



Food and Agriculture
Organization of the
United Nations

LEGAL OFFICE

FAO-CITES Legal Study and Guide

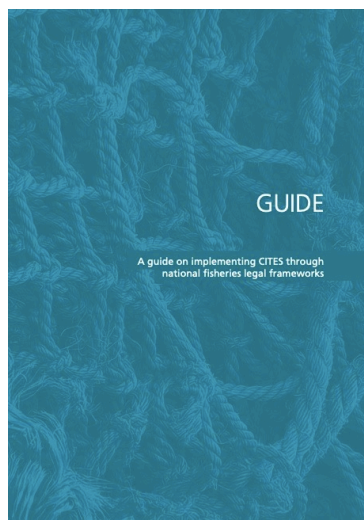
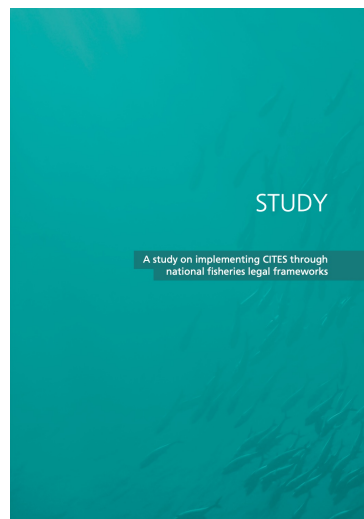
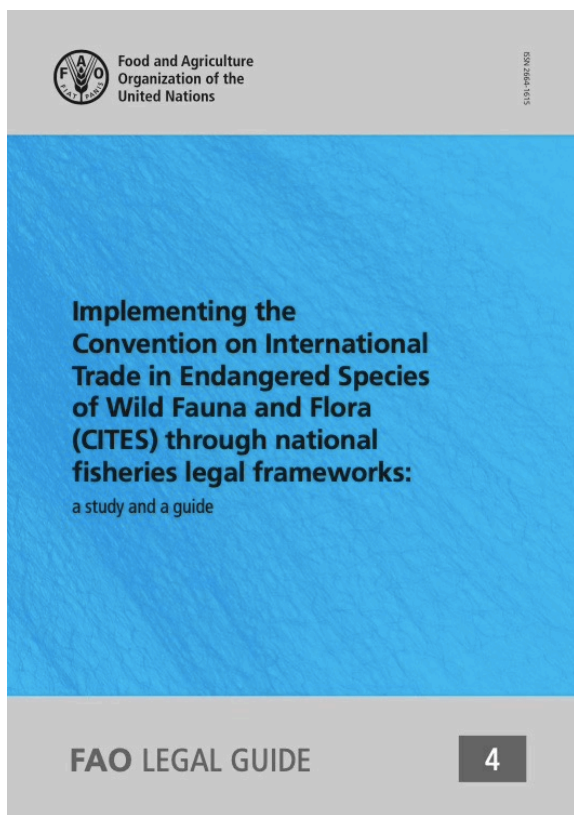
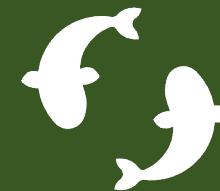
Implementing CITES through national fisheries legal frameworks



Julia N. Nakamura
Development Law Service, FAO Legal Office

Partnerships for legal, sustainable and traceable trade in commercially exploited aquatic species

18 November 2022



Awareness-raising and knowledge-sharing product

- provides an understanding of the actual CITES regime and how it links to the fisheries sector and related issues
- with a view to developing an appreciation of the potential role that CITES regulatory approaches and tools can play in the fisheries sector and vice versa

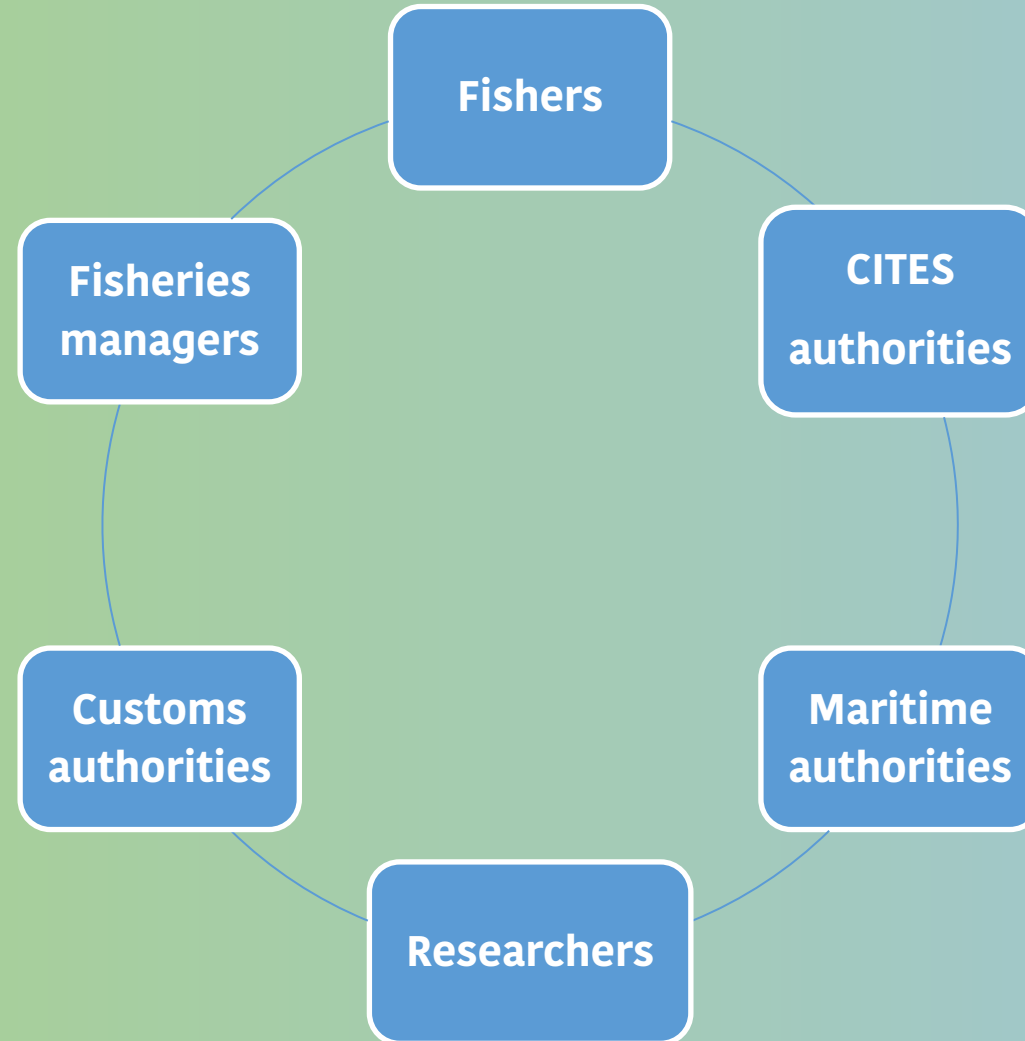
CITES implementation and practical guidance tool

- support in reviewing relevant legislation and ensuring that key elements of CITES are taken into account or incorporated in legal provisions
- implementing CITES by enhancing national fisheries legal frameworks



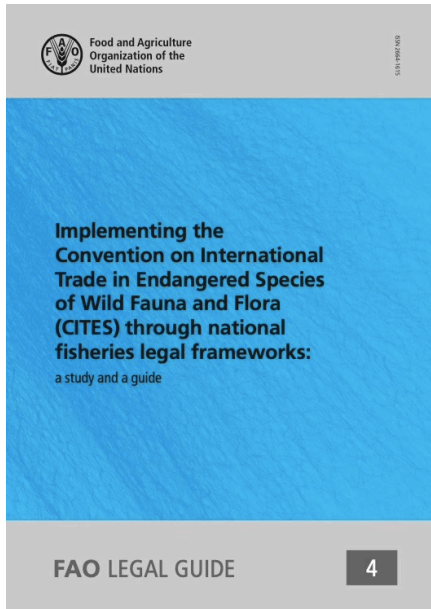
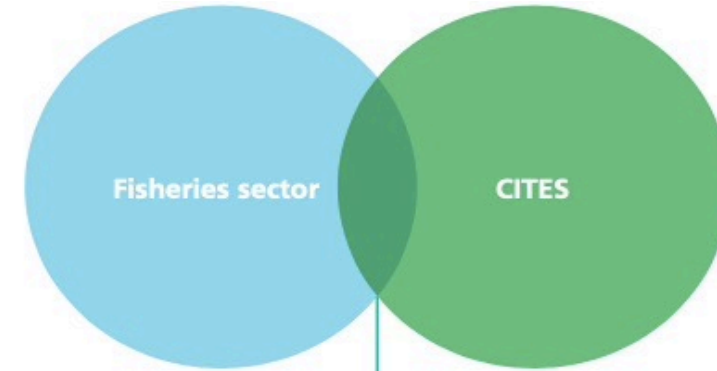
Potential users

Public and private stakeholders and individuals involved throughout the complete supply-chain and value-chain in international trade of CITES-listed commercially exploited and managed aquatic species.



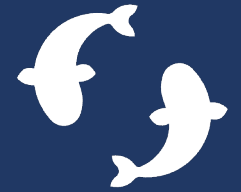
.... and other relevant authorities working in the areas of transport, control and international trade in such species.

Where CITES and Fisheries interact



International trade in aquatic species that are (i) included in CITES Appendices and (ii) commercially exploited by the fisheries sector, and

International trade	Purpose	Resource	Fish origin
Inter-States transaction	Commercial	Listed aquatic species	Areas within national jurisdiction
→ Import	→ Food market	→ CITES Appendix II	→ Inland areas and waters, internal waters, archipelagic waters and territorial sea, EEZ or other declared 200 nm maritime zone (e.g. exclusive fishery zone)
→ Export	→ Ornamental	→ CITES Appendix III	→ Seabed and subsoil of the (outer) continental shelf
→ Re-export	→ Recreational		
One-State transaction	Non-commercial		Areas beyond national jurisdiction
→ Introduction from the sea	→ Scientific	→ CITES Appendix I	→ High seas: water column > EEZ (where established)
	→ Educational		→ The "Area": seabed/subsoil seaward of the continental shelf



Mutual support

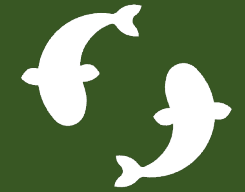
Complementarity

Strengthening each other

Opportunities for collaboration

Table 4
Correlations between outputs of the CITES regime and fisheries management

Outputs	
CITES Regime	Fisheries Management
<ul style="list-style-type: none"> • MA / SA 	<ul style="list-style-type: none"> • FA
<ul style="list-style-type: none"> • NDF (SA) 	<ul style="list-style-type: none"> • Stock assessments (FA or RFB)
<ul style="list-style-type: none"> • LAF (MA) 	<ul style="list-style-type: none"> • CDS, certificate or fishing authorizations e.g. licences, permits or quotas (FA or RFB)
<ul style="list-style-type: none"> • Compliance with national legal frameworks that implement CITES 	<ul style="list-style-type: none"> • Compliance with national fisheries legal frameworks, including those implementing RFB measures
<ul style="list-style-type: none"> • Confiscation of specimens (MA or Enforcement Authority) 	<ul style="list-style-type: none"> • Confiscation, seizure or forfeiture of aquatic species (FA or Enforcement Authority)
<ul style="list-style-type: none"> • Voluntary export quota of CITES-listed species 	<ul style="list-style-type: none"> • Ban or limit on the catch of certain aquatic species, which may include CITES-listed species
<p>High-level objective: ensuring responsible, legal, sustainable utilization of resources (species, biodiversity and ecosystems) + SDG14</p>	



Contents Study

A study on implementing CITES through national fisheries legal frameworks 9

1. Context: CITES and fisheries

2.2 Amendments to CITES and follow-up procedures	10
2.2.1 Inclusion of aquatic species in the CITES Appendices	10
2.2.2 Interaction between the CITES regime and the fisheries sector	12
2.2.3 Opportunities for cooperation, coordination and mutual complementarity	14

2. General CITES implementation

3.2 Non-detriment findings for aquatic species	17
3.3 Legal acquisition findings	18
3.4 Voluntary export quotas	20
3.5 Requirements for the transport of live specimens	21
3.6 Options for the disposal of illegally traded and confiscated fish specimens	22

3. Other implementation activities

4.2 FAO's technical assistance, tools, guidelines and plans of action	24
4.3 Potential contributions of Regional Fishery Bodies to CITES implementation	26
4.4 Fisheries measures in the CITES regime and vice versa	28

Concluding remarks 29

References 31

Annexes

Annex A Overview of trade activities and related CITES requirements	42
Annex B.1 CITES-listed fish species primarily harvested by the fisheries sector (as at February 2020)	43
Annex B.2 CITES-listed aquatic species which are generally considered as not primarily harvested and traded by the fisheries sector, but may be considered as such if accidentally caught as bycatch, or become the subject of other fishing activities or fishing related activities (as at February 2020)	52
Annex C.1 List of Regional Fisheries Management Organizations/Arrangements' selected measures relevant for CITES implementation (as at February 2020)	60
Annex C.2 List of Regional Fishery Advisory Bodies' selected measures relevant for CITES (as at February 2020)	66
Annex D CITES implementing legislation placed in Category 1 under the National Legislation Project	67
Annex E Selected fisheries legislation identified as relevant for the purpose of implementing CITES	79

Contents Guide

1. Scope and structure

2 Purpose 85

2. Purpose

3.2 Considerations for the National Legislation Project in addressing fisheries issues 89

3. CITES National Legislation Project

5.2 Second step: identifying CITES-specific legislation and relevant fisheries legislation 94

4. Other FAO legal guides and tools

6.1 Part I: Preliminary 103

5. Preliminary considerations

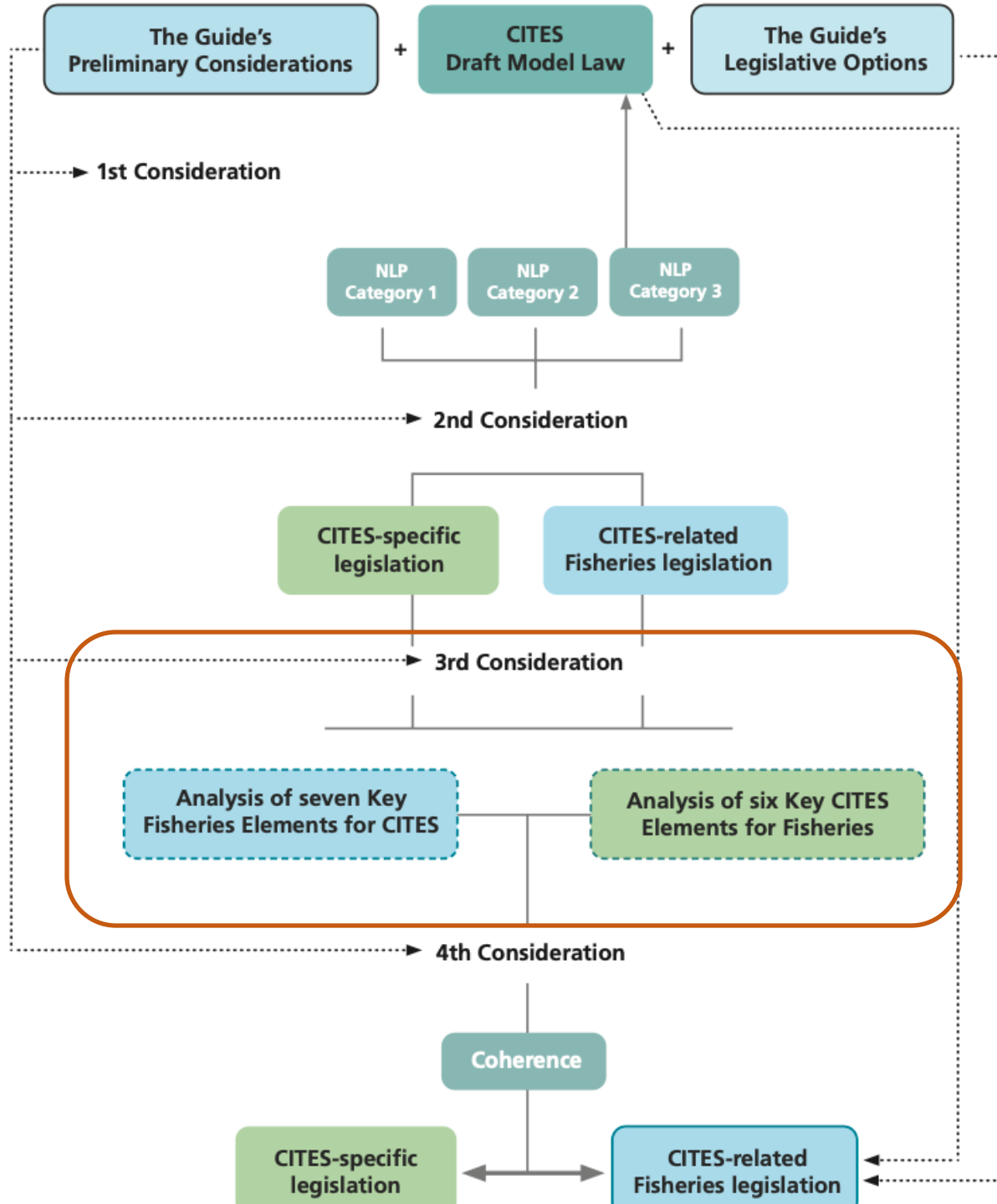
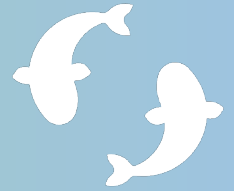
6.6 Part VI: Regulations 121

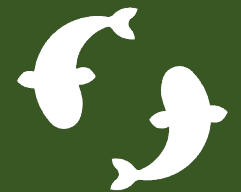
6. Legislative options

References 129

Figures

Box National Legislation Project's (NLP) categorization of countries	87
Table Typical structure of a national fisheries primary legislation	91
Figure Guide to implementing CITES through national fisheries legal frameworks	102





3rd Consideration

Key Fisheries Elements for CITES

The selected CITES-specific legislation:

1. provides for a clear definition of IFS in accordance with Resolution Conf. 14.6 (Rev. CoP16), clarifying that trade transactions
2. provides for a clear definition of NDF and LAF in accordance with Resolution Conf. 17.7 (Rev. CoP17) and Resolution Conf. 18.7 (Legal Acquisition)
3. refers to compliance with, and applicability of, other relevant legislation (specific terms)
4. designates the FA or other relevant authority responsible for development and MCS, maritime matters among the
5. clearly outlines the mandates and responsibilities of the FA and includes the duty to cooperate and coordinate with other
6. promotes or provides mechanisms for effective cooperation between the FA and other relevant authorities as well as with other relevant authorities
7. protects all the CITES-listed species commercially exploited, including sharks and rays

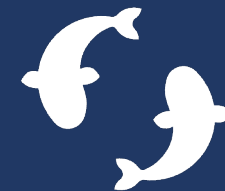
Key CITES Elements for Fisheries

The selected fisheries legislation:

1. provides for a clear definition of international trade as comprising import, export and trade transactions
2. refers to relevant definitions in CITES-specific legislation, particularly the meaning of NDF and LAF
3. makes cross-reference to compliance with, and applicability of, other relevant legislation (specific terms), to CITES, or the relevant CITES-specific legislation (specific terms)
4. clearly outlines the mandates and responsibilities of: the FA; port authorities; other relevant authorities responsible for fisheries management, conservation, development and MCSE and ensuring coherence and includes the duty to cooperate or collaborate with other relevant
5. promotes or provides mechanisms for effective cooperation, collaboration, interaction between the FA and other relevant authorities
6. protects and/or provides for conservation and management measures of CITES-listed species commercially-exploited and managed, including the recent listing of sharks and rays



Food and Agriculture Organization
of the United Nations



FAO-CITES Guide's Legislative Options

- for **drafting** amendments to existing fisheries legislation or drafting new fisheries legislation with a view to strengthen CITES implementation.
- organized in a **structure** of a typical primary fisheries legislation.
- any **cross-reference to CITES legislation** made throughout these legislative options is based on the assumption that adequate CITES legislation is either already in place or is under development.
- legislative options are the result of an analysis of **current fisheries legal frameworks**, both primary and secondary legislation of selected countries, to extract what is considered to be good practice.



Food and Agriculture Organization
of the United Nations

Thank you for your attention

For further information please contact:

Julia.Nakamura@fao.org
Rachel.Gaughan@un.org



**BETTER
PRODUCTION**



**BETTER
NUTRITION**



**BETTER
ENVIRONMENT**



**BETTER
LIFE**

