

National Interest Analysis [2013] ATNIA 11

with attachment on consultation

**Amendments, adopted at Bangkok on 14 March 2013, to Appendices I and II of the
Convention on International Trade in Endangered Species of
Wild Fauna and Flora**

[2013] ATNIF 9

NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

SUMMARY PAGE

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Nature and timing of proposed treaty action

1. The treaty action is amendment to the species listed on Appendices I and II of the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* [1976] ATS 29 (the Convention) that were adopted by the 16th meeting of the Conference of the Parties (the 16th Conference), held from 3 – 14 March 2013 in Bangkok, Thailand. These amendments were made in accordance with paragraph 1 of Article XV of the Convention. Owing to the timing of the 16th Conference just before the Parliamentary recess, this is the first opportunity to table the amendments.

2. Under Article XV (1) (c) of the Convention, amendments to the Appendices adopted at the Conference will automatically come into force 90 days after the Conference, that is, on 12 June 2013, except for Parties that lodge a reservation during that interval in accordance with Article XV(3). However, the Conference has agreed that implementation of amendments to the Appendices regarding seven marine species will have a delayed entry into force of 18 months (i.e. 14 September 2014).

3. At the time of writing, neither Australia nor any other Party has entered a reservation pursuant to Article XV (3) on any decision adopted by the 16th Conference.

Overview and national interest summary

4. The Convention is a multilateral environmental agreement that regulates the international trade in wild fauna and flora (taxa) via the listing of species in Appendices. The amendments to the Appendices made at the 16th Conference relate to species being listed on, or moved between Appendices I, II and III. This includes deletion, addition or transfer of taxa from, to or between the Appendices, and amendment to the annotations accompanying some already-listed taxa.

5. Regularly updating the list of species in Appendices I and II, on the basis of scientific and trade data, is critical to ensuring that the Convention can effectively regulate the international trade in species at risk from over-exploitation. This both facilitates legal trade in specimens where appropriate, and reduces burdensome regulation where it is not necessary.

6. The action is consistent with Australia's strong commitment to the Convention and to international cooperation for the protection and conservation of wildlife more generally. Undertaking the required regulatory action (see paragraphs 35-37 below) within the specified timeframes is required for Australia to meet its obligations as a Party to the Convention.

Reasons for Australia to take the proposed treaty action

7. The Convention is a multilateral environmental agreement that entered into force generally on 1 July 1975 and for Australia on 27 October 1976. It arose from recognition that international cooperation is essential to protect and conserve fauna and flora species from over-exploitation due to international trade.

8. Participation in the Convention advances Australia's interests by promoting Australia as a leading environmental steward. It also supports Australia's domestic and regional conservation and trade interests by protecting native species from detrimental trade and facilitates legitimate wildlife trade into and out of Australia. The Convention also provides a forum for international cooperation in order for Australia to enhance relationships with other Parties for the benefit of promoting effective regulation of international wildlife trade.

Amendment to the Appendices

9. International trade of species of fauna and flora is regulated via the listing of species in three Appendices to the Convention. Species listed on Appendix I have the highest degree of regulation and cannot be internationally traded, except under very specific and highly regulated circumstances (Article II (1) and Article III of the Convention). International trade in species that are at risk of endangerment if their trade is not regulated is monitored and regulated via listing on Appendix II. International trade in specimens of species listed on Appendix II must be accompanied by a valid permit from the exporting country (Article II (2) and Article IV of the Convention). An export permit can only be granted if the country of export has determined that export of the species will not be detrimental to the survival of that species (known as a non-detriment finding).

10. A Party may also unilaterally identify species or populations within its jurisdiction where the cooperation of other Parties is needed to assist in regulating international trade and to avoid undermining the domestic regulation (Article II (3) and Article V of the Convention). These species are included in Appendix III. A Party can request an Appendix III listing at any time; the Conference of the Parties does not make decisions on these listings.

11. Timely amendment to the Convention Appendices ensures that species are regulated appropriately according to current conservation requirements and trade pressures. This is crucial to the effective operation and implementation of the Convention.

Amendments to species listings

12. The 16th Conference reviewed 70 listing proposals, of which 55 were adopted. The details of these amendments to the Convention Appendices are in the accompanying text of the treaty action.

13. Australia is not a range State for the majority of the species covered by the 55 listing proposals (that is, they do not occur naturally in Australia), nor does Australia have an industry in the international trade of the majority of these species. As such, there will be no ramifications for Australia of the listing amendments for the majority of these species.

14. The proposals that are relevant to Australia include eight terrestrial species and seven marine species. The treaty action for the terrestrial species was to remove the species from the Appendices as they were either an invalid species (see paragraph 18 below) or extinct (paragraphs 19-20). The shark and ray species listed on Appendix II at the 16th Conference, including the oceanic whitetip shark, three species of hammerhead sharks, the porbeagle shark, and two species of manta ray, have ranges that extend into Australian waters. With the

exception of the manta ray species, all are taken commercially in a range of Australian fisheries as target catch or by-product. The fisheries harvesting these species for export all undergo sustainability assessment under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). As existing Australian export trade codes for shark species are based on generic product categories, such as ‘dried fin’, ‘shark fillets’, ‘shark liver oil’ etc, and do not record species names, it is therefore not possible to determine the quantities exported for any of these species. However anecdotal information has been provided below for each species to give an indication of their importance to the Australian export industry (see paragraphs 22 – 26).

15. Australia implements the Convention via Part 13A of the EPBC Act. For a Convention specimen to be eligible for export from Australia, it must come from an EPBC Act approved source.

16. Regarding listing amendments for species that occur naturally in Australia and/or are subject to international commercial trade in Australia, there are important conservation advantages for Australia in undertaking the treaty action. The relevant species are:

17. *Pristis microdon* (freshwater sawfish): The treaty action is to transfer the species from Appendix II to Appendix I. *Pristis microdon* populations have suffered severe declines since the 1960s and the species is now considered critically endangered according to the global IUCN Red List, and the species is listed as vulnerable under the EPBC Act. Australia currently has a zero export quota for this species, so there will be little change to Australia’s regulation of the international trade in the species as a result of this listing amendment. There is one company in Australia that wants to export this species. After the 14th meeting of the Conference of the Parties to the Convention in 2007, JSCOT recommended that the Australian Government should monitor and assess the impact of trade to determine whether the current listing and annotation provides sufficient protection for the species (JSCOT report 93). This was undertaken and the Department of Sustainability, Environment, Water, Population and Communities (the Department) determined to propose that the species be transferred to Appendix I at the 16th Conference, which was supported by the Parties at the Conference.

18. *Pteropus brunneus* (dusky (Percy Island) flying fox): The treaty action is to remove this species from Appendix II. There is evidence that this species is not a valid species. This proposal was put forward by Australia based on a recommendation arising out of the Convention’s Animals Committee’s periodic review process. There is little benefit in retaining taxa that are invalid on the Appendices and its deletion will simplify the Appendices.

19. Extinct species previously listed on Appendix I: *Thylacinus cynocephalus* (Thylacine), *Onychogalea lunata* (crescent nail-tail wallaby), *Caloprymnus campestris* (buff-nosed rat-kangaroo), *Chaeropus ecaudatus* (pig-footed bandicoot), and *Macrotis leucura* (lesser rabbit-eared bandicoot). The treaty action is to remove these species from Appendix I as they are presumed extinct and do not meet the biological and trade criteria for listing on the Appendices. These proposals were put forward by Australia based on recommendations arising out of the Animals Committee’s periodic review process. There is little benefit in retaining taxa that are extinct on the Appendices and their deletion will simplify the Appendices.

20. Extinct species previously listed on Appendix II: *Rheobatrachus silus* (southern gastric-brooding frog) and *Rheobatrachus vitellinus* (northern gastric-brooding frog). The treaty action is to remove these species from Appendix II as they are presumed extinct and do not meet the biological and trade criteria for listing on the Appendices. These proposals were put forward by Australia based on recommendations arising out of the Animals Committee’s periodic review process. There is little benefit in retaining taxa that are extinct on the Appendices and their deletion will simplify the Appendices.

21. *Manta* spp (manta rays): The treaty action is to add this species complex (currently including *Manta birostris* and *Manta alfredi*) to Appendix II with the annotation that the entry into effect will be delayed by 18 months. There is evidence of large population declines, largely driven by international trade in gill-rakers (part of the ray's filter-feeding organ). Manta rays are not targeted nor taken as a by-product in Australian fisheries. The listing may have positive implications, as there are tourism industries in Australia focused on diving and snorkelling with these species. The Appendix II listing is expected to provide additional protection for populations from directed commercial fisheries (that is, fisheries that target these species) in international waters to Australia's north. This could mean that numbers of the migratory giant manta ray species coming into Australian waters increase over time. Listing on Appendix II of the Convention may also raise the profile of these species resulting in increased tourism.

22. *Carcharhinus longimanus* (oceanic whitetip shark): The treaty action is to add this species to Appendix II with the annotation that the entry into effect will be delayed by 18 months. There is clear evidence of substantial population declines, largely driven by the international fin trade. This species is not targeted in Australian fisheries, though it is retained in moderate quantities and is a profitable by-product species in longline tuna fisheries in Australia. In particular, the fins of this species receive a high price on the international market and it is likely that fins of a reasonable size are exported. It should be noted that the practice of finning, where the fins of the shark are removed and the trunk is discarded at sea, is not permitted in Australian fisheries, and sharks caught in Australian fisheries must be brought back to shore before fins can be removed. Once this listing is in force, any exported specimen must be accompanied by an export permit underpinned by a non-detriment finding, which will need to be undertaken by the Department.

23. *Lamna nasus* (porbeagle shark): The treaty action is to add this species to Appendix II with the annotation that the entry into effect will be delayed by 18 months. There is clear evidence of substantial population declines, largely driven by the international trade in fillets and, to a lesser extent, fins. This species is taken in very low volumes in a number of Australian fisheries. It is not believed to be exported in any significant quantity. This species is currently listed on Appendix III and the permitting requirements under the EPBC Act for an Appendix II listing will remain the same. However, in order for permits to be issued, a non-detriment finding assessment will need to be undertaken by the Department.

24. *Sphyrna lewini*, *S. mokarran*, and *S. zygaena* (scalloped, great and smooth hammerhead sharks): The treaty action is to add these species to Appendix II with the annotation that the entry into effect will be delayed by 18 months. There is clear evidence of substantial declines in a number of scalloped hammerhead shark populations globally, driven in large part by international trade in fins. Great and smooth hammerhead shark are look-alike species, as the fins of these species cannot be easily distinguished from those of the scalloped hammerhead shark.

25. The three species of hammerhead shark (scalloped, great and smooth) are harvested in Australian waters in relatively large numbers when compared to the porbeagle and oceanic whitetip sharks. As stated previously, the practice of finning is not permitted in Australian fisheries, and while not normally key target species, in a number of fisheries they comprise a significant by-product as fins generally attract a high price on the international market. As such, these species are likely to be highly valued. Harvest of scalloped, great and smooth hammerhead shark species varies between jurisdictions, particularly in terms of the importance of these species relative to one another. The scalloped hammerhead comprises a large percentage of hammerhead species caught in Queensland. In Western Australian export-approved fisheries, hammerhead shark catch is comprised mainly of the smooth hammerhead

shark. In the Northern Territory, great hammerhead sharks are the most commercially important hammerhead shark species (noting they are taken only as by-product). Given the high price received internationally, it is thought that the fins from a reasonable proportion of hammerhead sharks landed from fisheries declared as approved sources of wildlife would be exported. The listing of scalloped and great hammerhead sharks will not have any implications for New South Wales fisheries: in 2012 these species were listed as Endangered and Vulnerable respectively under NSW legislation, making it an offence to kill, capture or keep this species in NSW waters.

26. The scalloped hammerhead shark is currently listed on Appendix III and the permitting requirements under the EPBC Act for an Appendix II listing will remain the same. Only two Australian fisheries are approved sources for the export of scalloped hammerhead shark. Permitting requirements will also apply to great and smooth hammerhead shark as look-alike species, once the Appendix II listing takes effect in 18 months' time. In order for export permits to be issued, a non-detriment finding assessment will need to be undertaken by the Department.

Amendments to annotations

27. Many of the species listed in the Appendices to Convention have interpretive annotations specifying: the populations of the species that are subject to the trade controls specified in the Convention; and/or the parts or products derived from the species that are subject to the trade controls; and/or the circumstances under which trade is permitted. Amendments to the annotations made at the 16th Conference are set out in the attached text of the treaty action.

28. Amendments have been made to the annotations of two plant species listed on Appendix II, *Hoodia* spp. (hoodia) and *Panax ginseng* (ginseng) and *Panax quinquefolius* (American ginseng) which are both commercially traded in Australia. The amendment to the annotations for the *Panax* species clarifies which parts or derivatives of the specimens will be exempt from regulation under the Convention. The amendment to the hoodia annotation clarifies the circumstances under which specimens will be exempt from regulation under the Convention. Both amendments will reduce the regulatory burden on importers of those specimens.

Entry into force for Australia

29. The amendments to Appendices I and II, including amendments to annotations, agreed at the 16th Conference are consistent with Australia's commitment to the conservation of species threatened by international trade. Therefore, Australia did not lodge a reservation under paragraph 3 of Article XV for any of the amendments and they will all enter into force for Australia on 12 June 2013 (noting the 18 month delay for entry into effect for the seven shark and ray species to be listed in Appendix II).

Adoption of, or amendments to, Resolutions

30. The 16th Conference also adopted and amended Resolutions for the better regulation of international trade in species, and parts and derivatives of species. Resolutions of the Conference are not mandatory, but are intended to assist interpretation and implementation of the Convention. Section 303CN of the EPBC Act provides that the Minister may have regard to Resolutions in making decisions about listed specimens. In general, Australia implements the Convention in accordance with Resolutions. However, the Department may decide to amend the EPBC Act or its regulations, to reflect particular Resolutions and amendments to Resolutions where doing so would assist clarity of Australian regulation of international trade

in species, or parts and derivatives of species. It is highly unlikely that any such changes would significantly increase the regulatory burden on importers or exporters.

31. Resolution Conf. 14.6 (Rev CoP16) on ‘Introduction From the Sea’ is amongst the Resolutions adopted at the 16th Conference that may require future domestic regulatory amendments. Such amendments would reflect the procedures agreed by the Parties for implementing the Convention in relation to listed specimens harvested in international waters (on the high seas). Since the Convention came into force 40 years ago, Parties have disagreed on whether specimens listed under the Convention which are harvested on the high seas are the responsibility of the port State where the catch is landed, the flag State of vessel registration, or the chartering State in instances where a vessel ‘rental’ agreement is in place. The agreed resolution represents a combination of each of these scenarios, which allows for transparency and robust monitoring and review. It includes clear delineation of which State holds responsibility for making non-detriment findings and issuing Convention documents. While not a binding treaty action, domestic regulatory amendments may be required to reflect the intent of this Resolution whereby, in order for an Australian vessel to fish on the high seas and land its catch in the port of another State, a Convention ‘export permit’ would be required from Australia’s Convention Management Authority, rather than an ‘Introduction From the Sea certificate’. This represents a very minor element of Australian international fishing operations and any changes are not anticipated to significantly disrupt existing practice of such vessels. The requirement to apply the ‘Introduction From the Sea’ provisions derives from the Convention (Article III paragraph 5, Article IV paragraph 6). As such the amendments to this (non-binding) Resolution agreed at CoP16 present no new formal requirements or obligations for Australia, however they are designed to assist Parties in the consistent implementation of these provisions of the Convention.

Obligations

32. The amendments to Appendices I and II will not change the existing substantive obligations of Parties to the Convention. Australia will still be obliged to prohibit trade in the species included in Appendices I and II except in accordance with Article III and Article IV of the Convention, respectively, and where personal and household effects exemptions under Article VII may apply. The amendments will only change the composition of the list of species to which the Convention’s export and import rules must be applied.

33. International movement in species listed on Appendix I is subject to particularly strict regulation to promote the survival of the species in the wild. International movement is possible only under limited circumstances and appropriate documentation must accompany the specimen.

34. International movement of species listed on Appendix II requires the determination by the country of export that the shipment will not be detrimental to the survival of the species in the wild. Regulation of Appendix II listed species is less restrictive than Appendix I, though appropriate documentation is still required before specimens can be moved internationally.

Implementation

35. Australia implements the Convention via Part 13A of the EPBC Act. As required under sub-section 303CA (1) of the EPBC Act, a list of species in the Appendices to the Convention was established in 2002. This list must be updated to include all species from time to time included in the Convention Appendices (EPBC Act s-s 303CA (3) and 303CA (9)).

36. The instrument amending the list under Section 303CA will be registered on the Federal Register of Legislative Instruments. It is not a disallowable instrument (under Section 44 of the *Legislative Instruments Act 2003*).

37. For Australian wild harvest export fisheries, the Convention's requirement for a non-detriment finding is conducted in conjunction with the assessment of fisheries for declaration as approved wildlife trade operations (Section 303FN of the EPBC Act). This designates them as 'approved sources' and provides export approval for product derived from those fisheries.

Costs

38. The treaty action is not expected to impose any additional costs to Australia in complying with its obligations under the Convention, nor will there be any significant effect on Australia's trade interests. Australia already has legislation and administrative arrangements in place to implement the provisions of the Convention.

39. The amendments to the Appendices will not require any new domestic regulatory arrangements to be developed, but it will require some species, such as the great and smooth hammerhead sharks and the oceanic whitetip shark, to fall under a stricter level of regulation.

40. As previously detailed, a non-detriment finding will need to be made by the Department before these species will be able to be internationally traded. As stated above, for listed species harvested in Australian fisheries, non-detriment findings are conducted by the Department (Australia's Scientific Authority under the Convention) in conjunction with the assessment of fisheries as approved sources of wildlife for export. A number of fisheries that take these species have existing export approval. However, because these shark species were not listed at the time of declaration as approved sources, the assessments may not have provided for the degree of species-specific consideration generally expected for a non-detriment finding. This means that during re-assessment of these fisheries for future declarations, and in order for non-detriment findings to be made, fisheries management agencies may be required to provide more information on the species' harvest sustainability, and have in place species-specific catch reporting and adaptive management measures.

41. Additionally, fishers and exporters will be required to ensure their processing of catch allows for the separation and identification of these Appendix II listed species. This may reduce the efficiency of catch processing for some fishing operations not already separating catch by species. As such, the cost incurred by industry in introducing such measures will vary depending on the operation and cannot be readily quantified. It is important to note however, that exports of shark products from these species that have not been identified to the species level, and that are not accompanied by Convention export certificates, may be rejected for import by other Parties to the Convention, resulting in more significant costs for the exporter. These management and administrative procedures are to be implemented prior to the listing of these species taking effect in 18 months' time.

42. The import or export of species listed on Appendix II requires a permit from the Department, at a cost of \$30 (although under proposed cost recovery arrangements, this is likely to increase to \$60). As such, import or export of species newly listed on Appendix II will be subject to that additional financial cost. Australia does not have an active international trade in the majority of species that were subject to Appendix II listing at the 16th Conference, so it is not foreseen that this additional cost will place significant financial burden on industry in Australia. Australia has some commercial international trade in the Appendix II listed shark species, with hammerhead shark believed to be of greatest importance, followed by oceanic whitetip shark and possibly also limited trade in the porbeagle shark. However due to the existing generic shark product trade codes, the export quantity of each species is not known.

The \$30 application fee for a single use export permit will apply to that trade (multiple consignment authorities for export, with a six-month validity period, may be obtained in appropriate circumstances, attracting an application fee of \$150).

43. Amendments to the existing annotations for Appendix II hoodia, ginseng and American ginseng (described above) will reduce costs for importers of those specimens, as \$30 import permits will no longer be required under some circumstances.

Regulation Impact Statement

44. The Office of Best Practice Regulation, Department of Finance and Deregulation, has been consulted regarding the listing of species that occur naturally in Australia and/or are subject to international commercial trade in Australia. These are: *Pristis microdon* (freshwater sawfish), *Manta* spp (Manta rays), *Carcharhinus longimanus* (oceanic whitetip shark), *Lamna nasus* (porbeagle shark) and *Sphyrna lewini*, *S. mokarran*, and *S. zygaena* (scalloped, great and smooth hammerhead sharks). The Office of Best Practice Regulation decided that a Regulation Impact Statement is not required.

Future treaty action

45. Appendices I and II are amended from time to time in accordance with the provisions of Article XV of the Convention. Amendments may be adopted by two thirds of the Parties present and voting at a meeting of the Conference of the Parties, or through a postal procedure between meetings. Amendments to Appendices I and II then enter into force automatically 90 days following the meeting or the completion of the postal procedure for all Parties except those Parties that lodge a reservation.

46. Any future amendment to either Appendix I and II or the Convention more broadly would constitute a treaty action and be subject to Australia's domestic treaty process, including tabling in Parliament and consideration by the Joint Standing Committee on Treaties (JSCOT).

47. The Convention itself (that is, other than the Appendices) can only be amended at an extraordinary meeting of the Conference of the Parties, pursuant to its Article XVII. Such amendments are to be adopted by a two-thirds majority of Parties present and voting and will enter into force for those Parties accepting it 60 days after two-thirds of the Parties have deposited an instrument of acceptance.

48. The Convention does not expressly provide for the negotiation of future related legally binding instruments such as protocols or annexes.

49. Regarding reservations, Parties may enter a reservation with respect to a particular amendment, in accordance with paragraph 3 of Article XV, during the 90-day period before the amendment enters into force. Until a reservation is withdrawn, the Party shall be treated as a State not a Party to the Convention with respect to trade in the species concerned. Based on information currently available, to date no Parties have entered reservations in relation to any of the amendments to Appendices I and II adopted at the 16th Conference.

Withdrawal or denunciation

50. Any Party may denounce the Convention by written notification to the Depositary Government (Government of Switzerland) at any time, in accordance with Article XXIV. The denunciation takes effect twelve months after the Depositary Government has received the notification.

51. Any denunciation by Australia would constitute a treaty action and would be subject to the domestic treaty process.

CONTACT DETAILS

International Wildlife Trade Section

Wildlife, Heritage and Marine Division

Department of Sustainability, Environment, Water, Population and Communities

ATTACHMENT ON CONSULTATION

Amendments, adopted at Bangkok on 14 March 2013, to Appendices I and II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora [2013] ATNIF 9

CONSULTATION

Summary of outcomes

52. The Department consulted with Australian Government agencies, State and Territory agencies, the Indigenous Advisory Council, the Threatened Species Scientific Committee, marine researchers, relevant industry bodies, non-government organisations (NGOs) and members of the public on proposed amendments to the Convention Appendices in advance of the 16th Conference. Numerous submissions and comments were received and considered.

53. Following consultation, the Department concluded that the species conservation benefits that will be gained as a result of changes to the Convention Appendices, agreed at the 16th Conference, outweigh the impacts on Australia. This is due to:

- relatively low levels of imports into, or exports from, Australia, of affected terrestrial species;
- for those species that are exported, the management agencies responsible believe harvest regimes are sustainable, meaning non-detriment findings for continued export of species should be able to be made, potentially subject to management variations; and
- no change to the ability to trade domestically in affected specimens.

54. The Department intends to write to jurisdictions to advise of the outcomes of the 16th Conference and highlight any aspects of particular relevance to them. This will include communicating the implications for export fisheries harvesting the shark species listed in Appendix II and the forward process over the coming 18 months. This will help to ensure that future assessments for export approval incorporate the requirements of a non-detriment finding.

Consultation process

Consultation on Australia's nine species listing proposals

55. From July 2012, the Department consulted with relevant range States, Australian Government agencies, relevant State and Territory agencies, industry representatives, NGOs and researchers on the development of Australia's proposals to the 16th Conference to amend the Convention Appendices. Australia's proposals were to remove eight extinct or invalid species from the Appendices, and to transfer the freshwater sawfish from Appendix II to Appendix I.

56. Comments were received from range States, State fisheries and environment departments, researchers, NGOs, industry and members of the public. Comments were taken into account in the Department's preparations of the proposals, and were considered against scientific evidence about the conservation status of the species. One comment was received from the Humane Society International that raised concerns in regards to the northern and southern gastric-brooding frogs that, if found, these species would be highly desirable for

medical research. Whilst there was no objection to removing the species from Appendix II, it was recommended that if the species were rediscovered, Australia should consider listing the species on Appendix III.

Consultation in the preparation of Australia's positions on species listing proposals

Australian Government agencies

57. An inter-departmental meeting was held on 16 January 2013 with relevant Australian Government agencies to discuss proposed species listing amendments for the 16th Conference.

58. Relevant Australian Government agencies were also consulted individually in the development of Australia's positions on particular species listing proposals in the preparation for the 16th Conference. Whole-of-government positions were developed for the species listing amendments that were made at the 16th Conference. The list of Australian Government agencies consulted is below.

State and Territory agencies

59. On 5 December 2012, the Department sent letters to relevant State and Territory agencies inviting comments on the list of proposals for amendment to the Appendices. The list of State and Territory Government agencies consulted is below.

60. Responses were received from the New South Wales Government, the Queensland Government, the South Australian Government, the Victorian Government, the Northern Territory Government and the Western Australian Government. The majority of responses were supportive of the proposals for amendment to the Appendices.

61. However, the Queensland Government Department of Agriculture, Fisheries and Forestry advised the Department that it did not support the listing of the scalloped hammerhead shark, great hammerhead shark, smooth hammerhead shark or porbeagle shark on the basis that the listings would not improve management of the species in Queensland, and would increase costs to the industry in Queensland. The Western Australian Government Department of Fisheries advised the Department that it did not support the listing of smooth hammerhead shark as a look-alike species of the scalloped hammerhead shark, on the basis that there was no evidence that the species is under threat itself, and the listing would impact on Western Australia's temperate demersal (bottom-feeding) gillnet and demersal longline fisheries. The Northern Territory Department of Primary Industries and Fisheries made less specific comments, but was also opposed to the hammerhead shark listings on the basis of its belief that there was no evidence of the threatened status of the scalloped hammerhead shark in Australian waters, and that the species were already managed sustainably in the Northern Territory.

62. The Department also consulted State, Territory and Commonwealth fisheries management agencies at the 27th and 28th meetings of the Australian Fisheries Managers Forum in March and November 2012, in relation to the 16th Conference and likely proposals to be submitted by Parties.

63. All comments were taken into account in the Department's preparation of Australia's positions, and were considered against scientific evidence about the conservation status of the species.

Indigenous Advisory Council and Threatened Species Scientific Committee

64. A letter dated 30 November 2012 was sent to the Indigenous Advisory Council and the Threatened Species Scientific Committee advising of the 16th Conference and inviting comments on the list of proposals for amendment to the Appendices. No comments were received.

Marine researchers

The Department sent a letter, dated 4 December 2012, to researchers known to work on the relevant shark and ray species proposed for listing as well as those that had previously been in communication with the Department on this issue. The Department received five responses. Two researchers supported all proposed shark and ray listings, stating that all met the biological criteria for listing under Appendix II and warranted listing. Two manta ray researchers also responded, both supporting the manta ray proposal. One researcher also offered additional comments supporting the oceanic whitetip and porbeagle shark nominations. However, whilst acknowledging that the scalloped hammerhead shark met the Appendix II listing criteria, concern was expressed over the listing due to the importance to some Queensland fisheries. The fifth respondent did not provide advice on whether or not the species met the listing criteria, instead focussing on the implications for Australian fisheries. The response stated that the hammerhead shark listings would have the greatest implications for Australian fisheries, as the species were taken in significant numbers in gillnet and longline fisheries; whereas the listing of oceanic whitetip and porbeagle shark were expected to have limited implications for pelagic fisheries; and no major implications were anticipated in relation to the listing of the manta ray species.

65. In addition, the Department contracted CSIRO to scientifically assess the shark and ray listing proposals against the Convention's criteria for listing and include an analysis of the extent of take in Australia. The CSIRO report concluded that all of the proposed species were considered to meet the Convention's listing criteria and would benefit from trade regulation under an Appendix II listing.

Industry groups

66. From 30 November 2012, a letter was sent to key stakeholders in the following industries: commercial marine fishing industry, recreational fishing industry and traditional Chinese medicine industry (see full list below). The letter advised of the 16th Conference and invited comments on the list of proposals for amendment to the Appendices.

67. Only one submission was received from a fishing industry body in relation to the proposed amendments, which opposed the listing of the hammerhead shark species on the basis of sound management and sustainable harvest within Australian fisheries. These comments were taken into account in the Department's preparation of Australia's positions, and were considered against scientific evidence about the conservation status of the species.

Non-government organisations

68. On 13 December 2012, the Department sent a letter via email to the Australian Environment Network which:

- advised the Australian Environment Network of the 16th Conference,
- invited comments on the list of proposals for amendment to the Appendices,

- advised that the Department would hold a round table meeting with non-government organisations and requested non-government organisations to contact the Department if interested in attending, and
- requested that the Australian Environment Network distribute the letter to its non-government organisation members (the full list is below).

69. A round table discussion was held on 17 February 2013 between the Department and non-government organisations representatives from the Humane Society International, the International Fund for Animal Welfare, the World Wide Fund for Nature, Project Aware and Creative Conservation Solutions. Comments on proposals for species listing amendments were provided by the NGO representatives.

70. In addition, detailed written comments were provided by the International Fund for Animal Welfare, Humane Society International, Species Survival Network, TRAFFIC International/IUCN (World Conservation Union) Species Programme and Species Survival Commission, the World Wide Fund for Nature, Environmental Investigation Agency, PEW Environment Group, Project Aware and Creative Conservation Solutions.

71. All comments were taken into account in the Department's preparation of Australia's positions, and were considered against scientific evidence about the conservation status of the species.

Public consultation

72. A consultation page was also posted on the Department's website on 27 November 2012 advising of the 16th Conference and requesting comments from the public and interested groups.

73. Comments were received and were considered against scientific evidence about the conservation status of the species during the Department's preparations. There was one commercial aquarium company that wished to export the freshwater sawfish and therefore opposed the up-listing of this species.

Consultation with Joint Standing Committee on Treaties (JSCOT)

74. In September 2012, the Minister for Sustainability, Environment, Water, Population and Communities, the Hon Tony Burke MP, wrote to the Chair of Joint Standing Committee on Treaties (JSCOT) advising of Australia's nine proposals to amend the Convention Appendices at the 16th Conference and indicating that there would be treaty implications.

75. In February 2013, the Minister wrote to the Chair of JSCOT again, advising that there were 70 proposals to amend the Convention Appendices to be considered at the 16th Conference, and that those proposals that were agreed by the 16th Conference would enter into force automatically after 90 days.

Australian delegation

The Australian delegation to the 16th Conference comprised officers from the Department and Bangkok-based officers from the Department of Foreign Affairs and Trade and Australian Customs and Border Protection Service. Additional members participating as advisers to the delegation included the Convention's Plants Committee Representative for Oceania and a representative from the International Fund for Animal Welfare.

LIST OF AUSTRALIAN GOVERNMENT AGENCIES CONSULTED

- Attorney-General's Department
- Department of Agriculture, Fisheries and Forestry
- Australian Customs and Border Protection Service
- Australian Fisheries Management Authority
- Department of Prime Minister and Cabinet
- Department of Foreign Affairs and Trade
- AusAID
- Department of Climate Change and Energy Efficiency
- Department of Health and Aging

LIST OF STATE AND TERRITORY AGENCIES CONSULTED

Australian Capital Territory

Environment and Sustainable Development Directorate

New South Wales

Office of Environment and Heritage

Department of Primary Industries

Northern Territory

Department of Land Resource Management

Department of Primary Industries and Fisheries

Queensland

Department of Environment and Heritage Protection

Department of Agriculture, Fisheries and Forestry

South Australia

Department of Environment, Water and Natural Resources

Department of Primary Industries and Regions

Tasmania

Department of Primary Industries, Parks, Water and Environment

Forestry Practices Authority

Victoria

Department of Sustainability and Environment

Department of Primary Industries

Western Australia

Department of Environment and Conservation

Department of Agriculture and Food

Department of Fisheries

LIST OF MARINE RESEARCH ORGANISATIONS CONSULTED

- Charles Darwin University
 - School of Science and Primary Industries,
 - Research School for the Environment and Livelihoods
 - Aquatic ecosystems and water resources
- CSIRO
 - Marine and Atmospheric Research
 - Mathematics, Informatics and Statistics
 - Wealth from Oceans
- James Cook University
 - Fishing and Fisheries Research Centre
 - School of Marine and Tropical Biology
- Macquarie University
 - Department of Environment and Geography
- Murdoch University
 - School of Biological Sciences and Biotechnology
- The University of Queensland
 - School of Biological Sciences

LIST OF INDUSTRY GROUPS CONSULTED

Traditional Chinese medicines

- Chinese Medicine Industry Council of Australia
- Australia Acupuncture and Chinese Medicine Association

Marine fisheries

- Cairns Marine
- Queensland Seafood Industry Association
- NT Seafood Industry Council
- Northern Prawn Fishery Management Advisory Committee
- Western Australian Fishing Industry Council

- Commonwealth Fisheries Association Inc
- Northern Territory Seafood Council
- Seafood Industry Victoria
- Tasmanian Seafood Industry Council
- Wildcatch Fisheries South Australia
- Seafood Services Australia
- OceanWatch Australia Ltd
- NSW Seafood Industry Council
- Master Fish Merchants' Association of Australia
- Australian Southern Bluefin Tuna Industry Association
- Great Australian Bight Fishing Industry Association
- Lakes Entrance Fishermen's Co-operative Society Ltd (LEFCOL)
- South East Trawl Fishing Industry Association
- Southern Shark Industry Alliance Inc.
- Sustainable Shark Fishing Inc.

Recreational fishing

- Amateur Fishermans Association NT
- Sunfish
- RecFishWest
- Recreational Fishery Alliance of NSW
- VRFish
- South Australian Recreational Fishing Advisory Council
- Tasmanian Association for Recreational Fishing

LIST OF NON-GOVERNMENT ORGANISATIONS CONSULTED

- Australian Environment Network members:
 - Arid Lands Environment Centre
 - Australasian Bat Society
 - Australian Conservation Foundation
 - Australian Marine Conservation Society
 - Birds Australia
 - Cairns and Far North Environment Centre

- Clean Up Australia Ltd
- Climate Action Network Australia
- Conservation Council ACT Region
- Conservation Council of South Australia
- Conservation Council of Western Australia
- Environment Tasmania
- Environment Victoria
- Environs Kimberley
- Friends of the Earth Australia
- Greenpeace Australia Pacific
- International Fund for Animal Welfare
- Invasive Species Council
- Mineral Policy Institute
- National Parks Australia Council
- National Toxics Network
- Nature Conservation Council of NSW
- Queensland Conservation Council
- Tasmanian Conservation Trust
- The Wilderness Society Inc
- TRAFFIC Oceania
- WetlandCare Australia
- World Wildlife Fund Australia
- Creative Conservation Solutions
- Humane Society International
- PEW Environment Group
- Project Aware
- Species Management Specialists
- Wildlife Management International
- World Society for the Protection of Animals