

Agenda Item 5.5

Review of Implementation of the ASCOBANS
Triennial Work Plan (2007-2009)

Possible Amendment of the Agreement to
include all Cetacean Species in the
Agreement Area

Document 5-04

**Proposal for Inclusion of Large
Cetaceans in ASCOBANS:
Perceived Advantages and
Disadvantages**

Action Requested

- Take note of the report
- Decide on a way forward as regards a possible amendment of the Agreement to include all cetacean species

Submitted by

Advisory Committee



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

PROPOSAL FOR INCLUSION OF LARGE CETACEANS IN ASCOBANS: PERCEIVED ADVANTAGES & DISADVANTAGES

INTRODUCTION

At the 12th meeting of the Advisory Committee of ASCOBANS in Brest (France) on 12-14 April 2005, the European Cetacean Society and Whale & Dolphin Conservation Society were asked to prepare, amongst other things, a paper on the implications for consideration of the inclusion of all cetacean species rather than only small cetaceans (all toothed whales and dolphins of the Sub-Order Odontoceti, excluding the sperm whale, that have been recorded from the region). The document was produced for AC13 (April 2006) as AC13/Doc 22a & b.

The proposal was discussed at the 5th Meeting of the Parties in September 2006, but no conclusion was reached. Accordingly, Parties agreed to have this item reviewed as part of the Triennium Work Plan for 2007-2009. With Resolution No. 6 of 2006, Parties also instructed the Advisory Committee to “*consider [...] the possible amendment of the ASCOBANS Agreement to include all cetacean species*”. This task was met when a working group was formed at the 16th Meeting of the Advisory Committee (April 2009), which produced a summary overview of perceived advantages and disadvantages of such an amendment (Annex 19 of AC16 Report).

In order to provide the requested advice to Parties, the AC Working Group in this document presents the arguments raised, for and against inclusion of large cetaceans within the Agreement. The item was accordingly placed on the agenda for consideration at the 6th Meeting of the Parties in Bonn in September 2009.

1) Political

a) *Disadvantages*

Amongst, and arguably foremost in the original reasons for confining the ASCOBANS agreement to small cetaceans was concern that certain Range States, notably Norway, would be reluctant to join because of their position on whaling. Although Norway never did join, other countries may remain concerned that this could still cause political difficulties if the agreement was applied to baleen whales like the minke whale.

b) *Advantages*

Many of the legislative agreements (such as the EC Habitats Directive) include all cetaceans in their protective measures. Thus it would bring ASCOBANS closer in line with these. ACCOBAMS covers all cetaceans, and has not felt constrained by inclusion of baleen whales and sperm whale. The fin whale and sperm whale are both notable members of the Mediterranean marine mammal fauna. With the extension to the agreement area which came into force in early 2008, two new Range States – Spain and Portugal, favour ASCOBANS having closer synergy with its sister agreement. Exclusion of large cetaceans is therefore actually inhibiting some countries from acceding.

2) Conservation Needs

a) *Disadvantages*

Since coming into force, ASCOBANS has focused its attention upon one species, the harbour porpoise: developing conservation plans for the species in both the Baltic and North Seas, whilst also engaging upon specific recommendations for bycatch reduction in the area. Adding species to the agreement could dilute the focus of attention and conservation action.

b) *Advantages*

With ASCOBANS extending to include parts of the eastern North Atlantic as well as the Irish Sea and Bay of Biscay, a number of baleen whale species (for example fin whale and humpback whale) as well as the sperm whale, now form relatively important members of the cetacean fauna within this new agreement area. By considering those species on a regional basis, there are opportunities for action at governmental level that might not otherwise take place. Although its ecology and distribution bring the harbour porpoise into ready contact with human activities, that species is the most common and widely distributed of all cetaceans in the North Atlantic. There are other cetacean species with more limited ranges or which face equally serious regional threats to their conservation status.

Many of the threats and problems faced by the larger cetaceans are the same (or closely related) to those experienced by the small species. Noting that Parties have legal and ethical requirements to address these threats anyway, extending ASCOBANS to address these matters could provide an economy of action

3) Large Cetacean Status in Agreement Area

a) *Disadvantages*

For some Parties to ASCOBANS, large cetaceans are only accidental in their waters so that conservation efforts for those particular species may not be considered particularly relevant.

b) *Advantages*

All cetacean species (and particularly baleen whales) are very mobile and traverse national boundaries. At the same time, users of the sea (whether from defence, fishing, shipping, or energy industries) also operate internationally so that even if a European country may not have a particular species as a regular member of its native fauna, it has a responsibility through its actions outside national waters to take conservation measures in the wider region.

4) Scientific aspects

a) *Disadvantages*

Consideration of large cetaceans might increase the burden of resources required for scientific study.

b) *Advantages*

Many scientific endeavours – research projects, abundance surveys and monitoring, target all cetacean species. Examples of this are stranding schemes, sighting surveys (both large-scale such as SCANS & CODA, and small-scale). Cetacean scientists attending Advisory Committee meetings tend to have expertise on both small and large cetaceans.

5) Administrative burden

b) *Disadvantages*

Inclusion of large cetaceans potentially could impose a greater burden in time and resources both for the ASCOBANS Secretariat and for Parties. There is a need to draw comparisons with similar agreements (e.g. ACCOBAMS) that include all cetaceans, so as to test whether indeed this is the case.

b) *Advantages*

No other multi-national environmental agreement is generating conservation actions (for example via plans) for cetaceans spanning this region. As noted above, all cetaceans face similar pressures but their relative importance varies with species and location, so that some routine surveillance on a regular basis and with a particular regional focus, is necessary. Baleen whales face dangers of ship strikes and noise disturbance. They may be particularly vulnerable to effects of climate change through ecosystem changes, and their conservation needs are therefore likely to increase.

The trend for CMS cetacean related agreements is towards the inclusion of all cetaceans (ACCOBAMS and the Pacific Cetaceans MoU) especially because the Parties prefer to address the threats to all cetaceans, rather than restricting to smaller, more confusing lists. The Western African Marine Mammal MoU has initially restricted itself to small cetaceans, but with the express intent of broadening the scope to all cetaceans in the future.

6) Legislative implications

a) *Disadvantages*

Large cetaceans come under the purview of other bodies (for example, the International Whaling Commission), and so there could be a duplication of effort. Occasionally, large whale issues also come under separate Government departments, because of State commitments to the IWC.

b) *Advantages*

Other bodies such as the International Whaling Commission have as their terms of reference emphasis upon direct exploitation, and although they consider other conservation issues relating to large cetaceans as well as scientific information on small cetaceans, they have no responsibility or legal standing to allow them to take direct action or implement conservation measures on those. Their focus tends to be global, and unless direct exploitation is involved, regional issues cannot receive the same priority, nor economy of action, as from a regional conservation agreement.

7) Timing

a) *Disadvantages*

Inclusion of large cetaceans would require an amendment to the agreement that could delay the working of ASCOBANS, and possibly result also in a change of acronym which might cost money. This might not be the most appropriate time for extending the agreement, given the other changes to the structure and functioning of ASCOBANS that may take place in the next triennium.

b) *Advantages*

Extending the agreement to include large cetaceans could in fact strengthen ASCOBANS by adding interest to the agreement. It might gain new sponsors, and would certainly provide greater synergy with ACCOBAMS. It would also provide an opportunity to re-invent ASCOBANS and put new life into it.