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**6TH DRAFT CONSOLIDATED TEXT FOR THE CONSERVATION AND MANAGEMENT  
MEASURES FOR SHARKS**

(for consideration and potential adoption at WCPFC15)

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**WCPFC15-2018-IWGSharks  
1 November 2018**

Paper by the Chair of IWG-Sharks

November 1, 2018

Mr. Feleti Teo  
Executive Director  
WCPFC Secretariat

Dear Mr. Teo:

As Chair of the Intersessional Working Group to Progress the Development of a Draft Comprehensive Shark and Ray CMM (IWG-Sharks), I am sending the 6th Draft Consolidated Text for the Conservation and Management Measures for Sharks for consideration and potential adoption at WCPFC15 (as attached). Please circulate this among all CCMs and observers as a working paper for WCPFC15.

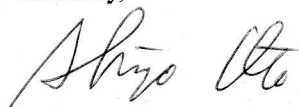
For those who have been outside this process, I would like to explain the process through which this text has been produced. The IWG-Sharks has been established in accordance with the Terms of Reference agreed at WCPFC14 and participated through e-mail exchange by Australia, the European Union, Indonesia, Japan, New Zealand, Philippines, Samoa, Chinese Taipei, Thailand, the United States, FFA, PNA, SPC, SPREP, American Tunaboat Association, ISSF and WWF. Dr. Shelly Clarke of FAO has been involved in the process as a technical advisor.

The 1st draft was distributed among the participants on February 15 this year. Upon receiving comments from the participants, it was amended and the 2nd draft was distributed for comments on April 6. The same steps were repeated for distributing the 3rd draft on May 28. After receiving comments on the 3rd draft, the 4th draft was produced and sent to SC14 on July 13 for its scientific review. SC14 provided several useful comments for Chair to produce the 5th draft, which was then sent to TCC14 for their technical review.

TCC14 discussed a fins naturally attached policy to which several Members proposed different options, but produced no definitive recommendation. Instead, TCC14 recommends to WCPFC15 that it adopt the best practice guidelines for the safe handling of sharks (Attachment G of the SC14 Summary Report) and suggests that I consider the appropriate inclusions and references to paragraph 561 and Attachment G of the SC14 Summary Report when developing the 6th draft of the comprehensive shark CMM.

The 6th draft has reflected the discussion and suggestion by TCC14. Although this draft still contains several pending issues, I hope that everyone coming to WCPFC15 will show flexibility to find solutions. I will try to make myself available toward this goal as much as possible.

Sincerely,



Shingo OTA

Chair of the IWG-Sharks

6th Draft Consolidated Text for the Conservation and Management Measures for Sharks (for consideration and potential adoption at WCPFC15)

Draft text	Explanatory note
<p><i>The Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC), in accordance with the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (the Convention);</i></p> <p><b>Recognizing</b> the economic (see Endnote No.2) and cultural importance of sharks in the western and central Pacific Ocean (WCPO), the biological importance of sharks in the marine ecosystem as key predatory species, the vulnerability of certain shark species to fishing pressure—<del>underlines</del>, the need for measures to promote the long-term conservation, management and sustainable use of shark populations and fisheries;</p> <p><del><b>Recalling</b> that the United Nations Food and Agriculture Organization (FAO) International Plan of Action for the Conservation and Management of Sharks calls on FAO members, within the framework of their respective competencies and consistent with international law, to cooperate through regional fisheries organizations with a view to ensuring the sustainability of shark stocks as well as to adopt National Plans of Action for the conservation and management of sharks;—</del></p> <p><b>Recognizing</b> the need to collect data on catch, effort, discards, and trade, as well as information on the biological parameters of many species, to enable effective shark conservation and management;</p> <p><del><b>Recognizing further</b> that certain species of sharks and rays, such as basking shark; great white shark; whale shark; scalloped, smooth and great hammerhead sharks; oceanic whitetip shark; porbeagle shark; manta rays; silky shark; and bigeye, common, and pelagic thresher sharks; and mobulid (devil) rays have been listed on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora</del></p>	<p>The text has been amended in accordance with suggestions of SC14. Chair deleted “underline” as this seems a mistake.</p> <p>PNA can agree to deletion of this para if the last preamble is deleted. For streamlining, Chair suggests deletion of this para as well as the last para.</p> <p>NZ suggests retention of this para without mentioning species names, which is supported by Australia. Chair still doubts the usefulness of this para without specifying any species names and thus suggests deletion.</p>

(CITES);-

~~*Mindful that the Commission shall adopt (i) measures to minimize catch of non-target species and impacts on associated and dependent species, in particular endangered species; and (ii) adopt, where necessary, conservation and management measures and recommendations for non-target species and species dependent on or associated with the target stocks, with a view to maintaining or restoring populations of such species above levels at which their reproduction may become seriously threatened;*~~

*Adopts*, in accordance with Article 5, 6 and 10 of the Convention, that:

## **I. Definition**

### 1. (1) sharks

All species of sharks, skates, rays and chimaeras (Class Chondrichthyes)

### (2) full utilization

Retention by the fishing vessel of all parts of the shark excepting head, guts, vertebrae and skins, to the point of first landing [or transshipment]

### (3) finning

Removing and retaining all or some of a shark's fins and discarding its carcass at sea

### (4) whole~~green~~ weight

The total weight of fish/animal before any processing commences (including freezing and drying) and before any part is removed]

## **II. Objective and Scope**

2. The objective of this Conservation and Management Measure (CMM) is, through the application of the precautionary approach and an ecosystem approach to fisheries management, to ensure the long term conservation and sustainable use of sharks.

Chair suggests deletion of the entire para as it would not be easy to pick up necessary elements from the Convention and the next sentence (chapeau) clearly refers to the relevant Articles of the Convention.

NZ suggests that at least the four items should be defined.

The definition of "shark" is based on old para 2. SC14 agrees to this.

Taken from para 8.

SC14 added "vertebrae."

Suggested by Dr. Clarke.

NZ provided the definition of green weight. SC14 changed "green" to "whole."

~~2. For the purposes of this CMM, the term “shark” is taken to include all species of sharks, skates, rays and chimaeras (Class Chondrichthyes).~~

3. This CMM shall apply to: (i) sharks listed in Annex 1 of the 1982 Convention and (ii) any other sharks caught in association with fisheries managed under the WCPF Convention ~~whether: (i) they are target species or not; (ii) they are retained or not; and (iii) the nature of the fishing activity is commercial, recreational or other forms.~~

4. This measure shall apply to the high seas and exclusive economic zones of the Convention Area.

5. [Nothing in this measure shall prejudice the sovereignty and sovereign rights of coastal States, including for traditional fishing activities and the rights of traditional fishers, to apply alternative measures for the purpose of exploring, exploiting, conserving and managing sharks, including any national plan of action for the conservation and management of sharks, within areas under their national jurisdiction.]

[When Commission Members, Cooperating non-Members, and participating Territories (CCMs) apply alternative measures, the CCMs shall annually provide to the

This section has been moved to “I. Definition.”

Australia and EU suggest “This CMM shall apply to sharks caught in association with fisheries managed under the WCPF Convention”, which is supported by Dr. Clarke.

NZ suggests “This CMM shall apply to (i) sharks listed in Annex 1 of the 1982 Convention and (ii) WCPFC Key Shark Species when caught in association with fisheries managed under the WCPF Convention whether they are retained or not” since Chair’s text is too broad.

Chair does not support the suggestion made by Australia and EU because in the past some IATTC Members stated that under this formulation only sharks incidentally caught are subject to regulation and sharks targeted are not. Accordingly, Chair supports NZ’s ideas, but adding “any other” in (ii) for more clarity.

SC14 agrees to this wording noting that this clause further limits the scope of the definition of “shark” to only those species caught by WCPFC fisheries.

PNA insists that the first sentence should be applied to the entire CMM. NZ insists that it should be applied only to the full utilization concept. EU prefers deletion, but if it is to be retained, it supports NZ’s position. Japan supports PNA’s position.

The second sentence could be moved to “Reporting requirements”, but Chair will

Commission, in Part 2 of their annual reports, the description about the measures.]

### III. FAO International Plan of Action for the Conservation and Management of sharks

6. Commission Members, Cooperating non-Members, and participating Territories (CCMs) ~~shall~~ should implement, as appropriate, the FAO International Plan of Action for the Conservation and Management of Sharks (IPOA).

~~7. For implementation of IPOA Sharks, each CCM shall, as appropriate, submit to the Commission a National Plan of Action for sharks that includes:~~

~~(1) details of NPOA objectives;~~

~~(2) species and fleet covered by NPOA as well as catches thereby;~~

~~(3) specific authorisations to fish such as a licence and a TAC or other measure to limit the catch of shark to acceptable levels;~~

~~(4) measures to minimize waste and discards from shark catches, maintain species at or recover it to sustainable levels and encourage the live release of incidental catches of sharks;—~~

~~(5) measures to avoid or reduce catch and maximise live release of species whose~~

suggest how to treat this after seeing a conclusion on the first one.

Australia supports “should.” EU prefers “shall” while saying that if WCPFC develops its own management plan to be implemented by each CCM in a binding manner, the IPOA should be implemented as guidelines. PNA still prefers to retain the current structure, i.e., the “resolve” section for IPOA and NPOA and the “adopt” section for others in order to indicate everything contained in the “resolve” section is non-binding.

Chair considers that implementation of the IPOA is non-binding although it could be implemented in a binding manner if the Members support it. Chair’s impression is that the majority of Members support non-binding. Then, if clarity of the non-binding nature is more important for PNA than the structure itself, perhaps some wording can address its concern. Accordingly, Chair suggests “should implement, as appropriate.”

US still prefers deleting this para, but could support moving this part to “Reporting requirements.” NZ supports keeping this para as well as creating a new para for checking implementation of this CMM. Japan can support either keeping this para or creating a new para for checking implementation of this CMM, but not both of them. PNA doubts the value of creating a new para for checking implementation of this CMM. EU suggests keeping para 6 and deleting para 7, and establishing rules for Members to implement management plans such as para 2 of CMM 2014-05 (Chair assumes that in that case this para would be applied to

~~retention is prohibited by the Commission; and  
(6) work plan and a review process for NPOA implementation.]~~

#### **IV. Full utilization of shark and prohibition of finning**

8. CCMs shall take measures necessary to require that their fishers fully utilize any retained catches of shark. ~~Full utilization is defined as retention by the fishing vessel of all parts of the shark excepting head, guts, and skins, to the point of first landing [or transshipment].—~~

8bis. CCMs shall ensure that no finning is practiced by their fishermen. For this purpose, each CCM shall take the measures contained in para X – XX.

not only LL but also other fisheries). EU further stated that if this idea receives support, they will provide texts.

Given these comments, Chair suggests deleting this para and creating new reporting requirements on implementation of this CMM in “Reporting requirements.” Chair also changed the title of this section.

There is a suggestion that the definition of “full utilization” should be moved to “I. Definition.”

Dr. Clarke suggests that since it is not easy to define “full utilization”, it might be a good idea to encourage full utilization and prohibit finning. EU supports the idea of stating prohibition of finning.

Australia, NZ and US supports deletion of “or transshipment” while Japan and Chinese Taipei supports retaining it.

After considering these points, Chair suggests: (i) moving the second sentence to “I. Definition” (“or transshipment” is still in a bracket); (ii) adding a new sentence (1st sentence in para 8bis) to prohibit “finning”, whose definition is established in “I. Definition”; and (iii) adding a new sentence (2nd sentence in para 8bis) indicating that the measures contained in the following paras are to ensure prohibition of finning. Chair also suggests changing the title.

Please note that (ii) and (iii) are not necessary in the case of Alt 3.

There are four alternatives for measures to ensure full utilization and no finning.

Discussion at TCC14:

TCC14 considered that a fins naturally attached (FNA) policy would be the most practical and implementable option in terms of evaluating and assessing

[Alt 1: proposal by SPC and the US supported by Australia and PNA?

9. CCMs shall require their vessels to land sharks with fins naturally attached to the carcass.]

[Alt 2: proposal from Dr. Clark supported by WWF

~~9 bis. Shark finning, i.e. the practice of removing and retaining all or some of a shark's fins and discarding its carcass at sea, is prohibited.~~

9 ter. In order to implement a prohibition on shark finning as well as ensure better monitoring, enforcement and scientific data collection, fins shall remain naturally attached, fully or partially, to the shark until the first point of landing [~~unless there are extenuating circumstances as described in paragraph 13~~].

10. CCMs with fleets which are not able to practice fins naturally attached as described in paragraph 9 ter, are required to apply for a waiver. [Any fleet requesting a waiver for

compliance. However, some CCMs noted concerns about its implementation from the perspective of fishermen, such as crew safety from frozen fins, separation of product at port for different markets which is difficult if fins are not removed at sea, and lower prices if quantities of meat are left attached to fins. It was recommended to study a document by Gulak et al. (2017) illustrating how FNA is practiced in the United States.

TCC14 indicated that since 2010 it has not been able to assess compliance with the 5% fins to carcass ratio currently included in CMM 2010-07 (see TCC13 para. 312, TCC12 para. 391, TCC11 para. 462). Enforcement at sea was also noted as being problematic. Port inspections of fin to carcass ratios is in effect by some CCMs for domestic fleets. Concerns were noted about the appropriateness of the 5% fins to carcass ratio per se.

Comment on Alt 1 from SC14:

Some state that fins-naturally-attached is the best way to ensure getting proper species identification but others questioned whether species identification at the point of landing are useful.

Some noted that fins-naturally-attached avoids uncertainties associated with ratios. Others noted that there are alternatives to fins-naturally-attached that are not ratio-based.

New 8bis and the definition cover this para.

Comment on Alt 2 from SC14:

Concerns were expressed about how waiver applications would be evaluated, both in terms of what data would be available and how the evaluation process would



landing fins naturally attached shall have an independent observer on board.] The [Scientific Committee and the] Technical and Compliance Committee (TCC) will review the waiver application and draft a recommendation on each waiver application to be forwarded to the Commission for endorsement at the annual meeting. If the waiver application is approved by the Commission, the fleets covered by the waiver may handle sharks according to the procedures outlined in the waiver as an alternative to leaving the fins naturally attached.

10. bis The waiver application shall contain:

- a. A detailed explanation of why the fleet is unable to practice fins naturally attached, including specific operational, economic or other constraints which prevent this practice, and a description of any steps being taken to overcome these constraints.
- b. A description of the options considered by the CCM to implement a ban on shark finning, identification of the preferred option and justification for the preferred option over other alternatives.
- c. Specification of the proposed system for implementing the ban on finning including:
  - i. A description of and rationale for any required quantitative standards such as fins to carcass ratios with a clear statement of the application of standards to live or dressed carcasses, full or partial fin sets, any species-specific considerations, wet or dry weights, any conversion factors, etc.
  - ii. A description of any required operational practices such as cutting, tying, tagging, bagging, etc.
  - iii. A description of record-keeping requirements at sea and upon landing, including species-specific reporting for the WCPFC key shark species.
  - iv. A description of the monitoring system used by the CCM to compile and check these records for the incidence of finning, including the number of annual landing events by location, annual total numbers and weight of sharks and fins

be established (and whether this would need to be done before adoption of the comprehensive shark CMM). There was no agreement on whether the SC would need to be involved in reviewing waiver applications as a standing process, however it was noted that SC would respond on scientific issues if so tasked.

by species, etc.

- v. A description of the inspection system used by the CCM to verify (e.g. through random, periodic audits) that the monitoring system is functioning appropriately, and the number of audits conducted each year.
- vi. A list of past incidences of shark finning detected and a description of the remedial actions taken by the CCM and the vessel(s) and crew(s) involved.
- vii. A commitment to including an independent observer on board as a condition of waiver.

10. ter Those CCMs receiving a waiver must annually submit a report to [\[the SC and TCC\]](#) on the implementation and performance of the waiver conditions. [\[The SC and TCC\]](#) shall annually review these reports along with any other relevant information (e.g. national MCS programme data, WCPFC high seas boarding and inspection programme reports, Port State measures data, transshipment reports, etc.) and if any of the following concerns are identified [\[the SC and TCC\]](#) shall refer the matter to the Commission for possible revocation of the waiver:

- a. There is insufficient reporting against the conditions in the waiver;
- b. There is insufficient species-specific data on the number of shark carcasses and fins landed for the WCPFC key shark species;
- c. There is inadequate performance data for the national monitoring, inspection and enforcement programme, including the number of landings monitored, the number of audits conducted and the number of non-compliances observed and actioned (if necessary);
- d. There is reason to doubt that the national monitoring, inspection and enforcement programme is capable of preventing shark finning;
- e. The CCM holding the waiver is found to have violated the ban on shark finning and has not taken sufficient corrective action.]

[Alt 3: proposal by New Zealand

See the SC comment above.

See the SC comment above.

See the SC comment above.

9. CCMs shall take measures to ensure that their fishers fully utilize any retained catches of sharks.

10. CCMs shall prohibit the practice of shark finning, defined as the removal of the fins from a shark and the disposal of the remainder of the carcass at sea.

10 bis. CCMs shall prohibit transshipment of shark products unless they are being landed with fins naturally attached.

10 ter. CCMs shall prohibit their vessels from landing the fins of any species of shark unless the fins are landed in association with the remainder of the carcass.

11. For the purposes of para 10ter, ‘in association’ is defined as being either naturally attached or meeting all conditions set out below:

a) For fins that are not landed naturally attached to the remainder of the shark:

(i) The pectoral fins, dorsal, and whole caudal fins shall all be landed

(ii) All fins shall be landed ‘wet’<sup>1</sup>;

(iii) Fins and carcasses shall be stored on board separated by species;

(iv) Fins and carcasses shall be offloaded together at the same point of landing;

and

(v) The ratio of the weight of the landed fins to the green weight of the shark shall not exceed the species-specific ratio agreed by the Commission following advice from the Scientific Committee. In the absence of an agreed species-specific ratio, a ratio of no more than 5% shall be applied.]

[Alt 4: proposal by Japan

9. In 2019, 2020 and 2021, as an interim measure, CCMs shall require their vessels to land sharks with fins naturally attached to the carcass or compatible measures to

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<sup>1</sup> ‘Wet’ is defined as ‘fins that have not undergone any drying and have not been air blast frozen’.

implement the obligations in paragraph 8.

10. All CCMs shall report on the implementation of the measures in paragraph 9 no later than 30 July each year for review by TCC. The report by CCMs shall contain the detailed explanation of implementation of paragraph 9 including how the compliance can be monitored. The TCC in 2021 shall recommend the measures for 2022 and thereafter to implement the obligations in paragraph 8 to be adopted in the Commission.]

11. CCMs shall take measures necessary to prohibit their fishing vessels from retaining on board (including for crew consumption), transshipping, landing, [or trading] any fins harvested in contravention of this CMM.

#### **V. Minimizing bycatch and practicing safe release**

12. For longline fisheries [targeting] [fishing for] tuna and billfish, CCMs shall ensure that their vessels [comply with at least one of the following options:

Japan suggests deleting “or trading” since it is impossible to trade if retaining, transshipping and landing are prohibited. EU, Australia and SPC want to retain it.

Dr. Clarke suggests adding “practicing”, and Chair agrees.

SPC suggests changing the title to “Minimizing bycatch, live release and safe handling of sharks”. Chair considers that the concept of safe release can cover both live release and safe handling.

Australia wants to clarify that the purpose of this section is: (i) minimize bycatch; (ii) minimize mortality; and (iii) safe release or safe practice. Chair is not sure whether or not Australia suggests changing the title. Chair agrees that (i) and (iii) should be covered by this section, but whether (ii) is covered or not depends on para 12. If para 12. (1) becomes mandatory, (ii) will be covered. Thus, Chair keeps the title suggested by Dr. Clarke until discussion on para 12 is concluded.

EU suggests replacing “targeting” with “fishing for” since it is not easy to define “targeting” (or should be defined if it is to be used).

- (1) do not use or carry wire trace as branch lines or leaders; or/and]
- (2) do not use branch lines running directly off the longline floats or drop lines, known as shark lines. See Annex 1 for a schematic diagram of a shark line.

[12bis. The implementation of the measures contained in paragraph 12 above shall be on a vessel by vessel basis/fleet by fleet basis/CCM basis]. Each CCM shall notify the Commission of its implementation plan by March 31, 2019 and thereafter whenever the plan is amended.]

13. ~~[Alt 1: In fisheries for tunas and tuna-like species that are not directed at sharks, CCMs shall take measures to [encourageensure] the release of live sharks that are caught incidentally and are not used for food or other purposes.]~~

~~[Alt 2: [Where sharks are unwanted bycatch, sharks shouldshall be released alive using techniques that result in minimal harm.]~~

Chair considers that “targeting” is used in CMM 2014-05 and does not see difference between “targeting” and “fishing for.” Chair needs to hear other views.

Australia, PNA, SPREP, SPC, WWF support making both (1) and (2) mandatory. Japan, US, and Chinese Taipei want to keep the current structure, which means that one of them should be mandatory.

PNA also suggests that if the current structure is retained, each CCM shall report which option is used by its fleet.

Regarding the question on whether the implementation of this measure shall be on a vessel by vessel basis, a fleet basis or a national basis, Japan understands that this is a vessel by vessel basis. Chinese Taipei agrees to Chair’s view that this could be on a vessel by vessel basis, but each CCM could choose either one for its entire fleet. On the other hand, NZ considers that this should be a national choice by fleet, stating that how to implement this requirement shall be explained in the national report. Chinese Taipei points out that part 2 of the annual report is already supposed to explain implementation of this measure. SPC suggests adding a notification requirement by March 31, 2019 rather than a reporting one. Chair considers that if a requirement is to use either one, then each CCM shall report the implementation or notify its intention. Chair considers that from the enforcement perspective, there must be a notification. Accordingly, Chair takes the suggestion by SPC and suggests an additional sentence as para 12bis.

Australia, EU and SPC prefer Alt 2. NZ also prefers Alt 2, but suggests replacing “shall” with “should” since it would not be possible to release all unwanted sharks alive. This is supported by Japan, US and Chinese Taipei.

Chair suggests taking Alt 2 with “shall” being replaced with “should”, but considers that this para may not be necessary if the next para is retained.

[14. CCMs and the SC shall continue work on bycatch mitigation measures and live release guidelines to ~~avoid the catch of sharks, and~~ maximize the number of release of live sharks that are caught incidentally ~~caught individual and are not used~~that can be released alive. CCMs [~~should encourage~~shall ensure that] their fishing vessels [~~to~~] use any Commission adopted guidelines for the safe release and handling of sharks. ]

SPC suggests retaining “avoid the catch of sharks” with “catch” to be replaced with “capture.”

Chair considers that the problems of this phrase is that it sounds like catch of shark should be avoided, which is not shared by some CCMs. Chair still prefers deletion.

NZ suggests “maximize the number of release of live sharks that are caught incidentally and are not used” to “maximize the survival of sharks that are caught and are not used.”

Chair considers that this is OK, including deletion of “incidentally” because fishermen may not want to retain it even when they target it.

Australia suggests an alternative text, “For sharks that are unwanted bycatch, the Commission shall develop and adopt guidelines for their live release using techniques that result in minimal harm to the shark and promote its subsequent survival.”

Chair considers that “the Commission” is better than “CCMs and the SC”, but “using techniques that result in minimal harm to the shark” is redundant because this should be considered in developing guidelines and the concept of survival can cover this.

Regarding the 2nd sentence, while SPC supports the change from “should encourage” to “shall ensure”, US prefers “should encourage” until live release guidelines are developed, which is supported by Japan. Chinese Taipei points out that while “the Safe release guidelines for whale sharks” is binding, “the Safe release guidelines for mantas and mobulid rays” is not, suggesting deletion of this sentence since para 17 (6) can address binding implementation of “the Safe release guidelines for whale sharks.”

SC14 established draft best handling practices for the safe release of sharks (other than whale sharks and mantas/mobulids). Chair assumes that the Guidelines will be adopted at WCPFC15.

[New 14. The Commission shall adopt bycatch mitigation measures and amend, if necessary, the Shark Safe Release Guidelines (Best Handling Practices for the Safe Release of Sharks (other than Whale Sharks and Mantas/Mobuilds) to maximize the survival of sharks that are caught and are not used. CCMs should encourage their fishing vessels to use any Commission adopted guidelines for the safe release and handling of sharks.]

14bis. CCMs shall ensure that sharks that are caught and are not used be hauled alongside the vessel before being cut free in order to facilitate a species identification. This requirement shall only apply when an observer or electronic monitoring camera is present, and should only be implemented taking into consideration the safety of the crew and observer.

15. ~~The d~~Development of new WCPFC guidelines or amendment to existing guidelines for safe release of sharks should take into account the health and safety of the crew.

Taking all of these into account, Chair suggests a new para 14 as an alternative to para 14.

Comment form SC14 and TCC14:

SC14 established draft best handling practices for the safe release of sharks as non-binding guidelines, and agreed to refer to it as a separate document in the draft CMM for shark.

TCC14 recommended that this be adopted at WCPFC15.

TCC14 suggested that para 561 of the SC 14 Summary Report should be incorporated. Accordingly, Chair added a new text as shown in 14bis, keeping consistency with new para 14. Please note that Chair deleted “When adopted by the Commission, the guidelines for safe release of sharks and rays may be a useful guide for this activity.” from para 561 of the SC 14 Summary Report since this sentence is no longer needed with para 14bis.

American Tunaboat Association suggests as an alternative “CCMs should take into account WCPFC guidelines for safe release of sharks, including elements relating to the health and safety of the crew.” Japan supports keeping this as an independent para since this is very important.

Regarding the suggested text by American Tunaboat Association, Chair considers that there are two points here: (i) guidelines should take into account the health and safety of the crew; and (ii) each CCM should implement guidelines. The first point is addressed in this para, and the second point is addressed in new para 14.

Assuming that the Shark Safe Release Guidelines, which include a paragraph on safety of the crew, will be adopted at WCPFC15, Chair suggests some modifications to para 15 as shown.

## VI. Species specific requirements

### 16. Oceanic whitetip shark and silky shark

- (1) CCMs shall prohibit vessels flying their flag and vessels under charter arrangements to the CCM from retaining on board, transshipping, [~~storing on a fishing vessel,~~] or landing [~~and trading~~] any oceanic whitetip shark, or silky shark caught in the Convention Area, in whole or in part, in the fisheries covered by the Convention.
- (2) CCMs shall require all vessels flying their flag and vessels under charter arrangements to the CCM to release any oceanic whitetip shark or silky shark that is caught as soon as possible after the shark is brought alongside the vessel, and to do so in a manner that results in as little harm to the shark as possible, following any applicable safe release guidelines for these species.
- (3) [Notwithstanding (1) and (2), in the case of whitetip shark and silky shark that are unintentionally caught and frozen as part of a purse seine vessels' operation, the vessel must surrender the whole whitetip shark and silky shark to the responsible governmental authorities [~~or discard them~~] at the point of landing [~~and transshipment~~] [~~unless such surrender or discard is prohibited by the relevant laws of the Member where the catch is unloaded or transshipped~~]. [Whitetip shark and silky shark surrendered in this manner may not be sold or bartered but may be donated for purpose of domestic human consumption.]]

NZ suggests dividing this section into “Mitigation” and “Non-retention” as well as creating a new section “Catch limit” (please see the first page for NZ’s proposal to restructure the entire text and Chair’s response).

Chair suggests that consideration be given to whether “Catch limit section” should be established independently or catch limit regulations should be incorporated into the species specific section when the Commission establishes such limits.

While Japan wants to delete these words, SPC and EU want to keep them.

PNA does not support this para since it is not consistent with the laws and practice of some PNA Members and difficulties with interpretation of “unintentionally” would make such a provision unenforceable. SPC supports deletion. NZ suggests deleting the last sentence as this is a valid problem. Japan suggests adding an option of discard in addition to surrendering such products to the government as doing so all the time is too much burden. Japan also suggests adding “and transshipped” since unintentionally caught sharks may be found at in-port transshipment. EU questions how to implement this (discard). Chinese Taipei agrees to Japan, but poses a question on whether this should be “and transshipment” or “or transshipment.”



(4) Observers shall be allowed to collect biological samples from oceanic whitetip sharks and silky shark caught in the Convention Area that are dead on haulback in the WCPO, provided that the samples are part of a research project of that CCM or the SC. In the case that sampling is conducted as a CCM project, that CCM shall report it in the annual report.

#### 17. Whale shark

(1) CCMs shall prohibit their flagged vessels from setting a purse seine on a school of tuna associated with a whale shark if the animal is sighted prior to the commencement of the set.

American Tunaboat Association, while agreeing with Japan's suggestions, suggests adding several words to address the point of inconsistency with a Member's laws (highlighted part: unless such surrender or discard...). American Tunaboat Association also pointed out that any sharks found in a purse seiner's tuna wells are unintentionally there and not wanted, but it is impossible to ensure that there would never be a small shark accidentally in the well due to the fast moving brailing operation.

Chair considers that if there is any way to avoid accidental catch of whitetip or silky sharks, which will then be put into fish holds of purse seiners, this should be discussed first. In this sense, PNA could explain how their Members are avoiding such bycatch.

NZ suggests keeping "provided that the samples are part of a research project approved by the SC" in order to prevent any loopholes, which is supported by SPC.

Chair considers that shark scientists from each CCM may want to request observers to take some samples for their study, but if they have to get an approval of the SC regardless of the sample size, it will be cumbersome for both the scientists and the SC. At the same time, some transparency will be required to prevent loopholes. Accordingly, Chair suggests the text shown. Chair also suggests adding the same reporting requirement in "Reporting requirement." SC 14 supports the proposed wording change.

- (2) CCMs shall prohibit vessels flying their flag and vessels under charter arrangements to the CCM from retaining on board, transshipping, or landing any whale shark caught in the Convention Area, in whole or in part, in the fisheries covered by the Convention.
- (3) For fishing activities in Parties to Nauru Agreement (PNA) exclusive economic zones, the prohibition shall be implemented in accordance with the Third Arrangement implementing the Nauru Agreement as amended on 11 September 2010.
- (4) Notwithstanding sub-paragraph (1) above, for fishing activities in exclusive economic zones of CCMs north of 30 N, CCMs shall implement either this measure or compatible measures consistent with the obligations under this measure. [Alt 1 PNA: When CCMs apply compatible measures, the CCMs shall annually provide to the Commission, in Part 2 of their annual report, the description about the measure.] [Alt 2 SPC: Until such time as these compatible measures have been accepted by the WCPFC, sub-paras 1, 5-8 in this para shall apply.]
- (5) CCMs shall require that, in the event that a whale shark is incidentally encircled in the purse seine net, the master of the vessel shall:
- (a) ensure that all reasonable steps are taken to ensure its safe release.; and
  - (b) report the incident to the relevant authority of the flag State~~[-, including the number of individuals, details of how and why the encirclement happened, where it occurred, steps taken to ensure safe release, and an assessment of the life status of the whale shark on release (including whether the animal was released alive but subsequently died).]~~
- (6) [In taking steps to ensure the safe release of the whale shark as required under sub-paragraph (5)(a) above, CCMs shall require the master of the vessel to follow the

SPC supports Alt 1 which replaces Alt 2. EU supports Alt 2.  
Please note that PNA's suggestion is closely related to how to deal with para 5.

NZ suggests moving the deleted part to "VI. Reporting requirements" and making it also a mandatory reporting requirement in the national report in addition to reporting to the flag CCM. NZ further suggests incorporating this reporting requirement in WCPFC Key Document Data-01 (Chair assumes that if this happens, this reporting requirement does not have to stay in this CMM.). Chair considers that NZ's suggestion will change the nature of this para, and thus puts it in a bracket for further discussion.

US seems to suggest making this provision non-mandatory and stresses that the Guidelines should be reviewed scientifically.

<p>WCPFC Guidelines for the Safe Release of Encircled Whale Sharks (WCPFC Key Document SC-10)<sup>2</sup>. ]</p> <p>(7) In applying steps under sub-paragraphs (1), (5)(a) and (6), the safety of the crew shall remain paramount.</p> <p>(8) The Secretariat shall report on the implementation of this paragraph on the basis of observer reports, as part of the Annual Report on the Regional Observer Programme.</p>	<p>Chair put this in a bracket and requested SC14 to review the Guidelines. However, a response from SC14 is that SC14 believes that “shall” vs “should” is not a scientific issue, but notes that better science is needed to determine best practice.</p> <p>Chair suggests that WCPFC should first decide whether the Guidelines for the Safe Release of Encircled Whale Sharks should be scientifically reviewed and if so decided, SC will do it.</p>
<p>18. <u>Manta</u>s and <u>Mobulid</u>s</p> <p>(1) CCMs shall <u>[ensure that their fishing vessels use][ give due consideration to]</u> the Guidelines for Best Handling Practices for the Safe Release of Manta and Mobulid (WCPFC Key Document SC-13).]</p> <p><u>[(1) bis CCMs shall prohibit vessels flying their flag and vessels under charter arrangements to the CCM from retaining on board, transshipping, or landing any mantas and mobulas caught in the Convention Area, in whole or in part, in the fisheries covered by the Convention.]</u></p> <p><del>-(2) CCMs shall record where possible, through observer programmes following the Regional Observer Programme Minimum Standard Data Fields, the number of</del></p>	<p>Dr. Clarke suggests “Mantas and Mobuilds.”</p> <p>Chair agrees.</p> <p>Japan supports “give due consideration to” since the nature of these Guidelines are non-binding.</p> <p>This is originally a proposal by NZ. US and Japan do not support this new para while EU hopes that this provision will be adopted as a new regulation by the Commission.</p> <p>US, NZ and Dr. Clarke suggest deleting this para while EU suggests making this a general obligation for all shark species and moving this to “VI. Reporting</p>

<sup>2</sup> Originally adopted on 8 December 2015. The title of this decision was amended through the Commission decision at WCPFC13, through adopting the SC12 Summary Report which contains in paragraph 742: “SC12 agreed to change the title of ‘Guidelines for the safe release of encircled animals, including whale sharks’ to ‘Guidelines for the safe release of encircled whale sharks’.”

<p><del>discards and release of Manta and Mobulid rays with indication of species (to the extent possible), length, sex, status (dead or alive) and location caught.</del></p> <p>(3) Manta and Mobulid shall be considered WCPFC Key Shark Species for Assessment<sup>3</sup> and thus incorporated into the WCPFC’s Shark Research Plan, noting that data gaps may preclude a traditional stock assessment approach.</p> <p><del>If SC14 establishes species specific safe release guidelines, a new sentence will be inserted in this section in reference to this.</del></p> <p><b>VII. Reporting requirements</b></p> <p>19. Each CCM shall submit data on the WCPFC Key Shark Species<sup>4</sup> for Data Provision in accordance with Scientific Data to be Provided to the Commission (WCPFC Key Document Data-01).</p> <p>20. CCMs shall advise the Commission (in Part 1 of their Annual Report) on:</p> <p>(1) the estimated number of releases of oceanic whitetip shark and silky shark caught in the Convention Area, including the status upon release (dead or alive), through data collected from observer programs and other means; and</p>	<p>requirements”. Although Chair asked others to provide comments, no one did so. Chair suggests deleting this para.</p> <p><u>Comment from SC14:</u> Instead of species specific guideline, SC14 developed draft best handling practices for the safe release of shark, as general guidelines. When additional species specific guidelines are developed, another heading to identify which species these guidelines would apply to is necessary.</p> <p>PNA and SPC can support Chair’s suggested text as shown.</p> <p>EU supports the proposal by SPREP on “No data, no fish.” Chair needs to see a text.</p>
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<sup>3</sup> The WCPFC Key Shark Species for Assessment are those species to be included in the WCPFC’s Shark Research Plan per the Process for Designating WCPFC Key Shark Species for Data Provision and Assessment (WCPFC Key Document SC-08).

<sup>4</sup> The WCPFC Key Shark Species for Data Provision are designated per the Process for Designating WCPFC Key Shark Species for Data Provision and Assessment (WCPFC Key Document SC-08) and are listed in Scientific Data to be Provided to the Commission (WCPFC Key Document Data-01).

~~[(2) any instances in which whale sharks have been encircled by the purse seine nets of their flagged vessels, including the details required under paragraph 17(5)(b) above.]~~

21. CCMs shall advise the Commission (in Part 2 of their Annual Report) on: implementation of this CMM in accordance with Annex 2.

~~[(1) results of their assessment of the need for a National Plan of Action;~~

~~(2) the status of their National Plan of Action for the Conservation and Management of Sharks, including a reference to the Plan, if appropriate;~~

~~(3) other actions to support implementation of the IPOA Sharks;]~~

~~—(4) measures taken in accordance with paragraph 21. (3); and—~~

~~(5) the implementation of this CMM and any alternative measures adopted under paragraph 16~~

### **VIII. Research**

22. CCMs shall as appropriate, support research and development of strategies for the avoidance of unwanted shark captures (e.g. chemical, magnetic and other shark deterrents), safe release guidelines, biology and ecology of sharks, identification of nursery grounds, gear selectivity, assessment methods and other priorities listed under the WCPFC Shark Research Plan.

23. The SC shall periodically provide advice on the stock status of key shark species for assessment and maintain a WCPFC Shark Research Plan for the assessment of the status of these stocks. If possible, this should be done in conjunction with the Inter-American Tropical Tuna Commission.

### **IX. Capacity building**

NZ and PNA supports incorporating this into Scientific Data to be Provided to the Commission (Data-01).

Chair suggests deleting this para on the condition that this will be incorporated there. Until that time, Chair puts this in a bracket.

Chair suggests creating new reporting requirements on implementation of this CMM. Chair suggests establishing a template (Annex 2) for such reporting. What should be included in Annex 2 is subject to further discussion.

[24. The Commission [shall/should] consider appropriate assistance to developing State Members and participating Territories for the implementation of the IPOA and collection of data on retained and discarded shark catches.]

[Alt by NZ: CCMs shall cooperate, consistent with national laws and regulations, directly or through the Commission, and in accordance with their capabilities, to actively support SIDS and Territories through the provision of assistance in implementation of the IPOA, including development of NPOAs and collection of data on retained and discarded shark catches.]

25. The Commission shall consider appropriate assistance to developing State Members and participating Territories for the implementation of this measure, including supplying species identification guides for their fleets and guidelines and training for the safe release of sharks, and including, in accordance with Article 7 of the Convention, in areas under national jurisdiction.

#### **X. Review**

26. On the basis of advice from the SC and/or the TCC, the Commission shall review the implementation and effectiveness of this CMM, including species specific measures, taking into account, *inter alia*, any recommendation from the SC or TCC, [within five years of adoption], and amend it as appropriate.

27. This CMM shall replace CMM 2010-07, 2011-04, 2012-04, 2013-08, and 2014-05.

US suggests reverting “shall” to “should”.

Chair puts it in a bracket although “shall consider” should be OK. Since no one provided comments on this, this will continue to be in a bracket..

NZ suggests a different formulation (Alt), taking into account CMM 2017-04 para 8. EU supports this.

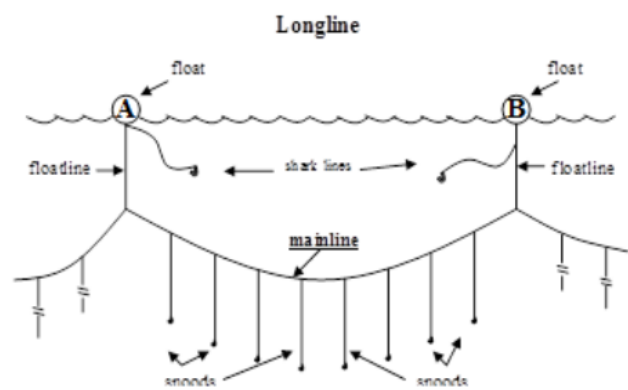
Chair considers that this is closely related to how to deal with IPOA and NPOAs. Chair needs to see the settlement of this issue first.

Japan suggests adding “taking into account the results of stock assessment.” EU states that this CMM shall be reviewed anyway if the SC or TCC sends any recommendation.

Accordingly, Chair suggests the text shown.

NZ suggests “within five years of adoption”, but EU considers that 5 years is too long and suggests 2 or 3 years.

Annex 1: Schematic diagram of a shark line



Annex2: Template for reporting implementation of this CMM

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