



**MEMORANDUM OF UNDERSTANDING
ON THE CONSERVATION OF
MIGRATORY SHARKS**

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17 December 2015

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Second Meeting of the Signatories
San José, Costa Rica, 15-19 February 2016
Agenda Item 8

**PROPOSALS FOR THE AMENDMENT OF THE CMS MEMORANDUM OF
UNDERSTANDING ON THE CONSERVATION OF MIGRATORY SHARKS**

(Prepared by the Secretariat)

1. Two proposals for the amendment of the Memorandum of Understanding on the Conservation of Migratory Sharks, have been received by the Secretariat.
2. A proposal to amend paragraph 18 of the MOU, was submitted by the European Union and its 28 Member States within the 150 day deadline before the start of the 2nd Meeting of the Signatories (MOS2). The 150-day deadline is found in Rule 35(1) of the Rules of Procedure provisionally adopted at MOS1. The European Union's proposed amendment is presented as Annex 1 to this document and was made available to Signatories on 18 September 2015.
3. An addendum to this proposal was submitted by the European Union and its 28 Member States on 15 December, 2015. It is presented in Annex 2.
4. In accordance with paragraph 33 of the MOU, the Memorandum, including the Annexes, may be modified by the Meeting of Signatories. Such modifications should be made by consensus. The MOU does not specify when such amendments must be submitted.
5. In the absence of an agreed procedure for dealing with such proposals, the Secretariat originally proposed applying the procedure for modifying Annex 1 to the MOU as described in CMS/Sharks/Outcome 1.4, including the 150 day deadline. This second proposal has been received just over 60 days before the MOS. It is up to Signatories to decide how they wish to proceed.
6. The Secretariat requested Signatories to provide any comments on the proposals at least 60 days before the start of the meeting, i.e. by 17 December 2015. No comments have been received by that date.

Action requested:

The Signatories are invited to:

- (a) review and consider for adoption the two proposals for the amendment of the MOU, as contained in Annex 1 and Annex 2.



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES
INTERNATIONAL AFFAIRS AND MARKETS
**INTERNATIONAL AFFAIRS, LAW OF THE SEA AND REGIONAL FISHERIES
ORGANISATIONS**

Annex 1

Brussels, 11/09/2015

PROPOSAL BY THE EUROPEAN UNION AND ITS MEMBER STATES FOR AMENDING THE MEMORANDUM OF UNDERSTANDING FOR THE CONSERVATION OF MIGRATORY SHARKS (Sharks MoU)

In view of the forthcoming 2nd Meeting of the Signatories of the Sharks MoU that will take place from 15-19 February 2016, the European Union and its Member States submit the following proposal for an amendment of the MoU:

Decision making procedure of the Sharks MoU

Paragraph 18 of the Sharks MoU provides that "decision-making of the Meeting of Signatories (MoS) should be by consensus". Currently, decision-making has to comply with this rule and cannot provide for any derogation.

In order to facilitate decision-making and to allow for some flexibility, in particular for non-substantial matters, the possibility of voting is desirable. Therefore, the European Union and its Member States propose an amendment of Paragraph 18 of the Sharks MoU, as follows:

"The Meeting of the Signatories should be the decision-making body of this Memorandum of Understanding. Without prejudice to point 33 of the MoU the Signatories should make every effort to reach agreement on all matters of substance by consensus. Detailed rules governing the possibilities of proceeding to vote will be laid down in the Rules of Procedure referred to in point 21 of the MoU".

The Amendment to Paragraph 18 of the Sharks MoU should be complemented by Rules of Procedure (RoP) that specify the voting arrangements.



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Annex 2

ADDENDUM TO THE PROPOSAL BY THE EUROPEAN UNION AND ITS MEMBER STATES FOR AMENDING THE MEMORANDUM OF UNDERSTANDING FOR THE CONSERVATION OF MIGRATORY SHARKS (Sharks MoU)

In view of the forthcoming 2nd Meeting of the Signatories of the Sharks MoU that will take place from 15-19 February 2016, the European Union and its Member States submit the following additional proposals for an amendment of the MoU:

1) Budget

Rationale: according to the implementation report for 2014 submitted by the secretariat of the MoU: "*The income received from Signatories in both 2014 and 2013 has failed to meet the budget, with a shortfall of more than 50%. As a result, the Secretariat has kept expenditure to an absolute minimum and raised external resources when possible.*" The lack of budget stability is one of the main weaknesses of the shark MoU. The MoU is not a legally binding instrument and financial contributions at this stage can only be voluntary. However, encouraging Signatories, in the text of the MoU, to provide their annual voluntary contributions, might trigger stronger commitment and result in increasing the annual budget. Therefore, the following amendment of paragraph 15 of the MoU is proposed:

Section 5 Implementation, Reporting and Financing

15. Each Signatory should:

- a) Designate a focal point for communication among Signatories and for coordinating implementation measures and activities under this Memorandum of Understanding and the Conservation Plan, and communicate the complete contact details of this authority, and any subsequent changes thereto, to the Convention Secretariat;
- b) Endeavour to provide to the Secretariat a regular national report on the implementation of this Memorandum of Understanding and the Conservation Plan, the frequency and timing of which should be determined at the first Meeting of the Signatories; and
- c) Endeavour to provide annual voluntary contributions to facilitate the effective implementation of the MoU and delivery of the conservation plan.

2) Advisory Council

Rationale: over the last three years the Advisory Committee has been relatively inactive, due to budgetary reasons and lack of clear guidance. To reinforce this important subsidiary body, it is important to clarify that the MoU can define the main tasks of the body in support of the implementation of the MoU and that each Signatory is allowed to appoint its own representatives in the Advisory Council to ensure sufficient expertise and effective operation of this body, while ensuring appropriate geographic representation. Therefore, the following amendment of paragraphs 24 and 25 of the MoU is proposed:

Section 7 Advisory Committee

24. The first Meeting of the Signatories should establish an Advisory Committee, comprising persons qualified as experts in migratory shark conservation science and management. The tasks of the Advisory Committee will be defined by the MoU and should include: ...

...

25. Members of the Committee should be appointed as representatives of the Signatories. Appropriate geographic representation should be ensured. The Advisory Committee should elect a Chair and Vice-chair. The Advisory Committee may invite other experts to attend its meetings.

3) Cooperating partners

Rationale: The possibility for the Signatories to approve or reject the application of candidates Cooperating Partners is not clear. It is important to ensure that there is the possibility with the aim to reinforcing ownership of the instrument by its Signatories. Therefore, the following amendment of paragraph 30 of the MoU is proposed:

Section 10 Final Provisions

30. Non-range states, inter-governmental and international and national non-governmental organizations, or other relevant bodies and entities may associate themselves with this Memorandum of Understanding through their signatures as cooperating partners, after having been invited to sign to it on the basis of a decision by the Signatories, in particular with respect to the implementation of the Conservation Plan.