



**CONVENTION ON
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Agenda Item 28.1

**REPORT ON THE IMPLEMENTATION OF THE
CONCERTED ACTION
FOR THE WHALE SHARK (*Rhincodon typus*)***

Summary:

Sea Shepherd Legal has submitted the attached report on the implementation of the Concerted Action for the Whale Shark (*Rhincodon typus*), UNEP/CMS/Concerted Action 12.7.

*The geographical designations employed in this document do not imply the expression of any opinion whatsoever on the part of the CMS Secretariat (or the United Nations Environment Programme) concerning the legal status of any country, territory, or area, or concerning the delimitation of its frontiers or boundaries. The responsibility for the contents of the document rests exclusively with its author

**REPORT ON THE IMPLEMENTATION OF THE
CONCERTED ACTION
FOR THE WHALE SHARK (*Rhincodon typus*)**

UNEP/CMS/ CONCERTED ACTION 12.7

1. CONCERTED ACTION

Title: CONCERTED ACTION FOR THE WHALE SHARK (*Rhincodon typus*)

Document number: UNEP/CMS/Concerted Action 12.7

Adopted by the Conference of the Parties at its 12th Meeting (Manila, October 2017).

2. REPORTING ORGANIZATION

Sea Shepherd Legal (SSL) is a nonprofit, public interest, environmental law firm committed to saving marine wildlife by enforcing, strengthening and developing protective laws, treaties, policies and practices worldwide. The SSL team consists of multiple attorneys supported by allies including scientific advisors, investigators, law school environmental programmes, and government officials. We work together to effectively protect marine wildlife and habitats across the globe.

SSL works on a multitude of projects in furtherance of its mission. Key focus areas that are particularly relevant to this proposal include enhancing regulatory protections for marine species and habitats, combatting illegal, unreported and unregulated fishing, and reducing bycatch.

3. TARGET SPECIES

Class: Chondrichthyes

Family: Elasmobranchii

Order: Orectolobiformes

Species: *Rhincodon typus*

4. PROGRESS IN ACTIVITIES

Given that the Whale Shark has a vast circumtropical range (120 Range States), SSL focused its efforts, as planned, on the 7 Range States that the Government of the Philippines (“Proponent”) identified as “notable Whale Shark hotspots,” including Gabon, Madagascar, Mozambique, Pakistan, Peru, Portugal (Azores) and the United Republic of Tanzania (the seven “hotspot Range States”). With such narrowed geographic scope, SSL committed to assisting Proponent with implementation of portions of the following activities: Activity 3. Increase onboard observers; Activity 4. Engage non-CMS Range States; and Activity 5. Legislation, Policy and Management. This report discusses SSL’s progress to date in each of these activities.

Activity 3: Increase onboard observers. SSL specifically committed to supporting the proponent with implementing “Activity 3.1 – Coordinate with RFMOs to encourage the sharing of information and streamlining of conservation efforts. Output/Outcome: RFMOs have instituted Whale Shark conservation measures.” While it is not yet known whether the proponent has initiated communications with RFMOs, SSL has reviewed RFMOs relevant to the seven hotspot Range States. The relevant RFMOs each include policies and/or provide guidelines that dictate, to varying degrees, the use of gear, catch/release methodology, and catch reporting either directly or indirectly pertinent to the conservation of whale sharks.¹ SSL continues to monitor policies and publications of these RFMOs and stands ready to assist Proponent with further implementing 3.1. Note also that

¹ See e.g., International Commission for the Conservation of Atlantic Tunas (ICCAT), Compendium Management Recommendations and Resolutions Adopted by ICCAT For The Conservation of Atlantic Tunas and Tuna-Like Species (2019), available at https://www.iccat.int/Documents/Recs/COMPENDIUM_ACTIVE_ENG.pdf; ICCAT, Good practices to reduce the mortality of sharks and rays caught incidentally by tropical tuna purse seiners (2012), available at <https://www.iccat.int/Documents/SCRS/Manual/CH4/Annex 3 to Chapter 4.pdf>; Indian Ocean Tuna Commission, Conservation of Whale Sharks (*Rhincodon typus*), Resolution 13/05, ¶ 3 (2013), available at https://www.ccsbt.org/sites/ccsbt.org/files/userfiles/file/other_rfmo_measures/iotc/Resolution%2013_05.pdf; and, Inter-American Tropical Tuna Commission, Resolution C-16-01, Amendment of Resolution C-15-03 on the Collection and Analyses of Data on Fish-Aggregating Devices (prohibiting the vessels of Contracting Party Countries from setting purse nets around whale sharks), available at <https://www.iattc.org/PDFFiles/Resolutions/IATTC/English/C-16-01-FADs-Amendment-C-15-03.pdf>.

SSL's "Country Reports" for each of the seven hotspot Range States define the scope of RFMO applicability and the extent to which each such Range State has adopted measures that complement relevant RFMO policies. Moreover, SSL has conducted workshops in two of the seven hotspot Range States – Peru (April 2018) and Gabon (March 2019), during which SSL highlighted Concerted Action 12.7, the need for further protections for whale sharks, and the shortcomings of RFMO measures. SSL is currently engaged in multiple legislative and enforcement endeavors in both countries to enhance protections for sharks. Notably, following SSL's recommendation during its March 2019 workshop, Gabon moved to expand its onboard observer program on industrial fishing vessels operating in Gabonese waters.

Activity 4: Engage non-CMS Range States. SSL committed to assisting Proponent with both elements of this activity, including "4.1 Engage non-CMS Parties in the conversation to protect whale sharks and encourage their integration" and "4.2 Arrange a regional workshop to encourage cooperation and increase awareness." SSL notes that all of the seven hotspot Range States are Parties to CMS. SSL has not yet had the opportunity to engage non-CMS Parties, but anticipates that such an opportunity will be made possible by Proponent's planned regional workshop.

Activity 5: Legislation, Policy and Management. SSL committed to assisting Proponent with implementing all eight elements of Activity 5. To date, SSL has completed "5.1 Identify inconsistencies in the level of protection ensured by different Range States" for all seven hotspot Range States (see, for example, Mozambique Country Report referenced below and provided as UNEP/CMS/COP13/Inf.14). For each Range State, SSL specifically reviewed the following policies, as applicable and available, including CMS implementing legislation; fisheries legislation (regulation of marine species harvest, fishing gear and bycatch regulation, foreign vessels regulation); habitat legislation (protected areas, conservation plan or regional action plan); tourism regulations; MARPOL and pollution prevention (dumping of fishing gear and other pollutants from ships, additional pollution provisions); and CITES implementing legislation (designation of management and scientific authorities, coverage of whale sharks under national legislation, coverage of "specimens" as defined by CITES, authority to issue adequate ifcs certificates and export permits). Based on such review, SSL drafted an overarching document entitled "Legislative Review and Recommendations for Implementation of the CMS Concerted Action for the Whale Shark (*Rhincodon typus*)," providing recommendations applicable, in varying degrees, to all 120 Whale Shark Range States, which is provided as UNEP/CMS/COP13/Inf.15.

In addition, specifically in Peru and Gabon, SSL is currently working to implement elements 5.2, 5.4, 5.5, and 5.7. Additional time is needed to expand such activities to the other hotspot Range States. SSL anticipates that significant progress toward implementation for all elements of Activity 5 can be made during Proponent's forthcoming regional workshop and during meetings leading to and surrounding CMS CoP 13.

5. CHANGES TO THE ORIGINAL CONCERTED ACTION

At this time, SSL is not aware of any significant changes to the original Concerted Action for the Whale Shark.

6. REFERENCES

- UNEP/CMS/COP13/Inf.14
Sample report: Mozambique Country Report: Implementation of the Convention on the Conservation of Migratory Species of Wild Animals (CMS) Concerted Action for the Whale Shark (*Rhincodon typus*), prepared by Sea Shepherd Legal.
- UNEP/CMS/COP13/Inf.:15
Legislative Review and Recommendations for Implementation of the CMS Concerted Action for the Whale Shark (*Rhincodon typus*).

7. ACTION

SSL recommends to the Parties that they renew the Concerted Action for the Whale Shark. A number of important activities remain to be completed, including, for example, a regional workshop. Accordingly, the Concerted Action should be extended into the following triennium to accommodate this significant ongoing work.