

Proposal for a Council Regulation on the removal of fins of sharks on board vessels

(2002/C 331 E/25)

COM(2002) 449 final — 2002/0198(CNS)

*(Submitted by the Commission on 5 August 2002)***EXPLANATORY MEMORANDUM**

Sharks and related species such as skates and rays (fish belonging to the taxon Elasmobranchs), are generally very vulnerable to exploitation due to their life-cycle characteristics. Most of shark species are often caught as by-catch in Community fisheries directed to other more valuable species and are therefore difficult to manage using only the traditional tools based on catch and effort restrictions.

The meat of sharks must be subject to special treatment for its preservation; otherwise its high content of ammonia makes it unattractive for human consumption. Consequently shark meat usually fetches low prices, although this has started to change with the improvement in the treatment of the fish on board. Shark fins, however, are much in demand in certain markets of the Far East, as the main ingredient to prepare thickeners for food products, in particular for use in shark fin soup. Fins can be easily preserved by drying or freezing and can reach very high prices.

Since very few regulations exist to restrict fishing of sharks, in particular due to lack of detailed knowledge about the fishing patterns and their biology, this has led to the practice whereby fins are removed from any shark caught by a fishing vessel, only the removed fins are retained on board and the remainder of the shark is discarded at sea (with possibly part of the flesh being re-used as bait for further shark fishing). This practice, known as 'shark finning', results in the death of large quantities of sharks. The retention on board of the fins alone takes up the available storage space of a vessel less rapidly than would be the case if whole sharks were retained, and, therefore, contributes to excessive mortality of sharks with devastating effects on shark populations. The low reproductive rate of sharks makes stock recovery very difficult.

The current scientific knowledge, generally based on examination of catch rates, indicates that many stocks of sharks are seriously under threat⁽¹⁾. Until more is known about the population dynamics of shark stocks and their response to exploitation, which would allow the designing of well-tailored management plans, any measure preventing the development of unsustainable fishing practices or leading to decreased exploitation will have positive effects on the status of such stocks. Therefore, rules to severely restrict or prevent further development of the practice of shark finning are urgently required.

Techniques have been developed to improve methods of preserving shark meat and to develop markets for human consumption; other parts of the body (liver, skin) are in demand and can also be sold. It is believed that, in these circumstances, fishermen can obtain a higher economic return from their landings and, for a given economic result, fishing pressure can be decreased by a full utilisation of the catch.

In view of these circumstances, it is appropriate to prohibit the finning of sharks. To be effective, the prohibition should apply to all types of fishing in Community waters. In non-Community waters, the prohibition can only apply to Community vessels, and therefore it will not be fully effective in terms of shark protection. However, it is a policy of the Community to show equal commitment towards stock conservation in all waters where its vessels fish. This proactive attitude will also facilitate the promotion of the measure for adoption in international fora, essentially Regional Fisheries Organisations, and will align the Community with other countries which have adopted similar measures.

⁽¹⁾ See in particular FAO report: A preliminary evaluation of the status of shark species — FAO Fisheries Technical Paper. No 380. Rome, FAO. 1999.

The most effective and practical means to implement a prohibition of finning and to render by-catches of sharks less attractive in fisheries is to prohibit the removal of fins on board, and to prohibit the keeping on board, transshipping or landing of shark fins which have been removed from the fish body. In view of the practical difficulties for control and species identification based on removed fins kept on board or landed, these prohibitions should apply to all Elasmobranchs. However, the practice of cutting ray wings should not be covered by such prohibitions, in particular as it aims at using the most important part of the fish flesh, and as ray wings can be easily distinguished from any other fin removed from a cartilaginous fish.

For certain fisheries there could, however, be a practical need for removing shark fins on board and for separate on-board processing of fins and bodies, even when the carcass is to be kept and used. In those circumstances, it is considered appropriate that a special fishing permit shall be issued under which such a practice would be acceptable, while ensuring at the same time that possession on board, landing or transshipping of fins is accompanied by possession on board, landing or transshipping of a corresponding weight of the carcass. To facilitate enforcement and to limit possible abuses, it is appropriate to adopt a single and restrictive conversion factor applicable to all shark species.

This regulation represents a measure for the conservation of sharks as announced by the Commission in its recent Communication setting out a Community Action Plan to integrate environmental protection requirements into the Common Fisheries Policy (COM(2002) 186 final). The regulation also forms part of the development and implementation, by the Community, of a more comprehensive management plan for the conservation and sustainable use of sharks, in line with the FAO Code of Conduct for Responsible Fisheries and the FAO International Plan of Action for sharks.

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 37 thereof,

Having regard to the proposal from the Commission,

Having regard to the Opinion of the European Parliament,

Whereas:

- (1) Article 4 of Regulation (EC) No 3760/92 of 20 December 1992 establishing a Community system for fisheries and aquaculture⁽¹⁾ stipulates that the Council, in order to ensure the rational and responsible exploitation of resources on a sustainable basis, is to establish Community measures laying down the conditions of access to Community waters and resources and the pursuit of fishing activities.
- (2) Fish belonging to the taxon *Elasmobranchii*, which includes sharks, skates, rays and similar species are generally very vulnerable to exploitation due to their life-cycle characteristics. Most of these species are often caught as by-catch in Community fishing activities directed to other more valuable species.
- (3) Current scientific knowledge, generally based on the examination of catch rates, indicates that many stocks of sharks are seriously under threat.

- (4) Until more is known about the population dynamics of stocks of sharks and their response to exploitation, which would allow the drafting of well-tailored and comprehensive management plans, any measure preventing the development of unsustainable practices or leading to decreased exploitation of sharks will have positive effects on their conservation.

- (5) The practice of 'shark finning', whereby the fins are removed from sharks, with the remainder of the shark body being discarded at sea, may contribute to the excessive mortality of sharks to such an extent that many stocks of sharks are depleted, and their future sustainability may be endangered.

- (6) Measures to restrict or prevent the further development of the practice of shark finning are urgently required, and the removal of shark fins on board vessels should therefore be prohibited. In view of the practical difficulties involved in the identification of species based on removed fins, this prohibition should apply to all Elasmobranchs, except for the removal of ray wings.

- (7) However, the removal of shark fins on board may be allowed if the removal is in order to make a more efficient use of all shark parts by the separate processing on board of fins and the remaining parts of the sharks. In this case, the flag Member State should issue and manage, with associated conditions, a special fishing permit in accordance with Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits⁽²⁾.

⁽¹⁾ OJ L 389, 31.12.1992, p. 1. Regulation as last amended by Regulation (EC) No 1181/98 (OJ L 164, 9.6.1998, p. 1).

⁽²⁾ OJ L 171, 6.7.1994, p. 7.

- (8) In order to ensure that all parts of sharks are kept on board after the removal of fins, masters of vessels which hold a valid special fishing permit should keep records of the weight of shark fins and the remaining parts of sharks after evisceration. Such records should be kept in the logbook as provided for by Regulation No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy⁽¹⁾, or in a special register as appropriate.
- (9) The problems resulting from the practice of shark finning extend well beyond Community waters. It is appropriate that the Community shows equal commitment towards stock conservation in all maritime waters. This Regulation should therefore be applicable to all Community vessels.
- (10) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of conservation of shark stocks to lay down rules on the removal of shark fins on board vessels. This regulation does not go beyond what is necessary in order to achieve the objectives pursued in accordance with the third paragraph of Article 5 of the Treaty,

HAS ADOPTED THIS REGULATION:

Article 1

Scope

This Regulation shall apply to the removal of shark fins, retention on board, transshipment and landing of sharks:

1. by vessels in maritime waters under the sovereignty or the jurisdiction of Member States;
2. by vessels flying the flag or registered in Member States in other maritime waters.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

1. 'shark fins' means any fins of sharks including caudal fins, but excluding the pectoral fins of rays which are a constituent part of ray wings;
2. 'shark' means any fish of the taxon *Elasmobranchii*;
3. 'special fishing permit' means a prior fishing authorisation issued and managed in accordance with Regulation (EC) No 1627/94.

Article 3

Prohibited activities

1. It shall be prohibited to remove shark fins on board vessels, or to retain on board, tranship or land shark fins.

2. It shall be prohibited to purchase, offer for sale or sell shark fins which have been removed, retained on board, transhipped or landed in contravention of this Regulation.

Article 4

Derogation and special fishing permit

1. By way of derogation from Article 3(1), and subject to paragraphs 2, 3, and 4, vessels which hold a valid special fishing permit may be allowed to remove shark fins on board and to retain on board, tranship or land shark fins.
2. Such a special fishing permit shall only be issued to fishing vessels, which have demonstrated a capacity to use all parts of sharks, and have justified the need for the separate processing on board of shark fins and the remaining parts of sharks.
3. Vessels which hold a valid special fishing permit shall be prohibited from discarding at sea the remaining parts of sharks after evisceration and removal of the shark fins. The removed shark fins shall be retained on board, landed or transhipped together with the corresponding weight of remaining parts of sharks.
4. All shark fins and remaining parts of sharks on board a vessel shall be transhipped or landed at the same time.

Article 5

Ratio of weight of shark fins and remaining parts of sharks and records

1. For the purposes of the application of Article 4(3), the weight of the shark fins shall not exceed 5 % of the total weight of the remaining parts of sharks, after evisceration.
2. Masters of vessels which hold a valid special fishing permit shall keep records of the weight of shark fins and the eviscerated remaining parts of sharks retained on board and transhipped or landed.

These records shall be kept in the logbook established by Article 6(1) of Regulation (EEC) No 2847/93, where applicable. For those vessels not subject to Article 6(1) of that Regulation, these records shall be kept in a special register to be provided by the competent authority issuing the special fishing permit.

Article 6

Entry into force

This Regulation shall enter into force on the seventh day following that of its publication in the *Official Journal of the European Communities*.

It shall apply from [60 days after publication].

This Regulation shall be binding in its entirety and directly applicable in all Member States.

⁽¹⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Commission Regulation (EC) No 1965/2001 (OJ L 268, 9.10.2001, p. 2).