



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

CMS/Sharks/MOS3/CRP1
11 December 2018

(From CMS/Sharks/MOS3/Doc.9.1/Rev.1/Annex 3)

MODIFYING THE SPECIES LIST (ANNEX 1) OF THE MOU

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 3p 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 Third 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.

Procedure for modifying the Species list (Annex 1) of the MoU:

5. Annex 1 may be modified by consensus at any session of the Meeting of the Signatories.
6. Proposals for modification may be made by any Signatory.
7. The process and timing for submission should be as follows:
 - a) Signatories should endeavour to provide the text of any proposed modification and the reasons for it, based on the best scientific evidence available, to the Secretariat at least 150 days before the meeting;
 - b) The Secretariat is expected to promptly communicate the proposal to all Signatories and the Advisory Committee;
 - c) The Signatories should endeavour to provide any comments on the text to the Secretariat at least 60 days before the meeting begins;
 - d) The Secretariat is expected to communicate such comments to the Signatories as soon as possible after receipt;
 - e) Signatories have the right to refuse consideration of any proposed modification that is submitted to the Secretariat later than the timeframes referred to in this paragraph.

8. Modifications should be made by consensus as provided for under paragraphs 18 and 33 of the MoU.
9. Any shark or ray species listed on the CMS Appendices will automatically be considered by the Advisory Committee as a proposed listing on Annex 1 of the MoU. This is without prejudice to the final listing decision of the MoU and
10. If the CMS COP agrees on the inclusion of a new shark or ray species in Appendix I or II of CMS, the following procedure should be applied, and the Rules of Procedure and the Terms of Reference for the Advisory Committee respectively adapted:
 - a) The Secretariat transmits the relevant documents for this species to the Advisory Committee of the Sharks MoU;
 - b) The said Advisory Committee should analyse the proposal based on these documents (and if needed any additional available relevant data and literature) and prepare for the Meeting of Signatories a recommendation concerning the inclusion of the species in Annex 1 of the Sharks MoU;
 - c) The Meeting of Signatories of the Sharks MoU should decide by consensus on the inclusion of the new species in Annex 1 of the Sharks MoU.

Criteria for the inclusion of species in the Species list (Annex 1) of the MoU:

Background

11. 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.
12. Although Annex 1 of the MoU is independent from CMS Appendices I and II, Signatories have decided to adopt the Convention's broad 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.

Listing Criteria

13. Annex 1 of the MoU 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.
14. In accordance with paragraph 3 d) of the MoU the conservation status is considered "favourable" when all the following conditions are met:
 - a) 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;
 - b) 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
 - c) the abundance and structure of populations of migratory sharks remains at levels adequate to maintain ecosystem integrity.

15. 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.
16. The term “migratory species” is defined by CMS in Article I (1), II (1) and IV (1) and further specified in the explanatory notes to the format for proposals to amend CMS Appendices. To better differentiate between the geographical extent of migrations, the following categories should apply:
 - a) Highly migratory: Those species whose migrations extend over the scale of oceanic basins, so encompassing national waters and high seas;
 - b) Regional migratory: Those species whose migrations extend over the scale of regional (often shelf) seas, although a small proportion of the population may make longer-distance movements, including excursions into oceanic basins;
 - c) Sub-regional migratory: Those species that migrate over smaller spatial scales, but with clear evidence of cyclical and predictable migrations across jurisdictional boundaries.
 - d) Smaller scale coastal migrations or non-migratory: Those species that are generally site specific or make only shorter distance movements (e.g. seasonal inshore-offshore or north-south migrations). These species are considered to not meet the criteria of “migratory species” as defined by CMS in Article I (1), II (1) and IV (1).

Additional considerations for the Advisory Committee, regarding Listing Criteria

17. The broad, biological criteria used under the CMS Convention to determine whether a species qualifies for listing should be used under the MoU. This will ensure a simple approach and maintain consistency with the parent Convention.
18. Notwithstanding the rules of CMS, species or species groups may be listed as “look-alike” species, if differentiation from an Annex 1 listed species is difficult and confusion with the latter is likely. A “look-alike” species does not necessarily have to meet all the criteria for inclusion in Annex 1 itself.

Format for listing proposals

19. A format for listing proposals is annexed to this document¹.

¹ The new proposed format is included in CMS/Sharks/MOS3/CRP2.