

**CITES and Sharks Proposals at CoP17
IWMC EVALUATION AND POSITION PAPER**

PROPOSAL 42 SILKY SHARKS (*Carcharhinus Falciformis*) Maldives

PROPOSAL 43 THRESHER SHARKS (*Alopias spp.*) Sri Lanka

Why fishing nations shall strongly oppose the listing of sharks species at CoP17

I. CITES and Marine Species

Before the Washington meeting (March 1973) where CITES was considered and adopted, it was not planned to have marine species covered by the treaty. This explains why CITES was not conceived to deal with the specific aspects of the exploitation and management of, and trade in such species, in particular those subject to a commercial exploitation. Nevertheless, it has to be recognized that the listing of marine species, including Sharks, falls within the scope of competence of CITES.

However, CITES provides that its Secretariat shall consult relevant inter-governmental bodies before making its recommendations with regard to any proposal of amendment to the CITES Appendices in order to “ensuring co-ordination with any conservation measures enforced by such bodies”, a wording that should implies the leading role of the latter.

Apart from whales, for which CITES has obviously left the leading role to IWC, a number of other marine species have been included in the CITES Appendices. For fish species subject to a significant international trade, such as Sturgeons, the Humphead wrasse and Sea horses, one has to recognize that this has been a failure.

The three species of Sharks originally listed are the three largest species, which are not subject to an important exploitation and trade but are spectacular and were expected, by those in favor of a strong involvement of CITES in fisheries, to serve as an incentive to list additional species, as demonstrated by more and more proposals submitted in the recent years. This resulted in more Sharks listing in CoP16 in 2013.

It has to be noted also that if the listing of additional Shark species is accepted, this would facilitate the listing of other fish species such as Tuna and not only the Bluefin. Therefore, although they may feel not being directly concerned, fishermen and fishing nations should oppose further listing of Sharks in CITES Appendices. Indeed, and because wildlife management and conservation should not be dealt with only on the basis of their own interests, all nations party to CITES should make their decision as if the species in question were part of their own concern.

II. Who should act?

It is obvious that fisheries and the conservation of marine species are faced with serious problems and that measures have to be taken to ensure that these species be able to play their role in the food supply of humanity in the long run. Therefore appropriate measures must be taken. Although some consider that CITES could be used as a complement to other measures, it has not been proven so far that this complement was efficient. This is partly due to the fact that many, if not most of those who promote the listing of marine species in CITES, consider this as the objective when it should be the signal of problems needing solutions.

III. Evaluation of the CITES CoP16 listing of Shark species

The listing of any species on CITES Appendices must be evaluated based on two fundamental questions: a) What were the conservation benefits for the listed species; and b) What were the effects of the listings on livelihoods of affected people?

Much was said and remarks were offered for the “unprecedented efforts” undertaken by the international community, including the European Union, the FAO, the NGOs, etc., in order to ascertain proper implementation and enforcement of the listing of Shark species as decided at CoP16. However, the listing of Shark species at CoP16 that entered into force in September 2014 was targeting mainly the international trade in Shark fin. It is doubtful that the CoP16 listing has produced any positive conservation effects i.e. reducing the listed Shark species mortality, for the following reasons: 1) Starting in 2012, as a result of China New Legislations and Policies, there has been a collapse in demand for fin which has severely impacted the demand and prices for Shark fin generally. 2) Shark harvesting is the result of subsistence and artisanal fisheries in one part and, on the other part, of incidental catches in commercial fisheries operations. In other terms, Shark fin trade *per se*, either national or international, is not, and likely has never been, a substantial cause of mortality for Shark species.

For these reasons we conclude that the CoP16 listing of Shark species and the unprecedented efforts following the listing during the 18-month period prior to the coming into force of the listings, have not produced any tangible conservation benefits, while eliminating important sources of livelihood and could be construed as a waste of important human and financial resources.

IV. Evaluation of Proposal 42 for Silky Sharks and Proposal 43 Thresher Sharks or The Don Quixote approach to conservation : “fighting windmill”

Based on the above considerations and on available information, we can offer the following comments for Proposals 40 and 42:

1 – Both proposals originating from the Pew Charitable Trust were developed in the early part of 2015 as demonstrated from copies of the proposals, distributed by Pew at the CITES 66th Standing Committee meeting in Geneva. These documents did not include the dates and venue of CoP17, information available in mid-June 2015. This might explain the weaknesses referred to in paragraph 2 below.

2 – Without prejudging the scientific evaluation that will be provided by the FAO Panel of Experts, it can be argued that the scientific information provided in both proposals is weak, contradictory and outdated. Trade data are outdated: the latest market reference for Shark fin is 2008 and some of the references to price are now some 20 years old. These cannot evidence the state of the market in 2016.

3 – Considering that the outcome of the CoP listing of Shark species is currently unknown, the two proposals are premature. This is supported by the opinion of the United States' evaluation of the proposals in the Federal Register and by the declaration of the US delegation at the CITES Animals Committee.

4 – Throughout the two proposals, the target is the *“over-exploitation for their fins”*. As discussed above, the trade in Shark fin is in serious decline internationally and nationwide in China. The argument that *“Demand from international shark fin markets is the driving economic force behind the retention and mortality... an Appendix II listing ... is necessary to ensure that the trade is sustainable and not driving the species towards extinction ”* cannot logically be used for the listing of the Thresher Sharks and Silky Sharks on CITES Appendix II. If the catch of these Sharks is largely unavoidable bycatch or catch for domestic consumption purposes - as may be inferred from early catch records discussed for both proposals - then the trade in the fins of these Sharks is unlikely to be a significant element encouraging mortality.

5 – The copies of the two sharks proposals, distributed during CITES Standing Committee meeting of January last, suggested another *“18 month period”* to allow... [Such limitation does not appear on the proposals listed by the CITES Secretariat, but could be introduced as an amendment to facilitate the adoption of the proposals]. In any case, since the 18-month delay was suggested and adopted for earlier proposals to give time to Parties for adapting their legal and administrative procedures to the control of the trade in such species, these procedures should have been adapted by now for all fish species in all interested Parties and there should be no justifiable reasons to accept again the same delay. This derogation to CITES provisions should not be allowed for commercially fished species to make the adoption of such proposals easier. In addition, if the proposed species may sustain the same kind of exploitation as the current one or even a stronger one to take advantage of the

additional time available, this should be interpreted as meaning that their status is not as bad as stated. The request of the delay should therefore be taken as an additional argument against the adoption of the proposals.

6 - There is no clear picture of total Shark mortality, the reasons for that mortality being subsistence harvesting and/or unavoidable bycatch. In other words, have the measures taken against shark fishing actually resulted in any reduction in mortality, or have they simply led to dumping of dead Sharks at sea?

7- The proposals avoid providing a timeline of the measures taken by coastal states and by RFMOs to manage the impact of fishing on the species concerned.

8 – The use of the *Look Alike Principle* use for the listing of two species of Thresher sharks (Common and Pelagic), shall constitute a dangerous precedent for eventual future listing of marine fish species.

V. Conclusions

From a conservation perspective, whose main objective should be the CITES listings, and notwithstanding any scientific considerations, these two proposals for the listing of shark species, Proposal 42 and Proposal 43, are totally useless. Since the early 2000, the animal rights consortium has been very successful in destroying a traditional and cultural alimentary habit that has, nevertheless, never been an important factor in the decline of Shark populations. Many human beings and small communities bear the collateral damages of the war by NGOs against what they advocate to be a major threat to the survival of Sharks.

It is frolicsome to realize that after having eliminated an “inexistent” threat to the survival of Sharks, the extreme organisations are now using the same non-existing-but-nevertheless-eliminated threat to justify new listing in CITES Appendices.

Unless one applies the Don Quixote theory to conservation of marine fish species, these two proposals shall be rejected outright.

Additional Information on Listing of Marine Fish Species on CITES Appendices

CITES Issues regarding Marine Species

As stated previously, CITES was not drafted with marine species in mind. Following is a list, not exhaustive and without details, of consequences and consecutive problems that the implementation and enforcement of CITES might generate.

1. CITES deals with species. Although this term includes subspecies and geographically separated populations, these populations are in general separated in accordance with political boundaries. On the other hand, fish stocks are treated as such by the fisheries community and their management, e.g. under a RFMO, is conducted on that basis, even if quotas may be attributed to individual States.
2. The CITES criteria lack of flexibility and due to the precautionary approach used and abused, and the requirement of a two-third majority on CITES decisions, it is much easier to list a species than to de-list or down-list it. In addition, the interpretation of a criterion [B of Annex 2) a of Resolution Conf 9.24 (Rev. CoP15)] to list species in Appendix II is subject to an unsolved conflict used by those in favor of CITES listings and opposed to down- or de-listings.
3. The criteria do not consider issues linked with the implementation and enforcement of the CITES provisions, such as issuance of permits and certificates, establishment of non-detriment findings, introduction from the sea, trade controls, look-alike species, identification of parts and derivatives in trade, etc. These issues nevertheless exist and would generate such difficulties that it is likely that the effect expected from the listing would not be reached.
4. Under CITES any specimen of listed species subject to international trade - export, import, re-export, introduction from the sea - must be accompanied by the proper CITES document, and each trade transaction requires the issuance of a new document. This means that a specimen may require the issuance of several documents if it crosses several boundaries, making the traceability of the specimen extremely difficult. In addition, this would not prevent the need of other documents required by RFMOs or other bodies or agreements.
5. Sharks are often subject to by-catches, for which CITES has no specific rules. As the issuance of CITES documents is conditioned by the establishment of non-detriment findings, this may seriously impact trade transactions.

6. Last but not least, while the listing of a species in Appendix II has not for necessary objective to limit the trade in that species, it is obvious that it is often used for that purpose and that mechanisms established by CITES Parties have that effect. Apart from stricter domestic measures taken by Parties, the main one is the “Significant Trade Study”. Through it, specific measures may be recommended and, if they are not implemented, suspension of trade may be recommended. This may have a dramatic effect, especially for marine species, including sharks.