

Agenda Item 4.1

Review of New Information on Threats to  
Small Cetaceans

Bycatch

Document 4.1.c

**Further Development of  
Management Procedures for  
Defining the Threshold of  
'Unacceptable Interactions' –  
Proposed Next Steps**

**Action Requested**

- Take note of the recommendations of the “Part I” workshop
- Approve the proposed revised terms of reference for the “Part II” workshop
- Provide guidance on the possible further steps

Submitted by

Secretariat / Steering Group



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



## Further Development of Management Procedures for Defining the Threshold of 'Unacceptable Interactions' – Proposed Next Steps

### Background

1. The ASCOBANS Conservation and Management Plan, under the heading "Habitat conservation and management" coins the term "unacceptable interaction", which has triggered extensive work under the Agreement, especially in the 1990s. The Advisory Committee, with the help of an ASCOBANS-IWC working group, sought to develop "precise conservation objectives for Parties for small cetacean populations in the ASCOBANS area that will enable decisions on unacceptable levels of by-catch and on monitoring programmes to be refined" (Res.2.5).
2. Two resolutions passed in 2000 ([Resolution 3.3](#) on *Incidental Take of Small Cetaceans*) and 2006 ([Resolution 5.5](#) on *Incidental Take of Small Cetaceans*), both still extant, set out the key conclusions reached in this process:
  - a) "the aim of ASCOBANS can be interpreted as "to restore and/or maintain biological or management stocks of small cetaceans at the level they would reach when there is the lowest possible anthropogenic influence"" (Res.3.3)
  - b) "a suitable short-term practical sub-objective" "to restore and/or maintain stocks/populations to 80% or more of the carrying capacity" (Res.3.3)
  - c) "the general aim should be to minimise (i.e. to ultimately reduce to zero) anthropogenic removals within some yet-to-be-specified time frame, and that intermediate target levels should be set" (Res.3.3 and Res.5.5)
  - d) "defines, for the present, according to the most recent scientific information "unacceptable interactions" as being, in the short term, a total anthropogenic removal above 1.7 % of the best available estimate of abundance" (Res.3.3)
  - e) "underlines the intermediate precautionary objective to reduce by-catches to less than 1% of the best available population estimate" (Res.3.3 and Res.5.5)
  - f) "if available evidence suggests that a population is severely reduced, or in the case of species other than the harbour porpoise, or where there is significant uncertainty in parameters such as population size or by-catch levels, then "unacceptable interaction" may involve an anthropogenic removal of much less than 1.7 %" (Res.3.3.)
3. In 2013, the United Kingdom presented [AC20/Doc.3.1.2](#) *Societal decisions required for the determination of safe bycatch limits for harbour porpoise, common dolphin and bottlenose dolphin*, which noted that the ASCOBANS conservation objective "to allow populations to recover to and/or maintain 80% of carrying capacity in the long term" stands, but requires some key policy decisions in order to become fully applicable. In particular, 'society' should decide on parameters scientists should use, such as:
  - Whether the conservation objective should be met on average or some other percentage of the time (>50%)
  - The timeframe over which it should be applied (100 years, 200 years, another period)
  - The spatial areas to which the procedure is to be applied (i.e. appropriate management units)
4. A working group was formed in order to assist the Advisory Committee in addressing these questions. In 2014, AC21 decided to hold two workshops: a first one in order to develop a shared understanding on the use of thresholds/environmental limits, which took place on 10 July 2015 in London, United Kingdom ("Part I", see the report as [AC22/Inf.4.1.c](#)), and a

more technical follow-up workshop (“Part II”) for which terms of reference were developed (see [AC21 Report](#) Annex 10).

### Recommendations of the “Part I” Workshop for the “Part II” Workshop

5. During the “Part I” workshop in July 2015 in London, a number of questions/points of clarification were identified for the “Part II” workshop. In particular, it was felt necessary that it would:
  - a) Give consideration to the appropriateness of, and lessons learnt from other approaches adopted under other legislation/agreements, including the Agreement on the Conservation of Albatrosses and Petrels (ACAP)
  - b) Give consideration to instances where the Potential Biological Removal (PBR) approach had already been implemented, including the US Marine Mammal Protection Act (MMPA), within Scotland (where it was being used for seals), and Wales (where it was being used in the renewable energy consenting process)
  - c) Further discuss the continued appropriateness of the current maximum annual removal rate of 1.7% and the ASCOBANS objective of ‘restoring and/or maintaining stocks/populations to 80% or more of their carrying capacity’
  - d) Develop scenarios that illustrate how environmental limits/triggers might change if the Conservation Objective and/or time period over which it was achieved (i.e. achieved 50%/80% of the time) changed and how this subsequently affects uncertainty
  - e) Consider the most appropriate timescale(s) when developing scenarios, taking into account species characteristics, desired timescale for a management response, population/species status (i.e. depleted/non-depleted populations), and degree of certainty required
  - f) Provide a more detailed explanation for decision-makers of the practical implications of adopting a PBR (or similar algorithm, i.e. CLA) approach, including but not limited to: how much it would cost in practice (e.g. field and lab work costs); what data were needed and likelihood of availability; whether it would work in the EU; what oversight arrangements would be appropriate and possible; would it meet obligations under ASCOBANS and elsewhere i.e. Habitats Directive
6. The Steering Group for the “Part II” workshop considered these recommendations and decided that before the originally intended meeting, which was to include a wide range of stakeholders, could be held, there was a need to first examine in more detail alternative management frameworks or approaches, and identifying risks and uncertainties. Therefore, the decision was made to postpone the “Part II” workshop and seek the Advisory Committee’s views on the next steps.

### Proposed Revised Terms of Reference for the “Part II” Workshop

7. The Steering Group for the “Part II” workshop proposed that revised terms of reference be approved by the Advisory Committee, allowing the process to address the concerns raised by the “Part I” workshop and re-focusing discussions as required in order to make progress on this complex and important subject.
8. Such revised terms of reference could contain the following elements:

#### Participation

This workshop is for invited participants representing managers, scientists and stakeholders directly involved in the work of the Agreement, as well as other experts required for addressing the tasks outlined below.

### Approach

A two-day workshop that will address the following main tasks:

- a) Discuss whether the current maximum annual removal rate of 1.7% continues to be appropriate
- b) Discuss whether the ASCOBANS objective of 'restoring and/or maintaining stocks/populations to 80% or more of their carrying capacity' continues to be appropriate
- c) Consider assessment/management units that have been proposed for regularly occurring species, identifying data gaps and requirements
- d) Explore sample scenarios under different models (CLA/BLA, PBR) that illustrate how environmental limits/triggers might change depending on the following parameters:
  - the time period over which the Conservation Objective of 80% carrying capacity, or more, is to be achieved, e.g. 50%, 80% or 100% of the time
  - the timescales within which the Conservation Objective is to be reached, e.g. 3 generations, 100 years, 200 years
  - acceptable uncertainty
  - species characteristics
  - population/species status (i.e. depleted/non-depleted populations)
  - differences in vulnerability of population segments
  - selection of assessment/management units
- e) Analyse examples of and lessons learned from instances where a PBR (or similar) approach have been used, including
  - Practical experiences with the US Marine Mammal Protection Act (MMPA), within Scotland (where it was being used for seals), and Wales (where it was being used in the renewable energy consenting process)
  - Associated costs, such as field and lab work costs
  - Data requirements and the likelihood of availability
  - Practicalities of using such an approach in the EU
  - Required oversight arrangements and the possibility of their establishment
  - Whether obligations under ASCOBANS and elsewhere, such as under the Habitats Directive, would be met
- f) Analyse other approaches adopted under other legislation/agreements, such as the Agreement on the Conservation of Albatrosses and Petrels (ACAP), and assess their applicability and lessons learnt

The conclusions reached by the workshop shall be outlined in a detailed report, explaining to Parties in language useful to policy-makers the pros and cons of the options considered and the recommendations made.

### **Possible Further Steps**

9. After considering the options outlined and the recommendations made by the "Part II" workshop, ASCOBANS Parties will need to decide on their favoured approach and

conservation objectives, or provide feedback on what else might be required in order to allow them to make a decision.

10. An opportunity should also be provided to discuss the favoured approach and conservation objectives with a range of stakeholders, as originally already foreseen for "Part II". ASCOBANS Parties may therefore wish to consider holding a third workshop ("Part III") for presentation of the proposed management framework or alternative approach, as well as proposed conservation objectives, to and discussion with a wider range of stakeholders.
11. In order to carry this work forward as appropriate in the intersessional period, it is proposed that a Steering Group be formed.