

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA

Sixty-fifth meeting of the Standing Committee
Geneva (Switzerland), 7-11 July 2014

Interpretation and implementation of the Convention

Trade control and traceability

INCLUSION OF CITES-LISTED SPECIES IN THE HARMONIZED
COMMODITY DESCRIPTION AND CODING SYSTEM

1. This document has been prepared by the Secretariat.
2. At its 16th meeting (CoP16, Bangkok, 2013), the Conference of the Parties adopted Decision 16.62 on *E-commerce of specimens of CITES-listed species*. This Decision directs the Standing Committee as follows:

The Standing Committee shall, in collaboration with the Secretariat, liaise with the World Customs Organization with regard to the inclusion of CITES-listed species in the Harmonized Commodity Description and Coding System.

3. In addition, in Resolution Conf. 12.6 (Rev. CoP16), on *Conservation and management of sharks*, the Conference of the Parties:

REQUESTS Management Authorities to collaborate with their national Customs authorities to expand their current classification system to allow for the collection of detailed data on shark trade including, where possible, separate categories for processed and unprocessed products, for meat, cartilage, skin and fins, and to distinguish imports, exports and re-exports and between shark fin products that are dried, wet, processed and unprocessed fins. Wherever possible, these data should be species-specific.

4. In the same Resolution, the Conference of the Parties:

INSTRUCTS the Secretariat to monitor discussions within the World Customs Organization regarding the development of a Customs data model, and the inclusion therein of a data field to report trade in sharks at species level, and to issue Notifications to the Parties concerning any significant developments.

5. Pursuant to these Decisions, the Secretariat participated in the 45th Session of the Harmonized System Review Sub-Committee of the World Customs Organization (WCO), which was held in Brussels, Belgium, from 27 to 31 May 2013. On this occasion, the Secretariat met with the Chair of the Harmonized System Review Sub-Committee and introduced Decision 16.62 to the Sub-Committee.
6. The Secretariat also took the opportunity to meet with the representative from the Food and Agriculture Organization of the United Nations (FAO) to discuss its proposal on possible amendments to the nomenclature of fishery, agricultural and forestry products, as well as fertilizers.¹ The proposal was to split present code 0305.71 for "*shark fins in dried, salted or in brine or smoked form*", and add the specification "*fins with skin and cartilage, dried, whether or not salted*" for the following four shark taxa: hammerhead sharks (family *Sphyrnidae*); oceanic whitetip sharks (*Carcharhinus longimanus*); blue shark (*Prionace*

¹ FAO Revised Proposal for the Harmonized System 2017 Edition. [<http://www.fao.org/forestry/download/37431-0272cab485efed85fdf584745cdfc51ad.pdf>]

glauca); and the porbeagle shark (*Lamna nasus*). Three of these shark taxa were listed in CITES Appendix II at CoP16. These listings will enter into force on 14 September 2014.

7. The relevance of the amendment to the listings of sharks in Appendix II was made explicit in the FAO proposal:

They have also, at some point, been proposed for inclusion on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). In March 2013, the CITES Conference of the Parties adopted the inclusion in Appendix II of several species of hammerhead sharks, oceanic whitetip shark, and porbeagle shark. These proposals will go into effect in 18 months. The inclusion of these species in Appendix II of CITES will require CITES Parties (currently there are 178) to monitor the international trade in products of these species. Thus, adoption of the proposal to have separate codes for shark fins of these species will be extremely important to assist CITES Parties in implementation of these listings.²

8. The Secretariat has also met with the Deputy Director and the Technical Officer of the Nomenclature, Tariff and Trade Affairs of WCO, to discuss the possible inclusion of CITES-listed species in the Harmonized Commodity Description and Coding System, generally referred to as “HS codes”. The Secretariat wrote to the Deputy Director on 9 November 2012 regarding Resolution Conf. 12.6 (CoP15),³ and regarding its earlier support for the complementary FAO proposals on amending 2012 HS codes in order to provide more detailed coverage of certain fishery and forestry products.
9. The Secretariat has continued to monitor discussions at the WCO and FAO on the inclusion of products of shark and other CITES-listed species in the HS codes. In this regard, at the 14th session of the Sub-Committee on Fish Trade of the Committee on Fisheries of FAO, which was held in Bergen, Norway, from 24 to 28 February 2014, the Secretariat held informal discussions with FAO on efforts to amend the HS codes and continued CITES Secretariat support for such an initiative. The Sub-Committee supported the work of FAO related to the improvement of the HS codes for fish products and the continued collaboration with WCO.
10. Delegates at the above-mentioned session also proposed possible areas of improvement, including the use of Taxonomic Serial Numbers (TSNs) to complement the HS codes and a better breakdown of the categories of products from species that need to be monitored more effectively, such as sharks and rays. The Secretariat will closely monitor discussions related to the possible use of TSNs by FAO and other organizations, particularly in light of Decisions 16.56 and 16.57 on the use of Taxonomic Serial Numbers. Moreover, some CITES Parties have expressed support for incorporating TSNs in their domestic data systems and electronic trade documentation.
11. On 3 March 2014, the Secretariat wrote to the Director of Tariff and Trade Affairs at WCO and strongly supported FAO on its Possible amendment to the Nomenclature in respect of fishery products, agricultural products and fertilizers, contained in documents no. NC1956E1a and NC1998E1a, which were discussed at the 53rd Session of the Harmonized System Committee of WCO in Brussels, from 3 to 14 March 2014.
12. In the letter, the Secretariat noted that the proposal to split present code 0305.71 specified in paragraph 6 above would assist Customs officials to better identify these species and their derivatives and contribute to the sustainability of international trade in species of sharks. The Secretariat also noted that three out of the four taxa in the FAO proposal are listed in Appendix II of the Convention.
13. The FAO proposals (documents nos. NC1956E1a and NC1998E1a) did not receive the requisite two-thirds majority required for a legal amendment to be provisionally adopted; 23 members supported the proposals, while 17 voted against it.⁴
14. Among the concerns aired on the FAO proposals was the difficulty in distinguishing fins from different shark species and the possibility that the proposed amendment would represent a burden to Custom authorities at the clearance stage. A delegate also questioned the benefits of formulating subheadings in the HS codes for products that were only traded by a relatively limited number of countries, and suggested

² *Ibid*, p. 8

³ Resolution Conf. 12.6 (CoP15) was revised at CoP16.

⁴ Report to the Customs Co-operation Council on the 53rd session of the Harmonized System Committee. 53rd session of the Harmonized System Committee (NC2004E1b, (HSC/53/March 2014).

that the countries concerned by this trade consider inserting separate provisions at the national level, instead of modifying the HS.⁵

15. Expressions of support for the proposal were also received, with one delegate reminding the Committee that the structured nomenclature of heading 03.04⁶ featured subheadings that distinguished between biological species, which did not seem to have created any difficulty.⁷
16. The Secretariat also notes the FAO offer to make available free of charge a software application that allows the identification of a shark species by examining its fins. The methodology used in the software provides for a step-by-step process and requires no specialized knowledge. Initial tests showed that the accuracy of the results using this application was estimated at about 90 per cent. An updated version of the software application would be available for testing by July 2014. However, a delegate stated that it was unclear whether it would be feasible to make a distinction between different species of sharks by means of the software developed by the FAO or by any other means. Other delegates expressed support for the software application, with one delegate stating that the software application had been examined by her country's competent authority, and that they had not identified any major problem with it.
17. It was expected that a draft of recommended Decisions of the Harmonized System Committee would be submitted to the Council in June 2014 for adoption and implementation. The recommended amendments to the HS codes would then enter into force on 1 January 2017. Amendments to the 2017 revised HS codes would be possible during the following five-year HS review cycle.⁸
18. The Secretariat will continue to support joint efforts with FAO to assist countries to insert separate provisions in national codes related to shark fins and products of other CITES-listed species, particularly in light of Resolution Conf. 12.6 (Rev. CoP16). It will also discuss with FAO the possibility of introducing issues related to the inclusion of categories for CITES-listed species in the HS codes during meetings of Regional Fishery Bodies, which are normally held on the margins of meetings of the Committee on Fisheries of FAO. Such participation would provide the Secretariat with the requisite expertise to assist Parties with efforts to develop national HS codes to include categories for products of CITES-listed species.
19. In light of the outcomes of the 53rd Session of the Harmonized System Committee of the WCO, and in support of Resolution Conf. 12.6 (Rev. CoP16), Parties may wish to share their experiences with the Secretariat in collaborating with their national Customs authorities to expand their current classification systems to allow for the collection of detailed data on shark trade.
20. The Standing Committee is invited to take note of this report.

⁵ *Ibid.*, NC1956E1a, NC1998E1a, Possible amendment to the Nomenclature in respect of fishery products, agricultural products and fertilisers (Proposal by FAO), Chapter 3, paragraphs 3 and 4.

⁶ *HS Codes: Section I: LIVE ANIMALS; ANIMAL PRODUCTS; Chapter 03: Fish and crustaceans, molluscs and other aquatic invertebrates; 0304: Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen.*

⁷ *Ibid.*, NC1956E1a, NC1998E1a, Possible amendment to the Nomenclature in respect of fishery products, agricultural products and fertilisers (Proposal by FAO), Chapter 3, paragraph 7.

⁸ For more information on amending the HS codes see: http://www.wcoomd.org/en/topics/nomenclature/activities-and-programmes/amending_hs.aspx#The%20Drafting%20period