

The PNA skipjack and yellowfin tuna purse seine fishery remains certified despite clear evidence of shark finning – a situation which directly contradicts MSC policies and public assurances

Are consumers being misled about shark mortality in MSC-certified fisheries?

The PNA Purse Seine Tuna Fishery

The largest purse seine skipjack and yellowfin tuna fishery in the Western and Central Pacific Ocean (WCPO) comprises 200 – 300 vessels and has an annual catch of more than 1.2 million metric tons accounting for more than 75% of the total purse seine catch in the area. Known as the PNA fishery - The Parties to the Narau Agreement – it has been certified by the Marine Stewardship Council (MSC) since 2011 for roughly half of its total catch volume. Products from this fishery are sold around the world.

The certified portion of the catch is only for those sets where Fish Aggregating Devices (FADs) are not used (so called 'free school' or FAD-free sets), although the purse seiners in the certified 'fishery' also rely heavily on drifting-FADs (dFADs) for the other portion of their catch.

FADs are devices, which attract fish to them in large concentrations, making it easier to find and catch whole schools of tuna. This practice also attracts other species and there tends to be high levels of bycatch in dFAD fisheries including sea turtles, sharks, rays, and marine mammals, many of those being juvenile animals.

The FAD-free portions of the PNA fishery have relatively low bycatch rates and pass MSC certification. However, the same vessels, during the same fishing trips and often on the same day, are also catching tuna associated with dFADs.

Fishing-Induced Shark Mortality in the WCPFC

Observer reports from the relevant tuna Regional Fisheries Management Organisation (RFMO), the Western and Central Pacific Fisheries Commission (WCPFC), show that shark bycatch from large purse seine fleets has increased markedly since 2011, when the PNA fishery was first certified, and in 2016 approximately 68,000¹ sharks, 88% of which were silky sharks, were caught.

According to the CAB's assessment report for the PNA recertification in 2017, the bycatch of *Carcharhinus falciformis* from 'free school' sets for the fishery under assessment, the PNAFTF (PNA Western and Central Pacific skipjack and yellowfin, unassociated / non-FAD set, tuna purse seine fishery) was reported as only roughly 224 metric tons (mean for 2014 and 2015.)²

On top of the shark mortalities reported by observers, it is very likely that an even higher, but unknown number of sharks, also die, following entanglement with the more than 80,000 dFADs³ which are deployed in the region each year. This entanglement mortality can be

¹ , SCIENTIFIC COMMITTEE THIRTEENTH REGULAR SESSION, Rarotonga, Cook Islands 9-17 August 2017; Summary of purse seine fishery bycatch at a regional scale, 2003-2016; table 10, p 30

² Catch profile for the PNAFTF, 2014-2015, based on confirmed, processed observer data.

N.B. Sampling was of 20,029 (11,037 successful) sets in 2014, and 15,113 (9,086 successful) sets in 2015), and cover > 60% of the total PNAFTF tuna catch from each year. (Acoura Marine Final Report PNA Western and Central Pacific skipjack and yellowfin, unassociated / non FAD set, tuna purse seine fishery, table 15, p.55)

³SC12-WCPFC12-03, Scientific Committee Twelfth Regular Session, First Meeting of the FAD Management Options – Intersessional Working Group Summary Report. 3-11 August 2016, Bali, Indonesia.

5–10 times higher than the known bycatch from the region's purse-seine fleet as demonstrated by Filmhalter (2013) for the Indian Ocean.⁴ No such estimates are available for the WCPO, but there is sound evidence to suggest that dFADs deployed by the vessels participating in the MSC-certified PNA fishery contribute to the ghost fishing of sharks and sea turtles in the region. While many purse seine fleets have begun to voluntarily use non-entangling FADs, and ICCAT, IOTC and IATTC are now requiring a transition to such FADs, no such transition measures have yet been adopted at the WCPFC (Murua 2016)⁵ and there is also no requirement, or so called condition, under the fishery's MSC certificate to address this.

Despite the fact that tuna caught on FADs result in high bycatch levels, and that these tuna are caught on the same day by the same vessels as MSC certified tuna, there is no requirement to report and evaluate this bycatch during MSC assessments nor do certified FAD-free fisheries have to meet conditions that are aimed at reducing such bycatch levels during the period of certification.

The PNA fishery was re-certified by the MSC in 2018, despite strong objections from scientists, civil society and sustainable fisherpeople. Shockingly, this happened despite the increased mortality of sharks during the first 5 years of certification and the fact that the entire fishery is associated with illegal shark finning.

Background Information on Shark Finning

- Shark finning refers to the practice of removing any of the fins of a shark (including the tail) while at sea and discarding the remainder of the shark at sea⁶. This often happens while the animal is still alive. Only the fins are kept as the remainder of the animal is mostly worthless and is thus discarded in order to save space, weight and fuel. The main issues associated with this practice are⁷:
 - Excessive Cruelty: Sharks are thrown back into the sea where the sharks bleed to death, suffocate as unable to swim and breath, or are eaten alive by other predators or scavengers.
 - Waste: Finning and discarding of shark bodies wastes protein and other potential products. Only 2-5% of the shark is utilised.
 - Fishery management: This practice is vastly unregulated and not properly managed or reported. Therefore, it also hinders the estimation of stock status, jeopardising effective management of sharks. As fins have often been stored at sea for several weeks and are mostly partially dried when landed, it is also extremely difficult to estimate the original live weight and the actual numbers of sharks that have been finned.
 - Species-specific shark catch information is usually lost as it is extremely difficult to identify the shark species from the mostly dried fins upon landing. This often means that it becomes impossible to verify whether the fins have been removed from endangered, threatened and protected shark species or whether prohibited species, which must not be retained according to regional or national legislation, were taken.
- Sharks most at risk of finning are large, pelagic sharks with large fins, such as hammerhead sharks, thresher sharks or whale sharks. However, in recent times,

⁴ Filmalter, J. D., Capello, M., Deneubourg, J. L., Cowley, P. D., & Dagorn, L. (2013). Looking behind the curtain: quantifying massive shark mortality in fish aggregating devices. *Frontiers in Ecology and the Environment*, 11(6), 291-296.

⁵ WCPFC. 2016. First Meeting of the FAD Management Options – Intersessional Working Group Summary Report. SC12-WCPFC12-03 (WCPFC12-2015 - 22_Rev2)

⁶ Memorandum of Understanding on the Conservation of Migratory Shark, MOU, 2010

⁷ MSC Programme Improvements Database: <https://improvements.msc.org/database/shark-finning-2/history/issue>

increasing numbers of the smaller shark species, such as blue sharks and silky sharks, have also become the focus of finning as the numbers of larger sharks have decreased dramatically over the last 30 years or so. Some pelagic sharks have thus faced a decline by more than 90% of their previous abundance. This also becomes apparent by the increasing number of shark species which are now listed at different degrees of 'threatened' by the IUCN or have recently had their status changed regarding their degree of 'threatened', e.g. silky sharks which were previously abundant in all tropical waters have just recently in 2017 been changed from 'near threatened' to 'vulnerable'. As sharks and especially large pelagic sharks reach sexual maturity very late (often reproducing for the first time only after 20 years), have long gestation periods and give birth to only a few offspring, they can't sustain the immense fishing pressure experienced over these past decades. This has been mostly caused by targeted catch for fins and unwanted bycatch in commercial fishing operations, with fins often being the only part that is utilised.

- Shark finning is gaining recognition around the world as an unacceptable and illegal practice. It is recognized as illegal by more than 20 countries and most of the RFMOs have bans on shark finning. Further there are several UN General Assembly (UNGA) Resolutions that call for a ban of shark finning⁸.

WCPFC Shark Finning Measures

- Tuna RFMOs also started recognising the need to strengthen shark conservation measures and in 2010, the WCPFC adopted CMM 2010-07, which specifies that contracting parties have to take the necessary measures to require their fishers to fully utilize any retained catches of sharks, with all parts of the shark excepting head, guts and skins to be retained to the point of first landing or transhipment.
- The WCPFC also adopted CMM 2011-04 in 2011, which specified that no oceanic whitetip sharks (*Carcharhinus longimanus*) must be retained in whole or in part. Followed in 2013, by CMM 2013-08, which specified that no silky sharks (*Carcharhinus falciformis*) must be retained in whole or in part.
- The legal framework on shark finning of the WCPFC is therefore very clear – the retention, landing or transhipment of shark fins on any fishing vessel operating in the WCPFC has been prohibited since 2011. Incidentally this is also the year when the MSC board took their decision to exclude any fisheries from certification if there was any evidence that shark finning was taking place. It is also the year when the PNA fishery was first certified.

Shark Finning in the WCPFC on Purse Seine Vessels

The annual reports of the regional observer program for 2014 and 2015 confirm that shark finning has continued on a regular basis during those years on the region's purse seine fleets, of which the PNA accounts for the largest proportion of the tuna catch. This happened despite the fact that finning has been banned in the WCPFC since 2011.

- In 2014, 789 silky sharks (*Carcharhinus falciformis*) and 9 Oceanic whitetips (*Carcharhinus longimanus*) were finned, and 233 silky sharks were retained with fins. (TCC 2015)⁹
- In 2015, 314 silky sharks and 1 oceanic whitetip were finned, and 38 silky sharks and

⁸ MSC Consultation Document on Shark Finning: https://improvements.msc.org/database/shark-finning-2/consultations/consultation-shark-finning/Consultation_document_shark_finning.pdf

⁹ 7th ANNUAL REPORT FOR THE REGIONAL OBSERVER PROGRAMME; Technical Compliance Committee. Eleventh Regular Session, 23 - 29 September 2015, Pohnpei, Federated States of Micronesia. WCPFC-TCC11-2015-RP02., p.6

7 oceanic whitetips were retained with fins (TCC 2016)¹⁰

Shark Finning in the PNA Fishery

- Despite the artificial separation between certified or ‘sustainable’ and ‘non-certified’ tuna catches on the same trips by the same vessels, shark finning, and the transportation of fins, remain an illegal act, regardless of the type of set on which the sharks were caught.
- Shark finning has been illegal in the PNAFT fishery from the day it was certified. Any vessel operating in the PNAFT fishery should therefore not have been involved in shark finning nor the transport, landing or transshipment of any shark fins.
- The CAB in their final certification report of March 2018 for the recertification of the PNAFT fishery admitted, “there is evidence of shark finning having occurred in the PNAFTF”¹¹.
- There was in fact very clear evidence, based on observer reports, that shark finning had regularly occurred in the fishery. This evidence also clearly meets the MSC’s own definition of *objective evidence*¹².
- This *objective evidence* that shark finning was occurring in the fishery should have been sufficient reason for the CAB to “not certify or maintain the certification of the fishery”. The MSC have also made it clear that if such objective evidence is presented a fishery should not be certified “regardless of a fishery’s performance against the shark finning Scoring Issue (SI)”¹³.
- The CAB further made the fundamental error in their assessment of the shark finning issue by ignoring the shark finning incidents that occurred on FAD sets during trips that produced MSC-certified catches.
- The WCPFC and PNA legal frameworks are clear. It is not only the act of shark finning that is illegal, but also the transportation, landing and transshipments of shark fins that is an illegal act.
- If fins were transported alongside MSC-certified catch, all those finning incidents should have been included in the analysis to understand the level of compliance of the fishery with WCPFC conservation and management measures and the MSC’s shark finning requirements.
- The CAB underplayed the extent of shark finning occurring in the fishery by focusing only on shark finning incidents that occurred during ‘free school’ or non-FAD sets. This means that the illegal transportation of fins that were obtained from FAD sets, and which was stored on board vessels alongside MSC-certified catch, was conveniently ignored.
- The only reasonable assumption on why the CAB chose to selectively focus on some shark finning incidents and not consider all acts of shark finning and the transportation, landing and transshipment of shark fins that occurred in the PNAFT fishery is that they wanted to downplay the extent of the issue.
- This misrepresentation of the extent of shark finning by the CAB was raised during the objection process, but both the CAB and the Independent Adjudicator (IA) chose to ignore the obvious bias that such a selective analysis would bring, and no corrections were made to the numbers of shark finning incidents originally presented by the CAB.

¹⁰ 8th ANNUAL REPORT FOR THE REGIONAL OBSERVER PROGRAMME; TECHNICAL COMPLIANCE COMMITTEE; Twelfth Regular Session 21 - 27 September 2016,

Pohnpei, Federated States of Micronesia. WCPFC-TCC12-2016-RP02_rev2., p.5

¹¹ [Public Certification Report](#) - PNA Western and Central Pacific skipjack and yellowfin, unassociated / non FAD set, tuna purse seine fishery. Acoura Marine, 22 March 2018.

¹² The MSC defines *objective evidence* in relation to shark finning as “any documented statement or fact based on observations, measurements or tests which can be verified -

https://improvements.msc.org/database/shark-finning-2/history/copy_of_adfa

¹³ MSC Programme Improvements Database: <https://improvements.msc.org/database/shark-finning-2>

The Extent of the Shark Finning Problem in the PNA

- The CAB admitted that **429 cases of illegal shark finning**¹⁴ were reported by observers in the 4-year period from 2012-2015. No data was presented for 2016 or 2017.
- This analysis only included the shark finning incidents that occurred on non-FAD sets.
- The incidents of shark finning that occurred on FAD sets, where shark fins were illegally transported, landed or transhipped, while a vessel was involved in ‘MSC fishing activities’, were excluded from the analysis.
- The CAB and the PNA fishery turned down a request for access to observer data to better understand the level of shark finning instances that are directly connected to the PNAFT fishery.
- Certain assumptions must therefore be made:
 - The level of shark finning occurring on FAD sets is usually higher than on non-FAD sets.
 - A high proportion of these finning incidents on FAD sets would have occurred on trips where non-FAD sets were also made.
 - A conservative estimate would be that the number of illegal shark finning incidents that can be directly connected to the PNAFT fishery would be at least double the number presented by the CAB in Table 16 of the Public Certification Report.
 - It is therefore **estimated** that at least **858 illegal shark finning incidents**¹⁵ can be directly connected to the fishery between 2012-2015.
- It is important to note that all the cases of illegal shark finning (whether 429 or 858) occurred while the PNAFT fishery was already certified.
- No evidence was presented to show that successful prosecutions or sanctions resulted from any of these cases of illegal shark finning.
- An important consideration is that most consumers would be horrified to learn that the so-called sustainable tuna from the PNA fishery has for many years been tainted with instances of illegal shark finning.
- According to the FAO’s *Guidelines for the Ecolabelling of Fish and Fishery Products from Marine Capture Fisheries*¹⁶ one of the main purposes of an ecolabelling scheme is that it “provides assurance to buyers and consumers that a certain fish or fishery product comes from a fishery that conforms with the established standard for a sustainable fishery”.
- The *FAO Guidelines* make it clear that standards should not “encompass criteria or requirements” that can “mislead the consumer”.
- Another important consideration is that the CAB admitted that **1,943 silky sharks were illegally retained** on board vessels involved in the PNAFT fishery¹⁷ in direct contravention of WCPFC Conservation and Management Measures (CMMs).
- The only plausible explanation of why these animals were retained would be that they were being kept for their fins, meaning that the extent of the shark fin trade associated

¹⁴ Table 16, p. 59 of the Public Certification Report - PNA Western and Central Pacific skipjack and yellowfin, unassociated / non FAD set, tuna purse seine fishery. Acoura Marine, 22 March 2018.

¹⁵ This estimated number of 858 shark finning incidents can be revised and refined if access to observer data is granted.

¹⁶ <http://www.fao.org/in-action/globefish/publications/details-publication/en/c/346098/>

¹⁷ Public Certification Report - PNA Western and Central Pacific skipjack and yellowfin, unassociated / non FAD set, tuna purse seine fishery, [Table 16, p. 59]. Acoura Marine, 22 March 2018.

with the PNAFT fishery is even more alarming than might have been assumed from the numbers of shark finning incidents reported by observers.

- No evidence was presented by the CAB to show that any successful prosecutions or sanctions resulted from these cases of illegal retention of silky sharks on board vessels involved in the PNAFT fishery.
- Despite claims by the CAB, and an assertion by the IA during the objection hearing, that an effective management system was in place to address the problem of illegal shark finning, no evidence was presented to show that cases are actively being investigated and followed up on.
- No direct evidence of a single prosecution connected to illegal shark finning or illegal retention of silky sharks in the PNAFT fishery during the assessment period was presented by the CAB in their Final Certification Report. No additional information on prosecutions or sanctions was also forthcoming despite a request for this information to be presented during the objection process.
- A management system can only be deemed as effective if there is full transparency of the processes dealing with Illegal, Unregulated and Unreported (IUU) fishing.

MSC's Policy on Shark Finning

- In 2011 the MSC stated that in line with their usual process of reviewing their standards and requirements in relation to current scientific understanding and global best practice in fisheries management, they were looking to review, and possibly revise and clarify the requirements with respect to shark finning¹⁸.
- At its December 2011 meeting held in Berlin, the Marine Stewardship Council (MSC) Board of Trustees resolved that fisheries engaged in shark finning will not be eligible for certification to the MSC standard for sustainable fisheries¹⁹.
- Changes to the Guidance to the Certification Requirements (GCR) and Certification Requirements (CR) were drafted to ensure fisheries undertaking shark finning practices were not eligible for MSC certification. The process to strengthen the guidance and requirements included two public consultation stages, targeted dialogues with stakeholders, Technical Advisory Board (TAB) Working Group 4 (WG) and MSC executive considerations.
- One of the core requirements of the MSC's revised shark finning policy was that regardless of a fishery's performance against the shark finning Scoring Issue (SI), the CAB should not certify or maintain the certification of a fishery when there is objective evidence that indicates shark finning is taking place. Objective evidence was described as "any documented statement or fact based on observations, measurements or tests which can be verified"²⁰.
- Current MSC requirements prohibit shark finning; and the MSC have said that "a fishery will be scored on the level of certainty that shark finning is not taking place. The conformity assessment body (CAB) should not certify or maintain the certification of a fishery when there is objective verifiable evidence of shark finning"²¹.
- The MSC have stated, that "best practice for ensuring that shark finning is not occurring comes from sharks being landed with fins naturally attached (FNA). Thus, when fisheries land sharks with FNA, scores of 80 or 100 will be achieved depending on the level of external validation in place. Where landing sharks with FNA is not possible, for example

¹⁸ MSC Programme Improvements Database: https://improvements.msc.org/database/shark-finning-2/history/copy_of_adfa

¹⁹ MSC Programme Improvements Database: <https://improvements.msc.org/database/shark-finning-2/board-decision-shark-finning>

²⁰ MSC Programme Improvements Database: https://improvements.msc.org/database/shark-finning-2/history/copy_of_adfa

²¹ MSC Programme Improvements Database: <https://improvements.msc.org/database/shark-finning-2>

when sharks are destined for processing and utilisation on board, an adequate level of regulation, full documentation of the destination of shark bodies and independent observation are required²².

- Although the MSC have stated that sharks being landed with FNA conforms with best practice, a fishery does not have to apply such a policy to achieve a score of 80.
- See SA 2.4.6²³: *When scoring SI (e) at SG80, the expectation shall be that one of the following subparagraphs applies:*
 - SA2.4.6.1: *All sharks are landed with fins naturally attached;*
 - SA2.4.6.2: *If sharks are processed on board:*
 - a. There are regulations in place governing the management of sharks;*
 - b. There is full documentation of the destination of all shark bodies and body parts*
 - c. Good external validation of the vessels' activities is available to confirm that it is highly likely that shark finning is not taking place.*
- The CAB's reasoning in the PNA fishery was clearly flawed. They applied SA2.4.6.2 to justify their score of 80. They could only do this, as there is no FNA policy in the PNAFT fishery. Although they admitted that shark finning is taking place in the fishery they claimed that there are regulations in place prohibiting this, thereby complying with (a). They provided no evidence to demonstrate compliance with (b) and claimed that the 100% observer coverage of the fishery demonstrates 'good external validation' of no shark finning, although they also admitted that it is happening!
- SA2.4.6.2 says that "if sharks are processed on board". This refers to 'legal processing' where FNA policies do not apply, but fins and carcasses are still landed together in compliance with the relevant fin/carcass ratio. The 429 shark finning incidents and the illegal retention of 1,923 silky sharks (which are very likely to have resulted in another 1,923 illegal shark finning incidents) should not have been assessed as if in compliance with SA2.4.6.2.
- As previously mentioned, the MSC rates a FNA policy as the highest degree of assurance that finning is not taking place and therefore in conformance with 'best practice'. However, so far no fishery has been expected to implement this policy prior to obtaining certification and no conditions have been raised to implement a FNA policy over the duration of a 5-year certificate of a certified fishery. This also applies to fisheries such as the PNA where repeated instances of finning have been reported.
- The MSC's public statements on shark finning have however, been unambiguous and clearly seem to promote a 'no tolerance' stance on shark finning. The organisation has been commended by conservation organisations, who see their stance on shark finning as praiseworthy²⁴.
- If shark finning does however occur in certified fisheries on a regular basis, and the MSC is made aware of this, one would expect immediate action from their side such as to launch a full investigation and to suspend any fisheries where shark finning occurs.
- It is inconceivable that the MSC would allow consumers to be duped into buying a 'sustainable product' when such a product is in fact associated with shark finning.

²² MSC Summary of Changes: Fisheries Certification Requirements version 2.0. 1 October 2014 - <https://www.msc.org/docs/default-source/default-document-library/for-business/program-documents/fisheries-program-documents/msc-fisheries-certification-requirements-v2-0-summary-of-changes.pdf>.

²³ MSC Fisheries Standard (Annexes S) and Guidance v2.0, 1 October 2014, MSC.

²⁴ [WWF welcomes improved MSC fisheries standard](#), October 2014.