

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA



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ADDITIONAL TRADE AND DECLINE INFORMATION
IN SUPPORT OF COP 19 PROP. 37 (REQUIEM SHARKS)

This document has been submitted by Panama in relation to proposal CoP 19 Prop. 37.*

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Additional trade and decline information in support of CoP 19 Proposal 37
(requiem sharks)

The Government of Panama, as a co-proponent of proposal 37 (requiem sharks- Family Carcharhinidae) welcomes recent assessments of this listing proposal by the CITES Secretariat, IUCN/TRAFFIC and the UN Food and Agriculture Organization (FAO).

In addition to the clear justification for the adoption of proposal 37 as detailed in the proposal itself, we note that both the CITES Secretariat and the IUCN/TRAFFIC assessments of the proposal for the requiem sharks concluded that the proposal meets the CITES listing criteria for inclusion in Appendix II and should be adopted by Parties at CoP19. Furthermore, as outlined in two Information documents Panama already submitted (CoP INF 1 and CoP INF 2), there appears to be serious issues with the methodology used in a third assessment of the proposals, that conducted by the FAO.

As noted in INF 1, The Report of the Seventh FAO Expert Advisory Panel for the assessment of the proposals to amend Appendices I and II of CITES concerning commercially-exploited aquatic species (Rome, 18–22 July 2022) found that three species of requiem shark met the FAO’s interpretation of the CITES listing criteria. Several species of requiem shark, however, were excluded from full analysis by the Panel due to a claim of lack of evidence of international trade.

The Panel report noted that: *‘For seven species, no verifiable information on international trade was available in the proposal and as such the species were not assessed: borneo shark (C. borneensis); pondicherry shark (C. hemiodon); lost shark (C. obsoletus); caribbean reef shark (C. perezii), night shark (C. signatus); daggernose shark (Isogomphodon oxyrinchus); borneo broadfin shark (Lamiopsis tephrodes)’.*

Res.Conf. 9.24 (Rev. CoP17) Annex 5 defines “affected by trade” as - i) it is known to be in trade (using the definition of ‘trade’ in Article I of the Convention), and that trade has or may have a detrimental impact on the status of the species; or ii) it is suspected to be in trade, or there is demonstrable potential international demand for the species, that may be detrimental to its survival in the wild. As noted in both the CITES Secretariat and the IUCN/TRAFFIC analyses of proposal 37, the vast majority of the 19 ‘lead’ species in the proposal meet this definition, and the very small number that don’t would be lookalikes (pursuant to Article II.2.b of the treaty) for the ‘lead species’ in terms of trade in fins and meat.

However, the FAO Panel failed to apply the CITES definition for “affected by trade” set out in Annex 5 of Res.Conf. 9.24 (Rev. CoP17), resulting in their conclusions that differ from the CITES Secretariat and IUCN/TRAFFIC analyses. Instead, the Panel appears to have developed a novel definition of “affected by trade.” The Panel’s novel definition requires verifiable species-specific data on its presence in international trade to be presented in the listing proposal. Verifiable published evidence seen by the Panel and cited in the Panel report was deemed insufficient for the trade criterion to be met, if it had not been cited in the original proposal.

Furthermore, the Panel decided that trade must not only be demonstrated to be occurring, but that export trade should be a major component or driver of fishing pressure before a species can qualify for listing in Appendix II. That is not consistent with all prior interpretations of “affected by trade” by CITES Parties at meetings of the CoP, which applied the Annex 5 definition in Res.Conf.9.24. This, and many other key CITES texts are cited incorrectly in the Panel report and to the FAO Panel’s Terms of Reference. Full details can be found in Annex 1 to this document.

Indeed, trade records have not yet been located for eight of these sharks – inevitably so, for the Lost Shark *Carcharhinus obsolerus*, classified by the IUCN Red List of Threatened Species as Possibly Extinct, and unsurprising in the case of three other Critically Endangered species. However, the Panel’s mistaken interpretation of “affected by trade” does not explain why the Caribbean reef shark *C. perezii* was excluded from review, when the Panel report cites a published source of trade data for this species. It is important to note that only a limited number of genetic studies of shark products in trade have been undertaken, in very few locations. Although rare and depleted species (particularly those with a limited range) may not have been reported in these studies, this does not mean that they are not being traded in volumes proportionate to their occurrence in fisheries bycatch.

However, a wide range of additional trade data is available for the proposed species beyond that found in proposal 37, which the Panel chose not to consider. A simple literature search indicates that trade information has been published in peer reviewed sources for several of those species. This document also provides information that questions the FAO’s decision to find that Endangered dusky and sandbar sharks don’t meet the CITES criteria, by highlighting a wide range of additional information on the declines and trade in those that the Panel seems not to have considered.

The Panel’s choice to ignore the CITES definition of “affected by trade” and its failure to include research beyond that found in the proposal led to their mistaken exclusion of almost half of the 19 lead species (including the most seriously depleted species) from their assessment. This, along with the Panels lack of consideration of lookalike species raised in CoP Inf. Docs 1 and 2, raises serious questions regarding the degree to which this analysis should be considered by Parties as they form their final decisions on proposal 37.

The additional information sources and the relevant references are detailed here:

Additional information on trade and decline in species not analysed by the FAO Panel when the considered proposal 37:

The FAO Panel report states there is no verifiable information on international trade available for the **Caribbean reef shark (*Carcharhinus perezii*)** and the **night shark (*Carcharhinus signatus*)** resulting in exclusion of these species from consideration. However, publications on catch data and trade routes in Central America provide evidence to the contrary. Quinlan et al. (2021) reconstructed the catch of the Belizean shark fishery using fisher-contributed secondary fins and found *C. perezii* to be the most prevalent species. They also reported the presence of *C. signatus* in the fishery. Notably, domestic consumption of shark meat in Belize is sparse and the shark fishing communities in southern and central Belize primarily supply the demand for salted meat and dried fins in Guatemala through exports (Graham 2007; Sabbagh & Hickey 2019; Quinlan et al. 2021). In Brazil, illegal shark fin seizures from foreign fishing fleets belonging to Spain and China as well as a Brazilian exporter to China revealed the presence of *C. perezii* and *C. signatus* using DNA-based species identification (da Silva Ferette et al. 2019). A similar interception of an in-transit shipment of shark fins from South America to Asia via the U.S. also reported *C. perezii* and *C. signatus* fins (Partin et al. 2022).

Thus, there is unambiguous evidence in published literature that these species, which were considered by the Panel not to have met the CITES criteria for “affected by trade”, pursuant to CITES Resolution Conf. 9.24 (Rev. CoP 17), Annex 5, do enter international trade in order to supply consumer demand in regional and Asian markets.

The FAO Expert Panel also indicated the **dusky shark (*Carcharhinus obscurus*)** did not meet the criteria for listing, despite evidence of substantial international trade (e.g. Cardenosa et al. 2022), because evidence of population decline was limited to two areas: Northeast United States of America and Western Australia. The Panel apparently assumed that declines in these locations, which are small parts of these species’ overall range, are outliers. This is unlikely to be the situation, particularly since these range States have strong research capacity and shark fisheries management such as the catch and effort control measures in Western Australia used to prevent unsustainable exploitation of the breeding stock of *C. obscurus*. In contrast, several authors (Sembiring et al. 2015; Jaiteh et al. 2017; Isran et al. 2021) document an apparent decline in this *C. obscurus* population in the eastern Indonesian portion of its range, as well as mounting targeted fishing pressure there. Low intrinsic resilience, higher extinction risk and high value per individual are associated with an increased impact from this fishery on the regional shark populations in Indonesia (Jaiteh et al. 2017; Booth et al. 2022).

In Brazil, there are indications of a *C. obscurus* population decline of at least 50% (Bernardo et al. 2020). Liu et al. (2022) evaluated *C. obscurus* as a high-risk species in the Taiwan-based small-scale tuna longline fishery using a semi-quantitative ecological risk assessment method. Indonesia and Taiwan both fall within the top 20 shark catching entities as well as exporting entities (Okes & Sant 2019). It is a reasonable assumption that species such as *C. obscurus*, which are abundant in these and other domestic fisheries, enter the export supply chain from fishing range States. Finally, considerable additional literature records international trade in *C. obscurus* (Fields et al. 2017; da Silva Ferette et al. 2019; Cardenosa et al. 2020; Cardenosa et al. 2022; Partin et al. 2022).

The FAO Expert Panel also indicated the **sandbar shark (*Carcharhinus plumbeus*)**, did not meet the criteria for listing, despite evidence of substantial international trade (e.g., Cardenosa et al. 2022). This was because the *C. plumbeus* population in the Atlantic Ocean is recovering in that region following decades of management, and the Panel apparently assumed that would be the case globally. This is unlikely to be the situation. *C. plumbeus* are frequently caught in unmanaged fisheries elsewhere, including in eastern Indonesia, which lands a large proportion of immature individuals (Jaiteh et al. 2017), as well as in the Taiwan-based inshore longline fishery (Joung et al. 2004; Liu et al 2022). Jabado et al (2015) also classified *C. plumbeus* as an important species in trade in the United Arab Emirates.

For both *C. obscurus* and *C. plumbeus*, it is important to note that, while they occur in some 50–100 range States, the United States of America and Australia are often among the few that publish data to infer regional trends. Also, as noted above, fishing is more highly regulated in these nations than others (Simpfendorfer & Dulvy 2017), which means declines in other regions are more likely. The Expert Panel states that these species have been accorded protection in regional fisheries (such as United States of America, Australia), however, this was also true for species that were previously listed on CITES Appendix II such as the hammerhead sharks. Protection or management in a few jurisdictions is not sufficient to disqualify a species from inclusion in Appendix II. There is evidence of *C. obscurus* and *C. plumbeus* catches in several large exporting nations with unmanaged fisheries and the proposed listing has the potential to improve management of these and other requiem shark species in the majority of their ranges.

Annex 1:

Review of the Seventh FAO Expert Advisory Panel Report (R1389, FAO 2022) requires reference to key CITES texts that are cited incorrectly in the Panel report and to the FAO Panel's Terms of Reference. These are **Article II – Fundamental Principles** of the Convention text, and **Resolution Conf. 9.24 (Rev. CoP17) on Criteria for amendment of Appendices I and II**, including definitions in **Annex 5**. They are pasted below. Misinterpretation of these texts have resulted in several unclear paragraphs in pages 4-10, particularly in Section 2.3, of the FAO Panel report.

1. Article II of the Convention

<i>Article II</i> Fundamental Principles
<p>1. Appendix I shall include all species threatened with extinction which are or may be affected by trade. Trade in specimens of these species must be subject to particularly strict regulation in order not to endanger further their survival and must only be authorized in exceptional circumstances.</p> <p>2. Appendix II shall include:</p> <p>(a) all species which although not necessarily now threatened with extinction may become so unless trade in specimens of such species is subject to strict regulation in order to avoid utilization incompatible with their survival; and</p> <p>(b) other species which must be subject to regulation in order that trade in specimens of certain species referred to in sub-paragraph (a) of this paragraph may be brought under effective control.</p>

2. Extract from Res. Conf. 9.24 (Rev. CoP17): Annex 2 a

Annex 2 a	Criteria for the inclusion of species in Appendix II in accordance with Article II, paragraph 2 (a), of the Convention
<p>The following criteria must be read in conjunction with the definitions, explanations and guidelines listed in Annex 5, including the footnote with respect to application of the definition of 'decline' for commercially exploited aquatic species.</p> <p>A species should be included in Appendix II when, on the basis of available trade data and information on the status and trends of the wild population(s), at least one of the following criteria is met:</p> <p>A. It is known, or can be inferred or projected, that the regulation of trade in the species is necessary to avoid it becoming eligible for inclusion in Appendix I in the near future; or</p> <p>B. It is known, or can be inferred or projected, that regulation of trade in the species is required to ensure that the harvest of specimens from the wild is not reducing the wild population to a level at which its survival might be threatened by continued harvesting or other influences.</p>	

3. Extract from Res. Conf. 9.24 (Rev. CoP17) Annex 5 (Definitions, explanations and guidelines)

Affected by trade

A species "is or may be affected by trade" if:

- i) it is known to be in trade (using the definition of 'trade' in Article I of the Convention), and that trade has or may have a detrimental impact on the status of the species; or
- ii) it is suspected to be in trade, or there is demonstrable potential international demand for the species, that may be detrimental to its survival in the wild.

4. Extract from Res. Conf. 9.24 (Rev. CoP17): Annex 2 b.

Annex 2 b

Criteria for the inclusion of species in Appendix II in accordance with Article II, paragraph 2 (b), of the Convention

Species may be included in Appendix II in accordance with Article II, paragraph 2 (b), if **either one** of the following criteria is met:

- A. The specimens of the species in the form in which they are traded resemble specimens of a species included in Appendix II under the provisions of Article II, paragraph 2 (a), or in Appendix I, so that enforcement officers who encounter specimens of CITES-listed species are unlikely to be able to distinguish between them; or
- B. There are compelling reasons other than those given in criterion A above to ensure that effective control of trade in currently listed species is achieved.

5. FAO Expert Panel Terms of Reference and Objectives (FAO COFI 25, 2003).

Terms of Reference for an "Ad Hoc Expert Advisory Panel for Assessment of Proposals to CITES"²⁵

1. FAO will establish an Ad Hoc Expert Advisory Panel for the Assessment of Proposals to Amend CITES Appendices I and II.
2. The Panel shall be established by the FAO Secretariat in advance of each Conference of the Parties, according to its standard rules and procedures and observing, as appropriate, the principle of equitable geographical representation, drawing from a roster of recognized experts, to be established, consisting of scientific and technical specialists in commercially exploited aquatic species.
3. The Panel members shall participate in the Panel in their personal capacity as experts, and not as representatives of governments or organizations.
4. The Panel will consist of a core group of no more than 10 experts, supplemented for each proposal by up to 10 specialists on the species being considered and aspects of fisheries management relevant to that species.
5. For each proposal the Panel shall:
 - assess each proposal from a scientific perspective in accordance with the CITES biological listing criteria, taking account of the recommendations on the criteria made to CITES by FAO; and
 - comment, as appropriate, on technical aspects of the proposal in relation to biology, ecology, trade and management issues, as well as, to the extent possible, the likely effectiveness for conservation.
6. In preparing its report, the Panel will consider the information contained in the proposal and any additional information received by the specified deadline from FAO Members and relevant regional fisheries management organizations (RFMOs). In addition, it may ask for comments on any proposed amendment, or any aspect of a proposed amendment, from an expert who is not a member of the Panel if it so decides.

Sections of the 2022 FAO Panel report (pp. 4, 9, 12, 23-26, 85) address issues outside its TOR, including practicality, costs, and socio-economic impacts of listings. Panel appointees did not include experts in these fields.

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