

Agenda Item 6.2.1 Further Implementation of the Agreement

Conservation Issues

Monitoring and Mitigation of Small  
Cetacean Bycatch

Document 6.2.1

**Draft Resolution:**

**Monitoring and Mitigation of Small  
Cetacean Bycatch**

**Action Requested**

- Review the draft Resolution
- Introduce any changes as desired
- Adopt the Resolution

Submitted by

Advisory Committee



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

## **Secretariat's Note**

This Draft Resolution has been developed by the drafting group established by the 22<sup>nd</sup> Meeting of the Advisory Committee, in collaboration with the Secretariat.

The drafting group based its work on information presented to AC22 (in particular in [AC22/Doc.4.1.b](#), [AC22/Doc.4.1.c](#), and the related information documents) and took guidance from the discussions.

**Draft Resolution:**  
**Monitoring and Mitigation of Small Cetacean Bycatch**

*Concerned* that despite the efforts made so far by Parties, bycatch remains a major cause of mortality for small cetaceans in the Agreement Area;

*Conscious* that available data indicate that levels of bycatch in the Agreement Area exceed sustainable levels and thus threaten the conservation status of several species of small cetaceans;

*Further conscious* that different regions present different risks to cetaceans depending upon fishing practices, and the occurrence and conservation status of cetacean species;

*Concerned* that many human activities in the marine environment have a negative impact on small cetaceans and their habitats, and that consequently these species face multiple, cumulative and often synergistic threats with possible effects over large areas, including from activities taking place outside the Agreement Area, such as bycatch, prey reduction, pollution, habitat degradation, underwater noise, hunting and climate change;

*Aware* that bycatch in fisheries is not only a threat to the conservation status of small cetaceans and other marine species, but also has significant animal welfare implications;

*Recalling* the Conservation and Management Plan annexed to the Agreement, according to which modifications of fishing gear and fishing practices shall be applied in order to reduce bycatch where data indicates unacceptable interaction;

*Also recalling* previous related decisions on incidental take adopted by the Meeting of the Parties, in particular Resolution No.3 of MOP3 and Resolution No.5 of MOP5;

*Taking into account* the outcomes of the ASCOBANS Expert Workshop on the Requirements of Legislation to Address Monitoring and Mitigation of Small Cetacean Bycatch (Bonn, Germany, January 2015) and the ASCOBANS Workshop on Further Development of Management Procedures for Defining the Threshold of 'Unacceptable Interactions' – Part I: Developing a Shared Understanding on the Use of Thresholds / Environmental Limits (London, United Kingdom, July 2015);

*Following* the submission of agreed Recommendations of ASCOBANS on the Requirements of Legislation to Address Monitoring and Mitigation of Small Cetacean Bycatch, to the European Commission in October 2015;

*Conscious* of the related work underway under the Convention on the Conservation of Migratory Species of Wild Animals (CMS) and other CMS daughter agreements;

*Recalling* related decisions adopted by the Conference of the Parties to CMS, in particular Resolution 9.18 on Bycatch and Resolution 10.14 on Bycatch of CMS-listed Species in Gillnet Fisheries;

*Mindful* that Parties that are also EU Member States moreover have obligations to monitor and reduce bycatch to sustainable levels under the EU Habitats Directive, the Marine Strategy Framework Directive and the Common Fisheries Policy;

*Noting* the review of Bycatch-related Fisheries Legislation in the ASCOBANS Area, presented to this meeting as [MOP8/Inf.6.2.1];

*The Meeting of the Parties to ASCOBANS*

1. *Reaffirms* the following positions previously agreed in Resolution No.3 of MOP3 that:
  - (a) the objective of ASCOBANS is to restore and/or maintain biological or management units of small cetaceans at the level they would reach when there is the lowest possible anthropogenic influence, with a short-term objective of restoring and/or maintaining management units or populations to/at 80 per cent or more of the carrying capacity;
  - (b) in order to reach this objective, the intermediate precautionary aim is to reduce bycatch to less than 1 per cent of the best available population estimate;
  - (c) the general aim remains to minimize (i.e. to ultimately reduce to zero) anthropogenic removals;
  - (d) a total anthropogenic removal above 1.7 per cent of the best available estimate of abundance, i.e. including all factors causing mortality or reduced fecundity in small cetaceans in the Agreement area, is to be considered unacceptable in the case of the harbour porpoise;
  - (e) if available evidence suggests that a population is severely reduced, or in the case of species with lower intrinsic rates of increase than the harbour porpoise, or where there is significant uncertainty in parameters such as population size or bycatch levels, much lower anthropogenic removals would be unacceptable;
  
2. *Requests* the Advisory Committee to continue to review whether the following remain appropriate, bearing in mind the overall objective of the Agreement to achieve and maintain a favourable conservation status for small cetaceans, and to make recommendations to Parties as appropriate:
  - (a) the current maximum annual removal rate of 1.7 per cent of the best available estimate of abundance;
  - (b) the current intermediate precautionary aim of reducing bycatch to less than 1 per cent of the best available estimate of abundance;
  - (c) the objective of restoring and/or maintaining management units or populations to 80 per cent or more of their carrying capacity;
  - (d) the assessment/management units that have been proposed for regularly occurring species;
  
3. *Defines*, for the purposes of the Agreement, an environmental limit as a 'critical' or 'unacceptable' point in the environment that should never be exceeded and above which defined conservation objectives, such as the short-term objective to restore and/or maintain populations to/at 80 per cent or more of the carrying capacity, would not be achieved;
  
4. *Further defines*, for the purposes of the Agreement, triggers as lower than environmental limits and used as indicators of the success or lack thereof of measures taken to reduce bycatch and other anthropogenic causes of mortality of small cetaceans, and to signal the need for changes in management action;
  
5. *Recommends* that until the current maximum annual removal rate of 1.7 per cent has been re-evaluated and possibly refined, it should be applied as the environmental limit;

6. *Further recommends* that triggers be established to indicate when an environmental limit (an unacceptable interaction) is at risk of being reached or exceeded;
7. *Requests* the Advisory Committee to make recommendations on appropriate triggers;
8. *Urges* Parties, in view of more refined triggers not having been set yet and the urgency of the matter, to take immediate measures to ensure that in the short term bycatch of small cetaceans is reduced to below 1 per cent of the best available estimate of abundance for all management units of small cetaceans in the Agreement Area;
9. *Further urges* Parties, through their participation in EU processes as EU Member States, to ensure that monitoring requirements under European Directives, Regulations and frameworks take full account of assessment needs relating to cetacean bycatch in terms of target fleets and adequate sampling;
10. *Requests* Parties, through their participation in EU processes as EU Member States, to ensure that the technical measures required for bycatch mitigation currently under development will be in line with recommendations made by the bodies of the Agreement;
11. *Urges* Parties to ensure that the implementation of technical measures for cetacean bycatch mitigation, whether required under EU or national laws, is both monitored and enforced;
12. *Requests* Parties to submit their implementation reports on EU legislation regarding cetacean bycatch to ASCOBANS as part of their national reports;
13. *Recommends* that Parties develop guidance on recommended fines for infractions of cetacean bycatch rules which take account of the impact such infractions have on cetacean conservation, ecosystem value and similar impacts;
14. *Requests* the Secretariat and the Advisory Committee to support the efforts of the Parties to influence outcomes of EU processes relevant for the monitoring and mitigation of small cetacean bycatch, as appropriate and feasible;
15. *Strongly recommends* that Parties, and if applicable other EU Member States, be required to demonstrate that their fisheries are not exceeding an agreed environmental limit for cetacean bycatch and to demonstrate progressive reductions in bycatch in line with the strict protection measures required under the Habitats Directive and ASCOBANS;
16. *Further recommends* that the feasibility and desirability of establishing a comprehensive framework for better assessment and effective management of impact of cetacean bycatch within and across ASCOBANS Parties and EU Member States be fully investigated and evaluated;
17. *Urges* Parties to improve bycatch estimation by means of a more comprehensive sampling effort making use of dedicated observer programmes, remote electronic monitoring or any other means as appropriate, covering all types of fishing gear of concern with respect to small cetacean bycatch, and all vessel sizes;
18. *Encourages* Parties and industry to have regard to the need to monitor cetacean bycatch when considering new monitoring approaches in response to the Common Fisheries Policy landing obligation;
19. *Further encourages* Parties and other stakeholders to take note of the best practice advice contained in the report of the ASCOBANS Workshop on Remote Electronic Monitoring with Regards to Bycatch of Small Cetaceans (The Hague, Netherlands, October 2015), which

covers stakeholder involvement, sampling design, data collection and analysis as well as the use of the most appropriate technique for addressing the questions being asked;

20. *Requests* the Advisory Committee to consider, at appropriate intervals, new developments in the field of remote electronic monitoring of bycatch and any further monitoring techniques and to make recommendations to Parties as appropriate;

21. *Encourages* Parties and *invites* the European Commission to prioritize the development and implementation of mitigation measures, such as alternative fishing methods that are ecologically sustainable, pingers not audible to seals, alerting devices or gear-exchange schemes aiming at reducing bycatch by allocating the necessary funding in national and European financial planning and support schemes, such as the European Maritime and Fisheries Fund;

22. *Requests* the Advisory Committee to consider, as a priority, development of bycatch mitigation measures, and to make recommendations to Parties as appropriate;

23. *Encourages* Parties and other stakeholders to take into account potential effects on other species, such as other marine mammals, seabirds, marine turtles and sharks, when choosing mitigation measures, and to monitor such effects;

24. *Recommends* that Parties, where applicable through their participation in EU processes as EU Member States, consider ways of encouraging the delivery of carcasses for scientific research purposes, for example through integrating landing authorizations into regional management planning in support of national or regional research programmes;

25. *Requests* the Advisory Committee to collaborate with the ICES Working Group on Bycatch of Protected Species (WGBYC), the Scientific, Technical and Economic Committee for Fisheries (STECF) established by the European Union, the Regional Coordination Groups, and other relevant organizations addressing bycatch;

26. *Requests* the Secretariat to participate in relevant bycatch-related work streams of CMS and the CMS Family, as feasible, to ensure synergies and increase effectiveness; and

27. *Repeals* Resolution No. 3 of MOP3 (2000) and Resolution No. 5 of MOP5 (2006).