

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

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

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*) interacting 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 biodiversity and collect relevant data for the elaboration 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 purse seine, 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;

ACNOWLEDGING that whale sharks require protection in all Oceans and that in line with UNFSA Article 5(e) appropriate and consistent actions are needed for ensuring that interactions with ICCAT fisheries do not undermine the conservation status of this fish species.

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

1. CPCs shall prohibit their flagged fishing vessels from retaining on board, transhipping, 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:
 - a) ensure that all reasonable steps are taken to ensure its safe release; and
 - b) report the interaction with the whale shark to the relevant authority of the flag State, including: 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 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).
4. In taking steps to ensure the safe release of the whale shark as required under paragraph 3a) and while ensuring the safety of the crew, the vessel's master should apply the guidelines outlined in the **Annex**.
5. CPCs shall require that any interaction with whale sharks in ICCAT fisheries other than purse seine CPCs shall be reported to their relevant authority and shall include the information required under paragraph 3b) ii-v).

5bis. Paragraph 1-5 shall not apply to 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).

6. CPCs shall report to ICCAT the information and data collected under paragraph 3b) and 4 through their Annual Reports.
7. The Commission invites the SCRS to review and endorse, at its best convenience, the guidelines for the safe release of encircled whale sharks in Annex 1, taking into account those developed in other Regional Fisheries Management Organisations.
8. 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.

Guidelines for safe 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 indicated in case of catch of specimens smaller than 2 meters, to release the specimen directly in open water, not putting it on board;
 - OR Sinking 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 so it helps it to roll out of the net;
 - OR Cutting 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.