



**Decision 19.136: Technical workshop on Non-detriment findings for specimens of Appendix-II species taken from areas beyond national jurisdiction**

# Working programme

Day 1		Day 2	
09:00 to 12:00	<b>Plenary</b>  Opening Presentations	09:00 to 11:15	<b>Plenary</b> Moderated Discussion & <b>Breakout groups</b>
		11:15 to 12:00	----- <b>Plenary</b>
12:00 to 14:00	Lunch	12:00 to 14:00	Lunch
14:00 to 15:30	<b>Plenary</b>  Presentations		
15:30 to 17:00	----- <b>Plenary</b> Moderated Discussion  <b>Breakout groups</b>	14:00 to 17:00	Synthesis and closing



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**Objectives of the workshop**

# Decision 19.136 on Non-detriment findings for specimens of Appendix-II species taken from areas beyond national jurisdiction

## 19.136 Decision directed to: Secretariat

The Secretariat shall, subject to external funding:

- a) convene a technical workshop to consider how non-detriment findings might best be achieved for the introduction from the sea of specimens of CITES Appendix II-listed, commercially exploited aquatic organisms taken by multiple Parties in waters beyond national jurisdiction; and invite workshop participants and Parties to contribute relevant information and expertise at the workshop;

# Decision 19.136 on Non-detriment findings for specimens of Appendix-II species taken from areas beyond national jurisdiction

## 19.136 Decision directed to: Secretariat

The Secretariat shall, subject to external funding:

- c) taking into consideration the responses to the Notification to the Parties in Decision 19.135, existing NDFs submitted by Parties for specimens taken from areas beyond national jurisdiction, outcomes of the second international expert workshop on Non-detriment findings and any other relevant information, prepare workshop documents on:
  - i. the level (current and anticipated) of trade in CITES-listed species taken from areas beyond national jurisdiction;
  - ii. the difficulties encountered by Parties when making NDFs for specimens taken from areas beyond national jurisdiction;
  - iii. the current role, if any, of RFMOs and other RFBs in making data and information available to CITES Scientific Authorities making non-detriment findings; and
- d) submit findings and recommendations of this workshop to the Animals Committee for their consideration and to make recommendations to the Standing Committee for its consideration, and any recommendations to be considered by the 20th meeting of the Conference of the Parties.





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**Requirements for specimens of Appendix-II species taken from ABNJ**

# Non-detriment findings (NDFs) for specimens of Appendix-II species taken from areas beyond national jurisdiction (ABNJ)

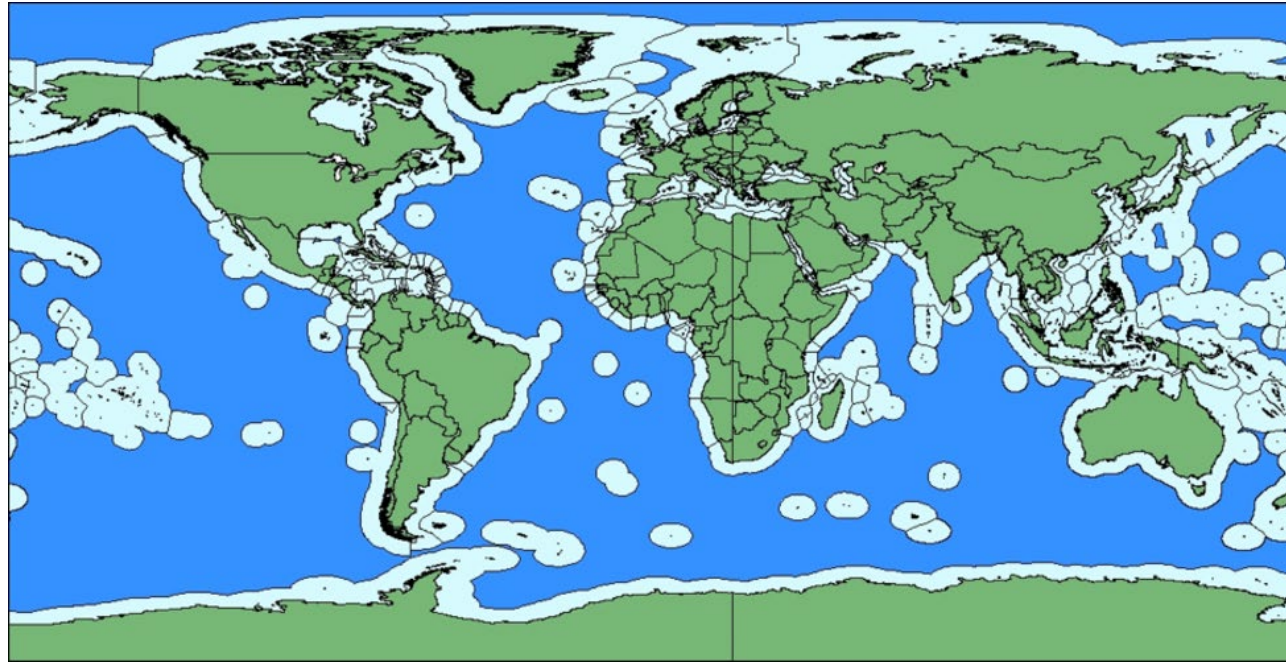
- What is areas beyond national jurisdiction (ABNJ)?
- Taking specimens from ABNJ – Resolution Conf. 14.6. (Rev. CoP16)
- Making non-detriment findings (NDFs) for specimens taken from ABNJ



# What is ABNJ?

## Resolution Conf. 14.6 (Rev. CoP16) on Introduction from the sea

1. AGREES that ‘the marine environment not under the jurisdiction of any State’ means those marine areas beyond the areas subject to the sovereignty or sovereign rights of a State consistent with international law, as reflected in the United Nations Convention on the Law of the Sea;







## Taking specimens from ABNJ

Resolution Conf. 14.6 (Rev. CoP16) on Introduction from the sea describes two different scenarios in which specimens are caught in ABNJ:

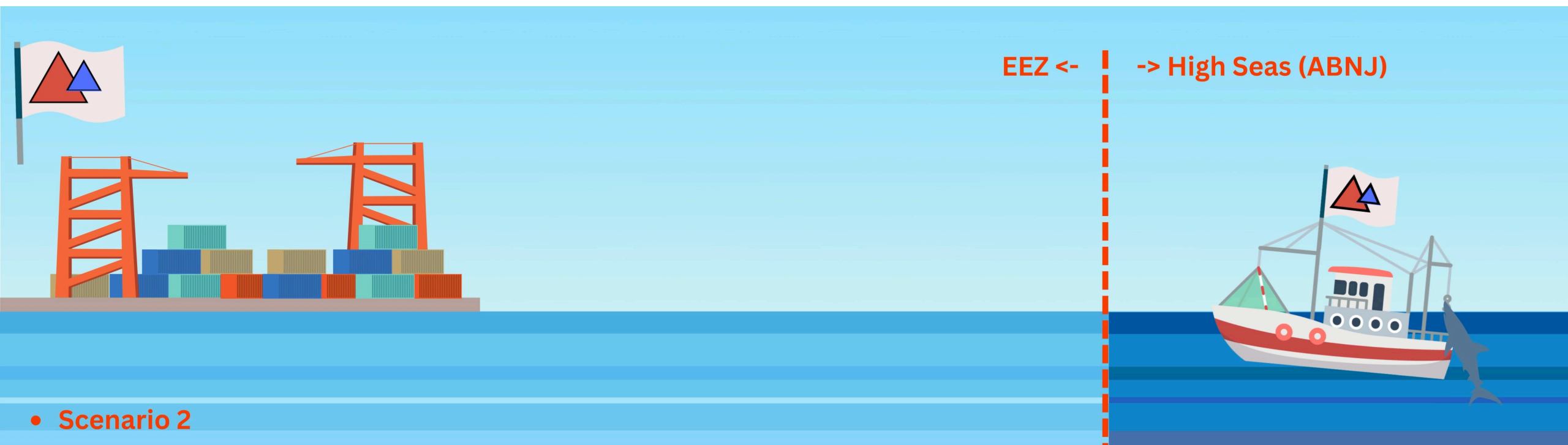
- One state transaction
- Two states transaction

# One-state transaction



A vessel under flag of State  fishes “in the marine environment not under the jurisdiction of any State” (= ABNJ) and lands the catch in State .


This is **introduction from the sea**; with State  being the State of introduction.

(Resolution Conf. 14.6. (Rev. CoP16) para. 2 (a))



# Two-state transaction

A vessel under flag of State  fishes “in the marine environment not under the jurisdiction of any State” (= ABNJ) and lands the catch in State .

This is **international trade / export and import**; with State  being the State of export, and State  as the State of import.  
(Resolution Conf. 14.6. (Rev. CoP16) para. 2 (b))



## • Scenario 3

# Two scenarios – A common NDF element

One state transaction	Two states transaction
Introduction from the sea	International trade export / import
Art. IV para. 6 and 7 of the Convention	Art. IV para. 2 of the Convention
<i>(a) a Scientific Authority of the State of introduction advises that the introduction will not be detrimental to the survival of the species involved; and</i>	<i>(a) a Scientific Authority of the State of export has advised that such export will not be detrimental to the survival of that species;</i>
= NDF requirement for IFS certificate	= NDF requirement for export permit

## Two States scenario – Taking specimens from ABNJ for export / import

- We apply Art. IV para. 2 of the Convention
- This is the “classic” requirement to make as NDF for export of Appendix II species.
- However, because the specimens are taking from a zone that is not under the jurisdiction of any State, in Resolution Conf. 14.6 (Rev. CoP16), the CoP:
  - *“FURTHER RECOMMENDS that, in the case of an export of Appendix-II specimens, the Scientific Authority of the State of export, in making its non-detriment finding, consult with other national scientific authorities or, when appropriate, international scientific authorities;”*

# One State scenario – Taking specimens from ABNJ for introduction from the sea

- We apply Art. IV para. 6 and 7 of the Convention

## Article IV: Regulation of Trade in Specimens of Species Included in Appendix II

6. The introduction from the sea of any specimen of a species included in Appendix II shall require the prior grant of a certificate from a Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:
  - a) a Scientific Authority of the State of introduction advises that the introduction will not be detrimental to the survival of the species involved; and
  - b) a Management Authority of the State of introduction is satisfied that any living specimen will be so handled as to minimize the risk of injury, damage to health or cruel treatment.
7. Certificates referred to in paragraph 6 of this Article may be granted on the advice of a Scientific Authority, in consultation with other national scientific authorities or, when appropriate, international scientific authorities, in respect of periods not exceeding one year for total numbers of specimens to be introduced in such periods.



# Article IV paragraph 6 of the Convention

6. The introduction from the sea of any specimen of a species included in Appendix II shall require the prior grant of a certificate from a Management Authority of the State of introduction. A certificate shall only be granted when the following conditions have been met:
- a) a Scientific Authority of the State of introduction advises that the introduction will not be detrimental to the survival of the species involved; and
  - b) a Management Authority of the State of introduction is satisfied that any living specimen will be so handled as to minimize the risk of injury, damage to health or cruel treatment.

Pursuant to Article IV para. 6:

- The Scientific Authority is required to make an NDF;
- The NDF is the scientific basis of the consideration of the issuance of the IFS certificate by the Management Authority.

# Article IV paragraph 7 of the Convention

7. Certificates referred to in paragraph 6 of this Article may be granted ***on the advice of a Scientific Authority, in consultation with other national scientific authorities or, when appropriate, international scientific authorities***, in respect of periods not exceeding one year for total numbers of specimens to be introduced in such periods.

Article IV para. 7 introduces a new approach that is specific to IFS:

- Either the State of introduction issues an IFS certificate “per shipment” or “per landing”, which requires a dedicated NDF as per Article IV para. 6;
- Or the State of introduction can issue a “global” IFS certificate, covering a period not exceeding one year, and for a total number of specimens to be caught from ABNJ during that year, pursuant to Article IV para. 7.

=> In the latter case, the “global” IFS certificate would replace the various IFS certificates “per shipment” or “per landing”;

=> However, this is still an IFS certificate, so:

1. Pursuant to Article IV para. 6 (a): an NDF is required
2. Pursuant to Article IV para. 7: the NDF should be made by a Scientific Authority, in consultation with other national scientific authorities or, when appropriate, international scientific authorities.

# Making NDFs for specimens taken from ABNJ

- Export/import of specimens taken from ABNJ

- Requirement to have an NDF (Article IV para. 2)
- Recommendation of Resolution Conf. 14.6 (Rev. CoP16) for the *Scientific Authority of the State of export, in making its non-detriment finding, to consult with other national scientific authorities or, when appropriate, international scientific authorities*

- Introduction from the sea of specimens taken from ABNJ

=> The State of introduction chooses to issue IFS certificates “per shipment” or “per landing”:

- Requirement to have an NDF (Article IV para. 6)

=> The State of introduction chooses to issue a global IFS certificate covering up to one year for a total number of specimens to be caught from ABNJ during that year:

- Requirement to have an NDF (Article IV para. 6)
- Additional requirement of Article IV para. 7 for the *Scientific Authority of the State of introduction, in making its non-detriment finding, to consult with other national scientific authorities or, when appropriate, international scientific authorities.*

# International scientific authorities



Convention on International Trade in Endangered Species of Wild Fauna and Flora

## CoP19 Doc. 43.2 Making Non-Detriment Findings for specimens of Appendix II species taken in the marine environment not under the jurisdiction of any state (United Kingdom of Great Britain and Northern Ireland)

“Although SAs are encouraged to consult with other SAs, or when appropriate ‘international SAs’ (which could include RFMOs and other Regional Fisheries Bodies, RFBs)...”

“Identification of what constitutes an ‘international scientific authority’ and clarification of the role it plays in the context of introduction from the sea. It is likely that candidates for this role would be organisations with an established regulatory or management role for commercially exploited aquatic species, such as RFMOs, or any other body that is acknowledged internationally as having appropriate expertise to provide advice on these species.”

# FAO Legal Guide “Implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) through national fisheries legal frameworks”

“These NDFs can be developed and issued in consultation with RFBs acting as the “international scientific authority” for those shared stocks taken on the high seas in accordance with CITES, Article IV(7)17 but do not represent a substitute for a national SA (Mundy-Taylor et al., 2014). The Sharks Resolution invites parties to collect and share data through RFBs in respect of fishing effort, catches, live releases, discards, landings and trade in shark species and to make this data available to assist SAs in the making of NDFs for such species.”

