



## **HSI's response to the consultation on the amendment of Council Regulation (EC) 1185/2003 on the removal of fins of sharks on board vessels**

Humane Society International (HSI) thanks the Commission for this opportunity to comment on the proposed options for amendments to the shark finning regulations. HSI is aware that a number of other organisations will be responding to this consultation and will undoubtedly provide detailed comments on the global status of sharks and on that of species found in EU waters or fished by EU fleets. For that reason, HSI's submission will focus primarily on the inadequacy of the 5% rule, particularly when shark meat and fins are landed at separate ports. We will also comment on some of the objections to landing sharks with their fins attached that have been raised by some Member States.

### **1. Introduction**

The EU's current shark finning regulations (Regulation (EC) No 1185/2003) were adopted in 2003, after a two-year campaign conducted by NGOs. The EU is responsible for a huge proportion of the world's shark catches, - the largest, according to some sources and, to others, second only to Indonesia. Yet, until very recently, most EU shark fisheries were unregulated, and much of its shark catch went unreported. There were few TACs or quotas, even for species clearly in decline. Population assessments were virtually absent – a situation that has improved only slightly since 2003, partly as a result of ICCAT agreements.

Sadly, since 2003, the EU has done nothing to strengthen or widen the adoption and implementation of finning regulations either within the Community or in international fora such as the RFMOs. Indeed, it has strenuously resisted the adoption of meaningful language at a number of RFMO meetings since then. The language in the ICCAT Recommendation (2004) to ban finning was weakened by the EU so that it refers only to a 5% weight ratio without specifying that it should be 5% of dressed weight. Further obstruction occurred at the IOTC meeting in 2009, when the EU attempted to promote the use of plastic bags in which to place fins severed on board, so that they could somehow be “attached” to the carcass.

The current consultation period presents the Commission with an opportunity to be proactive rather than reactive, and to take its place amongst the growing number of countries that have adopted fins-attached regulations. Such a move, without exception or exemption, would be very much in line with the views of the European Parliament. A Written Declaration in support of fins-naturally-attached regulations was recently signed by 423 of the Parliament's 736 MEPs, resulting in the Parliament's adoption of a Resolution urging the Commission to deliver a proposal to prohibit the removal of shark fins on-board vessels without exception.

In recent years, other bodies have recommended the fins-naturally-attached method of enforcing finning bans: the UN General Assembly (2007), the IUCN World Conservation Congress (2008) and the UN Fish Stocks Agreement Review Conference (2010).<sup>1</sup>

### **2. Problems with the current regulation**

HSI's comments, below, relate to vessels that have obtained a Special Fishing Permit. Text in italics is taken verbatim from the consultation document.

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<sup>1</sup> Fowler, S. and Séret, B. 2010. Shark fins in Europe: Implications for reforming the EU finning ban. European Elasmobranch Association and IUCN Shark Specialist Group.  
[http://cmsdata.iucn.org/downloads/sharks\\_fins\\_in\\_europe\\_implications\\_for\\_reforming\\_the\\_eu\\_finning\\_ban.pdf](http://cmsdata.iucn.org/downloads/sharks_fins_in_europe_implications_for_reforming_the_eu_finning_ban.pdf)



## 2.1. Separate ports

HSI regards the provision allowing carcasses and fins to be landed at separate ports to be the weakest aspect of the current regulation. As the consultation document itself says:

*“The current system permits processed shark carcasses and fins to be landed in separate ports at separate times, making it impossible for inspectors to be certain that finning has not occurred, and impossible to measure the weight ratio”.*

A finning “ban” whose provisions do not actually allow inspectors to assess compliance or to be sure that finning has not occurred is, clearly, a pointless regulation, yet it has been in place for more than seven years. HSI believes that it is naïve in the extreme to assume that, in the absence of any kind of enforcement, EU vessels - particularly those that land their catch at numerous ports around the world - are not finning sharks.

Industry representatives (UK and Spain) have confirmed to HSI that, when shark meat and fins are landed at separate ports, the only method of assessing compliance is by checking the logbooks. With shark fins fetching extremely high prices, reliance on logbook entries is not, in our opinion, a satisfactory method of checking compliance.

The official Taiwanese import statistics for 2009 and 2010 show that frozen shark fins from Spain – ranked as Taiwan’s No.1 source of fins - were valued at USD 3.0 and USD 3.8 per kilogramme, and that dried shark fin imports from Spain were valued at between USD 159 and USD 171 per kilogramme. The enormous difference in these prices (even when taking into account the significant loss of weight resulting from drying the fins) provides a major incentive to remove and dry the fins on deck. The total value of Spain’s shark fin exports to Taiwan for 2007-2010 (to November) was USD 3.24 million.<sup>2</sup>

Far higher revenues accrue from exports to Hong Kong and mainland China, which account for the vast majority of shark fin imports from around the world. *After China, Spain is the second largest exporter of shark fins to the Hong Kong market and is responsible for around 10% of the shark fins traded there*, according to the consultation document. Certainly, over the past 10 years Spain has consistently been in the top seven exporters to almost all major markets, including Hong Kong SAR, PR China and Taiwan POC.<sup>3</sup>

According to Oceana, Spain was the top exporter of fins to Hong Kong SAR in 2008, exporting a total of 2,646,442 kilogrammes across a range of shark fin commodity codes, well ahead of its nearest rival Singapore, at 1,201,236 kilogrammes.<sup>4</sup> While no EU Member State has ever admitted to finning sharks, it appears strange that, while it catches only 7.2% of the total global shark catch, Spain exported almost 27% of Hong Kong’s total shark fin imports for that year. In other years, too, Spain’s exports to the main markets in mainland China and Hong Kong appear disproportionate to its percentage of the global shark catch.

It should be borne in mind that a number of countries import and re-export shark fins and that a number of countries with insignificant shark catches export a large volume of fins (Singapore would be an example of this). It is also the case that the species caught by different fleets vary considerably, with some fleets targeting species with fins that do not figure greatly in the shark fin trade. Nonetheless, the discrepancy between Spain’s shark catch as a proportion of the global total and its percentage of global exports to Hong Kong would seem to indicate finning, particularly since Spain also exports huge quantities of fins to mainland China and a smaller amount to Taiwan POC, among others.

<sup>2</sup> Taiwan Bureau of Foreign Trade. <http://cus93.trade.gov.tw/ENGLISH/FSCE>

<sup>3</sup> World Trade Atlas 1996 – 2005 shark fin imports into Hong Kong and China

<sup>4</sup> Oceana, 2008. From Head to Tail: how European nations commercialise shark products

[http://na.oceana.org/sites/default/files/o/fileadmin/oceana/uploads/europe/reports/From\\_Head\\_To\\_Tail.pdf](http://na.oceana.org/sites/default/files/o/fileadmin/oceana/uploads/europe/reports/From_Head_To_Tail.pdf)



## **The 5% rule**

### **i) The weight ratio**

The consultation document sets out very clearly the numerous problems associated with this method of enforcement.

Firstly, the current regulations permit shark fins removed onboard to weigh up to 5% of the live weight of the shark. This ratio has been widely criticised over the years as being too generous. The consultation document itself points out that *“the dressed weight (of a shark) may be 30 to 50% less than the live weight”*. This, in effect, means that, under the EU’s current finning “ban”, EU fleets can continue to fin sharks in very large numbers.

Certainly, data from both the US and Australia would suggest that the high EU ratio is influenced by other factors, such as the method of cutting the fins. The consultation document makes reference to Spain’s argument that the ratio *“should be raised to 6.5% for fleets catching mostly blue shark and using a cutting method which retains more meat on the fin than methods employed by other fleets”*.

If the 5% rule is to remain, which is inadvisable, it should relate to the dressed weight of the shark, not to the live weight. HSI suggests that Spain should change the cutting method it uses, to bring it into line with that employed by other fleets both within and beyond the EU. Generally, it would seem more equitable for one Member State to make a minor alteration to its cutting method than for the great majority of Member States to be compelled to maintain a weak regulation in order to accommodate one Member State’s requirements, particularly since those requirements result in a loophole that facilitates finning.

Of equal importance to the choice of weight ratio is the issue of enforcement. Some countries have adopted a 5%-fin-to-dressed-weight ratio, but HSI would question the extent to which this is being enforced. In the United States, which initially adopted the 5% rule when it banned finning in 2000, it was reported that the weighing of the fins and carcasses was rarely, if ever, carried out by an independent inspector: the job was left to the shark traders.<sup>5</sup> Whether these traders actually weighed the fins and carcasses is unknown but it would not be at all surprising if the task was considered too time-consuming. This is one of the reasons why fins-attached regulations were later adopted in that country. If the 5% rule were to remain in place, HSI is deeply sceptical about the level of monitoring that would take place, not only within the EU but in the numerous countries where EU vessels land their shark catch.

With the fins-naturally-attached option, the task of assessing compliance would be much easier and would take only a fraction of the time. Violations would be considerably easier to spot.

### **ii) Data-collection**

As stated in the consultation document, *“on-board processing hampers the inspectors’ ability to collect and/or verify data such as species identification, catch composition, age/size population structure etc., which are vital to assessing population size and structure, as well as for developing management and conservation measures”*.

The lack of accurate, species-specific data has long been a major obstacle to shark conservation worldwide. The need for the EU to assert control over its shark fisheries is now a matter of urgency. In 2008, the World Conservation Union (IUCN) reported that the European region was home to the highest percentage of Threatened elasmobranch species of any assessed region to date: approximately one-third of European shark and ray

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<sup>5</sup> Pers comm. NOAA enforcement personnel to HSI, 2007



populations are Threatened with extinction.<sup>6</sup> Even those (heavily fished) species that are commonly described by some Member States as “abundant”, for example the blue shark (Near Threatened; Vulnerable in North Atlantic) and the shortfin mako shark (Vulnerable), are now subject to scrutiny by the ICCAT Standing Committee on Research and Statistics (SCRS), which has concluded (in both 2004 and 2008) that North Atlantic stocks shortfin mako shark stocks are probably below the biomass that supports MSY (maximum sustainable yield) and above the fishing mortality rate associated with MSY.<sup>7</sup>

One-third of pelagic sharks, also, are now Threatened with extinction.<sup>8</sup> Significant volumes of these sharks, blue and mako sharks in particular, are taken in EU high seas fisheries in the Atlantic, Pacific and Indian Oceans, and it is no longer considered that sharks are simply taken as bycatch in these fisheries. Longline catches of pelagic sharks are “*as large as or larger than the catch of tuna and swordfish*” and most longliners now also target sharks.

HSI appreciates the EU’s efforts to secure conservation measures for some pelagic shark species within ICCAT, and we would suggest that its work in all the major RFMOs would be complemented by a finning regulation that required fins-attached landings. This would greatly enhance the collection of species-specific data and would put the EU in a stronger position to advocate for sound, science-based decisions to be made within these fora.

### **3. Objections raised by industry**

#### **i) Frozen shark fins are dangerous to handle and can cause injury**

The experience of Costa Rica, where frozen sharks are landed with their fins still naturally attached but partially cut so that they lie flat across the body, indicates that this is not an issue. Indeed, it would seem more likely that using sharp knives to remove fins from (often living) sharks onboard a fishing vessel would present a far greater threat of injury than removing fins from a dead, frozen shark.

#### **ii) Processing shark carcasses at port means that the cold chain gets broken**

There may be ports where the time lag between offloading and processing sharks and storing them in freezers is fairly lengthy. However, this is not an insurmountable problem. HSI is of the view that it is up to the industry to ensure that the right conditions prevail wherever sharks are landed. Relatively minor adjustments would need to be made to ensure that the temperature of the carcasses did not rise above the desired point. When it comes to fins, the issue of breaking the cold chain affects only frozen, not dried fins.

#### **iii) At some ports, conditions are such that sharks would have to be processed in “unhygienic” conditions.**

Conditions on the deck of a boat where sharks have been beheaded, finned and gutted, perhaps over a period of years, are unlikely to be any more hygienic than conditions at many ports.

#### **iv) Processing carcasses at port means that the products lose their Community status**

While the loss of Community status may result in a reduction in profits for the industry in some Member States, this is not a compelling enough reason to delay the adoption of fins-naturally-attached regulations.

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<sup>6</sup> IUCN World Conservation Congress (2008) Resolution

[http://intranet.iucn.org/webfiles/doc/IUCNPolicy/Resolutions/2008\\_WCC\\_4/English/REC/rec\\_4\\_112\\_an\\_effective\\_european\\_plan\\_of\\_action\\_for\\_sharks\\_.pdf](http://intranet.iucn.org/webfiles/doc/IUCNPolicy/Resolutions/2008_WCC_4/English/REC/rec_4_112_an_effective_european_plan_of_action_for_sharks_.pdf)

<sup>7</sup> SCRS/2008/017 – SHK Assessment. Report of the 2008 shark stock assessments meeting (*Madrid, Spain, 1-5 September, 2008*). [http://www.iccat.int/Documents/Meetings/Docs/2008\\_SHK\\_Report.pdf](http://www.iccat.int/Documents/Meetings/Docs/2008_SHK_Report.pdf)

<sup>8</sup> IUCN, 2009 International news release. Third of open ocean sharks threatened with extinction. 25 June 2009 <http://www.iucn.org/?3362/Third-of-open-ocean-sharks-threatened-with-extinction>



It is over-optimistic to expect conservation to have no associated costs and, in any case, the long-term future of the world's sharks should not be held to ransom because of the desire of some commercial operators to avoid paying taxes.

#### **4. Final remarks**

The EU's Common Fisheries Policy mandates a precautionary and ecosystem-based approach to fisheries management.<sup>9</sup> This should ensure that sharks, apex predators that are highly vulnerable to over-fishing, are afforded the highest possible level of precautionary management. The fact that, according to the consultation document "*some finning might be occurring, but the extent and frequency are difficult to determine*" should not deter the Commission from making strenuous efforts to ensure that it fulfils the stated policy objective of this review of the finning regulations – "*to ensure that there is no margin for shark finning to occur*".

In the consultation document, the Commission has, in many ways, answered its own questions. The rationale for a regulation requiring fins-naturally-attached landings could not be set out more clearly than it is in the text of the Commission's own document.

The question that remains is whether the Commission believes that a relatively small amount of inconvenience - and perhaps a modest reduction in profits for commercial operators in one or two Member States - is of more importance than the long-term global conservation of sharks and the ability of the entire Community to manage its own stocks in a much more informed and rational way.

#### **5. Social, economic and environmental assessment**

*1. Which option and/or sub-option do you consider the most appropriate? Briefly explain why.*

Fins naturally attached, with a partial cut where necessary, and without exception, is the most appropriate. As stated clearly in the consultation document, with this method "finning would become impossible" and data-collection would be enhanced.

*2. Which option and/or sub-option do you consider the least appropriate? Briefly explain why.*

The status quo option would be the least acceptable. Landing fins separately from carcasses within the ratio of 5% fins to live weight ratio facilitates finning, for the reasons set out above. A Special Fishing Permit that allows fins and carcasses to be landed at separate ports is, in essence, a permit to fin, since there is little or no chance of ensuring compliance.

*3. Assuming that vessels were obliged to land fins and carcasses simultaneously at the same port, what would the effects be on the commercial operators and on the associated trade?*

The meaning of this question is unclear. If it refers to the landing of sharks with their fins naturally attached, the effects on commercial operators would be to encourage them to come up with a method of ensuring the quality of their products. HSI believes that it is not beyond the wit of industry operators to adjust their protocols so that standards do not fall.

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<sup>9</sup>The CFP is committed to the progressive implementation of a precautionary, ecosystem approach to fisheries management. [http://ec.europa.eu/maritimeaffairs/press/press\\_rell10408\\_en.html](http://ec.europa.eu/maritimeaffairs/press/press_rell10408_en.html)



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However, if the question refers to the simultaneous landing of separated fins and carcasses at the same port, *and* if it assumes that the legal weight ratio is 5% fins to live weight, commercial operators could continue to fin sharks. If it assumes that the legal weight ratio is 5% fins to dressed weight, there may still be some room for finning (depending on the species) and for “high-grading”, although it would not permit finning to the same extent as the 5% fins-live weight option. In addition, it is doubtful that the fins and carcasses of every catch would actually be weighed.

*4. Assuming that vessels were obliged to land fins and carcasses simultaneously at the same port, what would the effects be on the conservation of shark stocks?*

Again, the question is unclear. If it refers to fins-attached landings, then the effects on conservation of shark stocks will be very positive. It will eliminate opportunities for finning; it will greatly facilitate enforcement and it will allow for the collection of vital, species-specific data that can serve as a basis for the adoption of rational management plans for shark stocks. It will also, to some extent, reduce shark catches per trip.

If the question refers to the simultaneous landing of severed fins and carcasses, whether in the 5% fins-live weight or 5% fins-dressed weight ratio, the comments after question 3, above, apply.



**Table 1: Comparison of the various options**

	Option 1(i) No change. Maintain 5% fin to live weight ratio	Option 1 (ii) Maintain 5% fin to live weight ratio, but with mandatory simultaneous landing of fins and carcasses.	Option 2 5% fin to dressed carcass ratio. Simultaneous landing of fins and carcasses	Option 3 Fins remain attached to the body
Which option do you consider the most appropriate?				√
Which option do you consider the least appropriate?	√			
Impact on fleets, trade, operators and employment	None. In essence it would be business as usual, with no opportunity for fins and carcasses to be weighed. This would continue to be an unenforceable regulation.	High weight ratio would continue to permit finning and “high-grading”. Probable lack of enforcement would allow cheating. Possible slight inconvenience for operators exporting to multiple international destinations.	Probable lack of enforcement would allow cheating. Possible slight inconvenience for operators exporting to multiple international destinations.	Negligible. Possible slight reduction in profits for a small number of commercial operators in a minority of Member States.
Impact on Stocks	Negative. High weight ratio would continue to allow for unsustainable offtake of sharks for their fins. Lack of basic data would hamper management.	Negative. High weight ratio would continue to allow for unsustainable offtake of sharks for their fins. Lack of basic data would hamper management.	Negative. Probable lack of enforcement would allow cheating. Lack of basic data would hamper management. This option, however, is an improvement on options 1(i) and 1(ii)	Positive. Elimination of finning would vastly reduce waste and would help to reduce shark catch overall. Catch composition and other species-specific data would improve the quality of fisheries management.

**Author:** Susie Watts, HSI shark consultant  
[heffs1@o2.co.uk](mailto:heffs1@o2.co.uk)

**Contact:** Dr. Joanna Swabe, EU Director, Humane Society International  
[jswabe@hsi.org](mailto:jswabe@hsi.org)

ID Number Register of Interest Representatives: 05097472836-90