

Explanatory note on a Draft Recommendation by ICCAT for the conservation of whale sharks (*Rhincodon typus*) caught in association with ICCAT fisheries

(submitted by the European Union, United Kingdom, Morocco Brazil, Belize and Canada)

The purpose of the proposal is to provide a clear framework for the protection of whale shark (*Rhincodon typus*) that might be incidentally caught in ICCAT fisheries. To date, all tuna RFMOs, except ICCAT, as well as some multilateral environmental agreements have adopted provisions aiming at fostering the conservation of whale sharks and at protecting this fish species from various anthropogenic threats, including fisheries.

The proposal establishes a prohibition to retain specimens of whale shark in ICCAT fisheries. In addition, it establishes provisions for dealing with interactions with whale sharks in purse seine fisheries, aiming at minimising mortality and/or increasing post release survival. Finally, the proposal introduces requirements for reporting that aim at allowing the SCRS to better monitor and assess the potential impact of ICCAT fisheries on the conservation of whale sharks, as well as, to evaluate the effectiveness of - and improve, as needed - existing guidelines for the handling and safe release of specimens of that species caught incidentally in ICCAT fisheries.

**Draft Recommendation by ICCAT for the conservation of
whale sharks (*Rhincodon typus*) caught in association with ICCAT fisheries**
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NOTING that Article 5 of the United Nations Fish Stocks Agreement (UNFSA) requires flag States of fishing vessels harvesting highly migratory species to minimise impacts on bycatch species, protect marine biodiversity and collect relevant data for the elaboration appropriate science based conservation and management measures for ensuring the protection of such species;

RECALLING the United Nations General Assembly Resolution 77/118 that, inter alia, requests States and Regional Fisheries Management Organisations, to strengthen or establish data-collection programmes to obtain reliable species-specific estimates of protected species incidentally caught in fisheries and to promote further research on the use of appropriate bycatch mitigation measures, as well as to implement the International Guidelines on Bycatch Management and Reduction of Discards of the FAO;

FURTHER RECALLING that other tuna Regional Fisheries Management Organisations (e.g., IOTC Resolution 13/05, WCPFC CMM 2022-04, IATTC Resolution 19-06) have adopted conservation measures for the protection of whale sharks from interactions with fisheries falling under their purview;

FURTHER NOTING that several scientific studies presented to the SCRS in recent years indicated that ICCAT fisheries, in particular those using purse seine gear, interact with whale sharks and that some purse seine fleets operating in the ICCAT Convention area already implement voluntarily existing best practices and procedures for the protection of whale sharks;

[...]

FURTHER ACKNOWLEDGING that the SCRS has previously advised that “Precautionary management measures should be considered for stocks where there is the greatest biological vulnerability and conservation concern, and for which there are very few data”, which could reasonably apply to whale sharks;

NOTING that in its second performance review, in the chapter ‘Trends in the Status of Non-Target Species,’ PA4 recommended that “the precautionary approach be consistently applied for associated species considering that the assessments for these species are highly uncertain and that their status is often poorly known”;

THE INTERNATIONAL COMMISSION FOR THE CONSERVATION
OF ATLANTIC TUNAS (ICCAT) RECOMMENDS THAT:

1. CPCs shall prohibit their flagged fishing vessels from retaining on board, transshipping, or landing, in whole or in part, any specimen of whale shark (*Rhincodon typus*) caught in ICCAT fisheries.
2. CPCs shall prohibit their flagged fishing vessels from setting a purse seine on a school of tuna associated with a whale shark if the animal is sighted prior to the commencement of the set.
3. CPCs shall require that when a whale shark is incidentally encircled in the purse seine net, the master of the fishing vessel shall take all reasonable steps to ensure its safe release;

[...]

4. CPCs shall ensure that, consistent with the requirements of Recommendation by ICCAT to Establish Minimum Standards for Fishing Vessel Scientific Observer Programs (Rec. 16-14), interactions with whale sharks during purse seine operations are recorded through their domestic observer programmes. The following information will also be collected: i) details of how and why the encirclement occurred, ii) the number of individuals involved during the interaction, iii) location of the interaction, iv) steps taken to ensure safe handling and release of the specimens encircled in the purse seine, and v) an assessment of the life status of the whale shark specimen(s) upon release (alive/dead/moribund/uncertain).

5. CPCs shall report the data and information collected under paragraph 3 in their Annual Reports and, in the case of data collected through observer programs, to the Secretariat in accordance with ICCAT data reporting requirements.
6. Until safe handling and release guidelines are developed and adopted pursuant to paragraph 7 below, CPCs should require the masters of their flag vessels, in taking steps to ensure the safe handling and release of a whale shark as required under paragraph 2 and while ensuring the safety of the crew, to apply the guidelines outlined in the **Annex 1**.

[...]

7. Paragraph 1-5 shall not apply to fishing vessels operating exclusively North of 40° N or South of 40° S (i.e., outside the core geographic range of whale shark in the Atlantic Ocean).

[...]

8. The SCRS shall, in 2024, review existing data and information relating to the life history and conservation status of whale sharks, and confirm whether they meet the definition of being a taxon of the greatest biological vulnerability and conservation concern for which there are very few data. Should this be the case, the SCRS shall advise on the appropriateness of applying precautionary management measures in ICCAT fisheries, such as a retention ban. The SCRS may also identify options for future research and data collection, as well as advise on other mitigation measures for relevant ICCAT fisheries.
9. The Commission invites the SCRS to review and endorse, at its best convenience, the geographic boundaries in paragraph 6 and the guidelines for the safe release of encircled whale sharks in Annex 1, taking into account those developed in other Regional Fisheries Management Organisations.
10. Noting that the effectiveness of various release methods is still to be evaluated, CPCs are encouraged to undertake research activities on handling and release practices ensuring high post release survival rates for whale sharks caught incidentally during purse seine operations.

Entry into force

11. Notwithstanding Article VIII of the ICCAT Convention, CPCs shall implement this Recommendation no later than 1 January 2025.
12. If there is a consensus on the interpretation of the SCRS advice at the 2024 Annual meeting of the Commission, this Recommendation will enter into force as scheduled in paragraph 11.

Guidelines for safe handling and release of whale sharks

1. In the ICCAT Convention area, the following practices should be used when releasing whale sharks incidentally caught in ICCAT fisheries:
 - Use the sail brail or dip net to lift and release the whale sharks, operation also defined as “brailing”. This operation is to be used when specimens smaller than 2 meters are caught, to release them directly in open water, without bringing them on board; or
 - Sink the cork line so the whale shark rolls out of the net. If the individual does not go out the net by itself, place a rope under the animal and attach it to the float line to help it roll out of the net; or
 - Cut a few meters of the net in front of the whale shark.
2. In the ICCAT Convention area, the following practices should be avoided when releasing whale sharks incidentally caught in ICCAT fisheries:
 - Lifting whale sharks by tail;
 - Pulling whale sharks by a loop hooked around its gill or holes bored into a fin;
 - Gaffing;
 - Leaving towing ropes attached to trunk of whale sharks;
 - Brailing whale sharks larger than 2 meters;
 - Brailing whale sharks onto the deck;
 - Starting the brailing process while whale shark is still in the purse seine net.