



**COUNCIL OF
THE EUROPEAN UNION**

**Brussels, 6 February 2009 (09.02)
(OR. fr)**

6158/09

PECHE 29

COVER NOTE

from: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 5 February 2009

to: Mr Javier SOLANA, Secretary-General/High Representative

Subject: Communication from the Commission to the European Parliament and
the Council on a European Community Action Plan for the Conservation
and Management of Sharks

Delegations will find attached Commission document COM(2009) 40 final.

Encl.: COM(2009) 40 final



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 5.2.2009
COM(2009) 40 final

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT AND THE COUNCIL**

**On a European Community Action Plan for the Conservation and
Management of Sharks**

{SEC(2009) 103}
{SEC(2009) 104}
{SEC(2009) 106}

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT AND THE COUNCIL**

**On a European Community Action Plan for the Conservation and
Management of Sharks**

1. INTRODUCTION

Sharks are commonly known as top predators of the oceans and seas. Yet, they are very vulnerable species, whose populations face significant decline and, for some species, even a real threat of extinction in the EU waters.

From a biological perspective, sharks, skates, rays and chimaeras – known collectively as chondrichthyans – fall into two main groups: Elasmobranchs and Chimeras and include over 1000 species¹. They can be found in all oceans and seas and in particular in the Northern Atlantic Ocean, where more than 50% of the catches made by EC vessels is concentrated.

While shark fisheries still account for a limited share of world fishing production, they have experienced rapid growth since the mid-1980s. This trend has been driven by an increased demand for shark products (fins in particular, but also meat, skin, cartilage, etc), especially in Asian market and has been sustained by a number of factors, including improvements in fishing technology, processing and consumer marketing and declines in other fish stocks. All these elements contributed to make sharks a more valuable fisheries. Between 1984 and 2004, world catches of sharks grew from 600,000 to over 810,000 metric tons.

Sharks populations are particularly vulnerable to unregulated and intensive harvesting, because of their specific biological characteristics. Their low reproductive potential and low capacity for population increase in fact means that stocks have a limited capacity to recover from periods of over-fishing or other negative shocks. A stable and effective framework for the management of shark fisheries is therefore necessary to ensure their sustainable exploitation.

Efforts to ensure a coordinated management of sharks fisheries have been made at international level.

Within the framework of the Code of Conduct for Responsible Fisheries, the FAO adopted in 1999 the International Plan of action for the conservation and management of sharks (IPOA SHARKS). While the FAO plan of action is not binding, it aims to provide all concerned States with a reference point and guidelines for designing their own plans for the conservation, management and long-term sustainable exploitation of sharks.

¹ Unless specified otherwise, the references to "sharks" in this document should be understood as covering all species of the class *Chondrichthyes*.

Despite the importance of sharks fisheries for EC fleets, to date sharks fisheries are not subject to a comprehensive management framework at Community level. A number of measures aiming directly or indirectly at the conservation and management of sharks have been adopted over time. However, it appears that the range of existing measures should be strengthened to ensure the rebuilding of many depleted stocks fished by the Community fleet in Community and outside Community waters. Furthermore, given its commitment to sustainable fisheries and its weight at international level, the Community should assume a leading role in the development of policies aiming at the rational exploitation of chondrichthyans.

It is therefore timely and appropriate to develop and implement at EC level a comprehensive, effective and integrated policy and regulatory framework for sharks fisheries.

The present Communication sets out an Action Plan for sharks. It provides the background against which the Plan has been drafted, outlines the core principles on which it is based and describes its main elements. An overview of the actions planned is provided in the annexed Table.

The Plan builds on the rich input provided by stakeholders during a public and institutional consultation completed in March 2008 and is backed up by the analysis provided in the impact assessment annexed. In line with the requirements of the FAO International Plan of Action, the Communication and the Action Plan are accompanied by a Shark Assessment Report, which is presented in annex as a Staff Working Document.

2. CURRENT SITUATION

2.1. EC shark fisheries

2.1.1. North Atlantic

The North Atlantic encompasses a number of key shark fisheries, operating in waters under EU and third country jurisdiction (Norway, Faeroes, etc) as well as in international waters under different Regional Fisheries Management Organisations (RFMOs). These include the shallow-water shark and ray fisheries of North-East Europe, the North-East Atlantic demersal and mid-water fisheries and the deepwater shark fisheries (the larger tropical pelagic fishery is considered separately in the next section). Around 56,000 t of elasmobranchs are caught by EU vessels in this region (NW, NE Atlantic, including the Mediterranean), mostly consisting of demersal skates, rays and small sharks, with relatively low catches of large pelagic shark.

One of the main problems for the management of sharks in this area is the mixed nature of demersal fisheries, which makes it very difficult to target action to protect sharks without severe consequences for the other species caught. Furthermore, the considerable overcapacity of the fleets that catch small sharks, skates and rays as by-catch in demersal fisheries is also an important driver of the management problems in this area.

2.1.2. Central and Southern Atlantic

Central Atlantic pelagic shark fisheries: With the principal target species being tunas and swordfish, these tuna surface fisheries and to a certain extent their main bycatch of pelagic sharks, are managed by the International Commission for the Conservation of the Atlantic Tunas (ICCAT). Whilst purse seines and pole and line gears rarely catch sharks, the surface longliners have a high catch rate at around 68 percent, compared to the 30 percent of the stated target catch of swordfish and tunas. This shark catch is around 31,000 t per annum, mostly consisting of blue shark (*Prionace glauca*) and shortfin mako (*Isurus oxyrinchus*), with blue shark alone representing 75% of all shark catches.

In addition to tuna fisheries in this part of the Atlantic, there are several coastal fisheries exploited by Community vessels in the waters under jurisdiction of third countries. Reported catches by Community vessels (presumably the catches retained onboard) are relatively modest, amounting to approximately 2,300 tonnes per year over the last five years.

2.1.3. Indian Ocean

The two main groups of species found in the catches are swordfish (45%; approx. 7,000 t per year) and sharks (40%; approx. 6,100 t per year). The shark component is dominated by blue shark (*Prionace glauca*), which represents up to 88% of total shark catches. The other species of importance is the shortfin mako (*Isurus oxyrinchus*), making up approximately 9% of total shark catches.

2.1.4. Pacific Ocean

Two RFMOs manage tuna fisheries in the Pacific: the IATTC in the Eastern part, and the WCPFC in the Central and Western parts. While the Community is a contracting party to the later, it has only observer status in the IATTC. From 2001 to 2005, shark landings increased steadily from about 400 t to 6,100 t. This mirrors an increase in shark preservation on board due to the increasing economic potential of these species and their derivatives on international markets. It is also the result of the expansion of the fishery westwards from 2004.

As in the Atlantic and Indian Oceans, blue shark (*Prionace glauca*) and shortfin mako (*Isurus oxyrinchus*) are the most prevalent pelagic sharks in the catches and landings of surface longliners operating in the Pacific ocean.

2.2. The shark market in the EU

Dogfish (*Squalus acanthias*) and spotted dogfish (*Scyliorhinus spp.*) are species covered by the common market organisation in fishery and aquaculture products established by Council Regulation (EC) No 104/2000² and are eligible for intervention measures. Between 2005 and 2007, dogfish withdrawal interventions in relation to EU25 production ranged between 0.76% and 1.46%. On the other hand,

² Council Regulation (EC) No 104/2000 of 17 December 1999 on the common organisation of the markets in fishery and aquaculture products (OJ L 17, 21.01.2000).

spotted dogfish withdrawals increased from 4.04% in 2005 to 6.54 % of EU25 production in 2007.

As regards external trade, EU25 imports of dogfish and other sharks (whole, fresh, chilled and frozen) stood at 19439 tons in 2005 to decrease to 18756 tons in 2007. On the other hand, EU25 exports of dogfish and other sharks (whole, fresh, chilled and frozen) rose from 696 tonnes in 2006 and 2704 tonnes in 2007.

2.3. The legislative framework applicable to sharks in the EU

Sharks are living aquatic resources and therefore the Community plan falls within the scope of the Common Fisheries Policy (CFP) as defined by Article 1 of Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the CFP.

There is already EC legislation governing output management, technical measures, control, fleet policy and trade policy, which could be effective in ensuring the sustainable use of sharks. Other measures, although not shark-specific, may have an important bearing on sharks, especially for those taken as a by-catch. These are measures taken under multi-annual plans in accordance with Regulation (EC) No 1967/2006.

In general terms, as regards fishing opportunities for sharks, two types of Regulations lay down the rules for directed shark fisheries and by-catches of sharks:

- a) Two-yearly Council Regulations fixing fishing opportunities for Community fishing vessels for certain deep-sea fish stocks every two years, covering EU and NEAFC (Northeast Atlantic Fisheries Commission) waters;
- b) Annual Council Regulations fixing fishing opportunities and associated conditions for certain fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required, including those administrated by the NEAFC, NAFO and CCAMLR.

Moreover, Regulation (EC) No 2347/2002 of 16 December 2002³ establishes specific access requirements and associated conditions applicable to fishing for deep-seas stocks, including a wide range of deep-water sharks.

Council Regulation (EC) No 1185/2003⁴ bans and prevents the practice of "finning", whereby the fins are removed from sharks with the remainder of the shark being discarded at sea. It provides that the weight of the fins kept from the catch shall never exceed the theoretical weight of the fins that would correspond to the remaining parts of sharks retained on board, transhipped or landed. For the purpose of enforcing this obligation, the Regulation provides that in no case shall the theoretical weight of the fins exceed 5 % of the live weight of the shark catch.

It is also important to note that a number of steps have been undertaken at international level and by the European Community to regulate the international

³ OJ L351, 28.12.2002.

⁴ OJ L167, 4.07.2003, p.1.

trade in sharks and shark products. This has been implemented under the auspices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES).

A number of shark species namely the basking shark (*Cetorhinus maximus*), the great white shark (*Carcharodon carcharias*) and the whale shark (*Rhincodon typus*), are included in CITES Appendix II meaning that trade in these species is strictly regulated.

Furthermore, the basking shark and the great white shark are listed in Appendices I and II of the Convention on Migratory Species (CMS). The whale shark is listed on Appendix II of this Convention.

3. THE ACTION PLAN

3.1. The Community Action Plan: general purpose, scope and operational objectives

The reference point for this Action Plan is the FAO IPOA SHARKS, which aims to ensure the conservation and management of sharks and their long-term sustainable use worldwide.

The purpose of the Community Action Plan is to contribute to that general objective by ensuring the rebuilding of many depleted stocks fished by the Community fleet within and outside Community waters. The Action Plan outlines what is already in place and what is still needed to do to ensure a comprehensive and coherent legislative policy and legislative framework for the conservation and management of sharks within and outside Community waters.

The scope of the proposed Plan of Action covers directed commercial, by-catch commercial, directed recreational, and by-catch recreational fishing of any chondrichthyans within Community waters. It also includes any fisheries covered by current and potential agreements and partnerships between the European Community and third countries, as well as fisheries in the high seas and fisheries covered by RFMOs managing or issuing non-binding recommendations outside Community waters.

The Action Plan pursues the following three specific objectives,:

- (a) To broaden the knowledge both on shark fisheries and on shark species and their role in the ecosystem;
- (b) To ensure that directed fisheries for shark are sustainable and that by-catches of shark resulting from other fisheries are properly regulated;
- (c) To encourage a coherent approach between the internal and external Community policy for sharks.

3.2. The Community Action Plan: guiding principles and main actions

3.2.1. A gradual strategy to address sharks-related issues based on sound scientific evidence

As a general principle, cartilaginous fish should be managed according to sound scientific advice as is the case for any other fisheries. However, in view of the specific biological and ecological characteristics of most of the relevant species, their management calls for a more cautious approach. The implementation measures should be based on the Precautionary Approach as described for single-species fishery management in the Commission Communication COM(2000) 803 final⁵.

It should be noted that the ICES working group on sharks (WGEF) will develop the assessments of stocks status of the main species through 2007-2009. As the results of these assessments should be the basis for any future action on specific stocks, it will not be feasible to implement all desirable actions regarding the conservation of sharks simultaneously.

Furthermore, as a growing amount of scientific and monitoring data is coming to light, it seems wise to advocate a gradual approach. In this respect it is worth noting that by its Decision of 6 November 2008 the Commission adopted a multi annual Community programme pursuant to Council Regulation (EC) No 199/2008 establishing a Community framework for the collection, management and use of data in the fisheries sector, which covers sharks issues within the sampling schemes for data collection (Group 1 stocks).

Regarding the ban on finning practices, an important possible loophole in the implementation of the "finning" regulation by EC Member States is the risk that they accept too general justifications for the need to separate processing on board of shark fins and the remaining parts of sharks. Therefore, it appears appropriate that the elements for the justification provided for by Article 4 (2) of EC Regulation No 1185/2003 are strengthened and clarified.

In this context, the Commission has also taken into account other relevant elements such as the recommendations of international experts on this issue, according to which an effective and practical "finning" Regulation should make it compulsory to land sharks with fins attached, as well as the responses to the open consultation launched by the Commission on the draft Community Plan of Action.

3.2.2. An emphasis on regional cooperation

Several species of sharks are wide-ranging and highly migratory inhabiting international waters. Therefore, the responsibility for managing fisheries exploiting such stocks will be primarily in the hands of the relevant Regional Fisheries Management Organisations. It is for these bodies to determine the appropriate measures for the waters under their responsibility. It is therefore important to support the work of RFMOs in this regard, strengthen the RFMOs already in place and work together for the prompt establishment of new RFMOs in areas not yet covered.

⁵ Communication from the Commission to the Council and the European Parliament: application of the precautionary principle and multi-annual arrangements for setting TACs. COM(2000) 803 final.

There are currently few binding management recommendations for sharks adopted by RFMOs to which the Community is a contracting party. In cases where there are no recommendations or no management plan foreseen, the Community should encourage the respective scientific committees to develop proposals for improving the availability of data and to carry out preliminary assessments.

A key component of the Community Plan of Action is to strengthen the roles of RFMOs in their fisheries management policy, helping to ensure highly qualified advice from their respective scientific committees. Insofar as there are no clear recommendations and advice on shark management stemming from RFMOs, the present Plan of Action would mainly focus on improving knowledge of both directed shark fisheries and incidental catches of sharks. Accordingly, the Community will continue working with and supporting the RFMOs in their efforts to make shark data widely available and to take appropriate management measures

The prohibition of shark finning practices in Regulation 1185/2003 applies to all types of fishing in Community waters and to all Community vessels fishing in non-Community waters. In addition, over the last few years, finning practices have been prohibited in most RFMOs with a competence for shark conservation issues. Often these prohibitions have been agreed on the basis of Community proposals and supported by other parties.

The relevant rules adopted by RFMOs ban shark finning and provide that each Contracting Party bans their vessels from having shark fins on board that total more than 5% of the "weight of sharks on board", up to the first point of landing (while Community legislation currently refers to 5% of the "live weight of the shark catch").

The Commission will continue to work towards ensuring that the measures adopted at Community level regarding finning practices are implemented in all relevant international conventions, including in particular the Regional Fisheries Management Organisations.

Finally, the Community will seek improved international co-operation through CMS and CITES to control shark fishing and trading.

3.2.3. *An integrated framework of actions*

The Commission is of the view that proper management of sharks requires an integrated set of different input/output and technical measures. Overall, the suggested content of the Community Action Plan is structured in accordance with the FAO shark-plan as provided for in Appendix A of the FAO IPOA for the conservation and management of sharks.

The Action Plan will include measures intended to the improvement of data collection and scientific advice, management and technical measures and a further strengthening of the control of the shark finning ban. They will be implemented at Community and Member States level and the Community will seek their **endorsement** by all relevant RFMOs.

3.3. Conclusions

The proposed Action Plan entails a wide range of legal and policy measures, including the modification of a number of existing regulations. Some of these measures can be implemented at Community level, some others need action at Member States level or must be endorsed by RFMOs. Furthermore, the Action plan foresees both actions that can be implemented without delay and others that need a longer term commitment and must be based on progressively available evidence and scientific advice. The timing of the implementation of the Plan of Action will therefore depend on the contributions of all actors involved. The Commission presents this Action Plan to the Council and the Parliament and encourages them to support to the actions proposed.

Action plan for sharks

<u>Specific objective</u>				
To deepen knowledge both of shark fisheries and of shark species and their role in the ecosystem.				
<u>Objective</u>	<u>Level of action</u>	<u>Action</u>	<u>Responsible party</u>	<u>Timetable</u>
To have reliable and detailed species-specific quantitative and biological data on catches and landings as well as trade data for high and medium priority fisheries.	Community level	Increase investment in shark data collection at landing sites and by processing and marketing industries.	Commission, Council and Member States	Gradual implementation in order to have concrete results after three years of implementation.
		Establish systems to provide verification of catch information by species and by fishery.		
		Mandate representative coverage on EC fishing vessels by on-board observers for vessels over 24 m and with recent by-catches figures of more than 10% to 15% (depending on the particular fishery) of sharks in the total catch.		
		For all distant-water fleets not covered by the above measure but which take sharks as a by-catch, mandate at least 10% observer coverage by 2013.		Gradual implementation in order to have concrete results by 2013.
		For high-priority shallow-water fisheries in the NE Atlantic, mandate pilot-based observer scheme (e.g. 25 observers or so) by 2013.		Gradual implementation
Ensure that all landings and trading of shark fins,				

		meat and oil are recorded separately by commodity and where possible at species level, in the main fisheries and for the main species.		in order to have concrete results after three years of implementation.
Measures to be promoted within Regional Fisheries Management Organisations:		Promote improved species-specific catch and landings data and monitoring of shark catches by fishery.	Commission, Council, Member States and RFMOs	Gradual implementation
		Improve, in cooperation with FAO and relevant fisheries management bodies, the monitoring and reporting of catch, bycatch, discards, market and international trade data, at the species level where possible.		
		Request through the FAO and Regional Fisheries Management Organisations where appropriate that these organisations develop and implement Regional Shark Plans and associated measures to assist in species identification and monitoring, as called for in the IPOA-Sharks, by mid-2009 in order to report to the 15th Meeting of the CITES Conference of Parties.		
		Promote the identification and reporting of species-specific biological and trade data, at least for the main species.		
		Encourage representative coverage on fishing vessels by on-board observers for vessels over 24 m fishing		

		<p>in the high seas and with recent by-catches figures of more than 10% to 15% (depending on the particular fishery) of sharks of the total catch.</p> <p>For other fleets not covered by the above measure and taking sharks as a by-catch, encourage at least 10% observer coverage by 2013.</p>		
	Member State level:	Monitor recreational catches and distinguish between the fishing mortality exerted by recreational and commercial fishing.	Member States	
To be able to efficiently monitor and assess shark stocks on a species-specific level and develop harvesting strategies in accordance with the principles of biological sustainability and rational long term economic use.	Community and RFMOs level:	Enhance Community and RFMOs research programmes to facilitate data collection, monitoring and stock assessment on a species-specific level.	Commission, Council, Member States and RFMOs	Gradual implementation in order to have concrete results after three years of implementation.
	Member State level:	Develop national expertise	Member States	Gradual implementation
To improve and develop frameworks for establishing and coordinating effective consultation involving stakeholders in research, management	Community level	Facilitate stakeholder awareness-raising and consultation regarding shark management and best practices to reduce unwanted by-catches through Regional Advisory Council (RAC) programmes.	Commission, Member States and stakeholders	Gradual implementation

and educational initiatives.	Member State level	Encourage Member States to allow public access to relevant aggregated data for fleets and information on shark fisheries, while protecting the right to confidentiality.	Commission and Member States
		Launch educational programmes aimed specifically at educating fishermen and the public about shark and ray conservation programmes and restrictions.	Member States

Specific objective

To ensure that directed fisheries for shark are sustainable and that by-catches of shark resulting from other fisheries are properly regulated.

<u>Objective</u>	<u>Level of action</u>	<u>Action</u>	<u>Responsible party</u>	<u>Timetable</u>
To adjust catches and fishing effort to the available resources with particular attention to high priority fisheries and vulnerable or threatened shark stocks.	Community level:	Limitation or prohibition of fishing activities in areas that are considered sensitive for endangered stocks. – Stronger limitation of fishing effort by relevant fisheries.	Commission, Council and Member States	Gradual implementation in order to have concrete results after three years of implementation.
	Community and Regional Fisheries Management Organisations level:	Establish catch limits for stocks in conformity with the advice provided by ICES and by the relevant RFMOs. Prohibit all shark discards in the medium to long term and require that all catches (including by-catches) are landed. Unwanted by-catches of sharks that have a chance to survive must be released back into the water. Increase selectivity in		

		<p>order to reduce unwanted by-catch.</p> <p>Establishment of space-time boxes in areas where juveniles or spawners are abundant, especially for vulnerable or threatened species.</p> <p>Promotion of programmes and analysis to adjust fishing effort at international level.</p> <p>Establish by-catch reduction programmes for shark species considered Critically Endangered or Endangered by relevant international organisations.</p> <p>Provide international cooperation in CMS and CITES with a view to controlling shark fishing and trading.</p> <p>Examine the possible impact of market mechanisms on conservation measures, including for shark species within the framework of the ongoing evaluation of the Common Market Organisation in fishery and aquaculture products.</p>		
To minimize waste and discards from shark catches requiring the retention of sharks from which fins are	Community and Regional Fisheries Management Organisations level:	Confirm the ban of finning practices ⁶ As a general rule, it will be prohibited to remove shark fins on board and to tranship or land shark fins. Any exception to this rule will have to be fully justified	Commission, Council and Member States	Immediate implementation, following the reception of the conclusions of the Council and the EP.

⁶ Practice whereby the fins are removed from sharks, with the remainder of the shark being discarded at sea.

<p>removed and strengthening control measures.</p>		<p>on solid and objective grounds and documented prior to the issuing by the Member State of the special permit. Member States should not issue special permits to vessels that do not meet this condition.</p> <p>Consider a possible review of the 5% rule by requiring that in no case shall the weight of the fins exceed 5% of the dressed (gutted and beheaded) carcass weight of the shark catch. However, Member States that have set up and implemented data collection programmes that show that this percentage could be increased in certain cases, could do so up to a percentage corresponding to 5% of the live weight of the shark catch.</p> <p>For vessels of Member States that have been exempt from the obligation of landing sharks with fins attached, to introduce the requirement to land shark fins and carcasses at the same time in the same port.</p>		
--	--	--	--	--