



**CONVENCIÓN SOBRE  
LAS ESPECIES  
MIGRATORIAS**

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13ª REUNIÓN DE LA CONFERENCIA DE LAS PARTES  
Gandhinagar. India, 17 – 22 de febrero 2020  
Punto 27.1 del orden del día

**COMENTARIOS DE LAS PARTES A LAS PROPUESTAS PARA ENMIENDA DE LOS  
APÉNDICES I Y II DE LA CONVENCIÓN**

*(Preparado por la Secretaría)*

Resumen:

Este documento contiene las observaciones presentadas por las Partes sobre las propuestas de enmienda de los Apéndices de la CMS que serán consideradas por la 13ª Reunión de la Conferencia de las Partes (COP13).

## **COMENTARIOS DE LAS PARTES A LAS PROPUESTAS PARA ENMIENDA DE LOS APÉNDICES I Y II DE LA CONVENCION**

1. De conformidad con lo dispuesto en el Artículo XI de la Convención, las siguientes Partes han presentado propuestas de enmienda a los Apéndices I y II de la Convención para su consideración por la 13<sup>a</sup> Reunión de la Conferencia de las Partes: Argentina, Australia, Bolivia (Estado Plurinacional de), Brasil, Chile, Costa Rica, India, Irán (República Islámica de), Nueva Zelanda, Paraguay, Perú, Tayikistán, Unión Europea y sus Estados miembros, Uruguay, Uzbekistán.
2. De conformidad con el párrafo 3 del artículo XI de la Convención, se invitó a las Partes a que comunicaran sus observaciones a la Secretaría hasta el 19 de diciembre de 2019.
3. A la fecha límite del 19 de diciembre de 2019, la Secretaría ha recibido observaciones de Australia y Nueva Zelanda. El presente documento, que constituye una adenda al documento UNEP/CMS/COP13/Doc.27.1, incluye copias de las comunicaciones originales de Australia (Anexo 1) y Nueva Zelanda (Anexo 2).
4. Los comentarios incluyen referencias a varios artículos. En caso de dificultad para obtenerlos, los participantes en la COP13 pueden ponerse en contacto con la Secretaría.



Ms Amy Fraenkel  
Acting Executive Secretary  
UNEP/CMS Secretariat  
United Nations Campus  
Platz der Vereinten Nationen 1 53113 Bonn  
GERMANY

Dear Ms Fraenkel

Australia would like to avail itself of the opportunity to provide written comments on a number of species listing proposals submitted for consideration at the Convention on Migratory Species 13<sup>th</sup> Conference of the Parties (COP13).

### **Oceanic White-tip – Appendix I**

Australia has concerns that the Oceanic White-tip is currently listed as Vulnerable by the IUCN on a global scale, while the Guidelines agreed at COP11 state that Appendix I should contain species that are rated as 'Endangered' (or above) by the IUCN. We note that at a regional level, the Northwest and Central Atlantic populations are considered Critically Endangered. The current listing proposal states that the IUCN is currently reassessing the species, and it is likely to be assessed as Critically Endangered. If this is the case, and the reassessment is released before COP13, the listing proposal should be amended to reflect this change in conservation status to ensure the thresholds contained in the Guidelines are met.

It is questionable that the species meets the CMS definition of migratory, where it is required that the species cyclically and predictably crosses one or more national jurisdictional boundaries. It is recognised that the species is highly mobile and widespread, but there is not a great deal of research demonstrating predictable and cyclical movements, and this is reflected in the current proposal.

Genetic work demonstrates distinct population structures in the Atlantic Ocean and Indian Ocean. In the Atlantic Ocean, there is evidence of two separate populations in the Atlantic basin. There is also genetic differences between the Western Atlantic and Indo-Pacific populations. The lack of genetic evidence for migration indicates that separate conservation and management of this species in each of its relevant regions may be appropriate. As such, a regional listing for the Critically Endangered populations in the Northwest and Central Atlantic would be more appropriate.

The Oceanic White-tip is subject to extensive management arrangements throughout the world, with all tuna-related Regional Fisheries Management Organisations already prohibiting the retention of the species. It is unclear from the current proposal what additional benefit would be derived from including the species on Appendix I, and it would be helpful if these benefits could be explicitly articulated.

### **Smooth Hammerhead – Appendix II**

It was disappointing that as a range state, Australia was not consulted by the EU on this listing proposal before it was submitted for consideration at COP13. Australia has done a lot of work on this species since its inclusion in CITES Appendix II in 2014, and would have been able to share this knowledge.

The species has been shown to be mainly restricted to the continental shelf of Australia and genetic work has indicated that the population within Australian waters is a single, isolated population. Genetic work done in 2014 demonstrated significant differences between populations occurring in the Atlantic and Indo-Pacific Ocean basins. That work also showed that within ocean basins, there was evidence of population structuring. Mitochondrial DNA comparison between eastern Australia and New Zealand also suggested separation.

Limited tag-recapture data available from the US and South Africa showed movements restricted to the continental shelf. Most distances moved were relatively small, but some movements of >1000 km did occur. The tagging data shows limited dispersal which supports the within ocean basin population structuring that is suggested by the genetic work.

On the basis of these data, we consider that the population of Smooth Hammerhead within Australian waters is a single stock, isolated from those occurring in other nations in the Oceania region. We have attached a relevant reference for this information for assistance.

As such, we believe that the Australian population of Smooth Hammerhead does not meet the CMS definition of migratory, and we respectfully request that the EU remove the Australian population from further consideration for listing.

### **Tope Shark (School Shark) – Appendix II**

As one of the key range states for Tope Shark (called School Shark in Australia), it is disappointing that we were not consulted on this proposal before its submission. If we had been consulted, we would have been able to provide a great deal of information on this species which would have considerably assisted in presenting an accurate listing proposal for Parties' consideration.

The School Shark was listed as Conservation Dependent under Australia's national environmental law in 2009. It is the subject of a rebuilding strategy (*School Shark Stock Rebuilding Strategy 2015*) which aims to rebuild school shark stocks to their limit reference point of 20% of unfished biomass within three generation times.

Australia has up-to-date stock assessment, closed areas/pupping closures, genetic assessment and is actively managing and monitoring the stock to allow rebuilding.

Recent genetic work indicates five separate populations globally (Africa, Australia-New Zealand, North America, South America and Western Europe). Ocean basins and temperature appear to have the greatest effect on gene flow among populations.

Genetic work also considers the Australian-New Zealand populations as a single population. However, limited connectivity is demonstrated, with tagging indicating "partial migration". Some tagged pregnant females swam large distances to find nursery grounds within Australian waters, with one swimming as far as New Zealand. Partial migration can explain the limited connectivity demonstrated by genetic work. Both Australia and New Zealand manage the species as two separate populations. We have attached a number of references for consideration that support our statements.

The extensive research conducted on this species confirms that the Australian-New Zealand population does not meet the CMS definition of migratory as a significant proportion of the population does not undertake predictable and cyclical movements across national jurisdictional boundaries.

As such, the Australian-New Zealand population should be excluded from the proposed listing. We understand that New Zealand also supports this approach. Both Australia and New Zealand are currently actively managing our populations and we would be happy to share information regarding our management approaches to facilitate improved management of the other four separate populations.

I trust that the Secretariat will forward our concerns and supporting references to the relevant listing proponents for serious consideration. In the lead up to COP13, Australia looks forward to working cooperatively with the Secretariat and Parties to ensure a successful meeting.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized initial 'G' followed by a long horizontal line.

Geoff Richardson  
Assistant Secretary  
Protected Species and Communities Branch

3 December 2019

## References

### Smooth Hammerhead

Simpfendorfer, C. (2014) Information for the development of Non Detriment Findings for CITES listed sharks. <http://www.environment.gov.au/system/files/resources/39c06695-8436-49c2-b24f-c647b4672ca2/files/cites-listed-sharks.pdf>

### School Shark

Attached:

Hernandez et al (2015)

Chabot (2015)

Bester-van der Merwe et al (2017)

Jaureguizar et al (2018)

Delvoo-Delva et al (2019)

McMillan et al (2019)



17<sup>th</sup> December 2019

Ms Amy Fraenkel  
Acting Executive Secretary  
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Dear Ms Fraenkel,

### **New Zealand Comments on Proposal to List Tope Shark on CMS Appendix II**

This letter sets out New Zealand's comments on the proposal to list tope shark on Appendix II of the Convention on the Conservation of Migratory Species of Wild Animals (CMS), submitted for consideration at the 13th Conference of Parties. We are submitting these comments in accordance with Article XI paragraph 3 of CMS.

In this letter we provide additional information about the New Zealand tope shark population (known as school shark in New Zealand), in relation to the Appendix II listing criteria. This information supports the recent Scientific Council advice that the populations in New Zealand and Australia do not meet the CMS listing criteria and should therefore be excluded from the listing proposal.

#### Conservation Status

The most recent (2016) New Zealand Threat Classification listed school shark as "Not Threatened", although it qualifies that as "Conservation Dependent and Threatened Overseas". There is no sign of declining size or abundance in New Zealand waters.

Commercial catches of school shark have been regulated under the Quota Management System since 1986. It currently supports a commercial fishery of around 3,000 tonnes per year. Compared to the total recorded Food and Agricultural Organisation of the United Nations (FAO) catch of 4,069 tonnes (in 2016), this implies that the New Zealand population is probably the largest in the world, or at least the largest that is being fished sustainably. Most catch is taken by bottom longline, trawl and setnet, with some bycatch in tuna longline fisheries. There are Total Allowable Catch limits set for all New Zealand school shark

stocks,<sup>1</sup> and of our seven stocks, four are above the management target, well above the level characterised as overfished or depleted; one is potentially below the target but is not overfished or depleted; and two are of unknown status but are believed to be fished sustainably. School shark is also caught by recreational and customary non-commercial fishers throughout New Zealand.

“The Status of Stocks 2018” table published by the New Zealand Ministry for Primary Industries in February 2019 (<https://www.fisheries.govt.nz/dmsdocument/17653-stock-status-table-for-fish-stocks>) shows that while school shark stock size is healthy overall, levels of fishing pressure may be too high in some areas) and therefore requires ongoing monitoring. The status of the stocks for school shark was last updated in 2018.

According to Article I of the Convention, conservation status will be taken as ‘favourable’ when:

*a) The species is maintaining itself on a long-term basis as a viable component of its ecosystems-* This is certainly the case for school shark in New Zealand. School shark does not have an ‘unfavourable’ conservation status in New Zealand waters and all fishery assessments indicate current levels of fishing are unlikely to affect the long-term viability of the species. Although there is evidence that localised depletion has occurred in some places, school shark (including large mature females) remains abundant throughout its natural range. For stocks covering about half of the country (northern New Zealand and much of the west coasts of both islands), school shark stocks are estimated to have increased 2-3 fold since the mid-1990s; and

*b) the range is not being reduced or unlikely to be reduced on a long-term basis; there will be sufficient habitat to maintain the population; and distribution and abundance approach historic coverage and levels to the extent that potentially suitable ecosystems exist and to the extent consistent with wise wildlife management.* There is no evidence of range contraction in New Zealand waters. School shark occurs from 33° S to 54° South. It is found in shallow bays and inlets, close to the bottom over the continental shelf and upper slope to a maximum reported depth of 1100 metres, as well as in the epipelagic zone of the Tasman Sea. Inshore nursery habitats are poorly documented. Some known nursery habitats are potentially at risk from sedimentation and other effects of coastal development. These risks are managed under the Resource Management Act 1991, which includes an obligation to protect indigenous biodiversity.

#### Migratory status

Information from New Zealand indicates that school sharks can move large distances but does not indicate cyclical and predictable migrations over national jurisdictional boundaries in the Southern Hemisphere. Movement between New Zealand and southern Australia is known to occur but appears to involve a relatively small component of the New Zealand population. Recaptures of tagged individuals suggest these movements represent dispersal, primarily from New Zealand to Australia, not predictable migrations.

<sup>1</sup> Note that these are classified as separate stocks for fisheries management purposes, but are not stocks in a biological or genetic sense.



New Zealand therefore considers that school shark in New Zealand and Australia does not meet the definition of 'migratory', as available information does not indicate a significant proportion of the population cyclically or predictably migrating across jurisdictional boundaries.

Further to the Appendix II listing criteria, we note that there are some inaccuracies and information gaps in the proposal, and some of the information cited is outdated. In particular, we note the lack of information on New Zealand school shark, even though it has been actively managed since 1986. We have also been conducting stock assessments for several years (the last being in 2018). This was not accurately reflected in the Scientific Council Comments arising from ScC-SC4 where Addendum 1 states: "the only assessed stock is that occurring in Australian waters, where it is classed as 'overfished'".

Finally, as a key Range State for school shark, we were disappointed not to be consulted on this proposal before its submission. We understand consultation with Range States to be a key step in the CMS listing process and a clear responsibility of proponents.

We would appreciate you passing these comments on to the European Union. We encourage the European Union to revise its proposal consistent with Scientific Council advice, in particular by limiting the scope of the proposal to school shark populations that meet the listing criteria and excluding New Zealand and Australian populations; and ensuring that it reflects the best available scientific information, including with respect to the New Zealand school shark population.

Kind regards



Alexandra Macdonald  
Senior International Advisor  
New Zealand Focal Point for CMS