

CITES: A Tool for Regulation of International Trade in Spiny Lobster?

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ABSTRACT

Recent reports from the Food and Agriculture Organization of the United Nations (FAO) state that spiny lobster (*Panulirus argus*) is harvested at maximum levels throughout much of its range. In most countries there is a need to control fishing effort for this species and ensure sustainable use. Although this species is consumed domestically, a high percentage of the catch enters international trade. Brazil proposed listing *Panulirus argus* and *P. laeviscauda* (Brazil populations only) in Appendix II at the 14th meeting of the Conference of the Parties to CITES. CITES Appendix II includes species that, although currently not threatened with extinction, may become so without trade controls. Regulated trade is allowed provided the exporting country issues a permit. Prior to issuing a permit exporting countries must make findings that the commodity was legally acquired and the export will not be detrimental to the survival of the species. Listing of queen conch (*Strombus gigas*) in CITES Appendix II has been a useful complement to national management programs. CITES also provides other ways to regulate and control international trade. Appendix I includes species in danger of extinction, for which all commercial trade is prohibited. Appendix III includes species for which a range country has asked for the cooperation of other countries in controlling international trade. Importing countries must check for export permits, issued by the country of origin, for an Appendix-III species or certificates of origin from all other countries. In this paper, we discuss ways in which CITES might be used to regulate international trade in spiny lobster.

KEY WORDS: CITES, international trade, spiny lobster

CITES: Una herramienta para el Comercio Internacional de la Langosta Espinosa?

Los informes recientes de la Organización para la Agricultura y la Alimentación de las Naciones Unidas (FAO) indican que la langosta espinosa (*Panulirus argus*) está siendo capturada a niveles máximos a través de todo su rango. En la mayoría de los países hay una necesidad de controlar esfuerzo de pesca para esta especie y de asegurar su uso sostenible. Aunque esta especie se consume nacionalmente, un alto porcentaje de la captura se incorpora al mercado internacional. El Brasil propuso que se incorporara a *Panulirus argus* y del *P. laeviscauda* (solamente a las poblaciones de Brasil) en el apéndice II en la 14ta reunión de la conferencia de los partidos CITES. El apéndice II de CITES incluye la especie que, aunque no esté amenazada actualmente con la extinción, pueden convertirse si no existen controles comerciales. El comercio regulado es permitido mientras el país exportador emita un permiso. Antes de emitir un permiso los países exportadores deben comprobar que el producto fue adquirido legalmente y que la exportación no será perjudicial a la supervivencia de la especie. El listado del caracol rosado (*Strombus gigas*) en CITES apéndice II ha sido un complemento útil a los programas nacionales de manejo de este recurso. CITES también proporciona otras maneras de regular y de controlar comercio internacional. El apéndice I incluye especie en el peligro de la extinción, para el cual se prohíbe todo el comercio comercial. El apéndice III incluye aquellas especies por la cual un país o un grupo de países han pedido la cooperación de otros países para controlar el comercio internacional. Los países importadores deben comprobar si existen permisos de la exportación del país para una especie del Apéndice-III o los certificados de origen de el resto de los países. En este trabajo, discutimos las maneras en las cuales CITES puede ser utilizado para regular el comercio internacional en langosta espinosa.

PALABRAS CLAVES: CITES, comercio internacional, Langosta espinosa.

INTRODUCTION

The Caribbean spiny lobster is found throughout the western Atlantic Ocean from North Carolina on the east coast of the United States south to Brazil, including Bermuda, the Bahamas, and the entire Gulf of Mexico and Caribbean Sea in between. Recent FAO reports (FAO/WECAFC, 2007; WECAFC12, 2005)

state that spiny lobster (*Panulirus argus*) is being fully or overexploited throughout much of its range. In most countries there is an urgent need to control fishing effort for this species and take other management measures. Spiny lobster is harvested both for domestic consumption and for export, with a high percentage of the catch entering international trade.

Brazil proposed listing *Panulirus argus* and *P. laeviscauda* (Brazil populations only) in Appendix II of the Convention on International Trade in Endangered Species of

Wild Fauna and Flora (CITES) at the fourteenth meeting of the Conference of the Parties to CITES in June 2007 (<http://www.cites.org/eng/cop/14/prop/E14-P20.pdf>). Although the proposal was withdrawn prior to consideration, CITES is a tool that may be useful for ensuring that international trade in this species is legal and sustainable. The CITES Appendix-II listing of queen conch (*Strombus gigas*) has proven to be a valuable complement to national management programs for the species (Smith et al., in press).

CITES is an international treaty designed to ensure that international trade in listed species is legal and is not detrimental to the survival of the species. Species are listed in one of three Appendices, each of which provides a different level of protection. Trade is regulated through a system of permits and certificates with importing and exporting countries sharing the responsibility for ensuring that trade is legal and sustainable. In addition to providing

a legal framework for regulating international trade, CITES provides a forum for cooperation.

When countries join CITES, they agree to enact legislation that implements and enforces the Treaty. They agree to appoint a Management Authority to issue permits and make policy decisions and a Scientific Authority to evaluate scientific issues (CITES Article IX). They also agree to prohibit trade in violation of the Treaty and to take appropriate measures to enforce the Treaty, including penalties for trade in violation of the Treaty and allowance for confiscation of illegally traded specimens (CITES Article VIII). Effective implementation requires national control of import, export and re-export of CITES specimens and enforcement measures to stop illegal international trade. This is achieved through inspection of wildlife shipments upon import and export, legal actions, investigations, law enforcement intelligence sharing, and national and international collaboration.

CITES member countries, or Parties, meet every two to three years as the Conference of the Parties. They review implementation of the Treaty, resolve policy issues, consider proposals to amend Appendices I and II, and work together to ensure wildlife trade is carried out in accordance with the Treaty. The Animals and Plants Committees, the scientific committees of CITES, and the Standing Committee, which deals with administrative matters and provides policy guidance for the implementation of the Treaty, meet annually. These committees are made up of regional representatives, though all CITES Parties can participate as observers.

CITES Appendices

Under CITES, species are accorded different levels of protection by being listed on one of three Appendices. Appendix I includes species in danger of extinction, for which commercial trade is prohibited (CITES Article III). Listing a species in Appendix I requires a two-thirds majority vote of the Parties at a meeting of the Conference of the Parties. The limited trade that is allowed requires both an export permit or re-export certificate, issued by the CITES Management Authority in the exporting country, and an import permit issued by the Management Authority in the importing country. These permits may only be issued after the CITES Authorities have made the appropriate findings, including that: the specimens were legally acquired; the import/export of the specimens will not be detrimental to the survival of the species; and the specimens will not be used for primarily commercial purposes. Marine species listed in Appendix I include whales, marine turtles, and sawfishes. Hundreds of species are listed in Appendix I.

Many people equate listing in CITES with the prohibition of international trade. However, most of the species listed in CITES (tens of thousands) are contained in Appendix II, under which trade, including commercial trade, is allowed. Appendix II includes species that, although

currently not threatened with extinction, may become so without trade controls (CITES Article II). Like an Appendix-I listing, a two-thirds majority vote of the Parties is required to include a species in Appendix II. Trade is regulated through a permit system, with trade in Appendix-II species requiring only the issuance of an export permit or re-export certificate. Before issuing an export permit for an Appendix-II species, the CITES Management Authority of the exporting country must make a finding that the specimen was legally acquired and its Scientific Authority must make a finding that the export will not be detrimental to the survival of the species (CITES Article IV). Marine species listed in Appendix II include all cetaceans not listed in Appendix I, black corals, stony corals, seahorses, humphead (Napoleon) wrasse, giant clams and several sharks.

Appendix III includes species identified by a CITES member country as being subject to national regulation for "preventing or restricting exploitation" (CITES Article II) and for which the cooperation of other countries is needed to control the trade. Species are added to Appendix III unilaterally, no vote is required. To export an Appendix-III species the listing country must determine that the specimens were legally acquired and issue an export permit. Export of an Appendix-III species from a country other than the listing country requires a certificate of origin. Importing countries must check for an export permit issued by the listing country or a certificate of origin from all other countries. Listing in Appendix III is helpful in ensuring that specimens in trade were legally acquired and should be considered by countries that need the assistance of the international community for this purpose. Marine species currently listed in Appendix III include walrus *Odobenus rosmarus* (listed by Canada), the sea cucumber *Isostichopus fuscus* (listed by Ecuador), and South African abalone *Haliotis midae* (listed by South Africa).

Misconceptions about CITES

Myth: *CITES bans all trade in listed species.*

Truth: CITES regulates international trade in listed species. Regulated international trade is allowed and is routine for species listed in Appendix II, the largest of the three CITES Appendices. Although international commercial trade is not permitted for species listed in Appendix I, certain non-commercial trade is allowed. There are, however, CITES procedures and processes to address non-compliance with the Treaty. Trade in CITES-listed species may be temporarily restricted or suspended, under specific circumstances, until governments take remedial action to achieve compliance with Treaty obligations.

Myth: *CITES regulates domestic trade.*

Truth: CITES only addresses international trade. It does not affect movement of products within national boundaries.

Myth: *The CITES Appendices are a listing of the world's endangered species.*

Truth: The Appendices only list those species that are or may be affected by international trade, and have been considered and adopted by the CITES member countries.

Benefits of CITES

In addition to providing a legal framework for regulating international wildlife trade and a forum for cooperation among countries to ensure that this trade is sustainable, CITES provides other benefits. CITES member countries are required to maintain records of trade in listed species and to submit annual reports on such trade (CITES Article VIII). Data from these reports are entered into the CITES trade database, maintained by the United Nations Environment Programme's World Conservation Monitoring Centre (UNEP-WCMC). The CITES trade database, which is available to be queried on-line, provides the most thorough source of information available on international wildlife trade.

Using information from the CITES trade database, UNEP-WCMC provides reports on trade in Appendix-II species as part of the CITES Review of Significant Trade. In this CITES process, an analysis of trade volumes identifies for review Appendix-II species that are traded in significant numbers. The CITES scientific committees review population and trade data for species traded in significant numbers to determine where authorized trade may be detrimental to wild populations. Where concerns arise, the Animals Committee or Plants Committee recommends actions to ensure that appropriate "non-detriment" findings are made before export permits are issued. Implementation of these recommendations is overseen by the Standing Committee.

The requirements for legal trade under CITES, including the determinations or "findings" that must be made before CITES documents can be issued, promote examination of national management regimes for listed species. Such examinations can lead to valuable assessments of the population status of listed species and the effects of trade on species in international trade.

CITES and Spiny lobster

Although Brazil withdrew its proposal to list spiny lobster in CITES Appendix II at CoP14, Brazil, or any other range country, may consider an Appendix-III listing for spiny lobster in the future. An Appendix-III listing for spiny lobster throughout its geographic range would provide the listing country with the assistance of importing countries in enforcing its spiny lobster regulations. An Appendix-III listing would require the listing country to issue a CITES export permit for all spiny lobsters that it exports, thus giving its fisheries authorities an opportunity to ensure that spiny lobsters entering the international market are harvested in accordance with relevant national laws. CITES export permits cannot be issued without a legal

acquisition finding. An Appendix-III listing would also make other countries aware that they should not accept imports of spiny lobster from the listing country unless they are accompanied by a CITES export permit issued by the CITES Management Authority in the listing country. Other range countries would have to issue a certificate of origin, showing that the export did not originate in the listing country.

CONCLUSIONS

Regulation of international trade using one of the CITES Appendices can be a useful complement to fishery management schemes. CITES Authorities must consider the national management and enforcement regimes in place for listed species when making the determinations necessary for issuing a CITES document. Additionally, a CITES listing involves the international community in controlling trade. CITES trade monitoring and reporting requirements can provide useful information to resource managers, policy makers, and enforcement officials. Countries should consider seeking the cooperation of the international community via a CITES listing for a marine species when international trade is, or may be, impacting its long-term survival.

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