal and shelf seas. Due to its slow growth, late maturity, low reproductive capacity, longevity and long generation time, this species is very vulnerable to over-fishing. International trade is a key element in the exploitation of the spiny dogfish worldwide, mainly because of the high commercial value of the meat (particularly in Europe). Also the small fins and to a lower extent liver oil, cartilages and skin enter international trade.

Stock assessments document major stock depletion in several major Northern Hemisphere populations. Past and ongoing declines in these stocks, together with increased regulation of these fisheries and high international market demand are now driving fisheries for other stocks. Catch and trade are relatively well documented compared to most other sharks. The EU as predominant importer and the US as a significant exporter do record imports and exports of spiny dogfish meat.

Appendix II listing would be necessary to ensure that future international trade is supplied by sustainably managed, accurately recorded fisheries that are not detrimental to the status of the wild populations that they exploit. Both Northern European populations and other populations need to be listed in order to prevent Illegal, Unreported and Unregulated (IUU) fishing for depleted stocks listed in Appendix II and laundering of these catches as taken from unlisted stock

This species was already proposed for Appendix II listing during the last CoP14 in 2007. The proposal was rejected with 57 votes in favour, 36 votes against, 10 abstentions (a 2/3 majority is required to adopt a listing proposal).

• Comments

This proposal is solid on scientific data. The species stocks are generally in very poor state and the conservation status is of serious concern. Furthermore the species is in demand for international trade, as is clearly demonstrated by available trade data. Due to the severe reduction of stocks, the species meets the criteria for listing of commercially exploited aquatic species in CITES Resolution 9.24 (Rev. CoP14).

Since almost all catches take place within coastal waters and EEZ, the question of the interpretation of what constitutes an "introduction from the sea" under CITES will not be an issue for this species and no problems are foreseen on the implementation of this clause. To enable Parties to resolve the related technical and administrative issues, sufficient time for the entry into effect (18 months) of the listing is proposed.

The proposal should be completed with the results of Range States consultations (ongoing at the moment).

The Commission Services were already in favour of this proposal when it was proposed in view of CoP14. Nevertheless during CoP14 the proposal was not adopted, with one of the main arguments against the listing tabled by Parties being the fact that conservation and management measures applying to the species were insufficient at EU level. Since then, the EU Council of Ministers endorsed in March 2009 the EU Shark Action Plan tabled by the European Commission in February 2009; this plan lays down a comprehensive policy to better conserve shark species in EU and international waters. In addition, targeted fisheries for *Squalus acanthias* has been prohibited since 2007. A TAC applies for by-catch only; it was set at 3669 tons in 2007, reduced to 2635 tons in 2008, and further reduced to 1422 tons in 2009. A joint declaration by the Commission and the Council issued in December 2008 foresees that the TAC for 2010 should be set at 10% of the TAC for 2009, or 142 tons. A maximum landing size of 100 cm (total length) has also been introduced in 2009.

- Commission Services' assessment

Favourable subject to the following considerations:

- it is necessary to indicate more clearly in the document how the concerns expressed by other Parties at the latest CoP on the previous proposal have been addressed in this proposal, in particular stressing which new elements compared to the proposal tabled at CoP14 allow to address those concerns;
- it should be made clearer whether all stocks of *Squalus acanthias* qualify for an Appendix II listing on the basis of the biological criteria laid down in in Res. Conf. 9.24 (Rev. CoP14) and, if some stocks do not, why their listing could still be justified on the basis of Article II(b) of the CITES Convention;
- the proposal should be redrafted in order to clarify (in line with the Decision taken during the 58th meeting of CITES Standing Committee) how the listing criteria for commercially exploited aquatic species laid out in Res. Conf. 9.24 (Rev. CoP14) were interpreted.

D. DRAFT PROPOSALS SUBMITTED FOR CO-SPONSORSHIP BY THIRD STATES TO AMEND APPENDICES I AND II

The Commission services and EU Member States received an invitation from the USA that the EU be a co-proponent for the inclusion of *Corallium* spp. and *Paracorallium* spp. (Red and pink coral) in Appendix II, as well as an invitation from the Principality of Monaco that the EU be a co-proponent for the inclusion of *Thunnus thynnus* (Atlantic bluefin tuna) in Appendix I.

(1) *Corallium* spp. and *Paracorallium* spp.

Inclusion of *Corallium* spp. and *Paracorallium* spp. (Red and pink coral) in Appendix II in accordance with Article II 2(a) (proposed by the USA)

- Overview

The proposal includes, beyond the genus *Corallium* (24 species) already proposed at CoP14 by the USA, also the genus *Paracorallium* (7 species).

The family *Coralliidae* consists of around 30 closely related coral species distributed in temperate, subtropical and tropical oceans. These species are vulnerable to overharvesting due

to, amongst other factors, their slow growth rates, relatively late reproductive maturity and the fact that they occur in isolated units in restricted deepwater habitats with low rates of gene flow.

The primary threat to *Coralliidae* is over-harvesting for the precious coral trade. The Mediterranean harvest decreased by 66% from 1985 to 2001. An important lack of older individuals, as observed in all areas with *Corallium* fisheries where surveys have occurred, is an indicator of high mortality due to harvesting. Global harvest statistics from 1959 to 2001 provide one indication of the rapid decline in abundance of Mediterranean and Pacific species corresponding with discovery, inception of commercial fishing, increase in landings overexploitation and ultimately, exhaustion of the resource. Regarding the Mediterranean species, populations have shown a dramatic decrease in their size, age structure and reproductive output over the last 20 years and the only remaining commercial beds are now along the African coast from Morocco to Tunisia, in the Bonifacio Strait off Sardinia and along the Spanish coasts. Most remaining populations in shallow water are characterized by the absence of large colonies, and an overall shift to non-reproductive colonies.

Between 2001 and 2006, several tens of thousands of manufactured and raw items as well as millions of pieces of *Corallium* were imported from South East Asia and EU countries into the USA.

A similar proposal was put forward to the CoP14 in 2007 by the USA, approved by Committee I (62 in favour, 28 against, 13 abstention); on request of Tunisia, Morocco and Algeria the discussion on this proposal was re-opened in the plenary session where, with secret ballot, the proposal was eventually rejected (65 in favour, 55 against, 7 abstentions).

In respect to the preceding proposal the section regarding management measures was enriched, giving also an evaluation on the minimal legal harvest size in the Mediterranean that seems to be inadequate to protect reproductive stocks.

In 2008 China included four species of *Coralliidae* in Appendix III (*Corallium* – *Corallium elatius*, *Corallium japonicum*, *Corallium konjoi*, *Corallium secundum*); this is the only existing international legal instrument to protect this group of species.

The section devoted to consultation with range states is reported to be in progress.

- Comments

The biological criteria for an Appendix II listing according to Res. Conf. 9.24 (Rev. CoP13) are met.

The Commission assessment was favourable at the time of CoP14; however, the EU proposed at the time that several issues are addressed so that the proposed listing can be effectively implemented:

- A delayed entry into effect of 18 months to enable Parties to resolve the related technical and administrative issues, such as the possible designation of an additional Management Authority or the problem of "introduction from the sea."
- The introduction of an exemption for tourist souvenirs and other personal effects;
- Identification; for this genus an approach similar to that taken for stony corals in Notification 2003/020 might be appropriate and the Conference could accept that identification to genus level only is adequate for the purposes of Res. Conf. 12..

- Commission Services' assessment

The Commission services consider that the EU should agree to act as co-proponent with the United States in order to propose the listing of *Corallium* spp. and *Paracorallium* spp. (Red and pink coral) in Appendix II, subject to the following considerations:

- that Resolution Conf. 13.7 (Rev. CoP14) on the control of trade in personal and household effects be amended to include pink and red coral, "*Coralliidae*" – up to seven items of finished specimens where the total weight of finished specimens does not exceed 2 kg per person;
- until such a time as identification materials were available, that Resolution Conf. 11.10 (Rev. CoP14) be amended so that "stony corals" be replaced with "coral" and that *Coralliidae* be included in the list of taxa for which identification to genus level was acceptable.
- the entry into effect will be delayed by 18 months.

(2) *Thunnus thynnus*

Inclusion of *Thunnus thynnus* (Atlantic bluefin tuna) in Appendix I in accordance with Article II (1) of the CITES Convention (proposed by the Principality of Monaco).

- Overview of the proposal

The Principality of Monaco announced its intention to propose the inclusion of Atlantic bluefin tuna (*Thunnus thynnus*) in CITES Appendix I and has sent on 15 July 2009 a consultation on this proposal, together with an invitation for Range States to be co-proponents for this proposal. Many EU Member States are range States for this species.

Atlantic bluefin tuna is a highly migratory species which occurs in the whole North Atlantic Ocean and its adjacent seas, particularly the Mediterranean Sea. It is believed that the species consists of two distinct stocks separated by the 45°W meridian, the Eastern and the Western stocks. There are scientific uncertainties about the extent of this distinction, but the management of the species by the International Commission for the Conservation of Atlantic Tunas (ICCAT) operates on this basis.

Atlantic bluefin tuna has been subject to fishing activities for centuries. The species is particularly targeted in its spawning grounds (the Mediterranean Sea for the Eastern Stock and the Gulf of Mexico for the Western stock).

Fishing activities for the Eastern stock increased substantially in the mid-1990's and reached a peak in 1996 with reported catches amounting to 50 000 tons; the bulk of fishing activities is now made by purse-seiners, which transfer their catches alive to tuna farms, which feed the tunas for several months before the slaughter and the exports to the Japanese market. The extent of IUU fishing for Atlantic bluefin tuna implies that the volume of catches is likely to be higher than the volume of catches effectively reported.

The Western stock fisheries peaked at nearly 20 000 tons in 1964 and has experienced sharp decline afterwards. Catch levels have been steady around 2000/3000 tons until 2003, before declining regularly since then to reach 1600 tons in 2007.

Article II(1) of the CITES Convention states that "*Appendix I shall include all species threatened with extinction which are or may be affected by trade*". The Principality of Monaco provides elements on how they consider that criteria for listing in Appendix I are fulfilled.

- Biological criteria

The Principality of Monaco has assessed the conservation status and trends of the Atlantic bluefin tuna against the biological criteria for the listing of species in CITES Appendix I, as set out in CITES Resolution Conf. 9.24 (Rev. CoP14).

This assessment is based on paragraph C (i) of Annex I to Resolution Conf. 9.24 (Rev. CoP14) which states that

"A species is considered to be threatened with extinction if it meets, or is likely to meet, at least one of the following criteria. (...)

C. A marked decline in the population size in the wild, which has been either:

i) observed as ongoing or as having occurred in the past (but with a potential to resume) (...)".

Guidance is provided in Annex 5 footnote 2 as to how the notion of "decline" should be interpreted for commercially exploited aquatic species. It notably states that the historical extent of decline should be the primary criterion for consideration of listing in Appendix I; it also states in which circumstances the rate of decline over a recent period of time is relevant for a listing. The Principality of Monaco qualifies Atlantic bluefin tuna as a low productivity species, for which a decline (either ongoing or which occurred already) to 20% of the baseline indicates that it would be eligible for the inclusion into CITES Appendix I.

To support its assessment, the Principality of Monaco refers to a large extent to the report of the October 2008 Atlantic bluefin tuna stock assessment session of the ICCAT Standing Committee on Research and Statistics - SCRS.

For the Eastern stock, the SCRS report states the following under the heading "State of the stock":

"The 2008 assessment results indicate that the spawning stock biomass (SSB) continues to decline while fishing mortality is increasing rapidly, especially for large bluefin.

The decline in SSB is evident from the results of an age-structured model (VPA) that used both reported and adjusted (for underreporting) catch and CPUE information, which estimates that recent (2003-2007) SSB is less than 40% of the highest estimated levels (at the start of the time series 1970-1974 or 1955-1958, depending on the analysis). The decline in SSB appears to be more pronounced during the more recent years, especially under the scenarios with adjusted catches, although model estimates for recent years should be judged with caution due to imprecision".

Under the heading "outlook", the report further indicates that *"Continuing fishing at the current level fishing mortalities is expected to drive the spawning stock biomass to very low levels; i.e. to about 18% of the SSB in 1970 and 6% of the unfished SSB. This combination of high F, low SSB and severe overcapacity result in a high risk of fisheries and stock collapse".*

For the Western stock, the report states the following under the heading "State of the stock":

"An updated assessment was conducted this year, including information up to 2007. This assessment is consistent with previous analyses in that spawning stock biomass (SSB) declined steadily between the early 1970s and 1992. Since then, SSB has fluctuated between 18% and 27% of the 1975 level. The stock has experienced different levels of fishing mortality (F) over time, depending on the size of fish targeted by various fleets. Fishing mortality on spawners (ages 8 and older) declined markedly between 2002 and 2007".

Under the heading "outlook", the report distinguishes two scenarios (low and high recruitment) and indicates that *"The outlook for bluefin tuna in the West Atlantic with the low recruitment scenario is similar to that from the 2006 assessment. A total catch of 2,100 t is predicted to have at least a 50% chance of achieving the convention objectives of preventing overfishing and rebuilding the stock to MSY levels by 2019, the target rebuilding time. The outlook under the high recruitment scenario is more pessimistic since the rebuilding target would be higher; a total catch of less than 1,500 t is predicted to stop overfishing in 2009, but the stock would not be expected to rebuild by 2019 even with no fishing"*.

It should be underlined that the ICCAT Standing Committee on Research and Statistics repeatedly mentions in the report that its findings should be treated with caution, in particular due to the limited information available and under-reporting of catches.

On the basis of those elements and other sources of information, the Principality of Monaco considers that the biological criteria for Appendix I listing are met for the Atlantic bluefin tuna.

- International trade

The fact that Atlantic bluefin tuna is affected by international trade is well documented. Atlantic bluefin tuna fisheries are largely driven by international trade, with the Japanese market as the main final destination. It is a very valuable species and fishing operators involved in bluefin tuna fishing and international trade activities have been able to derive substantial income out of them. Indicating that they are basing their figures on the ICCAT Register of the Bluefin Tuna Statistical Document, the Principality of Monaco mentions that Japan reported to ICCAT the import of 32.356 tons of processed bluefin tuna in 2007. The main trade flows occur between Mediterranean countries (in particular EU Member States) and Japan. Other international trade operations encompass transfers and transshipments from a fishing vessel to other vessels flagged in a different country or to farms located in the waters of another country.

- ICCAT management measures

Atlantic bluefin tuna is subject to the management regime established under the ICCAT, in which most Atlantic bluefin tuna Range States and importing States are Members. The Principality of Monaco considers that ICCAT has not been able to ensure a sustainable management of the species, in particular for the Eastern stock. According to the Principality of Monaco, this is demonstrated through the recurrent decisions by ICCAT Parties to deviate substantially from the advices by the ICCAT scientific committees, notably via the setting of TACs at a much higher level than their recommendations and the decision to allow fishing activities to continue in the Mediterranean during part of the spawning season. Efforts to reduce the overcapacity of the fishing fleet targeting Atlantic bluefin tuna are deemed by Monaco not to be commensurate with the extent of the problem. Finally, always according to Monaco, the trade tracking system put in place within ICCAT for Atlantic bluefin tuna is not effective either.

The Principality of Monaco sees those failures as the major factor for the poor conservation status of Atlantic bluefin tuna. Their assessment is based notably on the very critical conclusions from the ICCAT performance review report issued in September 2008.

In addition, the Principality of Monaco intends to table a Resolution accompanying the listing proposal. Bearing in mind the need for the listing to be linked to ICCAT management and conservation measures and the impact of an Appendix I listing on current trade operators, the Principality of Monaco proposes that the down listing of Atlantic bluefin tuna to Appendix II be subject to a specific procedure. Together with the Appendix I listing proposal, the

Principality of Monaco intends to table a Resolution which would instruct the CITES Animals Committee to assess progress made under ICCAT and, should the Committee consider that measures agreed within ICCAT have fulfilled a number of criteria, this Committee would request the Depositary Government to submit a proposal to the CoP in view of down listing the species to Appendix II. This is presented as a means to render more flexible a possible down listing and highlight the importance of cooperation with ICCAT. In this respect probably the Resolution would need to be reworded, with particular regard to the procedure that should include the role of the Standing Committee.

- Comments

The Commission's services consider that the proposal by the Principality of Monaco is partly based on solid scientific grounds. Considering the historical and recent declines for the species, the conservation status of the Atlantic bluefin tuna is cause for very serious concern. However, the proposal by the Principality of Monaco does not always properly reflect the measures adopted by ICCAT, nor the best scientific advice available. For instance, contrary to the assertions in the proposal, the Scientific Committee of ICCAT has not recommended the establishment of a moratorium or the closure of the Mediterranean May-June-July in its latest advice in 2008. Such measures were advocated in a 2008 report by an independent panel convened (at the request of ICCAT) to review the performance of ICCAT as well as in a Resolution by the IUCN World Conservation Congress adopted in October 2008. Besides, the proposal does not mention that there is a significant degree of uncertainty concerning the evaluation of ICCAT management measures, as regards notably the extrapolations operated to estimate the catch per unit effort of purse-seiners (which have now become the main gear to fish bluefin tuna), an approach necessary in a context of under-reporting of overall catches.

At the same time, the Commission must take into account that the latest scientific advice provided within ICCAT concludes, in relation to the effect of current regulations, that, unless fishing mortality rates are substantially reduced in the near future, the current management scheme will most probably lead to further reduction in spawning stock biomass with high risk of fisheries and stock collapse. Biologically, guidance provided under CITES Res. Conf. 9.24 (Rev. CoP 14) indicates that Atlantic bluefin tuna, if considered a low productivity species, is eligible under CITES Appendix I listing if it has been experiencing a decline until a level equivalent to 15-20% of its baseline. The decline should either have occurred in the past or be ongoing. The historical and the recent declines of the species should be considered. The usual indicator to assess such decline is the quantity (expressed in weight) of specimens able to spawn (the "spawning stock biomass"). Against this background, important indications feature in the 2008 report from the ICCAT scientific committee, as highlighted already in the part on "biological criteria" above. This is notably the case of the statement according to which, for the Eastern stock of Atlantic bluefin tuna, *"Continuing fishing at the current level fishing mortalities is expected to drive the spawning stock biomass (SSB) to very low levels; i.e. to about 18% of the SSB in 1970 and 6% of the unfished SSB. This combination of high F (fishing mortality), low SSB and severe overcapacity result in a high risk of fisheries and stock collapse"*. It should be added that if, instead of 1970, reference is made to the spawning stock biomass in 1955 (which is the earliest date for which such data are available in the report by the ICCAT scientific Committee), the extent of such decline is even higher. The report also indicates that the decline experienced by the Eastern stock over the last ten years has been much higher than in the preceding years.

In addition, one should note that the assessment by the Principality of Monaco is based on paragraph C (i) of Annex I to Resolution Conf. 9.24 (Rev. CoP14); it is also worth assessing

the situation of Atlantic bluefin tuna against the criteria in Para C (ii) of Annex I to Resolution Conf. 9.24 (Rev. CoP14), and, more specifically, against the following provision:

"A species is considered to be threatened with extinction if it meets, or is likely to meet, at least one of the following criteria. (...)

C. A marked decline in the population size in the wild, which has been (...):

ii) inferred or projected on the basis of (...) levels or patterns of exploitation".

The levels of exploitation depend notably on the Total Allowable Catches, which are currently set above scientific recommendations. The patterns of exploitation of the species reveal that this species is mainly harvested in its spawning ground, during the spawning season and that spawning individuals are particularly targeted. Those patterns of exploitation therefore have a major impact on the level of the spawning stock biomass. The levels and patterns of exploitation can therefore be considered as being as the basis of the inferred or projected marked decline of the species.

On this basis, the opinion of the Commission is that the biological criteria for the Appendix I listing appear to be met. The Commission has based its assessment on the best available science on the issue, mainly reports by the ICCAT Standing Committee on Research, whilst other reports, including the 2008 report for the review of the performance of ICCAT, provide an even bleaker picture of the situation.

- There is no doubt about the link between international trade and overexploitation of the species.

- The relationship between the Appendix I listing and the activities carried out by ICCAT is a crucial issue. The position of the EU has always been and remains to promote actively the role of Regional Fisheries Management Organisations for the conservation and management of highly migratory species like bluefin tuna. The EU is member to many RFMOs over the world and ICCAT is one of the first RFMOs ever created.

In relation to bluefin tuna in particular, the position of the European Community has consistently been that ICCAT should adopt and implement measures to ensure the conservation of the bluefin tuna stocks.

To start with, the European Community has recognised the extent of the problems of this fishery, in particular the degradation of the state of the stock, the overfishing (notably by the Community in 2007 as an unprecedented step of transparency), the lack of compliance with ICCAT measures and the overcapacity of the fleet and the farms. On this basis and as the main player in this fishery, the Community has led the way in ICCAT and through its domestic policy to address these issues:

- its has driven the adoption by ICCAT in 2006 of the most exhaustive multiannual recovery plan ever adopted by an RFMO, which was substantially strengthened in 2008 by consensus among the 45 ICCAT Members under the leadership of the Community after very difficult negotiations in particular through a reduction of the duration of the fishing season, strengthened controls, the launching of a reduction programme of overcapacity and reduction in total allowable catches;

- it has driven the adoption by ICCAT in 2007 of a catch document for bluefin tuna catches and trade that is the most encompassing and stringent certificate adopted by an RFMO;

- it has deployed over the last two years huge human, financial and logistical means to control this fishery and has taken the step to close the fishery for purse-seiners in 2008 earlier than the end date of the allowed fishing season so as to avoid any overfishing;

- in March 2009, a meeting of the ICCAT Compliance Committee was devoted to bluefin tuna and examined in great detail the shortcomings of compliance by ICCAT Members and the ways to redress them;

- for the fishing season in 2009, from mid-April to mid-June, extensive controls by Member States and the Commission show that compliance by the Community fleet has been overall satisfactory, and that the EC quota has been respected thanks to the action of Member States to close the fishery to vessels when needed in close cooperation with the European Commission;

- from this work it appears that the fishing capacity has already been reduced this year but that further reductions need to be part of management plans by all ICCAT Members to be discussed and approved by ICCAT at the next Annual Meeting in November 2009.

Those considerable steps should be taken into consideration when assessing the desirability of supporting the proposal for the Appendix I listing for Atlantic bluefin tuna. It should be stressed however that the persistence of an important fleet and farming overcapacity, the fixation of TACs at levels well above scientific recommendations and the difficulties in monitoring fishing and trade operations continue to constitute major problems hampering sustainable management and conservation of Atlantic bluefin tuna, and that those problems have not been fully solved under the ICCAT regime so far.

While a listing under CITES should not undermine the legitimacy and work of ICCAT, which remains an important international body within which conservation and management of bluefin tuna fisheries should be dealt with, it needs to be stressed that CITES is the appropriate instrument to ensure that international trade is not driving species, including commercially exploited marine species, to extinction. This is a line which has constantly been supported by the EU within the CITES framework, notably at the last CITES Conference of Parties when the EU proposed the listing of two shark species and the European eel species.

A possible listing of Atlantic bluefin tuna in Appendix I should be accompanied by close cooperation with ICCAT in order to make sure that work within both organisations is mutually supportive. Such cooperation would allow a down-listing to take place when appropriate measures are adopted within this RFMO. The work of ICCAT in relation to management and conservation of Atlantic bluefin tuna would continue even in the case of an Appendix I listing, notably in view of monitoring the population trends, assessing the recovery of stocks, assessing national fisheries, launching research programmes, setting out measures for management and conservation of bluefin tuna stocks compatible with a future downlisting. The draft accompanying Resolution tabled by Monaco should be strengthened to institute a regular dialogue between the two organisations and clear cooperation with mutual input as to what needs to be achieved to ensure sustainable harvesting and trade of Atlantic bluefin tuna. The draft Resolution foresees a procedure for down listing the species to Appendix II if a set of conditions are fulfilled. Rather than imposing such conditions, the Commission services consider that the draft Resolution should establish a joint working group between the CITES Animals Committee and ICCAT, which should seek to set out which measures should be put in place in order to initiate the down listing process. The Commission services also point out that an Appendix II listing would probably have little legal implications given the provisions in Article XIV (4) of the CITES Convention and, as far as the issuing of CITES permits is concerned, would duplicate with the ICCAT bluefin tuna Catch Documentation Scheme.

To ensure that the implementation of a possible Appendix I listing is adequately prepared, and notably that suitable techniques for the identification of Atlantic bluefin tuna products are put

in place, the listing should enter into force 6 months after its adoption at CoP15 in March 2010.

- Commission services' Assessment

Given that the European Commission services share many of the concerns expressed by Monaco about the state of the stocks of Atlantic bluefin tuna (BFT), they consider that the European Community could provisionally co-sponsor the proposal by Monaco requesting the listing of Atlantic bluefin tuna in CITES Appendix I. Whereas it appears for the time being that the criteria for such a listing may be met, the Commission services note that the assessment on which the Monaco proposal is based draws from scientific advice issued in October 2008.

Given that updated scientific evidence is awaited and given that new relevant scientific data will become available in the coming months and in view also of the importance of the upcoming meeting of ICCAT in November 2009 for the conservation of Atlantic bluefin tuna, the final position of the European Community in the CITES CoP 15 on the opportunity to support an Appendix I listing for this species will be decided in the light of these latest elements.

The final position of the European Community:

- shall be based on the most recent scientific data available, and
- should take account of ICCAT decisions, at its annual meeting in November 2009, to adopt measures aligned with the latest scientific recommendations pertaining to the conservation of Atlantic bluefin tuna. In particular, the establishment within ICCAT of TACs as from 2010 (in the context of the multi-year recovery plan) should be consistent with the recommended strategy to rebuild the stock through sound conservation measures.

When preparing a proposal for the final position of the European Community, an analysis of the socio-economic impact of the different options to be considered will be provided by the Commission.

E. SUMMARY TABLE

Proposal	Commission Services' assessment
Resolutions / decisions	
Identification of worked specimens of black coral (<i>Antiphattharia</i>) and parts thereof in trade (UK)	Favourable subject to amendments
Proposed revisions to Resolution Conf. 12.3 (Rev. CoP14) on permits and certificates (UK)	Favourable subject to amendments
Wildlife detector dogs (IT)	Favourable
Amendments to Resolution Conf. 12.15 on Conservation and trade in tigers and other Appendix-I Asian big cat species (proposed by UK)	Favourable subject to amendments
Draft Proposals submitted by EU Member States to amend Appendix II	
<i>Lamna nasus</i> (porbeagle) (DE)	Favourable subject to amendments
<i>Squalus acanthias</i> (spiny dogfish) (DE)	Favourable subject to amendments
Draft Proposals submitted for co-sponsorship by third States to amend Appendices I and II	
<i>Corallium</i> spp. and <i>Paracorallium</i> spp. (Red and pink coral) in Appendix II (USA)	Favourable subject to amendments
<i>Thunnus thynnus</i> (Atlantic bluefin tuna) in Appendix I in (Principality of Monaco)	Favourable subject to amendments