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AGREEMENT ON THE CONSERVATION OF SMALL CETACEANS OF THE BALTIC, NORTH EAST ATLANTIC, IRISH AND NORTH SEAS

The Parties

Recalling the general principles of conservation and sustainable use of natural resources, as reflected in the World Conservation Strategy of the International Union for the Conservation of Nature and Natural Resources, the United Nations Environment Programme, and the World Wide Fund for Nature, and in the report of the World Commission on Environment and Development,

Recognizing that small cetaceans are and should remain an integral part of marine ecosystems,

Aware that the population of harbour porpoises of the Baltic Sea has drastically decreased,

Concerned about the status of small cetaceans in the Baltic and North Seas,

Recognizing that by-catches, habitat deterioration and disturbance may adversely affect these populations,

Convinced that their vulnerable and largely unclear status merits immediate attention in order to improve it and to gather information as a basis for sound decisions on management and conservation,

Confident that activities for that purpose are best coordinated between the States concerned in order to increase efficiency and avoid duplicate work,

Aware of the importance of maintaining maritime activities such as fishing,

Recalling that under the Convention on the Conservation of Migratory Species of Wild Animals (Bonn 1979), Parties are encouraged to conclude agreements on wild animals which periodically cross national jurisdictional boundaries,

Recalling also that under the provisions of the Convention on the Conservation of European wildlife and Natural Habitats (Berne 1979), all small cetaceans regularly present in the Baltic and North Seas are listed in its Appendix II as strictly protected species, and

Referring to the Memorandum of Understanding on Small Cetaceans in the North Sea signed by the Ministers present at the Third International Conference on the Protection of the North Sea,

have agreed as follows:

1. Scope and interpretation

- 1.1. This agreement shall apply to all small cetaceans found within the area of the agreement.
- 1.2. For the purpose of this agreement:
 - (a) "Small cetaceans" means any species, subspecies or population of toothed whales *Odontoceti*, except the sperm whale *Physeter macrocephalus*;
 - (b) "Area of the Agreement" means the marine environment of the Baltic and North Seas and contiguous area of the North East Atlantic, as delimited by the shores of the Gulfs of Bothnia and Finland; to the south-east by latitude 36°N, where this line of latitude meets the line joining the lighthouses of Cape St. Vincent (Portugal) and Casablanca (Morocco); to the south-west by latitude 36°N and longitude 15°W; to the north-west by longitude 15°W and a line drawn through the following points: latitude 59°N/longitude 15°W, latitude 60°N/longitude 05°W, latitude 61°N/longitude 4°W, latitude 62°N/longitude 3°W; to the north by latitude 62°N; and including the Kattegat and the Sound and Belt passages;
 - (c) "Bonn Convention" means the Convention on the Conservation of Migratory Species of Wild Animals (Bonn 1979);
 - (d) "Regional Economic Integration Organization" means an organization constituted by sovereign States which has competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this agreement;
 - (e) "Party" means a range State or any Regional Economic Integration Organization for which this agreement is in force;
 - (f) "Range State" means any State, whether or not a Party to the agreement, that exercises jurisdiction over any part of the range of a species covered by this agreement, or a State whose flag vessels, outside national jurisdictional limits but within the area of the agreement, are engaged in operations adversely affecting small cetaceans;
 - (g) "Secretariat" means, unless the context otherwise indicates, the Secretariat to this agreement.

2. Purpose and basic arrangements

- 2.1. The Parties undertake to cooperate closely in order to achieve and maintain a favourable conservation status for small cetaceans.
- 2.2. In particular, each Party shall apply within the limits of its jurisdiction and in accordance with its international obligations, the conservation, research and management measures prescribed in the Annex.
- 2.3. Each Party shall designate a Coordinating Authority for activities under this agreement.
- 2.4. The Parties shall establish a Secretariat and an Advisory Committee not later than at their first Meeting.

- 2.5. A brief report shall be submitted by each Party to the Secretariat not later than 31 March each year, commencing with the first complete year after the entry into force of the agreement for that Party. The report shall cover progress made and difficulties experienced during the past calendar year in implementing the agreement.
- 2.6. The provisions of this agreement shall not affect the rights of a Party to take stricter measures for the conservation of small cetaceans.

3. The Coordinating Authority

- 3.1. The activities of each Party shall be coordinated and monitored through its Coordinating Authority which shall serve as the contact point for the Secretariat and the Advisory Committee in their work.

4. The Secretariat

- 4.1. The Secretariat shall, following instructions provided by the meetings of the Parties, promote and coordinate the activities undertaken in accordance with Article 6.1 of this agreement and shall, in close consultation with the Advisory Committee, provide advice and support to the Parties and their Coordinating Authorities.
- 4.2. In particular, the Secretariat shall: facilitate the exchange of information and assist with the coordination of monitoring and research among Parties and between the Parties and international organizations engaged in similar activities; organize meetings and notify Parties, the observers mentioned in Article 6.2.1 and the Advisory Committee; coordinate and circulate proposals for amendments to the agreement and its Annex; and present to the Coordinating Authorities, each year no later than 30 June, a summary of the Party reports submitted in accordance with Article 2.5, and a brief account of its own activities during the past calendar year, including a financial report.
- 4.3. The Secretariat shall present to each Meeting of the Parties a summary of, inter alia, progress made and difficulties encountered since the last Meeting of the Parties. A copy of this report shall be submitted to the Secretariat of the Bonn Convention for information to the Parties of that Convention.
- 4.4. The Secretariat shall be attached to a public institution of a Party or to an international body, and that institution or body shall be the employer of its staff.

5. The Advisory Committee

- 5.1. The Meeting of the Parties shall establish an Advisory Committee to provide expert advice and information to the Secretariat and the Parties on the conservation and management of small cetaceans and on other matters in relation to the running of the agreement, having regard to the need not to duplicate the work of other international bodies and the desirability of drawing on their expertise.
- 5.2. Each Party shall be entitled to appoint one member of the Advisory Committee.
- 5.3. The Advisory Committee shall elect a chairman and establish its own rules of procedure.

5.4. Each Committee member may be accompanied by advisers, and the Committee may invite other experts to attend its meetings. The Committee may establish working groups.

6. The Meeting of the Parties

6.1. The Parties shall meet, at the invitation of the Bonn Convention Secretariat on behalf of any Party, within one year of the entry into force of this agreement, and thereafter, at the notification of the Secretariat, not less than once every three years to review the progress made and difficulties encountered in the implementation and operation of the agreement since the last Meeting, and to consider and decide upon:

(a) The latest Secretariat report;

(b) Matters relating to the Secretariat and the Advisory Committee;

(c) The establishment and review of financial arrangements and the adoption of a budget for the forthcoming three years;

(d) Any other item relevant to this agreement circulated among the Parties by a Party or by the Secretariat not later than 90 days before the Meeting, including proposals to amend the agreement and its Annex; and

(e) The time and venue of the next Meeting.

6.2.1. The following shall be entitled to send observers to the Meeting: the Depositary of this agreement, the secretariats of the Bonn Convention, the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the Convention on the Conservation of European Wildlife and Natural Habitats, the Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft, the Convention for the Prevention of Marine Pollution from Landbased Sources, the Common Secretariat for the Cooperation on the Protection of the Wadden Sea, the International Whaling Commission, the North-East Atlantic Fisheries Commission, the International Baltic Sea Fisheries Commission, the Baltic Marine Environment Protection Commission, the International Council for the Exploration of the Sea, the International Union for the Conservation of Nature and Natural Resources, and all non-Party Range States and Regional Economic Integration Organizations bordering on the waters concerned.

6.2.2. Any other body qualified in cetacean conservation and management may apply to the Secretariat not less than 90 days in advance of the Meeting to be allowed to be represented by observers. The Secretariat shall communicate such applications to the Parties at least 60 days before the Meeting, and observers shall be entitled to be present unless that is opposed not less than 30 days before the Meeting by at least one third of the Parties.

6.3. Decisions at Meetings shall be taken by a simple majority among Parties present and voting, except that financial decisions and amendments to the agreement and its Annex shall require a three-quarters majority among those present and voting. Each Party shall have one vote. However, in matters within their competence, the European Economic Community shall exercise their voting rights with a number of votes equal to the number of their member States which are Parties to the agreement.

- 6.4. The Secretariat shall prepare and circulate a report of the Meeting to all Parties and observers within 90 days of the closure of the Meeting.
- 6.5. This agreement and its Annex may be amended at any Meeting of the Parties.
 - 6.5.1. Proposals for amendments may be made by any Party.
 - 6.5.2. The text of any proposed amendment and the reasons for it shall be communicated to the Secretariat at least 90 days before the opening of the Meeting. The Secretariat shall transmit copies forthwith to the Parties.
 - 6.5.3. Amendments shall enter into force for those Parties which have accepted them 90 days after the deposit of the fifth instrument of acceptance of the amendment with the Depositary. Thereafter they shall enter into force for a Party 30 days after the date of deposit of its instrument of acceptance of the amendment with the Depositary.
 - 6.5.4. Any State that becomes a Party to the Agreement after the entry into force of an Amendment shall, failing an expression of a different intention by that State:
 - a) be considered as a Party to the Agreement as amended; and
 - b) be considered as a Party to the unamended Agreement in relation to any Party not bound by the Amendment.

7. Financing

- 7.1. The Parties agree to share the cost of the budget, with Regional Economic Integration Organizations contributing 2.5 per cent of the administrative costs and other Parties sharing the balance in accordance with the United Nations scale, but with a maximum of 25 per cent per Party.
- 7.2. The share of each Party in the cost of the Secretariat and any additional sum agreed for covering other common expenses shall be paid to the Government or international organization hosting the Secretariat, as soon as practicable after the end of March and in no case later than before the end of June each year.
- 7.3. The Secretariat shall prepare and keep financial accounts by calendar years.

8. Legal matters and formalities

- 8.1. This is an agreement within the meaning of the Bonn Convention, Article IV (4).
- 8.2. The provisions of this agreement shall in no way affect the rights and obligations of a Party deriving from any other existing treaty, convention, or agreement.
- 8.3. The Secretary-General of the United Nations shall assume the functions of Depositary of this agreement.
 - 8.3.1. The Depositary shall notify all Signatories, all Regional Economic Integration Organizations and the Bonn Convention Secretariat of any signatures, deposit of instruments of ratification, acceptance, approval or accession, entry into force of the agreement, amendments, reservations and denunciations.

- 8.3.2. The Depositary shall send certified true copies of the agreement to all signatories, all non-signatory Range States, all Regional Economic Integration Organizations and the Bonn Convention Secretariat.
- 8.4. The agreement shall be open for signature at the United Nations Headquarters by 31 March 1992 and thereafter remain open for signature at the United Nations Headquarters by all Range States and Regional Economic Integration Organizations, until the date of entry into force of the agreement. They may express their consent to be bound by the agreement (a) by signature, not subject to ratification, acceptance or approval, or (b) if the agreement has been signed subject to ratification, acceptance or approval, by the deposit of an instrument of ratification, acceptance or approval. After the date of its entry into force, the agreement shall be open for accession by Range States and Regional Economic Integration Organizations.
- 8.5. The agreement shall enter into force 90 days after six Range States have expressed their consent to be bound by it in accordance with Article 8.4. Thereafter, it shall enter into force for a State and Regional Economic Integration Organization on the 30th day after the date of signature, not subject to ratification, acceptance or approval, or of the deposit of an instrument of ratification, acceptance, approval or accession with the Depositary.
- 8.6. The agreement and its Annex shall not be subject to general reservations. However, a Range State or Regional Economic Integration Organization may, on becoming a Party in accordance with Article 8.4 and 8.5, enter a specific reservation with regard to any particular species, subspecies or population of small cetaceans. Such reservations shall be communicated to the Depositary on signing or at the deposit of an instrument of ratification, acceptance, approval or accession.
- 8.7. A Party may at any time denounce this agreement. Such denunciation shall be notified in writing to the Depositary and take effect one year after the receipt thereof.

In witness whereof the undersigned, being duly authorized thereto, have affixed their signatures to this agreement.

Done at New York on _____, the English, French, German and Russian texts of the agreement being equally authentic.

ANNEX

Conservation and management plan

The following conservation, research, and management measures shall be applied, in conjunction with other competent international bodies, to the populations defined in Article 1.1:

1. Habitat conservation and management

Work towards (a) the prevention of the release of substances which are a potential threat to the health of the animals, (b) the development, in the light of available data indicating unacceptable interaction, of modifications of fishing gear and fishing practices in order to reduce by-catches and to prevent fishing gear from getting adrift or being discarded at sea, (c) the effective regulation, to reduce the impact on the animals, of activities which seriously affect their food resources, and (d) the prevention of other significant disturbance, especially of an acoustic nature.

2. Surveys and research

Investigations, to be coordinated and shared in an efficient manner between the Parties and competent international organizations, shall be conducted in order to (a) assess the status and seasonal movements of the populations and stocks concerned, (b) locate areas of special importance to their survival, and (c) identify present and potential threats to the different species.

Studies under (a) should particularly include improvement of existing and development of new methods to establish stock identity and to estimate abundance, trends, population structure and dynamics, and migrations. Studies under (b) should focus on locating areas of special importance to breeding and feeding. Studies under (c) should include research on habitat requirements, feeding ecology, trophic relationships, dispersal, and sensory biology with special regard to effects of pollution, disturbance and interactions with fisheries, including work on methods to reduce such interactions. The studies should exclude the killing of animals and include the release in good health of animals captured for research.

3. Use of by-catches and strandings

Each Party shall endeavour to establish an efficient system for reporting and retrieving by-catches and stranded specimens and to carry out, in the framework of the studies mentioned above, full autopsies in order to collect tissues for further studies and to reveal possible causes of death and to document food composition. The information collected shall be made available in an international database.

4. Legislation

Without prejudice to the provisions of paragraph 2 above, the Parties shall endeavour to establish (a) the prohibition under national law, of the intentional taking and killing of small cetaceans where such regulations are not already in force, and (b) the obligation to release immediately any animals caught alive and in good health. Measures to enforce these regulations shall be worked out at the national level.

5. Information and education

Information shall be provided to the general public in order to ensure support for the aims of the agreement in general and to facilitate the reporting of sightings and strandings in particular; and to fishermen in order to facilitate and promote the reporting of by-catches and the delivery of dead specimens to the extent required for research under the agreement.