

DECREE 486 ON THE CONSERVATION OF SHARKS

That of compliance with the article 248 of the Political Constitution of the Republic, the Ecuadorian State has the sovereign right on the biological diversity, and his conservation and sustainable utilization will do with participation of the populations involved when were the case and of the initiative of the private enterprise, according to the programs, plans and political that consider them like factors of development and quality of life; and of compliance with the agreements and international treaties;

That in accordance to the numeral 1 of the article 86 of the Magna Letter, they are declared public interest and will regulate according to the law; the preservation of the environment, the conservation of the ecosystems, the biodiversity and the integrity of the genetic patrimony of the country;

That the Ecuador, like contracting party of the Convention on the international trade of the threatened species of wild flora and fauna–CITES-, adopted the Resolution Conf. 12.6 “Conservation and Management of the Sharks”;

That the whale shark (*Rhincodon typus*), the shark pilgrim (*Cetorhinus maximus*) and the white shark (*Carcharodon carcharias*), are inscribed in the Appendix II of CITES;

That the National Institute of Fishing –INP- has elaborated the National Action Plan for the Conservation and Handle of the Sharks in the Ecuador;

That the Convention on the conservation of the migratory species of wild animals, in his Resolution 6.2 on the incidental capture asks to all the parts that reinforce the measures adopted to protect the migratory species against the incidental catches through fisheries;

That the shark whale (*Rhincodon typus*) and the shark pilgrim (*Cetorhinus maximus*) are inscribed in the appendix II of the Convention on the conservation of the migratory species of wild animals –CMS- and the white shark (*Carcharodon carcharias*) is inscribed in the appendices I and II of the CMS;

That the incidental fishing of the shark is an existent reality in the exercise of the fishing activity in the Ecuadorian continental coast;

That it is necessary to establish fishing management measures, that ensure the sustainability of the populations of sharks and that contribute to improve the quality of life of the fishermen and the alimentary security of the villages, particularly of those that have like fundamental activity the artisanal fishing;

That the special Regulation of the Artisanal Fishing Activity in the Marine Reservation of Galápagos expressly prohibits any fishing or extractive activity of sharks and defines the procedure to be followed with the incidental fishing;

That the Authority Inter institutional of Manage of the Marine Reservation of Galápagos, through Resolution No. 011-2000 of 15 November of 2000, prohibits the capture, landing and commercialization of shark in the Archipelago of Galápagos;

That the National Council of Fishing Development in extraordinary session of 29th October of 2004, received the request of the National Federation of Artisanal Cooperatives of Fishermen of the Ecuador (FENACOPEC), to reconsider the resolution of prohibition to export fins of

shark, taken in session of this collegiate body, of date 10 June of the 2004, resolving in favor of this application, and in his defect implement the recommendations given in the report "ANALYSIS OF THE SHARK FISHING IN THE ECUADORIAN CONTINENTAL COAST", annex to the document INP/DG 04 0772 of 20 October of 2004, given by the National Institute of Fishing; and,

In exercise of the attributions that confers the numeral 5 of the article 171 of the Political Constitution of the Republic of Ecuador,

It decrees:

Issue the norms for the regulation of the incidental fishing of the resource shark, his commercialization and export in the continental Ecuador,

Art. 1.- For the relevant purposes, it is defining like incidental fishing to the involuntary capture of species bio aquatic with arts or systems of directed fishing to the voluntary capture and scheduled of another species bio aquatic.

Art. 2.- To prohibit in all the national territory the fishing whose specific target was the shark. Consistently it remains to prohibit the use of arts and systems of fishing that employ specifically to capture sharks.

Art. 3.- To prohibit in all the national territory the use of the art of fishing designated "palangre tiburonero", in which they use hooks No. 1/0 and/or 3/0 twisted of normal buttonhole and reinal of malleable steel, wire or chain.

Art. 4.- To prohibit in all the national territory the use of steeled or metallic wire –designated commonly "huaya"- in the terminal part of the reinales or secondary lines before the union with the hook, so much in the palangre, espinel and/or longline that serves for the capture of the Mahi-Mahi (*Coryphaena hippurus*), of the tuna big eye (*Thunnus obesus*), of the tuna yellow fin (*Thunnus albacares*), of the picudos of the family *Istiophoridae*, of the fish sword (*Xiphias gladius*) and affine species. That wire or metallic wire will have to be replaced by material of polyamide monofilament.

The arts of fishing or the components to which refers the articles 3 and 4 of the present decree that will found on board of fishing vessels, as well as the sharks that will found on board of the vessels, will be confiscated and will initiate the pertinent legal actions against of the Captain and ownership of the vessels for establish the sanctions of rigor.

Art. 5.- To prohibit the practice of the "shark finning", defined like the capture of the shark for the exclusive extraction of his fins and the discarding of the body to the sea. The bodies of the sharks will have to be used entirely, for which will have to have the respective permissions of commercialization issued by the competent authority.

Art. 6.- Those who, during the exercise of the fishing activity, catch sharks, like only and exclusive product of the incidental fishing, will be able to commercialize and use entirely his meat.

Art. 7.- It will allow only the landing of whole sharks from the incidental fishing vessels registered in the Undersecretary of Fishing Resources and in the captaincies of port, situated along the continental coast, with the purpose to proceed to his commercialization. The

removal of the fins will be able to effect only in earth, in the ports of landings situated along the continental coast.

If on board of the fishing vessels it is found fins of shark without his respective bodies, or separated of the bodies of the sharks, that fins will be confiscated and will initiate the corresponding legal actions against of the captain and ownership of the vessel. In case of repletion of this action, the fishing authority will suspend definitively the permission of fishing of the vessel and this will not be able to be allocated to activities of the fishing or related.

Art. 8.- The fins of shark that are confiscated, will not be subject of donation, sale, auction, neither will be able to be exported. These fins will be guarded by the competent authority of the jurisdiction where these have been confiscated, to which will act, according to the following order:

- a) Environmental Police;
- b) Undersecretary of Fishing Resources; and,
- c) Captaincies of Port.

Later, and afterwards to fulfil with the procedures of law, will proceed to the incineration of the fins confiscated, which will do it by the Undersecretary of Fishing Resources of the Ministry of Agriculture, Husbandry, Aquaculture and Fishing, with previous notification to the Undersecretary of Coastal Environmental Management of the Environment Ministry.

Art. 9.- In the case that the catches are incidental made of specimens alive or died of the following species: shark whale (*Rhincodon typus*), of the shark pilgrim (*Cetorhinus maximus*), of the white shark (*Carcharodon carcharias*), shark sardinero (*Lamna nasus*), Prickly Dogfish or Mielga (*Squalus Acanthias*), these will have to be returned immediately to the sea.

Art. 10.- To prohibit the import and internment of any form and maritime transship of whole sharks or fins of shark in any state of conservation or processing, although they have been captured in international waters.

Art. 11.- It will allow the storage, commercialization, transport and export of fins of shark from the incidental fishing made by vessels registered in Undersecretary of Fishing Resources, and in the Captaincies of Port, and that they are landed in the fishing ports of the continental coast. The commercialization of the shark fins will do according to the following procedure:

1.- To the arrive of the vessels to the fishing ports of the continental coast, any member of the crew will have to report to the fishing authority the product of the incidental capture. The fishing authority will verify this information with the purpose to award to the interested the corresponding "Certificate of Monitory of Incidental Fishing". This document will contain:

- a) Detail of the species
- b) Number and weight of bodies and fins; and,
- c) Any another notable information of the catches.

2.- The trader, natural or juridical person legally registered in the Undersecretary of Fishing Resources, that purchase the product of the incidental fishing, will have to demand the corresponding certificate of monitory of the fishing.

3.- In the case of the carrier, this will have to obtain from the fishing authority the pertinent "Guide of Mobilization of Incidental Fishing", that pretend mobilizer, document that will be awarded of compliance to the certificates of monitory of the fishing.

4.- In the case of the exporter, natural or juridical person, will have to obtain from the fishing authority pertinent, the permission for the export, the same that it will have to be certified by the certificates of monitory, and guides of corresponding mobilization.

5.- Anyway, any natural or juridical person, that had shark's fins, will have to justify them with any one of the documents received referred in the numeral that precede.

If during the actions of control, should be evidence that the product of the incidental fishing of shark does not find properly justified, with the certificates, permissions, or permissions mentioned or described in this decree, will proceed immediately to the confiscated and incineration of all the product of the incidental fishing, according to the procedure established in the article 8.

The fishing authority will use like criteria for the control, the weight or the units of the product of the incidental fishing.

In the case of the repetition of this action, the fishing authority will suspend definitively the permission of commercialization or permission of export to the natural or juridical person that fails to comply with the provisions of this decree, previous the procedure of law.

Art. 12.- The Undersecretary of Fishing Resources, in the term of 30 days will establish the necessary conditions to apply the provisions in the Art. 11 of this decree.

Art. 13.- The National Council of Fishing Development –CNDP- will analyses the respective information on the incidental capture of shark to ensure the conservation and sustainable use of this resource.

Art. 14.- The National Park of Galápagos, with the support of the Environmental Police and the Armed of the Ecuador, will apply strict measures of control and surveillance to enforce the Resolution No. 011-2000 of the Authority Inter institutional of Management of the Marine Reservation of Galápagos (AIM) that prohibits the catches, landed and commercialization of sharks and the pertinent disposals of the Special Regulation of the artisanal fishing Activity in the Marine Reservation of Galápagos, and will inform quarterly to the AIM to this regard.

Art. 15.- It derogated the Executive Decree 2130, published in the Official Register 437 of 7 October of the 2004; the Executive Decree 2662 of 12 March of the 2005; and, the Ministerial Agreement No. 097, published in the Official Register 263 of 27 August 1993; and any decree or agreement against the present executive decree.

Art. 16.- Of the execution of the present executive decree, that will go in in force from his publication in the Official Register, take charge the Minister of Agriculture, Husbandry, Aquaculture and Fishing.

Art. 17.- The articles 6,7,8,9 and 11 will have a term of force of six months from the force of the present executive decree.

Given in Quito, in the National Palace, 20th of July, 2007.

- f.) Rafael Correa Delgado, Constitutional President of the Republic
- f.) Carlos Vallejo López, Minister of Agriculture, Husbandry, Aquaculture and Fishing