

Agenda Item 6

Strategic Considerations on the Future of
ASCOBANS

Document 6-01

**Strategy Paper on the Options for
Future Arrangements for ASCOBANS**

Action Requested

- Take note of the paper
- Comment
- Decide on priorities for the implementation of the Agreement in the triennium 2010-2012

Submitted by

Advisory Committee



NOTE:
**IN THE INTERESTS OF ECONOMY, DELEGATES ARE KINDLY REMINDED TO BRING THEIR
OWN COPIES OF DOCUMENTS TO THE MEETING**

Strategy Paper on the Options for Future Arrangements for ASCOBANS

Introduction and objective of this paper

1. Since its establishment in 1992, ASCOBANS has made an important contribution to the conservation of small cetaceans and has the potential to do even more. ASCOBANS is currently the only intergovernmental organisation specifically involved in the promotion of good conservation status of small cetacean populations in the Baltic, North East Atlantic, Irish and North Seas and should continue to make an important contribution to the reduction of threat to small cetacean species.

2. However, since 1992 several developments have changed the context within which ASCOBANS has to meet its objectives, the most important of which are:

- a. The increase of the number of Parties from the six that allowed the Agreement to enter into force in 1994 to currently 10 and a south-westward extension of the agreement area to include waters off France, Ireland, Spain, Portugal and areas beyond national jurisdiction, which entered into force in 2008.
- b. Since 2004 all Parties to ASCOBANS have been members of the European Union¹, and are therefore obliged to implement the Habitats Directive (92/43/EC), as well as other European instruments that address or affect the conservation of small cetaceans and their environment.
- c. Within the CMS family several instruments have developed since 1992 that aim to protect cetaceans in various regions around the globe. These include ACCOBAMS (Mediterranean and Black Seas), the Pacific Islands Cetaceans Memorandum of Understanding (MoU) and the Western African Aquatic Mammals MoU, which also covers Macaronesia.
- d. In 2000, Parties decided to integrate the ASCOBANS Secretariat into UNEP, and the Executive Director of UNEP became responsible for the management of the ASCOBANS Secretariat.
- e. In 2006 the 5th Meeting of the Parties to ASCOBANS (MOP-5) decided that for the triennium 2007-2009 the CMS Secretariat would serve as the ASCOBANS secretariat pursuant to provision No. 4 of the ASCOBANS Agreement, and the Executive Secretary of CMS would be the Acting Executive Secretary for ASCOBANS.
- f. The 9th Conference of the Parties of the Convention on Migratory Species decided to start a process to consider the future shape of CMS (UNEP/CMS/Resolution 9.13). This process will explore the possibilities for strengthening the contribution of CMS and the CMS Family of Agreements to conservation of the planet's wildlife.
- g. Within the United Nations, the management of environmental governance is also under review. In this context it has been asserted that the current framework of international environmental governance is weakened by institutional fragmentation and specialization and by the lack of a holistic approach to environmental issues and sustainable development. It has been suggested that environmental governance could be strengthened by for instance more strategic planning, a better division of labour between agreements, taking into account their respective mandates and strengths, as well as an improved cooperation between the secretariats of MEAs.

3. This paper has been drafted in the context of these developments; it aims to strengthen ASCOBANS' contribution to the conservation of cetaceans in the Baltic, North East Atlantic, Irish and North Seas. As a secondary objective, it aims also to strengthen its contribution to wider cetacean conservation and to improve its contribution to the international MEA-community. In order

¹ The Range of ASCOBANS would allow Norway and Russia to become Non-EU-Parties. However, at present neither appears interested in becoming a Party.

to achieve these aims this paper takes stock of the strengths and weaknesses of the Agreement, identifies future challenges and presents options for future arrangements for ASCOBANS, as a basis for discussion at the 6th Meeting of the Parties.

Looking back: strengths and weaknesses of ASCOBANS

4. Over the years, ASCOBANS has been very successful in achieving good results. Several *strengths* of the Agreement can be identified which underpin these achievements:
 - a. ASCOBANS has a well developed scientific understanding with respect to the conservation of small cetaceans in the Baltic, North East Atlantic, Irish and North Seas.
 - b. ASCOBANS brings together both scientists and administrators and encourages a constructive dialogue.
 - c. The Agreement provides a unique platform to integrate available data and to transmit the integrated data to other organisations and decision makers.
 - d. ASCOBANS, particularly in the Baltic, has supported much education and awareness raising of the public. Its efforts have contributed to the awareness of the general public as regards the need to protect and conserve small cetaceans and their habitats.
 - e. By building on its work in the Baltic, North East Atlantic, Irish and North Seas, ASCOBANS contributes to the work of other international organisations and NGO's. E.g. through the exchange of best practices within the CMS family around the world in protecting small cetaceans.
 - f. All current Parties to ASCOBANS now work from a regional focus and common EU-base.

5. However, notwithstanding the good results, it must also be acknowledged that there still is considerable room for improvement. Paraphrasing the ASCOBANS website in this respect: "*While much has already been achieved, much remains yet to be done*". This statement correctly and concisely sums up the agreement's record of achievements to date. However, an evaluation of its performance requires an answer to the question of how many of its goals ASCOBANS has actually been able to achieve during the past 15 years of its existence.

6. Five major weaknesses can be identified which undermine the effectiveness of ASCOBANS:
 - a. Parties are not yet implementing fully many Resolutions that they have agreed.
 - b. There has been insufficient progress in the reduction of bycatch of small cetaceans. Some progress has been made (often incidentally due to the contraction of the fishing sector), but much more could be done to reduce bycatch numbers.
 - c. ASCOBANS has not been particularly successful in influencing other international organisations. At the same time it is clear that ASCOBANS only can be effective if it cooperates with other international organisations especially with the European Union, the competent authority for fishery management in European seas. But also with respect to other cetacean instruments within the CMS Family there is room for improvement, for example as regards an efficient use of limited resources and better scientific cooperation.
 - d. ASCOBANS has not been very successful in creating an effective dialogue with economic sectors, notably the fishing industry. In order to achieve its objectives it is important that ASCOBANS works with fishery organisations active in its agreement area. Joint work programmes with these organisations focussing on common priorities would be beneficial to both.
 - e. ASCOBANS needs to further improve the integration of science with policy decisions. Notwithstanding the constructive dialogue between scientists and administrators, there is often too strong a focus on scientific issues, without always properly addressing related policy issues. Good integration of both aspects is required to maximise the effectiveness of ASCOBANS.

Looking forward: future challenges

7. In order for ASCOBANS to remain effective in the future and to again live up to its expectations ASCOBANS needs to refresh itself and to address future challenges. Building on the developments in the context of ASCOBANS and in the evaluation of its strengths and weaknesses as presented earlier, the following future challenges need to be addressed:

- a. A first step in improving the effectiveness of ASCOBANS is to step up the implementation efforts of the Parties, in order to achieve the Agreements objectives.
- b. Especially there is a need for Parties to ASCOBANS to better achieve its agreed bycatch commitments. Bycatch remains the biggest threat to small cetaceans in the ASCOBANS area and bycatch can be reduced with a willing and a concerted effort by Parties. While key recommendations have been made that have influenced European legislation, more needs to be done in order to achieve the objectives.
- c. Also with respect to disturbance by noise the implementation needs to be more effective. It is urgently needed to explore whether or not disturbance of cetaceans by noise is a problem, and – if so – what would be practical ways to deal with it.
- d. ASCOBANS needs to better influence key decision makers, especially in the European Union. ASCOBANS needs to identify what kind of actions it would expect from the EU and what it can offer to the EU, e.g. by directly contributing to EU consultation exercises and commenting on proposals. For example, the European Union's Marine Strategy Framework Directive aims to achieve Good Environmental Status in Europe's seas by 2020. This Directive would fit in well with the desire for an improved habitat for small cetaceans. ASCOBANS could consider how it might help in implementing the Directive in order to ensure this outcome.
- e. ASCOBANS needs to re-establish a good working relationship with DG Mare and DG Environment of the European Commission. The exclusive competence of the European Commission to propose fisheries legislation makes this particularly important. Further consideration should be given to the benefits of the EU becoming a Party to ASCOBANS (they are Party to CMS and AEWA). Permanent participation by the European Commission at ASCOBANS meetings is important..
- f. ASCOBANS needs to develop a more focussed approach towards a limited set of the most urgent priorities. Resources and the time of experts are scarce, and not all problems – however important they are – can be effectively dealt with at the same time. ASCOBANS could be more effective in achieving its own objectives, and in influencing the EU and other international organisations if it focused its attention to agreed priorities. This does not mean that other areas are not important, nor that other items that currently occupy the agenda should not be discussed. The whole suite of issues should be on ASCOBANS rolling agenda, but the major part of the time and resources allocated should be devoted to the most urgent priorities.
- g. Furthermore, it is important to stabilise the situation with regard to the Secretariat and finance. This means that Parties will need to choose the most appropriate and cost-effective Secretariat structure for the future, taking into account the tasks of the Secretariat and the qualifications of its staff needed for this, the evaluation of the results of the merger so far, the opportunities for the future and ongoing discussions with respect to more effective governance at the UN and CMS level.

Focusing ASCOBANS' conservation efforts (priority issues and major tools in achieving these)

8. Bycatch remains the priority issue for future ASCOBANS work:

I. Bycatch

Bycatch remains the biggest threat to small cetaceans in the ASCOBANS area. While we have made important analyses and key recommendations that have influenced

European legislation, we believe that bycatch should be the key priority for the agreement for the foreseeable future. Efforts could be made to prioritise the issue of bycatch, increasing research and development in this area and making key evidence-based recommendations.

II. Disturbance by noise

A second priority is disturbance by noise. Regarding this priority ASCOBANS and its Parties firstly should focus on the examination of the effects of disturbance from underwater noise. Despite considerable research, no population level effects have been detected but nevertheless some concerns remain – especially in relation to increasing and relatively novel sources of sound. An underwater noise working group is presently considering this issue. However, notwithstanding the scientific uncertainty, Parties agree that disturbance by noise can pose a substantial threat to small cetaceans. ASCOBANS should promote the exchange of best practices in dealing with these threats, including experiences with the development and use of guidelines in dealing with disturbance by noise.

9. In order to achieve our objectives in respect to the priority issues ASCOBANS has two important tools to build upon:

- I. Management plans for harbour porpoises in the Baltic and North Seas.** A full and timely implementation of the two management plans is important in enhancing the effectiveness of the Resolutions made at earlier Meetings of the Parties of ASCOBANS.
- II. Education, publicity and outreach.** Raising the awareness of the key threats to small cetaceans and mitigation and conservation measures that might be utilised are significant tools. While there has been progress in these areas ASCOBANS could increase education and publicity and make it a priority over the next few years, building on measures that contracting governments have made. It is important that collectively we raise the profile and status of the organisation so that it has greater influence over decision making. Therefore a co-ordinated outreach programme, focussing particularly on activities that can help achieve the aims of ASCOBANS should be a priority.

Increasing ASCOBANS effectiveness

10. Parties need to step up their efforts to contribute to the achievement of ASCOBANS' objectives. Potentially effective ways forward in this respect are:

- a. To identify actions and measures Parties can take within their territorial waters (12 mile zone) and their Exclusive Economic Zones or equivalent (as far as parties have competence in their EEZs), in order to better protect cetaceans. Parties are responsible for an effective management of cetaceans and fisheries in coastal seas. This creates good opportunities for setting good examples in the conservation of small cetaceans, which can then be built upon in an EU context.
- b. To develop a mechanism within ASCOBANS to assist individual Parties – if appropriate – with advice as regards problems in conserving small cetaceans. If Parties and/or the Secretariat could provide individual Parties with advice regarding difficult (political) issues in managing their small cetaceans, the ASCOBANS community as a whole would make much better use of its scarce resources.

11. In order to better influence EU key decision makers a practical road map could guide ASCOBANS activities with the European Union. Building on its discussions and conclusions the Meeting of the Parties could consider the following steps as elements for such a road map:

- a. Identify which products of ASCOBANS that are concluded at the 6th Meeting of the Parties would be suitable as a starting point for a revitalized cooperation with the EU.

Possible candidates are in this respect the Management Plans for the conservation of harbour porpoises in the Baltic Sea and the North Sea.

- b. Identify, in the light of the priorities of ASCOBANS, the key processes within the EU and develop a collective ASCOBANS approach as regards its contribution to the conservation of small cetaceans through these processes. Possible candidate processes are the implementation of the Marine Strategy Framework Directive, EU bycatch policies and the implementation of Natura 2000 at sea.
- c. Develop a proposal for regular contacts between the EU and ASCOBANS; this should be a combined effort of the Secretariat, the (vice) chair of the Advisory Committee and/or Parties (e.g. the Chair of the MOP).

12. In order to better influence key decision makers of other international organisations and economic sectors ASCOBANS needs to identify its strategic alliances, and also needs to develop a common future agenda in cooperation with these organisations and sectors.

13. ASCOBANS needs to develop its contribution to the process of defining the future shape of CMS... Similarly to the approach towards the European Union, ASCOBANS should identify which of its products could be key contributions of ASCOBANS to the future of the CMS family, which processes within other CMS Agreements or instruments are the most essential for ASCOBANS to co-operate with and which opportunities need to be developed for more regular contacts and cooperation with colleagues within the CMS-family.

Consequences for the Triennium Workplan 2010-2012

14. If the 6th Meeting of the Parties of ASCOBANS decides – in line with this strategy paper – to develop a more focussed approach on three priority issues, and to strengthen ASCOBANS' efforts to influence other international bodies, especially the EU, and economic sectors, the Triennium Workplan 2010-2012 needs to be adopted accordingly. Therefore the draft Triennium Workplan 2010-2012 indicates which actions would be priority actions if the 6th Meeting of the Parties wants to adopt the proposed strategic approach.

Consequences for ASCOBANS' organisational structure

15. Implementing a more strategic approach does not imply that ASCOBANS' organisational structure needs to be adapted. However, if the 6th Meetings of the Parties agrees to a more strategic approach, the way ASCOBANS operates needs to be more focussed towards the agreed priorities. Consideration might be given to greater prioritisation and particular issues only being discussed for every other (or third) Advisory Committee. In that way time could be freed up for the key strategic issues.

16. A more focussed and strategic approach of course would benefit from a more stabilised situation as regards the management of the Agreement's Secretariat. A more stable Secretariat would help improve cooperation within the CMS family.