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(Acts whose publication is obligatory)

**COUNCIL REGULATION (EC) No 1185/2003
of 26 June 2003
on the removal of fins of sharks on board vessels**

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 ⁽¹⁾,

Having regard to the opinion of the European Parliament ⁽²⁾,

Whereas:

- (1) According to Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy ⁽³⁾, the Common Fisheries Policy shall ensure exploitation of living aquatic resources that provides sustainable economic, environmental and social conditions, and the Council is to establish Community measures governing access to waters and resources and the sustainable 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 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 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 *Elasmobranchii*, except for the removal of ray wings.
- (7) However, the removal of fins from dead sharks on board may be allowed if the removal aims at a more efficient use of all shark parts by the separate processing on board of fins and of 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 Council Regulation (EC) No 1627/94 of 27 June 1994 laying down general provisions concerning special fishing permits ⁽⁴⁾.
- (8) In order to ensure that all the remaining 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 amounts of shark fins and of the remaining parts of sharks after evisceration and beheading. Such records should be kept in the logbook as provided for by Council Regulation (EEC) No 2847/93 of 12 October 1993 establishing a control system applicable to the common fisheries policy ⁽⁵⁾, 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.

⁽¹⁾ OJ C 331 E, 31.12.2002, p. 121.

⁽²⁾ Opinion delivered on 27 March 2003 (not yet published in the Official Journal).

⁽³⁾ OJ L 358, 31.12.2002, p. 59.

⁽⁴⁾ OJ L 171, 6.7.1994, p. 7.

⁽⁵⁾ OJ L 261, 20.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 806/2003 (OJ L 122, 16.5.2003, p. 1).

- (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 or shark fins:

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 raywings;
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

Prohibitions

1. It shall be prohibited to remove shark fins on board vessels, and 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 on board, retained on board, transhipped or landed in contravention of this Regulation.

Article 4

Derogation and associated conditions

1. By way of derogation from Article 3(1), and subject to paragraphs 2, 3, 4 and 5 of this Article, it may be allowed to remove shark fins from dead sharks on board and to retain on board, tranship or land shark fins with regard to vessels which hold a special fishing permit.
2. Such a special fishing permit shall only be issued to fishing vessels where a capacity to use all parts of sharks has been demonstrated and where the need for the separate processing on board of shark fins and the remaining parts of sharks has been justified.
3. It shall be prohibited to discard at sea the remaining parts of sharks after removal of the shark fins, except those parts resulting from basic processing operations, such as beheading, gutting and skinning.
4. 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.
5. For the purpose of controlling the application of paragraph 4, the theoretical correspondence between weights of fins and bodies shall be established by Member States, taking into account the type of fishery, the species composition and the type of processing and storage. In no case shall the theoretical weight of the fins exceed 5 % of the live weight of the shark catch.

Article 5

2. In order to facilitate the control of landings by the port authorities and the documentation referred to in paragraph 1, masters of vessels, or their representatives, who hold a valid special fishing permit and who intend to land shark fins or remaining parts of sharks outside Community ports, shall notify the authorities of the flag State and the competent authorities of the State whose ports or landing facilities they want to use, at least 72 hours before the estimated time of arrival at the port of landing, of the catches retained on board, the catches intended for landing and their estimated time of arrival at the port.

Article 6

Reports and Review

1. Member States shall send the Commission, by 1 May at the latest, a comprehensive annual report on the implementation of this Regulation during the previous year. The report shall describe the monitoring of compliance of vessels with the requirements of Articles 3, 4 and 5 and shall detail in particular the number of special permits issued, the technical basis for

setting the theoretical correspondence between weights of fins and bodies and the documentation considered valid for the purposes of monitoring separate landings of fins and bodies.

2. After the submission by Member States of their second annual report, the Commission shall no later than 1 January 2006 report to the European Parliament and the Council on the operation of this Regulation and the international developments in this field, and submit, if appropriate, any amendment to this Regulation. Where the proposed amendments would affect the theoretical correspondence between weights of fins and bodies, these amendments shall be made in the light of the advice of the Scientific, Technical and Economic Committee for Fisheries.

Article 7

Entry into force

This Regulation shall enter into force on the 60th day following that of its publication in the *Official Journal of the European Union*.

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

Done at Luxembourg, 26 June 2003.

For the Council

The President

G. DRYG
