



2010 ELISABETH MANN BORGESE LECTURE



# **Science versus Politics: Tales from CITES**

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Thank you very much. I am honored both personally and on behalf of the Pew Environment Group to have been invited to deliver this year's Elisabeth Mann Borgese Ocean Lecture. I have recently read more on Elisabeth Mann Borgese and her life's work, and can tell you that I fully embrace her approach to the oceans as the common heritage of humanity. Sadly, we as a species are squandering that heritage, with astounding indifference to future implications. Although my talk is not about the oil spill disaster in the Gulf of Mexico, one cannot ignore that unfolding situation. How many disasters do we need before our national governments, and the global community, stop working to destroy the earth, and start working to protect and conserve it?

The UN Convention on the Law of the Sea (UNCLOS) entered into force in 1994—and as you know Elisabeth Mann Borgese was instrumental in its adoption; today, 160 governments are Parties—they have either ratified or acceded to the Convention. The UN Fish Stocks Agreement (UNFSA) for the implementation of the Convention for the conservation and management of straddling and highly migratory fish stocks entered into force in December 2001, and 77 countries are Parties. I am pleased to note that Canada is a Party to both UNCLOS and the UNFSA, although it remains a great disappointment that the US has not yet ratified UNCLOS. That is not the subject of my talk today, but I think it important when we speak of highly migratory and other high seas fish species, such as tuna and sharks, we keep UNCLOS in our minds—as well as the vision and wisdom that led to its agreement. I was at a meeting in NY at the UN the week of May 24<sup>th</sup>, of the UNFSA—and I can tell you that all is not well with fisheries on the high seas, and not enough is being done to turn the tide.

As the oil spill threatens the fragile deep sea and coastal ecosystems of the Gulf of Mexico, and unfortunately soon the Caribbean and even the Atlantic Coast, it is important to address another pervasive threat to our oceans, and that is over-fishing. I won't go into all the scientific information that shows that large pelagic fish such as tuna and sharks are severely depleted in all of the world's oceans—indeed, there is only one ocean, and it is humanity's politicization and need to compartmentalize that divides it into several oceans and seas. There are many ways to look at over-fishing: from the perspective of how to reduce the numbers of fish removed from the sea, how to reduce overcapacity (where there are too many boats), how to reduce perverse government subsidies that reward over-fishing, how to reduce illegal fishing, etc. But another approach is to look at it from the perspective of the fish—to see fish not only as a commodity, or a meal, but to look at fish in a way comparable to how we see other wildlife on our planet, including in particular terrestrial wildlife—to see fish as parts of the marine ecosystem, rather than an inexhaustible resource that we can plunder with impunity. What if we see fish as wildlife, subject to exploitation for international trade?

Every year, billions of plants and animals are caught and harvested from the wild and sold as food, pets, ornaments or curios, leathers, and medicines. A large proportion of this trade threatens the survival of many species—including both endangered species and those that are not yet endangered. Scientists agree that over-exploitation is the 2<sup>nd</sup> largest direct threat to species after habitat loss. While climate change is a growing threat, many species will be gone before they have a chance to be impacted by climate change.

Estimates in the literature state that international wildlife trade is worth about \$160 billion per year, and that is the legal trade only. All agree however that the figures are likely to be an underestimate. To glimpse the scale of wildlife trade, there are records of over 100 million tonnes of fish, 1.5 million live birds and 440,000 tonnes of medicinal plants in international trade in one year.

But—are fish wildlife? We tend to think of fish as food, or commodities. We tend to think of them in the context of maximum sustainable yield, or fisheries yield. We tend to see the ocean as endless, and its bounty unlimited. But as I stand before you in Halifax, and think of cod, one can hardly think that fish species populations cannot crash. Fish are species that have critical functions in their ecosystems. Thanks to the environmental movement, we see whales as species—worthy of protection, and not as fisheries (at least outside of Japan and some other countries, but that’s another story).

Long before the world was ready for UNCLOS, the environmental movement of the 1970s, motivated by the ever-increasing completely unregulated international wildlife trade, led to the adoption of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, or CITES. It entered into force in 1975, and currently has 175 countries that are members, or Parties. Both Canada and the United States were among the first 10 countries to sign and ratify the treaty. It is seen by many as the world’s most successful international wildlife treaty. All governments that are Parties agree to regulate international trade in species that are listed in the Convention’s Appendices. Appendix I includes species that are threatened with extinction and are subject to trade threats—and international commercial trade in those species is prohibited; more than 900 species and subspecies are currently in Appendix I. Appendix II includes species that could become threatened if their trade is not regulated—and international trade is allowed through a series of permits, where the exporting country certifies that trade is legal and sustainable. Currently, more than 30,000 species of plants and animals are on CITES Appendix II. CITES listing is thus not a trade ban if the species is in Appendix II—which I call the “sustainable use” Appendix.

Every 2- 2 ½ years, the CITES Parties meet and decide on proposals to include new species in the Appendices, move some off or between Appendices, and adopt resolutions that deal with enforcement and compliance, and other aspects of implementation of the treaty. I have worked on CITES (as an NGO and as head of the US Government’s CITES Scientific Authority) for more than 20 years. It isn’t perfect—it’s only as good as implementation by the member governments. I’ve seen developing countries struggling but succeeding to implement its provisions, and I’ve seen the worst sorts of corruption; but I’ve seen that it works, and there are populations of species thriving in the wild that would not be there without CITES.

This brings us back to fish. The CITES treaty clearly covers all flora and fauna, whether on the land or in the water. The vast majority of all species listed are terrestrial, with some marine species listed in Appendix I and II. Appendix I currently includes almost all the whales, and many dolphins; the rest are all in Appendix II. It also includes sawfish, all sea turtles, and even the coelacanth. Appendix II includes the great white shark, whale shark, and basking shark, all sturgeon (except for some in Appendix I), all seahorses, all stony coral, all giant clams, the humphead wrasse, queen conch, and the Mediterranean date mussel. The whales were listed in the early years, and many were put in Appendix I after the IWC adopted its commercial whaling moratorium in the 1980s. The hardest fought battles however were on the three sharks—none of which is subject to significant international commercial fisheries. I’m happy to answer any questions later about any of the other species.

That brings us to the CITES Conference of the Parties that was held last March—the 15<sup>th</sup> such meeting since the Convention began. I have attended every such meeting since the 7<sup>th</sup>, in 1989 in Switzerland (the 6<sup>th</sup> CoP was here in Canada but I was still doing my postdoctoral research and hadn’t yet started engaging with international biodiversity policy).

Which brings us to the issue of international trade, CITES, and sharks. Many governments and conservation organizations have been increasingly aware of the significant global shark trade and the massive depletion of sharks in all of the world's oceans—coastally and on the high seas. Governments also realized that none of the RFMOs (Regional Fisheries Management Organizations) are dealing in any way with the underlying threat to sharks—unregulated, unreported trade for the lucrative shark fin market. It is estimated that up to 73 million sharks are killed every year for the lucrative shark fin market—largely but not exclusively to China and other East Asian countries.

Of the 591 shark and ray species assessed by scientists with the International Union for the Conservation of Nature (IUCN), 21% are currently threatened with extinction, and 17% are near-threatened. Just as troubling, researchers lack adequate information on 35% of sharks and rays to make accurate population assessments. The UN Food and Agriculture Organization (FAO) estimates more than half of highly migratory sharks are either over-exploited or depleted. In addition to the fin trade, some sharks are in trade for their meat and for other products. International trade of this magnitude is problematic as sharks tend to grow slowly, mature late and produce few young over their lifetimes, leaving them exceptionally vulnerable to over-exploitation. Shark populations are slow to recover from depletion, and removal of these key predators, which have been on our planet for hundreds of millions of years, risks the health of entire ocean ecosystems. If we looked at sharks like we look at top predators on land, such as wolves, tigers, and lions, we would never tolerate the indiscriminate plunder that we are witnessing today.

Governments had until October 2009 to submit proposals for consideration at the March 2010 CITES meeting in Doha, Qatar. The European Union (on behalf of its 27 member States), the USA, and Palau submitted 4 proposals to include several shark species in Appendix II. Specifically, the USA and Palau submitted two proposals, including one for the scalloped hammerhead shark. Hammerhead shark fins are highly sought after for shark fin soup because of their large size and the high “needle count” or fibers that make up the fin. Globally distributed, scalloped hammerhead sharks are classified by IUCN as “Endangered.” Four other shark species (smooth hammerhead, great hammerhead, sandbar and dusky sharks) were included in this proposal as look-alikes species, although due to opposition the US and Palau removed the sandbar and dusky sharks during the meeting in Doha. The US and Palau also submitted the oceanic whitetip shark for Appendix II. The oceanic whitetip is noted for its large, rounded fins. Due to the international fin trade and commercial fisheries, oceanic whitetip sharks are listed on the IUCN Red List as “Critically Endangered” in the Northwest and Central Atlantic Ocean and “Vulnerable” globally.

The EU, also co-sponsored by Palau, submitted a proposal to include the porbeagle shark in CITES Appendix II. Porbeagle meat is considered high quality, particularly in Europe, and fins are also in demand. The porbeagle is listed on the IUCN Red List as “Vulnerable” globally, “Endangered” in the Northwest Atlantic, and “Critically Endangered” in the Northeast Atlantic and Mediterranean Sea. The EU, with Palau, also submitted a proposal to include the spiny dogfish shark in Appendix II. The spiny dogfish is subject to unsustainable fisheries in several parts of its range because of strong international demand for its meat, primarily from Europe, although dogfish fins also enter international trade. Spiny dogfish are listed on the IUCN Red List as “Vulnerable” on a global basis. The EU had submitted the spiny dogfish and porbeagle

for consideration at CoP13 in 2007, in the Netherlands, and although the votes were close they were not adopted.

So before I tell you what happened with the sharks, and why—what of the tuna? The Atlantic bluefin tuna is one of the most majestic and remarkable fish in the sea. They race across the ocean, reaching speeds of up to 100 kilometers an hour. They can live 40 years, grow to 4 meters in length and weigh up to 726 kilograms. They are warm-blooded and able to stabilize their body temperature even as they dive up to 900 meters into icy waters and migrate thousands of kilometers across the Atlantic Ocean each year, from North America to Europe. Fueled by the lucrative sushi and sashimi markets around the world, the incredible value of this species creates an extraordinary incentive to ignore quotas, fish illegally and pressure regulators to disregard scientific recommendations. The best science shows that populations of Atlantic bluefin tuna are on the brink of collapse. Recent studies show clearly that the species has declined more than 80% since 1970, and more than 85% since records began in the 1950s.

The species also carries the dubious distinction of fetching the highest commercial prices on international markets, with individual fish selling for upwards of US\$100,000. The extremely high price of Atlantic bluefin, fueled by the international sushi market, has led to rampant and unchecked overfishing (legal and illegal), driving this species toward commercial extinction.

ICCAT's own scientists predicted that if the current level of fishing mortality continues, the eastern Atlantic spawning stock would fall to 18% of the 1970 level and 6% of the historical level. This trend is corroborated by the dramatic decline of the mean size of fish caught and some experts predict that even under a complete fishing ban there are significant chances that the stock will continue to decline.

The International Commission for the Conservation of Atlantic Tunas (ICCAT) is the regional fisheries management body responsible for the management of Atlantic bluefin tuna. Sharks have no such alleged help. ICCAT has struggled for decades—since the 1960s even—to sustainably manage Atlantic bluefin tuna, but to date it has proven to be a dismal failure in halting the continuing decline toward commercial extinction of this iconic species.

At CoP8 in Japan in 1992, Sweden took the bold move of proposing the inclusion in the Appendices of the Atlantic bluefin tuna. The proposal was withdrawn after massively heavy pressure (I know, I was there), and an agreement was reached that ICCAT would take strong measures to protect the species. ICCAT committed to lowering quota levels in order to rebuild the stock. Quotas were cut initially in the first two years following the 1992 CITES meeting, but then the quota was subsequently raised dramatically. ICCAT did not live up to its promises, and the Atlantic bluefin tuna has continued to be over-fished and depleted in both the Western and Eastern Atlantic..

ICCAT management measures have been ineffective at preventing the decline of the stock. An independent review that ICCAT commissioned stated, "ICCAT CPC's [contracting parties] performance in managing fisheries on bluefin tuna particularly in the eastern Atlantic and Mediterranean Sea is widely regarded as an international disgrace and the international community which has entrusted the management of this iconic species to ICCAT deserves better performance from ICCAT than it has received to date."

In addition, the lack of adequate enforcement and rampant illegal fishing for bluefin tuna have pushed actual mortality rates to three to five times the limits recommended by ICCAT scientists

and up to double that agreed by ICCAT itself. International trade poses an increasing threat to the survival of this majestic species. The primary threat to this species is international trade - and that is the purview of CITES to address. While ICCAT is responsible for assigning quotas, only CITES can regulate international trade and only CITES has the authority and ability to suspend international commercial trade until the species recovers.

After the 1992 meeting, the Atlantic bluefin tuna had to wait 18 more years for a country to have the courage to propose it for CITES listing again. And that country was the Principality of Monaco, which submitted a proposal to include the Atlantic bluefin tuna in CITES Appendix I.

So—what happened at the CITES meeting? Let me first explain that CITES takes a very rigorous scientific and technical approach to all proposals and decisions it makes. The UN FAO convenes an *ad hoc* Panel of scientists and other experts to evaluate all CITES proposals for commercially exploited marine species, and assess them against the CITES listing criteria. IUCN, working with TRAFFIC, also assesses all proposals against the CITES criteria. The CITES Secretariat does the same. ICCAT scientists themselves, in October 2009, agreed that the Atlantic bluefin tuna met the CITES Appendix I criterion that the species is below 15 percent of the unfished, historical biomass. And all but one member of FAO Ad Hoc Panel agreed that both eastern and western populations of the Atlantic bluefin tuna meet the CITES biological criteria for inclusion in Appendix I. Given that most of the annual catch of Atlantic bluefin is exported internationally, a CITES prohibition on international trade of the fish would have given the Atlantic bluefin tuna the time it needs to recover.

IUCN, the CITES Secretariat, and many governments all agreed that the Atlantic bluefin tuna qualifies for Appendix I. On sharks, the panel agreed that the hammerheads, oceanic whitetip, and porbeagles all qualified for Appendix II—which after all only requires regulated international trade to ensure the trade is sustainable and legal; it did not agree on spiny dogfish. The CITES Secretariat and IUCN agreed that all of the shark proposals met the criteria for inclusion in Appendix II.

At every past CITES meeting, including the 8 previous that I had attended, if your proposal was scientifically rigorous, and international bodies such as the UN, FAO, and IUCN all agreed that you had met the scientific requirements, and trade was a real threat to the species—the proposal was adopted. Even the proposal to list all sturgeon, which was controversial in 1997 at CoP10 (it involved Russia, Iran, other Caspian countries, the EU, the US, Canada, and others involved in international caviar trade), was adopted—it stood the test of scientific scrutiny. But science was thrown out the window at the CITES meeting last March in Doha.

In fact, none of the marine proposals at this CITES meeting were adopted. That includes a proposal to list red and pink coral in Appendix II, which I haven't discussed in detail but would have finally regulated the internationally unregulated trade in these deep sea corals. It takes a 2/3 vote of all countries voting to adopt a proposal at CITES, and Japan and allies worked hard to find the 1/3 blocking minority to defeat all of these proposals.

So what happened at the meeting in Doha? I wish I could tell you that science prevailed, and short-term commercial interests took a back seat to conservation, global food security, and responsible management of the oceans. I wish I could tell you that Elisabeth Mann Borgese's vision of the oceans at peace, and governments all working together for the common good, was present in Doha. It was not.

The Atlantic bluefin tuna proposal came up early, as several governments wanted the ability, in good faith, to try to find common ground. Monaco introduced the Appendix I proposal, with a very eloquent intervention. They said that although there is a long history of fishing of bluefin tuna in the Mediterranean, going back to ancient times, this is no longer fishing by local people to meet regional and local food needs; this is industrial fishing on a massive scale, and it is causing an ecosystem collapse. Those who spoke in support of the proposal were the EU (although they introduced a confusing compromise proposal), US, Norway, and Kenya. Those who spoke in opposition were Canada, Indonesia, UAE, Venezuela, Chile, Japan, South Korea, Grenada, Senegal, Namibia, Turkey, Iceland, Morocco, Tunisia, and Libya.

It then turned into a procedural mess. Some governments wanted to continue the discussion, trying to find a consensus or at least a compromise acceptable to 2/3 of the countries. The Libyan delegate called for an immediate vote, which was seconded by Sudan. Spain (EU), the US, and Monaco all asked to continue the discussion, and adjourn the debate so governments could work out a compromise. Under the CITES rules, the Chair had to take a vote on ending the debate and going to a vote on the proposal. After much yelling and jumping up and down by some countries a vote was taken to end the debate and go to a vote. The vote to end the debate was 72 yes, 53 no, and 3 abstentions (it only needed a simple majority). A majority of the governments thus voted against diplomacy, compromise, and dialogue. Then the Conference had to vote on the EU amendment of the proposal. It failed by 43 Yes, 72 No, and 14 abstentions. Then they took a vote on the original Monaco proposal; it failed by 20 Yes, 68 No, and 30 abstentions.

After the vote, many governments applauded and cheered; Japan was swamped by TV cameras. They congratulated themselves on defeating the Appendix I proposal—but I felt as though the governments were congratulating themselves for voting for over-fishing. They congratulated themselves for *carte blanche* to continue indifference and over-fishing. Japan ran a well organized political campaign to defeat the bluefin tuna proposal—including even hosting a reception the evening before where they served bluefin tuna sushi. The science was not disputed in the debate, and the governments, under heavy fishing industry pressure, voted against the science. They all made statements about how ICCAT will do the right thing. CITES handed the species back to the organization that has failed it for more than 40 years. ICCAT made a speech that promised that their rebuilding plan will work, they have strengthened enforcement measures, and everything will be fine. It would of course be wonderful if ICCAT, which is charged with the conservation and management of this species, actually did the right thing. We will be at the annual ICCAT meeting this November, in Paris, pushing again—and this time we will push to close the fishery, particularly in the spawning grounds, during the spawning season. The only spawning of Atlantic bluefin tuna takes place right now, in the Gulf of Mexico, right where the oil spill has spread—the data are not in, but we can assume there will be no successful spawning this year. For such a heavily depleted species, we don't know yet what the impacts will be on the adult spawners themselves. But we do know that based on past history, one cannot expect ICCAT will stand up for the conservation of this species—we will ask them to do so, and we will try to get the media to shed the light of day on this issue.

And what happened on sharks? Each proposal was defeated except for the proposal to list the porbeagle shark, which passed in Committee. The US succeeded in reopening the debate on the proposal to list hammerhead sharks in Plenary, and although it was reopened, it was defeated again. Japan and others pushed to reopen the porbeagle proposal in Plenary, and the proposal that had previously passed in Committee was rejected—by 2 votes. All shark votes were taken

by secret ballot, as with the bluefin tuna, so there is no way to know how countries voted. On the sharks, if every country who told the US and EU that they would vote for the shark proposals did so, they would have passed overwhelmingly—so truth was also one of the casualties of this CITES meeting.

The votes were as follows:

Committee	Hammerheads	Oceanic whitetip	Porbeagle	Spiny Dogfish
Support	75	75	86	60
Opposition	45	51	42	67
Abstentions	14	16	8	11
# Needed to Win	80	84	85	84
Difference	-5	-9	+1	-24

The votes in Plenary were as follows:

	Hammerheads	Porbeagle
Support	76	84
Opposition	53	46
Abstentions	14	10
# Needed to Win	86	86
Difference	-10	-2

On the hammerheads, the countries that spoke in support were the US, Palau, New Zealand, Norway, Saudi Arabia, Australia, Brazil, the EU, Croatia, Monaco, Qatar, UAE, Colombia, and Argentina. The countries that spoke against were Senegal, Japan, Cuba, Saint Lucia, Grenada, China, Indonesia, Singapore, and Guinea Bissau. On the oceanic whitetip shark, the countries that spoke in support were the US, Palau, New Zealand, UAE, EU, and Saudi Arabia. The countries that spoke against were China, Venezuela, Japan, Chile, Vietnam, South Africa, Indonesia, and South Korea.

None of those opposing these 2 proposals, which dealt with species in the international fin trade, dealt with the science. The science is strong and clear—the opposition was about having the RFMOs manage the species, and about implementation challenges. None of the arguments were likely the reason for opposition, however. It must be recalled that these were proposals for Appendix II, which would have required governments to confirm that their shark exports were both sustainable and legal. The opposition was totally political. Many countries voted against the shark proposals because they were pressured to do so—either by their fishing industries at home, or by major importing countries. We know that Japan and China actively worked to block not only the bluefin tuna proposal, but all shark proposals as well.

For the porbeagle shark, the countries that spoke in support were Spain, on behalf of the 27 member states of the EU, Palau, New Zealand, Canada, Egypt, Australia, the US, and Croatia. The countries that spoke against were China, Iceland, Cambodia, and Grenada. It narrowly passed in Committee, but was narrowly defeated in Plenary. There were also no comments in opposition to the science behind the porbeagle proposal. For the spiny dogfish, the situation was different, as the science is more complicated and ambiguous.

Many government delegates (and paid lobbyists) applauded each time a shark proposal was defeated as well. I said to the press at the end of the meeting that CITES used to be a treaty that



restricted trade for the sake of conservation—at this meeting, it became a treaty that restricts conservation for the sake of trade. The full weight of the lobbying power of the government of Japan, joined by China and some others, worked to defeat all of the marine proposals at this CITES meeting, with indifference to whether they qualified scientifically or not.

And which country is hosting the meeting this October of the Convention on Biological Diversity? It is the same country that did the most at this meeting to undermine marine biodiversity—Japan. For the hammerheads, porbeagle, and oceanic whitetip, the votes were so close that active work over the next 2 years could secure their listing at the next CITES meeting. More needs to be done through the UN fish Stocks Agreement, UN Convention on the Law of the Sea, national governments, and RFMOs—for shark conservation, and to push governments to institute accountability in RFMOs for the ways they are mismanaging the fisheries entrusted to them. But at the end of the day, the global conservation community must redouble its efforts to ensure that international commercial trade in vulnerable fish species, such as sharks and bluefin tuna, is properly regulated. We must ensure that people, and governments, are willing to see sharks, tuna, and other fish, as species—as integral parts of the ocean ecosystems of our planet. One of the governments told me at the CITES meeting that they voted against all the proposals, because fish are food, not species. If humanity, and governments and governmental institutions, do not take seriously the indiscriminate greed and plunder of our oceans by industrial fleets, the day will come when his country will not only not have fish, it will not have food. At this year's CITES meeting, short term, short-sighted economic interests prevailed over the global good, and the long-term interests of the future of our planet. Let's work together to make sure it is a one-time aberration, and not the way of the future.

Thank you very much.