ON THE CONSERVATION OF WHALE SHARKS (*RHINCODON TYPUS*)

SUBMITTED BY: AUSTRALIA & MALDIVES, 05 APRIL 2013

Explanatory Memorandum

Australia is concerned about the potential impact of purse seine fishing on populations of whale sharks and cetaceans in the Indian Ocean Tuna Commission (IOTC) area of competence. Anthropogenic impacts, including from fishing, have significantly reduced global populations of whale sharks and some cetaceans.

Whale sharks and cetaceans are particularly vulnerable to the impact of fishing, including fishing for tuna and tuna-like species, due to their conservation status and their being highly migratory. Moreover, whale sharks and Mysticeti cetaceans (baleen whales) are particularly vulnerable to encirclement by purse seine nets due to the propensity of tuna and tuna-like species to form schools around them, or for Ondonticeti cetaceans (toothed whales) being attracted to the same prey as tunas. Consistent conservation and management approaches to mitigate the impact of fishing throughout the world's oceans are more likely to protect these taxa.

In 2012 members of the Western and Central Pacific Fisheries Commission adopted a binding conservation measure to mitigate the impact of purse seine fishing on whale sharks. This decision was taken in response to research undertaken by the Secretariat of the Pacific Community through the Oceanic Fisheries Programme on whale shark and cetacean interactions in the purse seine fishery of the western and central Pacific Ocean (WCPFC8–2011–IP–01). The paper noted that purse seine sets are a combination of targeted and inadvertent capture and that there is significant under reporting of whale shark and cetacean associated purse seine sets; for example up to 60% of observed whale shark interactions occurred in sets classified as 'un-associated' (i.e. as free schools of tuna). Of critical importance to the conservation of whale sharks and cetaceans is the mortality resulting from the interactions with fishing gear. The observer data from WCPFC reports that the observed mortality rate following the interaction was 12% for whale sharks and 66% for Odontoceti whales.

Similar interactions with whale sharks and cetaceans have also been recorded in the Indian Ocean region. In observer data collected between 1986–1992 from Soviet purse seine fishing vessels in the western Indian Ocean[1], 494 purse seine sets were observed over the seven year period with 27 intentionally set on whale sharks or cetaceans. The types of cetaceans interacted with include *Balaenoptera borealis* (sei whales), *Balaenoptera physalus* (fin whales), *Balaenoptera brydei* (Bryde's whale), *Balaenoptera musculus brevicauda* (pygmy blue whales) and *Physeter macrocephalus* (sperm whales) – all of which are listed in Appendix I of both CITES and CMS, except Bryde's and pygmy blue whales. The research noted that under-reporting by purse seine vessels is likely to be significantly under-estimating the impact of purse seine fishing on whales in the Indian Ocean.

The long term protection of both cetaceans and whale sharks from the impacts of fishing, particularly encirclement in purse seine fishing nets, is important as non-extractive industries, such as whale shark and whale watching can, and does, provide significant additional contribution to the economies of coastal States in the region. In 2008, 13 million people in 119 countries participated in whale-watching activities generating USD$2.1 billion, contributing to approximately 3,000 businesses who employ 13 200 people[2]. There has been significant growth of this globally: in the decade to 2008, participation in whale watching in Asia showed a five-fold increase, from 215 465 people to in excess of 1 million people in 2008. Africa and the Middle East is also increasing with a total expenditure of USD$163.5 million on whale watching activities in 2008.

Australia is seeking endorsement from the IOTC Members at the 17th Session of the Commission, recognising the critical importance of adopting a global conservation approach for these species. As such Australia welcomes comments and feedback on Australia's proposal 'On The Conservation Of Whale Sharks (*Rhincodon typus*)' from IOTC Members in advance of the meeting; comments can be sent directly to Ms Claire van der Geest by email (claire.vandergeest@daff.gov.au).

[1] Romanov, E.V. (2002). Bycatch in the tuna purse seine fisheries of the western Indian Ocean. Fish. Bull. 100(1): 90-105.
[2] O'Connor, S., Campbell, R., Cortez, H., & Knowles, T., 2009, *Whale Watching Worldwide: tourism numbers, expenditures and expanding economic benefits,* a special report from the International Fund for Animal Welfare, Yarmouth MA, USA, prepared by Economists at Large.

Indian Ocean Tuna Commission
Commission des Thons de l'Océan Indien
iotc ctoi

RESOLUTION 13/XX
ON THE CONSERVATION OF WHALE SHARKS (*RHINCODON TYPUS*)

The Indian Ocean Tuna Commission (IOTC),

RECOGNISING Resolution 12/01 *On the Implementation of the Precautionary Approach* calls on IOTC Members and Cooperating non-Contracting Parties to apply the precautionary approach in accordance with Article V of the United Nations Fish Stocks Agreement;

AWARE that some fishing activities undertaken in the Indian Ocean can adversely impact on whale shark populations and that whale sharks are particularly vulnerable to being encircled by purse seine nets, due to the propensity of tuna to form schools around them;

RECALLING that whale sharks are listed in Annex I of the *United Nations Convention on the Law of the Sea* as a highly migratory species; in Appendix II to the *Convention on the Conservation of Migratory Species of Wild Animals* (CMS); and in Appendix II to the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES);

ACKNOWLEDGING that under Resolution 10/02 *Mandatory Statistical Requirements for IOTC Members and Cooperating Non-Contracting Parties (CPC's)*, paragraph 3: 'the provisions, applicable to tuna and tuna-like species, shall also be applicable to the most commonly caught shark species and, where possible, to the less common shark species';

CONCERNED by the lack of complete and accurate data reporting concerning fishing activities on non-target species;

NOTING that the Working Party on Ecosystems and Bycatch (WPEB) noted paper IOTC–2011–WPEB07–08 that reviewed the status of the information available on non-target species associated with IOTC fisheries; recommended that Resolution 10/02 be revised to include whale sharks in a list of the most commonly caught elasmobranch species for which nominal catch data shall be reported as part of the statistical requirements for IOTC CPCs;

FURTHER NOTING that the WPEB noted paper IOTC–2011–WPEB07–08, paragraph 163: 'recommended that the recommendations from the KOBE bycatch technical working group are considered to encourage research and development of best practice with regard to setting nets on whale sharks to determine the impacts of the practice' and that the WPEB also recommended developing best practice methods for extraction of whale sharks from purse seine nets through direct collaboration with the Western and Central Pacific Fisheries Commission;

ADOPTS in accordance with paragraph 1 of Article IX of the IOTC Agreement, that:

1. This measure shall apply to all fishing vessels on the IOTC Record of Fishing Vessels;

2. Contracting Parties and Cooperating non-Contracting Parties (collectively, CPCs) shall prohibit their flagged vessels from intentionally setting a purse seine net around a whale shark in the IOTC area of competence, regardless if the whale shark is alive or dead;

3. CPCs shall require that, in the event that a whale shark is unintentionally encircled in the purse seine net, the master of the vessel shall:

    a) take all reasonable steps to ensure its safe release, while taking into consideration the safety of the crew. These steps shall follow the best practice guidelines for the safe release and handling of whale sharks developed by the IOTC Scientific Committee, including stopping the net roll and not re-commencing fishing operations until the animal has been released and is no longer at risk of recapture;

b) report the incident to the relevant authority of the flag State, with the following information:

i. the number of individuals;

ii. a description of the interaction, including details of how and why the interaction occurred;

iii. the location of the encirclement;

iv. the steps taken to ensure safe release;

v. an assessment of the life status of the animal on release, including whether the whale shark was released alive but subsequently died.

4. CPCs using other gear types shall report all interactions with whale sharks to the relevant authority of the flag State and include all the information outlined in paragraph 3b(i–v);

5. CPCs shall encourage the adoption of Fish Aggregating Device designs that reduce the incidence of entanglement of whale sharks, according to agreed international standards;

6. The Commission requests that the Scientific Committee develop best practice guidelines for the safe release and handling of encircled whale sharks, taking into account those developed in other regional fisheries management organisations including the Western and Central Pacific Fisheries Commission, and that these guidelines be submitted to the 2014 Commission meeting for endorsement;

7. CPCs shall report the information and data collected under paragraph 3(b) and paragraph 4, through logbooks and observer programs, and provide to the IOTC Secretariat by 30 June of the following year and according to the timelines specified in Resolution 10/02 (or any subsequent revision);

8. CPCs shall report, in accordance with Article X of the IOTC Agreement, any instances in which whale sharks have been encircled by the purse seine nets of their flagged vessels.