



CONVENTION ON MIGRATORY SPECIES
MEMORANDUM OF UNDERSTANDING ON THE CONSERVATION OF MIGRATORY SHARKS

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FIRST MEETING OF THE SIGNATORIES TO THE
MEMORANDUM OF UNDERSTANDING ON THE
CONSERVATION OF MIGRATORY SHARKS
Bonn, Germany, 24-27 September 2012
Agenda Item 11

PROCEDURE FOR AMENDING THE SPECIES LIST (ANNEX 1) OF THE MOU

(Prepared by the Interim Secretariat)

Background:

1. According to paragraph 2 of the Memorandum of Understanding on the Conservation of Migratory Sharks, the MoU is intended to apply to all migratory species of sharks included in Annex 1 of this Memorandum of Understanding.
2. Furthermore, in paragraph 3d of the MoU, sharks are defined as “any of the migratory species, subspecies or populations in the Class *Chondrichthyes* (which includes sharks, rays, skates and chimaeras) that are included in Annex 1 of this Memorandum of Understanding.
3. At the 3rd preparatory meeting, at which the MoU was finalized (Manila, March 2010), participants concluded that no automatic listing of those species already included on Appendix I or II of the Convention should take place, on account of the fact that Signatories to the MoU are not necessarily Parties to the Convention.
4. Paragraph 20 of the MoU specifies that any proposed amendments to Annex 1 should be assessed by the Signatories at each session of the Meeting of the Signatories. Paragraph 33 states that modifications should be by consensus.
5. The MoU does not contain any explicit provisions for the listing of further species on Annex 1.
6. Therefore, Signatories may wish to adopt the following listing procedure, which is based on Article XI of the Convention, with amendments to suit the purpose of the MoU.

Proposed procedure for the inclusion of species in the Species list (Annex I) of the MoU:

- a) Annex I may be amended at any session of the Meeting of the Signatories, in accordance with the Rules of Procedure¹;
- b) Proposals for amendment may be made by any Signatory;

¹ The “Draft Rules of Procedure (CMS/Sharks/MOS1/Doc.2/Annex), contain provisions for the submission of proposals to amend both the MoU text and its Annexes.

- c) The text of any proposed amendment and the reasons for it, based on the best scientific evidence available, shall be communicated to the Secretariat at least 150 days before the meeting and shall promptly be communicated by the Secretariat to all Signatories. Any comments on the text by the Signatories shall be communicated to the Secretariat not less than 60 days before the meeting begins. The Secretariat shall, immediately after the last day for submission of comments, communicate to the Signatories all comments submitted by that day;
- d) Amendments should be made by consensus. If no consensus can be reached, amendments shall be adopted by a two-thirds majority of Signatories present and voting; and
- e) An amendment to Annex I shall enter into effect for all Signatories immediately after its adoption.

Criteria for the inclusion of species in the Species list (Annex I) of the MoU:

Option I: Listing criteria of the CMS Convention

7. The Sharks MoU is an agreement in accordance with Article IV(4) of the Convention on the Conservation of Migratory Species of Wild Animals, which had been developed for migratory shark species listed on Appendix II to the Convention.

8. Although Annex 1 of the MoU is independent from CMS Appendices I and II, Signatories may wish to adopt for Annex I of the MoU the Convention's criteria for the inclusion of species in Appendix II. These are laid down in Article IV(1) of the Convention and have been modified to suit the MoU:

Annex I shall list migratory species which have an unfavourable conservation status and which require international agreements for their conservation and management, as well as those which have a conservation status which would significantly benefit from the international cooperation that could be achieved by an international agreement.

9. In accordance with paragraph 3 d) of the MoU the conservation status is considered "favourable" when all the following conditions are met:

- i) population dynamics data relative to appropriate biological reference points indicate that migratory sharks are sustainable on a long term basis as a viable component of their ecosystems;
- ii) the distributional range and habitats of migratory sharks are not currently being reduced, nor are they likely to be reduced in the future to levels that affect the viability of their populations in the long term; and
- iii) the abundance and structure of populations of migratory sharks remains at levels adequate to maintain ecosystem integrity.

10. In accordance with paragraph 3 e) of the MoU, the conservation status will be taken as "unfavourable" if any of the above conditions are not met.

Option II: Listing criteria to be prepared by the Advisory Committee

11. In accordance with paragraph 24 of the MoU and paragraph 3 e) of the draft Terms of References for the Advisory Committee (CMS/Sharks/MOS1/Doc.8/Annex I) the Signatories may wish to request the Advisory Committee to develop listing criteria and submit them to the Second Meeting of the Signatories to the Sharks MoU.

Format for listing proposals

12. A draft format for listing proposals is annexed to this document (CMS/Sharks/MOS1/Doc.11/Annex). It is based on CMS Resolution 1.5.

Action requested:

The Meeting is invited to:

- a) Adopt the draft procedure for the amendment of Annex I of the MoU.
- b) Agree on one of the two options referring to the criteria for the inclusion of species in Annex I of the MoU.
- c) Adopt the proposed format for the submission of listing proposals.
- d) Ensure the procedures are consistent with the Rules of Procedure, proposed in CMS/Sharks/MOS1/Doc.2/Annex.