

PROCEEDINGS OF THE 5th MEETING OF THE PARTIES TO ASCOBANS

The Netherlands
18 – 20 September and
12 December 2006



ASCOBANS
Agreement on the Conservation
of Small Cetaceans of the
Baltic and North Seas

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**Report of the First Session of the
Fifth Meeting of the Parties to ASCOBANS
Egmond aan Zee, Netherlands
18 – 20 September 2006**

1. Opening of the meeting

The Vice-Chair of the ASCOBANS Advisory Committee, Peter Reijnders, opened the 5th Meeting of the Parties to ASCOBANS, and welcomed the participants to Egmond aan Zee. He explained that the Chair of the ASCOBANS Advisory Committee, Mark Tasker, would be arriving the following day because of a clash with a meeting of ICES. He introduced the representative of the hosts, the Director of the Department of Nature Conservation of the Ministry of Agriculture, Nature and Food Quality, Mr. Giuseppe Raaphorst.

Mr Raaphorst welcomed participants on behalf of the Ministry of Agriculture, Nature and Food Quality, saying that it was a pleasure for the Netherlands to host this meeting. He noted that the aim of ASCOBANS was to help cetaceans and explained that in the last year, a total of 400 harbour porpoise had been washed up on Dutch shores alone. These animals would be examined to determine the cause of death and the results would be available at the end of the year. Mr Raaphorst noted that there were two items of particular importance that would be discussed at the meeting: the Conservation Plan for Harbour Porpoises in the North Sea and budgetary issues. He hoped that progress could be made to resolve the financial issues during the next few days. He felt that a conservation plan for the North Sea was necessary because of other developments in the area. Evidence showed that disturbance and noise were a cause of cetacean deaths. A windfarm could be seen from the coast, which was the only one so close to shore in the Netherlands. He noted that the construction of windfarms caused noise disturbance, but the effects of this noise were not yet known.

Mr Raaphorst commended ASCOBANS for its considerable expertise in cetacean issues and for setting the standard for cetacean conservation. Evidence showed that there were changes in the marine environment and more research was needed. The work of ASCOBANS was increasingly important and provided a source of important conservation knowledge. Indeed he saw ASCOBANS having an important role in providing expertise in other fora, such as the EU Habitats Directive, EU Regulation 812/2004 on bycatch, OSPAR and HELCOM. Mr Raaphorst concluded by wishing all those present a successful meeting.

The ASCOBANS Executive Secretary, Rüdiger Stempel, then also welcomed the delegates on behalf of the Secretariat. He noted that since the first ASCOBANS meeting he had attended in Bristol in 2000, the number of participants had doubled. Both the number of NGOs regularly attending ASCOBANS meetings and the number of Parties had increased. He welcomed two new Parties to ASCOBANS that had acceded since the 4th Meeting of the Parties, namely France and Lithuania, to their first MOP. He also expressed his gratification at the fact that Estonia, that was in the process of acceding to the Agreement, was represented. Spain had indicated that it would accede, but was not represented at the meeting. The Executive Secretary welcomed the representative from the Irish Whale and Dolphin Group and noted that as far as he could recall, it was the first time that a representative of any Irish organisation attended an ASCOBANS meeting. All of this demonstrated that ASCOBANS was having an effect and was developing in all its sub-regions. This was good

considering the problems faced by cetaceans. He hoped that the extension of the Agreement Area, which Parties were now in the process of ratifying, would enter into force soon. The Executive Secretary hoped that the 5th Meeting of the Parties would allow ASCOBANS to continue its work in the next Triennium.

2. Adoption of Rules of Procedure

The Rules of Procedure for the Meeting of the Parties to ASCOBANS (MoP5/Doc.6) were adopted without amendment.

3. Election of Chair/Vice-Chair

In response to the Advisory Committee Chair's request for nominations, Germany proposed Mr. Giuseppe Raaphorst, the Head of Delegation for the Netherlands, to chair the Meeting of the Parties. This suggestion was seconded by Finland.

Lithuania nominated Denmark to be vice-chair for the Meeting of the Parties. This suggestion was seconded by Sweden.

In agreement with these suggestions, the Parties elected Giuseppe Raaphorst to chair the meeting and Sten Strömngren to be vice-chair.

Mr Raaphorst thanked the Parties for his election and declared that he would do his utmost to make the meeting a success.

4. Adoption of Agenda

No proposals were made to amend the Draft Agenda (MoP5/Doc. 1), which was thus adopted.

5. Admittance of Observers

The Chair stated that Parties had received from the Secretariat a list of intergovernmental and non-governmental organisations and scientific institutions requesting admission as observers to the Meeting. As no objections had been received by the Secretariat, those observers present had the approval of the Parties.

6. Opening addresses and statements; establishment of Credentials Committee

The Director of the UNEP Department of Environmental Conventions, Mr Bakary Kante, presented an opening statement on behalf of Mr Achim Steiner, Executive Director of UNEP.

Mr Kante explained that Mr Steiner would have wished to attend the meeting. He sent his apologies as he was unable to participate due to other pressing commitments. Mr Steiner expressed his gratitude to the Government of the Netherlands for hosting the meeting of the Parties and also for the influential role that the Netherlands played in international environmental issues in general. The appointment of Yvo de Boer as the Executive Secretary of the Convention on Climate Change was an example of the influence and involvement of the Netherlands in this area. During the meeting, there would be a discussion about the administrative support of ASCOBANS. He reassured the participants that Mr Steiner was personally committed to all conventions and particularly to small agreements such as ASCOBANS. In order to demonstrate the political commitment of UNEP, two senior UNEP members of staff were attending the ASCOBANS meeting, despite the fact that their absence from Nairobi at a time of intense work was not unproblematic. The Parties to ASCOBANS had asked for an audit report and this had been completed. UNEP would fully implement the recommendations of the audit report if the Parties so requested. A task team had been established to consider administrative support for Multilateral Environmental Agreements (MEAs).

Mr Steiner congratulated ASCOBANS for raising awareness of the problems facing cetaceans and urged Parties to continue to deal with the variety of threats, including anthropogenic removal and pollution, which threatened populations in the Baltic and North Seas. He reminded participants that the UNEP Information Unit on Conventions, located in Geneva, was available to give assistance. He recalled that at the 4th Meeting of the Parties the decision had been taken to extend the Agreement Area to cover parts of the eastern North Atlantic, to incorporate waters adjacent to Ireland, Portugal and Spain. Mr Steiner was looking forward to a successful outcome of the meeting and was committed to the purpose and objectives of the Agreement. He wished all those present a successful meeting.

The Chair thanked Mr Kante for representing Mr Steiner and for delivering his kind and encouraging words. He hoped that Mr Kante would participate fully in the discussions on administrative issues.

The Chair also welcomed the new Parties, France and Lithuania.

The representative from Lithuania stated that she was pleased to attend her first Meeting of the Parties to ASCOBANS. She hoped that the meeting would provide new ideas and experience for Lithuania. She noted that cetaceans were rarely observed in Lithuania. Nevertheless Lithuania would do its best to protect small cetaceans in its waters. She thanked the Netherlands for its hospitality.

France expressed its pleasure that after many years as an observer it had acceded to ASCOBANS at the end of 2005. Due to the recent extension of the Agreement to cover also the Golfe de Gascogne, the continental European part of France was now surrounded by the Agreement areas of ACCOBAMS for the Mediterranean, and ASCOBANS for the Atlantic and the North Sea. Cetacean conservation was of particular importance to France given that it

was now a party to all international cetacean conservation agreements, the most recent one to have been concluded being the CMS Memorandum of Understanding on South Pacific cetaceans. France was also committed to the creation of protected areas for these species, such as Pelagos in the Mediterranean together with Italy and Monaco, in its Pacific territories and, more recently, a project in the French Antilles. In the ASCOBANS region, the Parc d'Iroise in Brittany would soon provide a vast area in which a cetacean habitat would be protected. France was prepared to cooperate with other ASCOBANS Parties in reducing the factors causing the death of small cetaceans and also hoped that the extension of the Agreement area would be beneficial to other species and especially to large whales, which were currently particularly in need of protection. She thanked the Netherlands for being excellent hosts and also for providing interpretation.

A Credentials Committee was established, chaired by Denmark, with the participation of Lithuania and the Netherlands.

The Chair explained that the arrival of Mr Robert Hepworth, Executive Secretary for UNEP/CMS, had been delayed. His opening statement was read by the Executive Secretary of ASCOBANS.

7. ASCOBANS Reports

7.1 Chair/Vice-chair of Advisory Committee

The Vice-Chair of the Advisory Committee presented MoP5/Doc.8. On the basis of the work plan agreed by the 4th Meeting of the Parties, this report gave a personal evaluation of progress in each of the categories.

Incidental take remained the greatest threat to small cetaceans. Measures to reduce this take were the responsibility of EU Fisheries managers and the EU had adopted Regulation (EC)812/2004. ASCOBANS reports and information provided by Parties, both within the context of ICES and within the European advisory structures, had influenced the measures included in the Regulation. It was not possible to evaluate the success of this Regulation as EU Members had only reported for the first time in June 2006. He recommended that ASCOBANS should monitor this situation with a view to providing support.

The implementation of the recovery plan for harbour porpoises in the Baltic Sea was a major challenge. A key factor affecting the status of harbour porpoises in the Baltic, incidental take in fisheries, was addressed in EC Regulation 812/2004, which phased out and banned drift nets in the Baltic and required the use of pingers in certain fisheries. It was not yet possible to evaluate the success of these measures. He reported that the Jastarnia working group had met twice in the ongoing triennium.

Germany had supported the drafting of a conservation plan for harbour porpoises in the North Sea. Discussions during the drafting had highlighted the difficulty in demonstrating any specific effect on populations of indirect human activities.

He noted the difficulties in demonstrating the effects of disturbance on small cetaceans. ASCOBANS had focused primarily on describing and reviewing the occurrence of noisy activities. He noted that the UK and Germany had produced reviews of the amounts of

seismic disturbance in their waters but without information from other Parties it was not possible to put this in context. Implementation of guidelines to minimise disturbance remained patchy.

The Pollution Working Group had kept this issue under review throughout the period, and the work of Mark Simmonds (WDCS) had been very helpful. ASCOBANS had continued to collaborate with other organisations.

As regards monitoring, SCANS II had been undertaken with funding from several Parties. Although the final results of the survey were not available, he outlined some of the findings, noting that a more comprehensive overview would be provided later during the meeting by Philip Hammond.

Regarding external relations, he noted that ASCOBANS could only work by influencing the activities of others and therefore external relations were vital. He welcomed Lithuania and France to ASCOBANS and noted that the Parties and Secretariat had been active in promoting ASCOBANS.

The Advisory Committee was involved in the management of ASCOBANS and received and reviewed reports on spending and future budgets. The Committee had been concerned during the latter part of the triennium that the mechanisms to control the work and financial management of ASCOBANS were not adequate.

Finally, he acknowledged the contribution of all members of the Advisory Committee and commended them for the enormous amount of work carried out in this triennium. He also thanked the Secretariat for its indispensable work.

7.2 Secretariat

The Executive Secretary introduced the Secretariat's triennial report (MoP5/Doc.22), which provided a comprehensive overview of activities over the last triennium. The Secretariat had made every effort to support the work of the Advisory Committee and had been involved with a number of activities related to the Work Plan, such as the implementation and further development of the Jastarnia Plan and the elaboration of the conservation plan for harbour porpoises in the North Sea. Efforts had been made to increase outreach activities despite budgetary constraints. The Executive Secretary thanked those Parties that had contributed to these activities, notably Germany and the UK. He noted that the work of ASCOBANS had increased significantly, noting increases in the activities and the number of meetings that the Secretariat was required to organise, support and attend. The number of meetings had nearly doubled compared to the previous triennium. Secretariat staff had been recruited following approval of the upgrade of the posts at the 4th Meeting of the Parties but the actual appointment of the Executive Secretary was still pending. The ASCOBANS Secretariat had also moved since the last meeting and he thanked the German Government for providing these excellent new premises.

8. Annual National Reports

The Executive Secretary explained that, to avoid duplication of effort, the 4th Meeting of Parties abolished the triennial reports that Parties had previously been required to submit to the MoP. Only the annual national reports were required and Document 19 contained the compilation of these reports submitted so far in the ongoing triennium. These covered the years 2004 – 2005.

9. Party reports on implementation of Council Regulation (EC) 812/2004 (“Bycatch”)

The Chair noted that, under Council Regulation (EC) 812/2004, Parties were required to report annually to the Commission on how they were implementing the Directive. The 13th meeting of the Advisory Committee had urged Parties to also send copies of these reports to the ASCOBANS Secretariat for information purposes. The Secretariat had produced a compilation of the information received (MoP5/Doc.23).

In the absence of the representative of the European Commission, who had already left the meeting, both Germany and France stated that he had informed them informally that the Commission would not object if Member States chose to copy their national reports to ASCOBANS. He had also pointed out that this was fully in keeping with the principles of the Århus Convention.

It was agreed that this agenda item would be discussed further when the meeting resumed in December.

10. Accession of Range States and status of ratification of extension of the Agreement Area

The Executive Secretary explained that in addition to the accession of France and Lithuania in the current triennium, Estonia was in the process of acceding to the Agreement and accession would take place before the end of 2006 or early in 2007. He also reported that Spain had expressed its intention to accede once the extension of the Agreement Area had entered into force.

Concerning the extension of the Agreement area, Finland had started the process to ratify the extension, and anticipated that the process would be complete by the end of the year. Germany explained that the documents had been prepared and were awaiting signature. The letter of notification would be received in New York in a few weeks. The Netherlands, Sweden, the UK and Denmark had also started ratification.

The representative of the Whale and Dolphin Conservation Society was pleased that an Irish NGO was attending ASCOBANS for the first time and welcomed the representative from the Irish Whale and Dolphin Group. He inquired as to progress concerning Irish accession. The Executive Secretary had not received any news that Ireland was planning to accede to the Agreement. The UK Government regularly discussed this with the Irish authorities. The representative of the Irish Whale and Dolphin Group commented that the conservation of

small cetaceans was written into the Biodiversity Action Plan of Ireland, adopted three years previously.

11. Introductory presentation of first results of SCANS II

Mr Phil Hammond of the Sea Mammal Research Unit presented the results of the SCANS II survey which had taken place in July 2005. The project had been supported by the European Commission LIFE Nature programme, and Mr Hammond thanked those Parties to ASCOBANS that had contributed to the funding. The data collected had been analysed to generate new estimates of cetacean abundance and distribution, and this had been compared to the estimates of abundance and distribution that had been obtained from the original SCANS survey. The results of this work were summarised in MoP5/Doc. 26.

The representative from WDCS congratulated Phil Hammond and his team on their work and welcomed the results of their research.

12. Establishment of Working Groups

Two Working Groups were established to cover agenda items 13.2 (Working Group I – Budgetary, Legal and Promotional Matters), and 13.3 (Working Group II – Work Plan 2007-2009 and Future Direction of ASCOBANS). Working Group I would examine Draft Resolutions 2, 3 and 8, and Working Group II Draft Resolutions 1, 4 - 7, and 9. The Chairs of the Working Groups reported to the Plenary on progress made in their groups.

The representative of the WDCS asked whether NGOs were permitted to attend the working groups as observers. The Chair clarified that Working Group II was open to observers. However, with the exception of the promotional activities, Working Group I was considering internal matters and therefore was not open to observers. As chair of Working Group I, Germany would notify non-governmental organizations when promotional activities were discussed to facilitate their attendance at the meeting.

The representative of WWF noted that WWF had submitted a paper (MoP5/Doc. 23) which was listed under agenda item 15. Since this paper would be of relevance to Working Group II, it was agreed that Working Group II would consider this paper under Item 13.3.6.

13. Plenary/Working Groups

13.1 Report by Credentials Committee

Speaking on behalf of the Credentials Committee, Maj Munk confirmed that all Parties had presented valid credentials.

13.2 Budgetary, Administrative, Legal and Promotional Matters

The Working Group invited representatives from IGOs, NGOs and non-Party states to participate in the discussion of draft Resolution No. 8 on educational and promotional activities.

13.2.1 Outcome of OIOS audit of UNEP/ASCOBANS

The report was noted and discussed by the working group.

13.2.2 Institutional arrangements for UNEP/ASCOBANS

Resolution No. 2b (MoP5/Doc. 27) is attached as Annex 9. This resolution was adopted by consensus. The Meeting also adopted the Conclusions attached as Annex 20.

The representative from WDCS noted that transparency in decision-making was essential and asked why observers had not been permitted to participate in discussions about the future of ASCOBANS. He stressed that NGOs had a valuable role to play. This had been a difficult meeting and many of the discussions about the future of the Agreement had taken place behind closed doors.

The Chair acknowledged the need for transparency. He noted that the Advisory Committee would be considering its future working arrangements and observers might be admitted to those discussions.

The Chair of the Advisory Committee acknowledged the concerns of WDCS. He would consider the agendas of past Advisory Committee meetings and circulate his suggestions of what should be included in open session and what should be discussed in closed session. He suggested that administrative and financial issues could be separated from scientific issues and be considered at the end of Advisory Committee meetings.

The representative from ECS endorsed the concerns of WDCS. He also stated that while he had long advocated the establishment of a dedicated scientific committee he would value some interaction between scientists and those concerned with administrative/finance issues.

13.2.3 Resolution No. 2: Financial, Budgetary and Administrative Matters

Resolution No. 2a (MoP5/Doc. 28, attached as Annex 8) was adopted by consensus.

The Chair of Working Group I explained that there had been considerable discussion about whether to retain the ASCOBANS Secretariat as a separate body, or merge the Secretariat into UNEP/CMS. In the latter case, UNEP/CMS would take over the functions of the ASCOBANS Secretariat.

It was agreed that the Chair of the meeting would send a letter to the Executive Director of UNEP, requesting a report to be sent to ASCOBANS within six weeks containing proposals for the future of the ASCOBANS Secretariat. The letter was to be drafted and circulated by e-mail to Parties. In the meantime, the Meeting of the Parties would be adjourned and reconvened in December following receipt of the report. A final decision on this matter would be taken when the 5th Meeting of the Parties resumed in The Hague.

The representative of the Marine Connection reiterated the earlier comments from WDCCS relating to transparency and requested that the draft letter also be copied to observers. The Parties agreed that the letter would be distributed to observers unless there were very compelling reasons why it should not be circulated.

The representative of IFAW noted that the tasks and duties of the Secretariat had increased significantly in recent years and would continue to increase. He cited the extension of the Agreement area, the development of a North Sea Conservation Plan and the possible future extension of the scope of the Agreement to cover all cetaceans as cases in point. He asked all Parties to consider this issue carefully and ensure that there were appropriate resources available to the Secretariat. The Chair of Working Group I assured him that the Group had had this in mind and wanted to ensure efficiency and effectiveness.

13.2.4 Resolution No. 3: Extension of the ASCOBANS Agreement Area

Resolution No. 3 (MoP5/Doc. 10) is attached as Annex 12. This resolution was adopted by consensus.

13.2.5 Resolution No. 8: Educational and Promotional Activities

Resolution No. 8 (MoP5/DDoc. 15) was discussed by the working group.

13.3 Work plan 2007-2009 and future direction of ASCOBANS

13.3.1 Resolution No. 1: Conservation Plan for Harbour Porpoises in the North Sea

Resolution No. 1 (MoP5/Doc. 9) is attached as Annex 7. This resolution was adopted by consensus.

13.3.2 Resolution No. 9: Implementation of the Jastarnia Plan

Resolution No. 9 (MoP5/Doc. 16) is attached as Annex 18. The Meeting of the Parties adopted this resolution by consensus.

13.3.3 Inclusion of All Species of Cetaceans Occurring in the Agreement Area

The ECS and WDCS introduced the background documents relating to the implications for inclusion of large cetaceans in the Agreement Area (MoP5/Doc. 21).

In the discussions that followed, some participants expressed concern that an extension might result in an increased workload for ASCOBANS and its Advisory Committee. However, other participants felt that it would not necessarily increase this workload, since large cetaceans faced broadly similar problems to small cetaceans, although the emphasis might change.

It was noted that other bodies, such as the IWC and NAMMCO, were already addressing conservation issues relating to large cetaceans.

Some participants felt that the inclusion of large cetaceans might also divert attention away from small cetaceans, such as the conservation of harbour porpoise in the Baltic. However, others felt that if regional priorities were established, attention would not be diverted from more local conservation issues.

Several possible benefits were also identified. The extension of the scope of the Agreement to cover all species of cetaceans might attract more interest, expertise and funds for ASCOBANS, as well as links with other institutions. It would provide greater focus on regional protection for larger cetaceans than could be provided by global institutions such as CMS. The extension of the Agreement might also be an additional incentive for countries such as Spain to ratify the Agreement.

Recognising potential similarities between the situations in the Baltic and Black Seas, it was agreed that ACCOBAMS would be contacted to obtain information to enable comparisons to be made between the two Agreements. WDCS agreed to gather information and submit it for discussion at the next meeting of the Advisory Committee.

It was agreed that this item would be reviewed as part of the next Triennium Work Plan.

13.3.4 Resolution No. 5: Incidental Take of Small Cetaceans

Resolution No. 5 (MoP5/Doc. 12, attached as Annex 14) was adopted by consensus.

13.3.5 Resolution No. 4: Adverse Effects of Sound, Vessels and Other Forms of Disturbance on Small Cetaceans

Resolution No. 4 (MoP5/Doc. 11) is attached as Annex 13. The Meeting of the Parties adopted this resolution by consensus.

WDCS thanked the delegates for their work on this important resolution and noted that to coincide with the Meeting of the Parties, WDCS had just released a report on the effect of boat collisions on cetaceans, entitled “Vessel Collisions and Cetaceans: what happens when they don’t miss the boat? A WDCS Report”. The report could be found on the WDCS website at www.wdcs.org/collisions, and was produced in part to answer questions raised at earlier Advisory Committees about the reasons for collecting information on high speed vessels. The report considered this matter and also the importance of vessel size.

13.3.6 Resolution No. 7: Further Implementation of ASCOBANS

Resolution No. 7 (MoP5/Doc. 14, attached as Annex 16), renamed Research on Habitat Quality, Health and Status of Small Cetaceans in the Agreement Area, was adopted by consensus.

13.3.7 Resolution No. 6: Activities of the ASCOBANS Advisory Committee 2007-2009

The Meeting adopted Resolution No. 6 (MoP5/Doc. 13), attached as Annex 15, by consensus.

14. Arrangements for the next Meeting of the Parties

A decision on this agenda item would be taken at the Second Session of the meeting in December.

15. Any other business

This item was also postponed until the Second Session in December.

16. Review and adoption of the final report and press release

It was agreed that a draft of the final report of the First Session would be circulated to participants before the Second Session of the meeting, where it would be finalized and adopted.

The First Session of the Meeting was adjourned on Wednesday, 20 September at 18.30 hrs. The meeting would resume at a date to be announced, probably early in December.

**Report of the Second Session of the
Fifth Meeting of the Parties to ASCOBANS
The Hague, Netherlands
12 December 2006**

Plenary

The Chair, Giuseppe Raaphorst (Netherlands), opened the meeting and welcomed the delegates to The Hague. He explained the proposed running order of the day's deliberations on those items of the agenda held over from the first session of the meeting at Egmond aan Zee in September, namely the institutional arrangements, the budget, the work plan and the public awareness and education programme. Preliminary papers had been circulated by the ASCOBANS Secretariat regarding all these agenda items.

As quite some time had elapsed since the first session, it would be necessary for Parties to submit fresh credentials to the Secretariat and for the Credentials Committee to reconvene to consider them.

The Chairman invited initial views on the institutional arrangements.

The WDCS representative regretted that the discussions on financial and institutional arrangements at the first session of the Meeting had been held behind closed doors, making it difficult for NGOs to take a firm view. He stressed that the future survival of ASCOBANS was important for cetacean conservation. He urged the meeting to reach a wise decision to ensure that ASCOBANS having reached 10 years would continue its work. He distributed a copy of a statement from the NGO The Marine Connection.

The WWF representative associated his organisation with WDCS's comments, stressing that ASCOBANS had a useful role to play in the conservation of small cetaceans and that the Agreement should not be allowed to die in practice.

The Director of UNEP/DELCO, Mr Bakary Kante, was sure that all participants would act with the best interests of ASCOBANS at heart, realising that the aims of the Agreement were paramount and that the main objective of the meeting was to identify the best way forward. He assured the meeting that the Agreement enjoyed the support of the UNEP Executive Director, Achim Steiner.

Prior to suspending the Plenary, the Chairman sought agreement on the task to be set for the Working Group. It was agreed that the Working Group should examine the proposals for the future of the Secretariat either as an independent entity or merged with the secretariat of the parent convention CMS, and provide its advice on their financial soundness and implications, and the impact on the feasibility of the Secretariat's work plan.

The Executive Secretary to ASCOBANS explained that Doc. 33 had been prepared in response to Denmark's request for further information (letter dated 7 December) and related only to the free-standing option. It would be for CMS to present equivalent information on the merged option.

The Plenary was then suspended to allow the Finance Working Group to meet in closed session to consider draft resolutions on the Secretariat's institutional arrangements, the budget and educational and promotional activities.

When the Plenary was resumed, Ms Munk reported as Chair of the Credentials Committee. All parties had presented credentials although in two cases these had not been the originals. The two countries concerned had undertaken to submit the originals to the ASCOBANS Secretariat.

Ms Elsa Nickel (Germany), as Chair of the Working Group, reported on the conclusions of their deliberations. Concerning the budget, the group had agreed to propose to the Plenary a solution for the next triennium that would not result in an unsupportable increase in contributions for any Party. The Parties expected that this solution would ensure long-term security for an independent ASCOBANS Agreement within the UN family, the only changes being in the organisation of the Secretariat. Under the new organisational arrangements, the UNEP/CMS Secretariat would serve as the ASCOBANS Secretariat. There would be a permanent focal point for ASCOBANS issues. A larger unit for the Secretariat would give better delivery for the same amount of contributions, using synergies and the flexibility of the CMS Secretariat for more efficiency and effective delivery of the Agreement's goals. More resources could thus be put directly into conservation activities for cetaceans in the Baltic and North Seas. This would be expected to be of mutual benefit both for ASCOBANS and CMS. The proposal was that for a trial period of two years the Secretariat would be merged and an independent review would be held prior to CMS COP9. Eight countries had supported the recommendation to merge the Secretariat and two (Poland and Lithuania) would abstain.

The proposal was that for a trial period of two years the Secretariat would be merged and an independent review would be held prior to CMS COP9. Ms Nickel thanked Rüdiger Stempel and Patricia Stadié from the ASCOBANS Secretariat for their very professional work, in particular in preparing and servicing the meeting in what were unsettling circumstances, and over the past seven years in general.

The Chair thanked Ms Nickel for her work chairing the Working Group. He called for a vote on Resolution 2d, (*Joining the forces of ASCOBANS and CMS for improved management and operation of the ASCOBANS Secretariat*), and the related Resolution 2c (*Financial, Budgetary and Administrative Matters*), which were carried by 8-0 with Poland and Lithuania abstaining (attached as Annexes 11 and 10 respectively).

The MOP Chair then returned to the question of the division of the Advisory Committee into administrative and scientific sub-groups, which had been agreed during the First Session (see Annex 9). Mr Mark Tasker (Chair, Advisory Committee) said that the two groups would need to elect chairs, and pointed out that the Terms of Reference left it to the Advisory Committee to determine its procedures rather than for the MOP to prescribe them. The views of the MOP would however be noted.

Germany asked that the agenda of the AC Meeting be so arranged that administrative experts could avoid the scientific items and scientists could avoid the administrative items.

Draft Resolution No. 8 on Educational and Promotional Activities was discussed. Mr Tasker pointed out that the plan for the North Sea did not yet exist but it would be drawn up, so the

square brackets around the relevant text could be deleted. This change was agreed and the Resolution was adopted (see Annex 17).

The Work Plan 2007-2009 was then discussed. The Executive Secretary of ASCOBANS said that no prior indication had been given as to how the \$30,000 pledge from UNEP would be allocated, but it was earmarked for project work. The dates of the genetic workshop had been fixed for 26-28 February 2007. An item was added requiring the Advisory Committee to follow up with UNEP the workings of the post-merger arrangements, in line with Resolution 2b calling for monitoring to ensure that the MOP's wishes were being met. The Work Plan was then adopted.

Mr Hepworth (CMS) thanked all the Parties, the NGOs and representatives of UNEP on behalf of CMS for their work in the run-up to and during the meeting. Recalling the saying "Rome wasn't built in a day", he felt that a great deal had been achieved at the meeting and a workable solution found to a difficult situation. He was grateful for the positive response of Parties to CMS initiatives and particularly welcomed the founding of a national "Year of the Dolphin" committee in the Netherlands. In return he undertook to turn the CMS Secretariat's promises into actions now that it had assumed responsibility for ASCOBANS. He was confident that the more streamlined management structures and synergies provided by the merger would allow the ASCOBANS work programme to be delivered more efficiently and cost-effectively and that the new arrangements would stand the test of time when they were reviewed prior to COP9.

Mr Stempel explained that no country had yet come forward to offer to host the next MOP. The fallback position would be to hold MOP6 in Bonn at the UN Campus. Offers from Parties to host the meeting would still be welcome.

Poland expressed its thanks to the Secretariat for their outstanding work in the past seven years. The Executive Secretary had always shown a great understanding of the issues at hand and contributed substantially to its success, not least with regards to the Baltic area. It could only be hoped that this quality of work could be upheld under the merger.

The NGOs made final statements. At the request of WWF, their statement is set out below. WDCS and IFAW associated themselves with these sentiments. IFAW stressed that they regretted the inevitable loss of expertise and experience of the very qualified existing Secretariat staff. WDCS wished that they had been given greater access to the meeting.

Mr Kante, speaking on behalf of the Executive Director, expressed his confidence that ASCOBANS would emerge stronger despite the upheaval. UNEP would respond to the commitment and determination of the Parties to keep the Agreement in existence and ensure that the experience of the staff would not be lost.

Mr Stempel thanked all the delegates, many of whom he had worked with over his entire seven years in office. He was sorry to be leaving ASCOBANS and wished the Agreement, which would now undergo a fundamental structural change, well. He asked all Parties to support his assistant Ms Stadié, upon whom greater burdens would be falling during the transition, as she would be the only staff member in the merged Secretariat with any experience of ASCOBANS.

Mr Raaphorst (Netherlands) thanked Mr Stempel for all his work, especially over the past six difficult months. He too thanked all delegates and the interpreters.

The report of the proceedings would be prepared as soon as possible after the meeting and distributed for comment prior to its adoption.

WWF Statement:

"WWF supports the financial settlement that ensures the most effective progress for ASCOBANS and for the species under its regulatory purview, and we strongly hope that the proposed review of this new ASCOBANS structure to be conducted at COP 9 of the CMS reveals that the present course of action will be vindicated.

WWF also strongly welcomes the commitment to additional voluntary financial contributions, especially by the Netherlands, and also by the other relevant parties. WWF is extremely concerned, however, at the loss of personnel who have built up substantial experience and expertise over the previous years in running ASCOBANS, which is now lost to the organisation. Nevertheless, the key point is that ASCOBANS lives on, and we again urge the parties in the very strongest possible terms to strive towards as full an implementation as possible of the Agreement's objectives and policies."

Agenda

1. Opening of the meeting
2. Adoption of Rules of Procedure
3. Election of Chair/Vice-chair
4. Adoption of Agenda
5. Admittance of Observers
6. Opening addresses and statements; establishment of Credentials Committee
7. ASCOBANS Reports
 - 7.1. Chair/Vice-chair of Advisory Committee
 - 7.2. Secretariat
8. Annual National reports
9. Party reports on implementation of Council Regulation (EC)812/2004 (“Bycatch”)
10. Accession of Range States and status of ratification of extension of the Agreement area
11. Introductory presentation of first results of SCANS II
12. Establishment of Working Groups
13. Plenary/Working Groups
 - 13.1. Report by Credentials Committee
 - 13.2. Budgetary, Administrative, Legal and Promotional Matters
 - 13.2.1. Outcome of OIOS audit of UNEP/ASCOBANS
 - 13.2.2. Institutional arrangements for UNEP/ASCOBANS
 - 13.2.3. Resolution No. 2: Financial, Budgetary and Administrative Matters
 - 13.2.4. Resolution No. 3: Extension of the ASCOBANS Agreement Area
 - 13.2.5. Resolution No. 8: Educational and Promotional Matters
 - 13.3. Work plan 2007-2009 and future direction of ASCOBANS
 - 13.3.1. Resolution No. 1: Conservation Plan for Harbour Porpoises in the North Sea
 - 13.3.2. Resolution No. 9: Implementation of the Jastarnia Plan
 - 13.3.3. Inclusion of all species of cetaceans occurring in the agreement area
 - 13.3.4. Resolution No. 5: Incidental Take of Small Cetaceans
 - 13.3.5. Resolution No. 4: Adverse Effects of Noise, Vessels and Other Forms of Disturbance on Small Cetaceans
 - 13.3.6. Resolution No. 7: Further Implementation of ASCOBANS
 - 13.3.7. Resolution No. 6: Activities of the ASCOBANS Advisory Committee
14. Arrangements for the next Meeting of the Parties
15. Any other business
16. Review and adoption of the final report and press release
17. Concluding remarks and close of the meeting

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* Present only at the First Session (18-22 September 2006)

** Present only at the Second Session (12 December 2006)

List of Documents

No.	Agenda Item	Document Title
Doc. 1	2	Agenda
Doc. 2	2	Annotated Agenda
Doc. 3	-	List of Documents
Doc. 4	-	List of Documents by Agenda Item
Doc. 5	-	List of Participants
Doc. 6	2	Rules of Procedure for the Meeting of the Parties to ASCOBANS
Doc. 7	13.3.1	ASCOBANS Conservation Plan for Harbour Porpoises (<i>Phocoena phocoena</i>) in the North Sea
Doc. 8	7.1	Evaluation of the implementation of the ASCOBANS Work Plan 2004-2006 and the work of the ASCOBANS Advisory Committee
Doc. 9	13.3.1	Resolution No. 1: Conservation Plan for Harbour Porpoises in the North Sea
Doc. 10	13.2.4	Resolution No. 3: Extension of the ASCOBANS Agreement Area
Doc. 11	13.3.5	Resolution No. 4: Adverse Effects of Sound, Vessels and Other Forms of Disturbance on Small Cetaceans ¹
Doc. 12	13.3.4	Resolution No. 5: Incidental Take of Small Cetaceans
Doc. 13	13.3.7	Resolution No. 6: Activities of the ASCOBANS Advisory Committee 2007-2009
Doc. 14	13.3.6	Resolution No. 7: Research on Habitat Quality, Health and Status of Small Cetaceans in the Agreement Area ²
Doc. 15	13.2.5	Resolution No. 8: Educational and Promotional Activities
Doc. 16	13.3.2	Resolution No. 9: Implementation of the Jastarnia Plan
Doc. 17	13.2.3	Resolution No. 2c: Financial, Budgetary and Administrative Matters
Doc. 18	13.3.1	Expert Paper to the ASCOBANS Conservation Plan for harbour porpoises (<i>Phocoena phocoena</i>) in the North Sea
Doc. 19	8	Ninth and Tenth Compilations of Annual National Reports (2005 & 2006)
Doc. 20	15	Handlingsplan for beskyttelse af marsvin 2005 (Revised Action Plan for the Protection of Harbour Porpoises)
Doc. 21	13.3.3	a) Implications for ASCOBANS of enlarging the agreement area and including all cetaceans b) The interaction between the ASCOBANS MOP and the IWC, NAMMCO and EC

¹ Revised document originally presented to MOP5 under the title *Draft Resolution No. 4: Adverse Effects of Noise, Vessels and Other Forms of Disturbance on Small Cetaceans*

² Revised document originally presented to MOP5 under the title *Draft Resolution No. 7: Further Implementation of ASCOBANS*

Doc. 22	7	Triennial Report of the ASCOBANS Secretariat
Doc. 23	9	Reports on Implementation of Council Regulation (EC)812/2004 (“Bycatch”)
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Doc. 29	13.2.3	Letter from the Spanish Ministry of the Environment to the ASCOBANS Secretariat dated 18 September 2006
Doc. 30	13.2.3	Letter from the Executive Director of UNEP to the Chair of the 5 th Meeting of the Parties (<i>Restricted</i>)
Doc. 31	13.2.3	Letter from the Chair of the 5 th Meeting of the Parties to observers at MOP5
Doc. 32	13.3	Triennium Work Plan for 2007-2009
Doc. 33	13.2.2	Projected Activities of independent ASCOBANS Secretariat (1.5 staff) during the 5 th Triennium 2007-2009
Doc. 34	13.2.3	Resolution 2d: Joining the forces of ASCOBANS and CMS for improved management and operation of the ASCOBANS Secretariat

RULES OF PROCEDURE FOR THE MEETING OF THE PARTIES TO ASCOBANS

*Adopted by the 5th Meeting of the Parties to ASCOBANS, 18-20 September 2006,
Egmond aan Zee, Netherlands*

PART I

DELEGATES, OBSERVERS, SECRETARIAT

Rule 1: Delegates

- (1) A Party to the Agreement (hereafter referred to as a "Party")¹ shall be entitled to be represented at the meeting by a delegation consisting of a Representative and such Alternative Representatives and Advisers as the Party may deem necessary.
- (2) The Representative of a Party shall exercise the voting rights of that Party. In the absence of the Representative, an Alternative Representative of that Party shall act as a substitute over the full range of the Representative's functions.
- (3) Seating limitations may require that no more than four delegates of any Party be present at a plenary session and sessions of the Advisory Committee or any working group established by the Meeting of the Parties in accordance with Rule 23.

Rule 2: Observers

- (1) The United Nations, acting as the Depository to this Agreement, the Secretariats of the Convention on the Conservation of Migratory Species of Wild Animals, 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, and the Convention for the Prevention of Marine Pollution from Landbased Sources (OSPARCOM), the Helsinki Commission (HELCOM), the Common Secretariat for the Co-operation on the Protection of the Wadden Sea, the North-East Atlantic Fisheries Commission, the International Whaling Commission, the International Council for the Exploration of the Sea, IUCN - The World Conservation Union, and all non-Party Range States and Regional Economic Integration Organisations bordering on the waters concerned may be represented at the meeting by observers who shall have the right to participate but not to vote.²
- (2) Any other body qualified in cetacean conservation and management which has informed the Secretariat not less than 90 days before the Meeting of its desire to be represented at the Meeting by observers, shall be entitled to be present unless at least one-third of the Parties have opposed their application at least 30 days before the meeting.³ Once admitted, these observers shall have the right to participate but not to vote.
- (3) Seating limitations may require that no more than two observers from any non-Party Range State or body be present at a plenary session and sessions of the Advisory Committee or of any working group established by the Meeting of the Parties in accordance with Rule 23.

¹ See Agreement, paragraph 1.2, sub-paragraph (e), and paragraphs 8.4 and 8.5. A Party is a Range State or a Regional Economic Integration Organisation which has deposited with the United Nations Headquarters by 27 August 1994 its consent to be bound by the Agreement

² See Agreement, paragraph 6.2.1

³³ See Agreement, paragraphs 6.2.2

- 8(4) The standard participation fee fixed by the Meeting of the Parties shall be paid in advance of the Meeting by all non-governmental organisations. The fee shall be announced in the letter of invitation. This Meeting will determine the fee for the next Meeting of the Parties.

Rule 3: Credentials

- (1) Each contracting Party shall assign a Representative for each meeting and Alternative Representatives as it thinks appropriate. Contracting Parties shall submit the names of these delegates to the Secretariat through their coordinating authorities by the start of the Meeting.
- (2) The names of assigned Representatives and Alternative Representatives shall be available for inspection by contracting Parties.

Rule 4: Secretariat

- (1) The Secretariat, assisted by the Secretariat of the Convention, shall service and act as secretariat for the Meeting. For the second and following Meetings of the Parties, the Secretariat shall service and act as secretariat for the meeting.

PART II

OFFICERS

Rule 5: Chairpersons

- (1) The Chairperson of the Advisory Committee shall act as temporary Chairperson of the Meeting until the Meeting elects a Chairperson in accordance with Rule 5, paragraph (2).
- (2) The Meeting in its inaugural session shall elect from among the delegates of the contracting Parties a Chairperson and a Vice-Chairperson.

Rule 6: Presiding Officer

- (1) The Chairperson shall preside at all plenary sessions of the meeting.
- (2) If the Chairperson is absent or is unable to discharge the duties of Presiding Officer, the Vice-Chairperson shall deputise.
- (3) The Presiding Officer shall not vote, but may designate an Alternative Representative from the same delegation.

PART III

RULES OF ORDER OF DEBATE

Rule 7: Powers of Presiding Officer

- (1) In addition to exercising powers conferred elsewhere in these Rules, the Presiding Officer shall at plenary sessions of the Meeting:
 - (a) open and close the session;
 - (b) direct the discussions;
 - (c) ensure the observance of these Rules;

- (d) accord the right to speak;
 - (e) put questions to the vote and announce decisions;
 - (f) rule on points of order; and
 - (g) subject to these Rules, have complete control of the proceedings of the Meeting and the maintenance of order.
- (2) The Presiding Officer may, in the course of discussion at a plenary session of the Meeting, propose to the Meeting:
- (a) time limits for speakers;
 - (b) limitation of the number of times the members of a delegation or observers from a State which is not a Party or a Regional Economic Integration Organisation, or from any other body, may speak on any question;
 - (c) the closure of the list of speakers;
 - (d) the adjournment or the closure of the debate on the particular subject or question under discussion; and
 - (e) the suspension or adjournment of any session;
 - (f) the establishment of drafting groups on specific issues.

Rule 8: Seating, Quorum

- (1) Delegations shall be seated in accordance with the alphabetical order in the English language of the names of the Parties, non-Party Range States, including Regional Economic Integration Organisations, and non-Range States.
- (2) A quorum for plenary sessions shall consist of two thirds of the Parties. No plenary session shall take place in the absence of a quorum.

Rule 9: Right to Speak

- (1) The Presiding Officer shall call upon speakers in the order in which they signify their desire to speak, with precedence given to the delegates.
- (2) A delegate or observer may speak only if called upon by the Presiding Officer, who may call a speaker to order if the remarks are not relevant to the subject under discussion.
- (3) A speaker shall not be interrupted, except on a point of order. The speaker may, however, with the permission of the Presiding Officer, give way during his speech to allow any delegate or observer to request elucidation on a particular point in that speech.

Rule 10: Submission of Proposals for Amendment of the Agreement and its Annex

- (1) As a general rule, proposals for amendment of the Agreement or its Annex, together with the reasons for the amendment, shall be communicated at least 90 days before the Meeting to the Secretariat, which shall circulate them to all Parties in the working language of the Meeting. Proposals arising out of discussion of the foregoing may be discussed at any plenary session of the Meeting, provided copies have been circulated to all delegations not later than the day preceding the session. However, decisions with respect to such proposals shall follow the provisions of paragraph 6.5 of the Agreement.
- (2) After a proposal has been adopted or rejected by the Meeting, it shall not be reconsidered unless a two-thirds majority of the Parties participating in the meeting so decide. Permission to speak on a motion to reconsider a proposal shall be accorded only to a delegate from each of two Parties wishing to speak against the motion, after which the motion shall immediately be put to the vote.

Rule 11: Procedural Motions

- (1) During the discussion of any matter, a delegate may rise to a point of order, and the point of order shall be immediately, where possible, decided by the Presiding Officer in accordance with these Rules. A delegate may appeal against any ruling of the Presiding Officer. The appeal shall immediately be put to the vote, and the Presiding Officer's ruling shall stand unless a majority of the Parties present and voting decide otherwise. A delegate rising to a point of order may not speak on the substance of the matter under discussion, but only on the point of order.
- (2) The following motions shall have precedence in the following order over all other proposals or motions before the Meeting:
 - (a) to suspend the session
 - (b) to adjourn the session
 - (c) to adjourn the debate on the particular subject or question under discussion
 - (d) to close the debate on the particular subject or question under discussion.

Rule 12: Arrangements for Debate

- (1) The Meeting may, on a proposal by the Presiding Officer or by a delegate, limit the time to be allowed to each speaker and the number of times delegates or observers may speak on any question. When the debate is subject to such limits, and a speaker has spoken for the allotted time, the Presiding Officer shall call the speaker to order without delay.
- (2) During the course of a debate the Presiding Officer may announce the list of speakers and, with the consent of the meeting, declare the list closed. The Presiding Officer may, however, accord the right of reply to any delegate if a speech delivered after the list has been declared closed makes this desirable.
- (3) During the discussion of any matter, a delegate may move the adjournment of the debate on the particular subject or question under discussion. In addition to the proposer of the motion, a delegate may speak in favour of, and a delegate of each of two Parties may speak against the motion, after which the motion shall immediately be put to the vote. The Presiding Officer may limit the time to be allowed to speakers under this Rule.
- (4) A delegate may at any time move the closure of the debate on the particular subject or question under discussion, whether or not any other delegate has signified the wish to speak. Permission to speak on the motion for closure of the debate shall be accorded only to a delegate from each of two Parties wishing to speak against the motion, after which the motion shall immediately be put to the vote. The Presiding Officer may limit the time to be allowed to speakers under this Rule.
- (5) During the discussion of any matter a delegate may move the suspension or the adjournment of the session. Such motions shall not be debated but shall immediately be put to the vote. The Presiding Officer may limit the time allowed to the speaker moving the suspension or adjournment of the session.

PART IV

VOTING

Rule 13: Methods of Voting

- (1) Without prejudice to the provisions of Rule 1, paragraphs 2, each Representative duly accredited according to Rule 3 shall have one vote. Regional Economic Integration Organisations, in matters within their competence, shall exercise their voting rights with a number of votes equal to the number of their Member States that are Parties to the Agreement. In such case, the Member States of such organisations shall not exercise their right individually.
- (2) The Meeting shall normally vote by show of hands, but any Party may request a roll-call vote.
- (3) At the election of officers or of prospective host countries, any Party may request a secret ballot. If seconded, the question of whether a secret ballot should be held shall immediately be voted upon. The motion for a secret ballot may not be conducted by secret ballot.
- (4) Voting by roll-call or by secret ballot shall be expressed by "Yes", "No" or "Abstain". Only affirmative and negative votes shall be counted in calculating the number of votes cast by Parties present and voting.
- (5) If votes are equal, the motion or amendment shall not be carried.
- (6) The Presiding Officer shall be responsible for the counting of the votes and shall announce the result. The Presiding Officer may be assisted by tellers appointed by the Secretariat.
- (7) After the Presiding Officer has announced the beginning of the vote, it shall not be interrupted except by a Representative on a point of order in connection with the actual conduct of the voting. The Presiding Officer may permit Representatives to explain their votes either before or after the voting, and may limit the time to be allowed for such explanations.

Rule 14: Majority

Except where otherwise provided for under the provisions of the Agreement or these Rules, all votes on procedural matters relating to the forwarding of the business of the meeting shall be decided by a simple majority of Parties. All other decisions shall be taken by a simple majority among Parties present and voting, except that financial decisions and amendments to the Agreement and its Annex require a three-quarter majority among those present and voting.

Rule 15: Procedure for Voting on Motions and Amendments

- (1) A delegate may move that parts of a proposal or of an amendment be voted upon first. Permission to speak on the motion for division shall be accorded only to a delegate from each of two Parties wishing to speak in favour of and a delegate from each of two Parties wishing to speak against the motion. If the motion for division is carried, those parts of the proposal or amendment that are subsequently approved shall be put to the vote as a whole. If all operative parts of the proposal or the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.
- (2) When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Meeting shall vote first on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on until all amendments have been put to the vote. If, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the

amendment proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of that proposal.

- (3) If two or more proposals relate to the same question, the Meeting shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Meeting may, after voting on a proposal, decide whether to vote on the next proposal.

Rule 16: Elections

- (1) If, in an election to fill a vacancy, no candidate obtains the required majority in the first ballot, a second ballot shall be taken restricted to the two candidates obtaining the largest number of votes. If in the second ballot the votes are equally divided, the Presiding Officer shall decide between the candidates by drawing lots.

If, in the first ballot, there is a tie amongst candidates obtaining the second largest number of votes, a special ballot shall be held to reduce the number of these candidates to two.

PART V

LANGUAGES AND RECORDS

Rule 17: Working Language

English shall be the working language of the Meeting.

Rule 18: Other Languages

- (1) A delegate may speak in a language other than English, provided he/she furnishes interpretation into English.
- (2) Any document submitted to the Meeting shall be in English.

Rule 19: Summary Records

Summary records of the Meeting shall be kept by the Secretariat and shall be circulated to all Parties in English.

PART VI

OPENNESS OF DEBATES

Rule 20: Plenary Sessions

All plenary sessions of the Meeting shall be open to the public, except that in exceptional circumstances the Meeting may decide, by a two-thirds majority of Parties present and voting, that any single session be closed to the public.

Rule 21: Sessions of the Working Groups

As a general rule, sessions of working groups shall be limited to the delegates and to observers invited by the Chairs of working groups.

PART VII

WORKING GROUPS

Rule 22: Establishment of Working Groups

The Meeting of the Parties may establish such working groups as may be necessary to enable it to carry out its functions. It shall define the terms of reference, composition, and elect the Chairpersons of each working group. Seating limitations may restrict the size of each working group.

Rule 23: Procedure

Insofar as they are applicable, these Rules shall apply *mutatis mutandis* to the proceedings of working groups.

PART VIII

AMENDMENT

Rule 24: Amendments

These rules may be amended as required by decision of the Meeting of the Parties.

Triennial Report of the ASCOBANS Secretariat pursuant to Article 4.3 of the Agreement

I. Summary

The fourth Triennium has once again been a period of intense activity for the Secretariat. The period from 2004 to 2006 was marked among others by such key workplan-related issues as the implementation and further development of the Jastarnia Plan, the elaboration of a Conservation Plan for Harbour Porpoises in the North Sea and a continuous intensification and expansion of outreach activities. The number of meetings and events prepared, serviced and attended by the Secretariat nearly doubled compared to the previous triennium. The Secretariat carried out the recruitment procedures for Secretariat staff following the upgrade of both posts, and relocated to its new premises at the newly established UN Campus Bonn.

II. Location and status of the Secretariat, Staff Arrangements

1. Location and status of the Secretariat

- a) The 3rd Meeting of the Parties to ASCOBANS (Bristol, UK, 26 - 28 July 2000) adopted a resolution on Integration of the ASCOBANS Secretariat, which had already relocated to Bonn in 1998 in accordance with a decision by the 2nd Meeting of the Parties (Bonn, 1997) into the Agreements Unit of UNEP/CMS (MOP3 Res. 1, MOP3/Doc. 2 (S)). The ASCOBANS Secretariat has been formally integrated with the CMS Agreements unit since 1 January 2001. The Secretariat receives support from the Administrative and Fund Management Unit (AFMU) of CMS.
- b) In July 2004, the AEWA, ASCOBANS and EUROBATS Secretariats, which were previously based at the UN Premises (“Haus Carstanjen”) in Bonn, relocated to interim quarters outside of those premises. The physical separation of the Secretariat from the CMS Secretariat, including the AFMU, was occasionally problematic. Since June 2006, all Bonn-based UNEP Secretariats are, however, again co-located in one building, following the establishment of the new UN Campus in Bonn. Office space is provided free of charge by the German government. The building, a fully refurbished historic monument constructed for and formerly used by the German Parliament, provides excellent facilities, including in-house conference rooms suitable for up to 180 participants and equipped for simultaneous interpretation. The Secretariat would therefore be in a position to organize meetings of the Agreement bodies and working groups, workshops and other events at the new premises and at extremely low cost to the Agreement.
- c) The benefits of co-location and integration with the CMS Agreements Unit are considerable. It generates useful synergies that could not otherwise be achieved, as demonstrated by the mutual support and joint activities of the CMS and Agreement Secretariats. Moreover, it is beyond doubt that the integration of ASCOBANS into the UN family lends greater weight to the Secretariat and the Agreement as a whole, facilitating contacts and cooperation with national and international institutions. The visibility of ASCOBANS has increased due to the greater interest of the media in a UN institution, as opposed to a small, stand-alone regional agreement. Bonn, as a growing UN city and centre of international cooperation in particular in the environmental field, provides an excellent setting for the Secretariat. The Bonn-based UN agencies are easily accessible by air,

road or rail due to good transport infrastructure in the Bonn region. Furthermore the co-location of the Bonn-based UN institutions at the newly established UN Campus in the former parliamentary quarter provides additional benefits.

2. Personnel/Staff Arrangements

The Secretariat has two permanent staff members. At the 4th Meeting of the Parties (Esbjerg, Denmark, August 2003), Parties decided to upgrade the two permanent Secretariat posts from G-4 to G-5, respectively from P-3 to P-4. The assistant has meanwhile been reappointed at the G-5 level. The re-appointment of the Executive Secretary at the P-5 level was approved by the Deputy Executive Director of UNEP in April 2006 but the appointment has not yet become effective.

In light of the growing workload of the Secretariat the low number of staff is increasingly problematic. During the ongoing triennium the Secretariat was frequently obliged to hire consultants on a short-term basis to lend needed support. Interns also made a notable contribution to alleviating the situation. These are usually unpaid, but some receive small grants from their governments. (In this context it should be noted that a joint internship programme is now being conducted by the CMS family and this will undoubtedly prove beneficial.) Nonetheless, employing interns must be considered a stopgap solution and, moreover, the availability of interns is unpredictable, making it difficult to plan ahead for peak times.

III. Service Function of the Secretariat

1. Meetings

The following meetings or workshops were prepared and/or serviced by the Secretariat during the fourth triennium:

- 11th Meeting of the Advisory Committee, Jastrzębia Góra, Poland, 27 - 29 April 2004
- Workshop on the ASCOBANS Recovery Plan for Harbour Porpoises in the North Sea, Hamburg, Germany, 6-8 December 2004
- 1st meeting of the ASCOBANS Jastarnia Group, Bonn, Germany, 3 - 4 March 2005
- SCANS II Workshop on European Cetacean Monitoring and Management, Brest, France, 11 April 2005
- 12th Meeting of the Advisory Committee, Brest, France, 12 -14 April 2005
- 2nd Meeting of the ASCOBANS Jastarnia Group, Stralsund, Germany, 7 - 8 February 2006
- Meeting of the core drafting group for the ASCOBANS Conservation Plan for Harbour Porpoises in the North Sea, Hamburg, Germany 10 February 2006
- 13th Meeting of the Advisory Committee, Tampere, Finland, 25 - 27 April 2006
- 5th Meeting of the Parties, Egmond aan Zee, The Netherlands, 18 - 22 September 2006
- Several further workshops, scheduled to take place in the fall of 2006 or early in 2007, are under preparation

2. Compilation of Annual National Reports

According to Article 4.4 of the Agreement, “*the Secretariat shall 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.*” In the current triennium, the Secretariat presented the following compilations:

- 8th Annual Compilation of National Reports, 2004
- 9th Annual Compilation of National Reports, 2005
- 10th Annual Compilation of National Reports, 2006

3. Promotional Campaign

ASCOBANS AC7 and AC8 as well as MOP3 acknowledged that more intensive educational and promotional work was needed to increase public awareness of the Agreement and the issues it deals with. Considerable efforts have been made in this field.

This work was continued and, to the extent possible, stepped up during the fourth triennium. This has been possible, due, among other things, to the voluntary contributions from Germany and the UK, which have been allocated to a large extent to outreach and promotional activities. The following projects were realized:

- The ASCOBANS website is continuously being updated and modified to improve its user-friendliness and to increase the number of documents that can be downloaded. Since 2004, (draft) documents for upcoming AC Meetings and Meetings of the Parties (MOP) are available on the website and can be downloaded. It is planned to post all non-restricted documents of all past AC Meetings and MOPs on the website. Further modifications are planned but could not be implemented in the current triennium due to budgetary constraints. This includes translation of the website text into languages other than English;
- Power Point presentations on ASCOBANS as a whole and on the Jastarnia Plan were produced and are continuously being updated. The presentations are currently available in English and German;
- In addition to a joint exhibition on the Bonn Convention and its regional agreements produced in cooperation with the Secretariats of CMS and the other CMS-related agreements, ASCOBANS produced its own eight-panel exhibition on the Agreement and its activities. Two copies of this exhibition were produced, of which one is a “flexibition” which is particularly light and easy to transport. These two exhibitions complement the older ASCOBANS exhibition “Harbour Porpoise in Distress”, produced in 1999, which has been displayed throughout the Agreement area and which focuses on harbour porpoises rather than on the Agreement as such;
- "Fact Sheet No. 1", concerning the Jastarnia Plan, is now available in Danish, English, Estonian, Finnish, German, Latvian, Lithuanian, Polish and Swedish. All versions can be downloaded from the ASCOBANS website. A Russian version is planned;
- The popular ASCOBANS brochure is now available in Danish, Dutch, English, Estonian, Finnish, French, German, Latvian, Lithuanian, Polish, and Swedish. A Spanish translation exists but has not yet been printed due to budgetary constraints. Portuguese and Russian versions are planned;

- A new poster was designed specifically for the Baltic region. It is now available in Danish, Estonian, English, Finnish, German, Latvian, Lithuanian, Polish and Swedish. A Russian version is under preparation;
- A map of the extended ASCOBANS Agreement area showing EEZs is under preparation;
- The International Day of the Baltic Harbour Porpoise (IDBHP), as suggested by the public awareness working group of the Jastarnia workshop, was observed on the third Sunday in May of every year in the current triennium. Special events to mark this day took place at venues around the Baltic Sea (including in non-Party range states) and in Bonn in 2004, 2005 and 2006. A “Handbook for IDBHP Exhibitors” was produced by the Secretariat and distributed to relevant institutions throughout the Baltic Sea region. It is updated annually and also downloadable from the ASCOBANS website.
- The “ASCOBANS Award” for outstanding educational and/or information initiatives related to cetacean conservation, was presented for the first time at the 12th Meeting of the Advisory Committee. The winner was the University of Gdańsk’s Hel Marine Station in Hel, Poland.
- UNEP/ASCOBANS co-funded the production of German, Polish and Swedish versions of the RSPCA’s European information video on pingers and provided support to the RSPCA in producing the German version;
- The Secretariat is currently involved in preparations for the Year of the Dolphin Campaign in 2007. CMS, its cetacean-related Agreements ASCOBANS and ACCOBAMS, and the Whale and Dolphin Conservation Society have declared 2007 the Year of the Dolphin (YOD). Under the patronage of H.S.H Prince Albert II of Monaco this initiative aims to involve governments, NGOs, the corporate sector and individuals in a large-scale awareness-raising campaign about dolphins and the threats they face. The YOD will be officially launched in Monaco in September 2007.
- UNEP/ASCOBANS is represented (jointly with other Bonn-based members of the CMS family) at the annual “Festival of Nations” held in Bonn’s largest park in late summer of each year and at the annual UN Day celebrations on the market square of Bonn. These events attract thousands of visitors from Bonn and the region. On the occasion of the 2004 UN Day, the Secretariat organized two concerts featuring “The Magic Carpathians Project” in a popular cultural centre in Bonn;
- In 2006, the Executive Secretary was repeatedly interviewed by various non-German language programmes of Deutsche Welle (German International Radio);
- The Executive Secretary (or, in some cases, consultants) regularly make presentations about ASCOBANS to specialist audiences or the general public. Examples in the current triennium are a presentation on the Jastarnia Plan at the Marine Baltic Mammal Workshop held in Kolmården, Sweden, (1 April 2004, held in conjunction with the 18th Annual Conference of the ECS), presentations for students of the University of Bonn’s ARTS Programme (Agricultural Science and Resource Management in the Tropics and Subtropics), for pupils of Bonn International School, respectively a German high school in connection with World Environment Day and World Biodiversity Day in 2006, or for participants of a seminar on the United Nations organized by the City of Bonn’s Adult Education Center, and participation in a panel discussion at the 28th German Nature Conservation Convention (28. Deutscher Naturschutztag, Bonn, 1 June 2006);

Following a request by Parties, the Secretariat has delivered reports on its outreach activities twice annually since the beginning of this triennium

4. Representation of ASCOBANS

In the fourth triennium, the Secretariat represented ASCOBANS at the following meetings, conferences and events of relevant IGOs and NGOs:

- 18th Annual Conference of the European Cetacean Society, Kolmården, Sweden, 28 - 31 March 2004;
- CMS, 29th Meeting of the Standing Committee, Bonn, 22 – 25 June 2004;
- AEWA, 2nd Meeting of the Standing Committee, Bonn, Germany 2 - 3 November 2004;
- OSPAR Biodiversity Committee, Bonn, Germany, 21 – 27 February 2005;
- 19th Annual Conference of the European Cetacean Society, La Rochelle, France, 2 – 7 April 2005
- 20th Annual Conference of the European Cetacean Society, Gynia, Poland, 2 – 7 April 2006
- AEWA, 3rd Meeting of the Standing Committee, Bonn, Germany, 4 - 5 July 2005;
- 28th German Nature Conservation Convention (28. Deutscher Naturschutztag), Bonn, Germany, 29 May – 3 June 2006.

The very low travel budget for Secretariat staff again proved to be a hindrance to the participation of the Secretariat in meetings not held in Bonn. Thus, the Executive Secretary was unable to attend the 8th Meeting of the Conference of the Parties to CMS (Nairobi, Kenya, November 2005).

5. Library and Database Facilities

The Secretariat maintains a small reference library and an extensive collection of scientific papers (currently over 600 articles) relevant to the work of the Agreement. All papers available at the Secretariat have been catalogued and entered into a database.

The Secretariat continues to maintain a register of addresses of contacts in States Parties and Range States as well as IGOs and NGOs.

Questionnaires on post mortem research and stranding schemes are circulated to Parties and Range States by the Secretariat. The information received in response to these questionnaires is kept for reference by the Secretariat.

6. Administration; Budget

The tasks of Secretariat staff include ensuring the smooth operation of the Secretariat. This comprises a wide range of administrative and staff-related matters and the administration of the ASCOBANS budget. In the ongoing triennium, in addition to this regular day-to-day work, the Secretariat also conducted the recruitment procedures for both staff members following the upgrade of posts agreed at MOP4, and managed the relocation of the Secretariat from the former UN Premises in Bonn to interim quarters and from interim quarters to the new UN Campus in Bonn.

The Secretariat receives support from the Administrative and Fund Management Unit of CMS and the Budget and Financial Management Service (BFMS) of UNON.

7. Cooperation with Parties, Range States, International Organizations, Non-Governmental Organizations

a) Parties and non-Party Range States

The Secretariat strives to cooperate closely and efficiently with coordinating authorities and contact points and with members of the Advisory Committee. Nevertheless, the situation described in the Secretariat's Triennial Report to MOP4 (MOP4 Doc. 19) has not changed: "Coordinators, for whom ASCOBANS generally constitutes only one of many dossiers to deal with, provide considerable support to the Secretariat. Nevertheless, the trend established in the Secretariat's reports to the 2nd and 3rd Meetings of the Parties¹ has not been reversed. Deadlines for papers or comments to be submitted to the Secretariat by Coordinating Authorities (or Advisory Committee members) are not always observed. While the Secretariat appreciates that this is due to the heavy non-ASCOBANS workload of the persons involved, it would be grateful to Parties for exploring ways to alleviate this problem, which can cause delays in the work of the Agreement.

The Secretariat also continues to strive to maintain close intersessional cooperation with the Advisory Committee members and their advisors. Despite their evident commitment to ASCOBANS work, however, members of the Advisory Committee were frequently unable to devote a sufficient amount of time to ASCOBANS issues. This occasionally created obstacles to smooth and efficient intersessional cooperation between the Secretariat and the Advisory Committee. From the Secretariat's point of view, therefore, it remains desirable for Parties to ensure that all nominated members of the Advisory Committee and their advisors not only be available for the Committee meetings, but also be able to devote an adequate amount of time to intersessional work."

The Secretariat actively seeks and maintains contacts with relevant governmental and non-governmental institutions and organizations throughout the Agreement area. In the host country, the Executive Secretary meets with Members of Parliament, representatives of governmental and non-governmental institutions, the media and representatives of international organizations and the diplomatic corps. Notably this also includes liaising with the diplomatic representations of non-Party Range States, in particular with a view to promoting accession of these states to the Agreement. The Secretariat also maintains a network of contacts in all Range States.

In 2005 two further Range States, Lithuania and France acceded to the Agreement. Estonia is in the process of ratifying and accession will likely take place in the third quarter of 2006 or early in 2007. Spain has informed the Secretariat of its intention to join the Agreement once the extension of the Agreement agreed at MOP4 becomes effective.

b) Cooperation with IGOs

The Secretariat has continued to build, maintain and enhance links with other relevant IGOs, such as:

- *CMS and related Agreements*

¹ MOP2/Doc. 20, p. 2; MOP3/Doc. 14 (S), p. 4

Cooperation between the Secretariats of the CMS family (ACCOBAMS, AEWA, Common Wadden Sea Secretariat, EUROBATS) is highly beneficial to the Agreement and has been beneficial to all concerned. Considerable synergies are achieved by co-locating the secretariats in Bonn. Representation of more than one Agreement by the Executive Secretary of the Convention or of individual Agreements at international conferences and meetings, as well as mutual support of Secretariat staff at peak times (in particular in advance of or during meetings) contribute to relieving the stress caused by the low number of staff members per Secretariat and budgetary constraints faced by all Secretariats. Cooperation between ACCOBAMS and ASCOBANS continues, with a continual exchange of information and documents between the two Secretariats. Presently, ASCOBANS is also cooperating with ACCOBAMS and CMS on the Year of the Dolphin campaign for 2007 (cf. 3 above).

- *Council of Europe*

Cooperation between ASCOBANS and the Council of Europe consists primarily in a mutual exchange of information on relevant activities of the respective organisations and the participation of an ASCOBANS representative (the Executive Secretary of CMS or one of the other Bonn-based regional Agreements) in the annual Meetings of the Standing Committee of the Convention on the Conservation of European Wildlife and Natural Habitats (Bern Convention).

- *HELCOM*

ASCOBANS and HELCOM continued to cooperate in the current triennium. The harmonised reporting scheme for the Baltic (cf. HELCOM Recommendation 17/2 concerning the protection of Baltic harbour porpoise populations) is now working smoothly and leads to a continuous exchange of information on activities of Baltic Parties and Range States. Further options for cooperation are currently being explored.

As a matter of course, the Secretariat writes to all relevant intergovernmental bodies following meetings of the Advisory Committee, enclosing the minutes of the respective meeting and highlighting points of potential particular interest to the bodies concerned. In addition, the Executive Secretary occasionally represents ASCOBANS at meetings of these organisations, time and budget permitting. The Secretariat regularly submits (progress) reports to the bodies of various international organisations.

c) Cooperation with NGOs

The Secretariat cooperates with the NGO sector in a number of ways. In addition to exchanging relevant information and offering expertise, NGOs provide valuable support to the work of ASCOBANS by championing the cause of cetacean conservation and raising awareness not only of cetacean conservation related issues in general but also, more specifically, of ASCOBANS and its role in this context. Moreover, a number of NGOs have cooperated or are cooperating with the ASCOBANS Secretariat in educational and promotional activities. The support of the NGOs consists, among other things, in providing or assisting in the procurement of photo or other material needed for ASCOBANS PR activities, frequently free of charge. On the other hand, ASCOBANS also occasionally assists the work of NGOs. A case in point is co-funding by the Agreement of the production of German, Polish and Swedish versions of the RSPCA's European information video on pingers, and Secretariat support provided to the RSPCA in producing the German version of this video.

Evaluation of the implementation of the ASCOBANS Work Plan 2004-2006 and the work of the ASCOBANS Advisory Committee

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The ASCOBANS Triennial Work Plan 2004-2006 was appended as Annex 19 to the Proceedings of the 4th Meeting of Parties to ASCOBANS. Resolution No. 9 of the 4th Meeting of Parties further defined the activities of the Advisory Committee. The Work Plan was designed to be implemented by the Advisory Committee, Secretariat and Parties. Here we give a personal evaluation of progress in each of these categories by summarising the outcome by category, followed by a table with a scoring index. The evaluation is largely subjective and indicates whether the action was addressed sufficiently (++), partly sufficiently (+), partly, but not sufficiently (-), or not addressed (--).

DESCRIPTIVE EVALUATION

Incidental take

Incidental take remains the greatest threat to small cetaceans in ASCOBANS waters. Measures to reduce this take are a responsibility of EU Fisheries managers alongside their right to manage EU fisheries. In April 2004, the European Council laid measures (812/2004) to address cetacean bycatch in certain priority fisheries. These measures were based to an extent on ASCOBANS reports and on information provided by Parties to ASCOBANS, both used within the context of ICES and within European Commission advisory structures. At the time of writing it is not possible to evaluate the success of this Regulation as EU Member States were only due to report for the first time in June 2006. ASCOBANS requested copies of these reports from its Parties, but (at the time of writing) only one such report had been received. It is known that there have been considerable technical difficulties in the use of ‘pingers’ on gill nets. ASCOBANS should monitor this situation with a view to providing support should this be needed. In particular, opportunities may arise when the Commission is required to report on progress after June 2007.

Recovery and Conservation Plans

The adoption by ASCOBANS, and endorsement by others, of the Baltic harbour porpoise recovery plan was a key step in the last triennium (2001-03). As noted in our report to the 4th Meeting of Parties implementation is a huge challenge. A key factor affecting the status of harbour porpoises in the Baltic, incidental take in fisheries, was addressed in EC Regulation (812/2004) which phased out and banned (after 1 January 2008) drift nets in the Baltic. Further measures to require the use of pingers in certain Baltic fisheries were also adopted. As noted above, we cannot yet evaluate the success or otherwise of these measures. The ‘Jastarnia’ working group charged with monitoring the implementation of the recovery plan met twice (3-4 March 2005 and 7-8 February 2006). Both meetings had recommended that a detailed study be made of the use of fixed gill nets in the Baltic; no funding has yet been forthcoming for this review. A recommendation that the ‘Baltic’ be defined as extending into the Belt Seas and Kattegat as far as a line running due east from Skagen was supported by the Advisory Committee, noting that this may require revision of the plan to take account of the conditions in these waters.

The drafting of a conservation plan for harbour porpoises in the North Sea, along with a background document, was generously supported by Germany. Discussions during the drafting highlighted the difficulty in demonstrating any specific effect on populations of ‘indirect’ human activities that affect the habitat and seas that porpoises live in. The apparent changes in distribution of harbour porpoise in the North Sea between the two SCANS surveys (see below) also make assessment of population level effects of bycatch difficult.

Disturbance

As noted above, demonstrating the effects of disturbance (primarily acoustic) on small cetaceans is difficult. To date ASCOBANS has focussed primarily on describing and reviewing the occurrence of 'noisy' activities and in some cases (by some Parties) producing guidelines to help users reduce potential disturbance. UK and Germany have produced (relatively costly) comprehensive reviews of the amounts of seismic disturbance in their waters, but without information from the waters of other Parties, it is not possible to put this in context. UK has continued to analyse reports from observers implementing its guidelines on vessels which demonstrate that disturbance to small cetaceans occurs. The need to review the levels of, and consequences of, military disturbance remains. Concern about the effects of windfarm construction remains, one study has demonstrated that harbour porpoises left a windfarm area during construction, but returned thereafter. Reviews of the effects of or extent of other potentially disturbing activities have proved difficult due to the lack of comprehensive information. Implementation of guidelines to minimise disturbance remains patchy within the ASCOBANS area.

Pollution

The pollution working group has kept this issue under review throughout the period, and in particular the work of Mark Simmonds (WDCS) has been helpful. ASCOBANS' role continues as a support to those working to reduce pollutants in the area, particularly within ICES, EU, OSPAR and HELCOM.

Monitoring/survey/research/policy

The second widescale abundance survey in ASCOBANS waters (SCANS II) was undertaken in summer 2005. Many Parties provided funding and ASCOBANS input was via the Advisory Committee and members of the Committee. Final results of the survey (and a reanalysis of SCANS I results) are still awaited at the time of writing. However, it appears that a major finding is that for the entire North Sea numbers of harbour porpoises have decreased somewhat compared to SCANS I (1994), but this is not statistically significant. It is furthermore apparent that numbers of harbour porpoises in the southern North Sea have increased greatly and decreased in the North, almost certainly through redistribution rather than increased breeding output and/or survival. Disappointingly, plans to survey the area west of the NW European continental shelf in order to provide an abundance estimate of common dolphin were not funded by the European Commission. The delay in ratification of the extended area of ASCOBANS has delayed assessment of other needs (than an abundance estimate) for these waters. The Advisory Committee considered the advantages and disadvantages of amending ASCOBANS to include all cetaceans and on balance decided to recommend no change at present, but to recommend further review during the next triennium.

External relations

ASCOBANS can really only work by influencing the actions of others. External relations are thus vital. During the triennium, we were delighted to welcome Lithuania and France to ASCOBANS. Parties and the Secretariat have been active in promoting ASCOBANS, particularly in the Baltic area. RSPCA produced a video on 'pinger' usage for fishers that has been translated, with the assistance of voluntary donations, into several languages.

Management of the Agreement

Although not mentioned in the triennium work plan, the Advisory Committee is involved in the management of ASCOBANS. We receive and review reports on spending and future budgets. We were very concerned during the latter part of the triennium that financial guidelines were not being adhered to by some of those thus charged. We remain concerned that the mechanisms to control the work and financial management of ASCOBANS are not adequate. We note in particular the almost complete lack of formal control by the Parties on the spending of the ASCOBANS budget.

EVALUATION INDEX

Incidental take

Review new information on population distribution, sizes and structures	+
Review new information on bycatches of cetaceans	+
Review new information on other relevant fisheries information	-
Provide recommendations to Parties and other relevant authorities	+
Review progress on bycatch mitigation	-

Recovery and Conservation Plans

Review implementation of Baltic harbour porpoise recovery plan	++
Elaborate recovery plan for harbour porpoises in the North Sea	++

Disturbance

Review progress of Parties in working with military authorities	-
Review effects of offshore extractive industries on small cetaceans	--
Review effects of windfarms on small cetaceans	-
Consider new information on disturbance annually	++
Review effects of shipping and provide mitigation recommendations	-
Review the extent of disturbance by seismic surveys	-

Pollution

Consider new information on disturbance annually	++
Provide recommendations based on results of Pollution 2000+	--

Monitoring/survey/research/policy

Prepare and implement SCANS II	++
Review needs of ASCOBANS in new extension area	-
Consider amendment of ASCOBANS to include all cetaceans	++

External relations

Accession of further Range States and the EC	++
Promotional work	+
Co-operation and co-ordination with other international organisations	++

Acknowledgements

The Advisory Committee met formally three times between 2001 and 2003. These meetings were supplemented by an enormous amount of time put in by Advisory Committee members between these meetings. We also owe thanks to the valuable and constructive input by representatives from Non-Party Range States, IGO's, and NGO's. The commissioning of experts to help in key areas of work has also been indispensable. We are extremely grateful for all of this work, without which most of the above achievements would have not been possible.

5th MEETING OF THE PARTIES TO ASCOBANS**The Netherlands, 18 - 20 September and 12 December 2006****Resolution No. 1****Conservation Plan for Harbour Porpoises in the North Sea**

Recalling that the 5th International Conference on the Protection of the North Sea (Bergen, Norway, 20-21 March 2002) called for a recovery plan for harbour porpoises in the North Sea to be developed and adopted (Paragraph 30, Bergen Declaration);

Recalling that the declaration of the Joint Ministerial Meeting of the Helsinki and OSPAR Commissions (Bremen, Germany, 25-26 June 2003, 'Bremen Declaration') adopted the common statement "Towards an Ecosystem Approach to the Management of Human Activities" (Paragraph 13), which highlights the need to develop and promote the implementation of a recovery plan for harbour porpoises in the North Sea;

Recalling the considerable experience ASCOBANS has gained with the development of the recovery plan for harbour porpoises in the Baltic ('Jastarnia Plan');

Noting the results of the two abundance surveys SCANS-I and SCANS-II;

Noting the preparations ASCOBANS has already undertaken towards the development of a recovery plan for harbour porpoises in the North Sea at the 9th and 10th Meetings of the Advisory Committee in 2002 and 2003;

Recalling the deliberations on the Recovery Plan for Harbour Porpoises in the North Sea at the 11th, 12th and 13th Meetings of the ASCOBANS Advisory Committee;

Recalling Resolution No. 10 on a Recovery Plan for Harbour Porpoises in the North Sea adopted by the 4th Meeting of the Parties in 2003;

Commending Germany for its initiative and support for the development of a recovery plan for harbour porpoises in the North Sea;

Noting the decision of the Advisory Committee at its 13th Meeting to change the name "Recovery Plan" to "Conservation Plan";

Without prejudice to the exclusive competence of the European Community for the conservation, management and exploitation of living aquatic resources, and the Community's Directives;

The Meeting of the Parties to ASCOBANS

Adopts, as a basis for a Conservation Plan, the paper "Towards a Conservation Plan for Harbour Porpoises in the North Sea" annexed to this Resolution;

Broadly supports the document as the basis for a conservation plan to be developed under the leadership of the Chair and Vice-chair of the Advisory Committee before the Committee's 14th Meeting.

5th MEETING OF THE PARTIES TO ASCOBANS
Egmond aan Zee, the Netherlands, 18 - 22 September 2006

Resolution No. 2a

Management of Expenditures between 2003 and 2006

Mindful of the report from the United Nations' Office of Internal Oversight Services (OIOS), Internal Audit Division, dated 24 August 2006, which found a lack of clarity in the roles and responsibility for the administration of budgetary preparations and management contributed to a sizeable overspend against provision in the triennium 2004 – 2006;

Noting that the level and quality of the financial and administrative support provided by UNEP/UNON does not live up to the standards previously agreed on;

Conscious of the need that in the future new administrative arrangements should improve the administrative performance;

Regretting that the draft budget for the years 2007 – 2009 was not received well in advance of the Meeting of the Parties;

The Meeting of the Parties:

Discharges and *Approves* the expenditures for the years 2003 and 2004 (Annexes 5 and 6 of Resolution 2c);

Agrees that the expenditures for the years 2005 and 2006 should be discharged and approved by the 6th Meeting of the Parties (MoP6);

Approves the utilization of the operational reserve to cover the shortfall incurred in 2004-2006;

5th MEETING OF THE PARTIES TO ASCOBANS
Egmond aan Zee, Netherlands, 18 - 22 September 2006

Resolution No. 2b

Financial, budgetary and administrative matters – operating procedures of the Agreement 2007-2010

Reaffirming that the Advisory Committee, as a body tasked to provide advice on scientific, policy-related and administrative matters, needs a balance of scientists, policy-makers and administrators to adequately cover its role;

Stressing that the successful work of the Advisory Committee depends on the ability of its members to allocate sufficient time to the work of the Committee and its working groups;

Recalling that the Financial Regulations of the Agreement in relation to the Operating Reserve were not adhered to during the Triennium 2004-2006;

The Meeting of the Parties to ASCOBANS

Agrees that the meetings of the Advisory Committee will be split into a part dealing with administrative issues and a part dealing with scientific and policy issues;

Agrees that if the Chair of the Advisory Committee considers that decisions on budgetary or other matters are required between meetings of the Parties that these could be considered by extraordinary Meetings of the Parties either through electronic correspondence or face to face if required;

Instructs the Advisory Committee to work closely with the Secretariat on administrative and budgetary issues in order to ensure that the wishes of the Meeting of Parties are met;

Asks the Advisory Committee to consider reorganising management of its work to best cover the range of issues that it considers.

**5th MEETING OF THE PARTIES TO ASCOBANS, SECOND SESSION
The Netherlands, 18 – 20 September and 12 December 2006**

Resolution No. 2c

Financial, Budgetary and Administrative Matters

Having Regard to Article 6.1 c) of the Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas (hereinafter referred to as "the Agreement"), which states that the Meeting of Parties shall consider and decide upon "the establishment and review of financial arrangements and the adoption of a budget for the forthcoming three years";

Mindful of the need for Parties to CMS to review the merger of the ASCOBANS and CMS Secretariats at the 9th Meeting of Parties to CMS, to be held in 2008;

Having Regard also to Article 7 of the Agreement, which states that the Parties agree to share the cost of the budget according to the United Nations scale of assessment and that these sums shall be paid to the government or international organisation hosting the Secretariat;

Recalling the Resolution on Financial and Budgetary Matters adopted at the Fourth Session (Esbjerg, Denmark, August 2003);

Recalling the accession to ASCOBANS of a further major contributing Party in 2005;

Recalling also that the Secretariat of the Agreement shall cooperate effectively with other Agreement Secretariats within the UNEP/CMS Agreements Unit;

Mindful of the adverse effects of exchange rate fluctuations and the need to protect the funds of the Agreement from the reduced value of income as a result of the considerable existing and possible further decline in the value of the United States dollar against the Euro;

Acknowledging with appreciation the substantial contribution of the German Government in providing, and agreeing to continue to provide, the accommodation for the Secretariat on a rent-free basis and its annual voluntary contribution of 25,000 Euro in support of special measures and projects aimed at improving the implementation of the Agreement;

Acknowledging with appreciation also the additional support provided by various Parties on a voluntary basis to contribute to the implementation of the Agreement;

Thanking UNEP for the offer to contribute 30,000 USD for conservation projects within the framework of ASCOBANS;

Noting that the level and quality of the financial and administrative support provided by UNEP/UNON does not live up to the standards previously agreed on;

Mindful of Resolutions 2a and 2b adopted by this Meeting of the Parties;

The Meeting of the Parties:

1. *Adopts* the budget for 2007 – 2009 attached as Annex 1 to this resolution and agrees to the scale of annual contributions contained in Annex 2.
2. *Reiterates* that in accordance with Paragraph 7.2 of the Agreement, the annual contributions are to be paid in fully convertible Euros as soon as practicable after the end of March and no later than the end of June of the calendar year to which they relate;
3. *Takes note* of the medium-term plan for 2007 - 2012 attached at Annex 3 to this resolution;
4. *Invites* Parties and Non-Party Range States, government, intergovernmental and non-governmental organizations to make voluntary contributions towards special activities for the implementation of the Agreement;
5. *Invites* Non-Party Range States, governmental, intergovernmental and non-governmental organizations and other sources to consider contributing to the implementation of the Agreement on a voluntary basis;
6. *Requests* the Executive Director of UNEP to extend the duration of the trust fund to 31 December 2009;
7. *Approves* the Terms of Reference for the administration of the Trust Fund as set out in Annex 4 to this Resolution, for the period 2007 – 2009;
8. *Instructs* the Secretariat to report on its income and expenditure to the Advisory Committee at each of its meetings, and to report back to the Meeting of Parties at its next session;
9. *Authorizes* the Advisory Committee to decide upon withdrawals from the Trust Fund reserve in the event of unforeseen major shortfalls on established budget lines and subject to the provision of satisfactory documentation by the Secretariat;
10. *Decides* that the standard participation fee for Observers to the 6th Meeting of the Parties shall be 120 Euros.
11. *Requests* that the Executive Director of UNEP examine the efficiency of UNEP/UNON support in order to ensure that the ASCOBANS Secretariat receives an appropriate level of administrative and financial support.
12. *Invites* Parties to provide funding in excess of their agreed level of contribution, to make up their total funding commitment to the value of their total contribution for the previous triennium;

2007-2009 ASCOBANS BUDGET IN EURO

		2007 in EURO	2008 in EURO	2009 in EURO	Total in EURO
1101	Executive Secretary (D1), 3%	5,618	5,676	5,733	17,027
1102	CMS Professional Staff (P4), 15% (CMS Senior Advisor)	18,300	18,552	18,923	55,775
1103	Professional Staff (P3); ASCOBANS ES (January 2007)	8,547	-	-	8,547
1104	Consultant: ASCOBANS Co-ordinating Officer 75 %	40,800	52,800	0	93,600
1105	Professional Staff: ASCOBANS Co-ordinating Officer (P2), 75 %	-	-	69,000	69,000
1301	General Services: ASCOBANS Administrative Support Officer, G5, 100%; (Jan-Dec 2007 Salary)	72,720	-	-	72,720
1302	Consultant: ASCOBANS Administrative Support, 50%	-	28,000	-	28,000
1303	General Services Staff: ASCOBANS Administrative Support Officer, G5, 50%	-	-	40,103	40,103
1220	Professional consultancies and fractional CMS GS staff time	3,200	6,279	8,000	17,479
1601	Travel - Secretariat Staff	4,000	4,120	4,244	12,364
1602	Experts on Mission	807	831	856	2,495
1999	PERSONNEL SUBTOTAL	153,992	116,258	146,859	417,110
3301	Meeting of Parties	-	-	2,460	2,460
3302	Meeting of the Advisory Committee	2,460	2,460	2,460	7,380
3999	MEETINGS SUBTOTAL	2,460	2,460	4,920	9,840
4101	Miscellaneous office supplies	689	709	731	2,129
4201	Office equipment	-	-	2,714	2,714
4999	EQUIPMENT SUBTOTAL	689	709	3,445	4,843
5101	Maintenance of Equipment	492	507	522	1,521
5102	Operation/maintenance of photocopier/fax	197	203	209	608
5201	Information material	0	0	0	0
5202	Reference material	98	101	104	304
5301	Telephone and Fax	541	557	574	1,673
5302	Postage and miscellaneous	443	456	470	1,369
5401	Hospitality	-	-	-	-
5999	MISCELLANEOUS COSTS SUBTOTAL	1,771	1,824	1,879	5,475
	SUBTOTAL	158,912	121,252	157,103	437,268
6000	UNEP PSC	20,659	15,763	20,423	56,845
	SUB-TOTAL TO BE SHARED BY PARTIES	179,571	137,015	177,527	494,112

One time payment to the operating reserve and to the End of Service costs

1100	ASCOBANS Staff Costs	3,966	3,966	3,966	11,899
6000	UNEP PSC	516	516	516	1,547
	Total	4,482	4,482	4,482	13,446
6001	Operating Reserve	8,979	8,979	8,979	26,936
	GRAND TOTAL TO BE SHARED BY PARTIES	193,031	150,475	190,987	534,494

6003	Review of the Merged ASCOBANS Secretariat Operations*	4,231	4,231	4,231	12,694
6000	13% PSC	550	550	550	1,650
	Total	4,781	4,781	4,781	14,344

2201	Implementation of Jastarnia Plan**	4,000	4,000	4,000	12,000
2202	Implementation of North Sea Plan**	4,000	4,000	4,000	12,000
5201	Outreach and educational work	4,000	4,000	4,000	12,000
6002	13% PSC	520	520	520	1,560
	Total	12,520	12,520	12,520	37,560
	GRAND GRAND Total	210,333	167,777	208,289	586,398

* Budget item covered by the Netherlands

** UNEP ED contributions to the implementation of ASCOBANS; free of the 13% PSC charge

2007-2009 ASCOBANS BUDGET IN USD

		2007	2008	2009	Total
1101	Executive Secretary (D1), 3%	7,023	7,095	7,166	21,284
1102	CMS Professional Staff (P4), 15% (CMS Senior Advisor)	22,875	23,190	23,654	69,719
1103	Professional Staff (P3); ASCOBANS ES (January 2007)	10,683	-	-	10,683
1104	Consultant: ASCOBANS Co-ordinating Officer 75%	51,000	66,000		117,000
1105	Professional Staff: ASCOBANS Co-ordinating Officer P2, 75%	-	-	86,250	86,250
1301	General Services: ASCOBANS Administrative Support Officer, G5, 100% (Jan-Dec 2007 Salary)	90,900	-	-	90,900
1302	Consultant: ASCOBANS Administrative Support, 50%	-	35,000	-	35,000
1303	General Services Staff: ASCOBANS Administrative Support Officer, G5, 50%	-	-	50,129	50,129
1220	Professional consultancies and fractional CMS GS staff time	4,000	7,848	10,000	21,848
1601	Travel - Secretariat Staff	5,000	5,150	5,305	15,455
1602	Experts on Mission	1,009	1,039	1,070	3,119
1999	PERSONNEL SUBTOTAL	192,490	145,323	183,574	521,387
3301	Meeting of Parties			3,075	3,075
3302	Meeting of the Advisory Committee	3,075	3,075	3,075	9,225
3999	MEETINGS SUBTOTAL	3,075	3,075	6,150	12,300
4101	Miscellaneous office supplies	861	887	913	2,661
4201	Office equipment	-	-	3,393	3,393
4999	EQUIPMENT SUBTOTAL	861	887	4,306	6,054
5101	Maintenance of Equipment	615	633	652	1,901
5102	Operation/maintenance of photocopier/fax	246	253	261	760
5201	Information material				0
5202	Reference material	123	127	130	380
5301	Telephone and Fax	677	697	718	2,091
5302	Postage and miscellaneous	554	570	587	1,711
5401	Hospitality	-	-	-	-
5999	MISCELLANEOUS COSTS SUBTOTAL	2,214	2,280	2,349	6,843
	SUBTOTAL	198,640	151,565	196,379	546,584
6000	UNEP PSC	25,823	19,703	25,529	71,056
	SUB-TOTAL TO BE SHARED BY PARTIES	224,464	171,268	221,908	617,640

One time payment to the operating reserve and to the End of Service Costs

1100	ASCOBANS Staff Costs	4,958	4,958	4,958	14,874
6000	UNEP PSC	645	645	645	1,934
	Total	5,603	5,603	5,603	16,808
6001	Operating Reserve	11,223	11,223	11,223	33,670
	GRAND TOTAL TO BE SHARED BY PARTIES	241,289	188,094	238,734	668,118
6003	Review of the Merged ASCOBANS Secretariat Operations*	5,289	5,289	5,289	15,867
6002	13% PSC	688	688	688	2,063
	Total	5,977	5,977	5,977	17,930

Budget Items to be covered by Voluntary Contributions

2201	Implementation of Jastarnia Plan**	5,000	5,000	5,000	15,000
2202	Implementation of North Sea Plan**	5,000	5,000	5,000	15,000
5201	Outreach and educational work	5,000	5,000	5,000	15,000
6002	13% PSC	650	650	650	1,950
	Total	15,650	15,650	15,650	46,950
	GRAND GRAND Total	262,916	209,721	260,361	732,998

* Budget item covered by the Netherlands

**UNEP ED contributions to the implementation of ASCOBANS; free of the 13% PSC charge

ASCOBANS Parties' Contributions for 2007-2009 In EURO

Party	Scale of Assessment	In %	2007 in Euro	2008 in Euro	2009 in Euro	Total In Euro
Belgium	1.06900	7.78%	15,026	11,714	14,867	41,607
Denmark	0.71800	5.23%	10,093	7,868	9,986	27,946
Finland	0.53300	3.88%	7,492	5,840	7,413	20,745
France	6.03000	20.00%	38,606	30,095	38,197	106,899
Germany	8.66200	20.00%	38,606	30,095	38,197	106,899
Lithuania	0.02400	0.17%	337	263	334	934
Netherlands	1.69000	12.31%	23,756	18,518	23,504	65,778
Poland	0.46100	3.36%	6,480	5,051	6,411	17,943
Sweden	0.99800	7.27%	14,028	10,936	13,880	38,844
United Kingdom	6.12700	20.00%	38,606	30,095	38,197	106,899
Total	26.31200	100.00%	193,031	150,475	190,987	534,494

MEDIUM TERM PLAN 2007-2012
In Euro

Budget item	Description	2007	2008	2009	2010	2011	2012
1100	Professional Staff	32,465	24,228	93,656	95,529	97,439	99,388
1200	Consultants	44,000	87,079	8,000	8,240	8,487	8,742
1300	Administrative Support	72,720	-	40,103	42,109	44,214	46,425
1600	Travel on Official Business	4,807	4,951	5,100	5,048	5,199	5,355
2200	Subcontracts and Subprojects	-	-	-	-	-	-
3300	Meetings and Training	2,460	2,460	4,920	2,583	2,583	5,166
4000	Equipment	689	709	3,445	723	745	3,617
5100	Operation and Maintenance	689	709	731	723	745	767
5200	Reporting Costs and Information Material	98	101	104	109,613	115	121
5300	Sundry (Communications)	984	1,014	1,044	1,033	1,064	1,096
5400	Hospitality	-	-	-	-	-	-
	SUBTOTAL	158,912	121,252	157,103	156,097	160,592	170,677
6000	13% UNEP Programme Support Cost	20,659	15,763	20,423	20,293	20,877	22,188
	TOTAL	179,571	137,015	177,527	176,390	181,469	192,865
One time payment to the End of Service ASCOBANS Staff costs and operating reserve							
1100	End of Service costs	3,966	3,966	3,966			
6001	Operating Reserve (No 13% PSC charged)	8,979	8,979	8,979			
6000	UNEP Administrative Costs	516	516	516			
	Total	13,461	13,461	13,461			
GRAND GRAND TOTAL		193,031	150,475	190,987	176,390	181,469	192,865

**TERMS OF REFERENCE FOR THE ADMINISTRATION OF
THE TRUST FUND FOR THE AGREEMENT ON THE
CONSERVATION OF SMALL CETACEANS OF THE BALTIC AND NORTH SEAS**

1. The Trust Fund for the Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas (hereinafter referred to as the Trust Fund) shall be extended for a period of three years to provide financial support for the aims of the Agreement, taking into account the merger of the ASCOBANS Secretariat with the Secretariat of CMS, but maintaining a separate budget for ASCOBANS.
2. The financial period shall be for three calendar years beginning 1 January 2007 and ending 31 December 2009.
3. The Trust Fund shall be administered by the Executive Director of the United Nations Environment Programme (UNEP), subject to the approval of the Governing Council of UNEP and the consent of the Secretary-General of the United Nations.
4. The administration of the Trust Fund shall be governed by the Financial Regulations and Rules of the United Nations, the Staff Regulations and Rules of the United Nations, and other administrative policies or procedures, promulgated by the Secretary-General of the United Nations.
5. In accordance with United Nations rules, UNEP shall deduct from the income of the Trust Fund an administrative charge equal to 13 per cent of the expenditure charged to the Trust Fund in respect of activities financed under the Trust Fund.
6. In the event that the Parties wish the Trust Fund to be extended beyond 31 December 2009, the Executive Director of UNEP shall be so advised in writing immediately after the fifth session of the Meeting of Parties. It is understood that such extension of the Trust Fund shall be decided at the discretion of the Secretary-General of the United Nations.
7. The financial resources of the Trust Fund for 2007-2009 shall be derived from:
 - (a) The contributions made by the Parties by reference to Annex 2, including contributions from any new Parties;
 - (b) Further contributions from Parties and contributions from States not Parties to the Agreement, other governmental, intergovernmental and non-governmental organisations and other sources.
8. All contributions to the Trust Fund shall be paid in Euros. For contributions from States that become Parties after the beginning of the financial period, the initial contribution (from the thirtieth day after deposit of the instrument of ratification, acceptance or accession until the end of the financial period) shall be determined pro rata based on the contribution of other States Parties on the same level on the United Nations scale of assessment, as it applies from time to time. However, if the contribution of a new Party determined on this basis would be more than 20 per cent of the budget, the contribution of that Party shall be 20 per cent of the budget for the financial year of joining (or pro rata for a part-year). Contributions of Parties acceding to the Agreement during the

ongoing triennium will not be used to reduce the subscriptions of existing Parties during that triennium, but will rather flow into the Agreement trust fund.

Contributions for all Parties throughout the triennium 2007-2009 shall be based on the UN Scale of Assessments applicable at the time of adoption of this resolution. Contributions shall be paid in annual instalments. The contributions shall be due on 1 January 2007, 2008 and 2009. Contributions shall be paid into the following account:

UNEP Euro Account
Account No. 6161603755
JP Morgan AG
Gruneburgweg 2
60322 Frankfurt/Main
Germany
Bank code number 501 108 00
SWIFT No. CHASDEFX
IBAN: DE 56501108006161603755

9. For the convenience of the Parties, for each of the years of the financial period the Executive Director of UNEP shall as soon as possible notify the Parties to the Agreement of their assessed contributions.
10. Contributions received into the Trust Fund that are not immediately required to finance activities shall be invested at the discretion of the United Nations, and any income shall be credited to the Trust Fund.
11. The Trust Fund shall be subject to audit by the United Nations Board of Auditors.
12. The budget estimates covering the income and expenditure for each of the three calendar years constituting the financial period to which they relate, prepared in Euros, shall be submitted to the ordinary session of the Meeting of Parties to the Agreement.
13. The estimates of each of the calendar years covered by the financial period shall be divided into sections and objects of expenditures, shall be specified according to budget lines, shall include references to the programmes of work to which they relate, and shall be accompanied by such information as may be required by or on behalf of the contributors, and such further information as the Executive Director of UNEP may deem useful and advisable. In particular estimates shall also be prepared for each programme of work for each of the calendar years, with expenditure itemised for each programme so as to correspond to the sections, objects of expenditure, and budget lines described in the first sentence of this paragraph.
14. In addition to the budget estimates for the financial period described in the preceding paragraphs, the Secretariat of the Agreement, in consultation with the Advisory Committee and the Executive Director of UNEP, shall prepare a medium-term plan as envisaged in Chapter III of the Legislative and Financial Texts Regarding the United Nations Environment Programme and the Environment Fund. The medium-term plan will cover the years 2007-2012, inclusive, and shall incorporate a draft budget for the financial period 2009-2012.
15. The proposed budget and medium-term plan, including all the necessary information, shall be dispatched by the Secretariat to all Parties at least ninety days before the date fixed for the opening of the ordinary session of the Meeting of Parties.

16. The budget and medium-term plan shall be adopted by a three-quarters majority of the Parties present and voting at the ordinary session.
17. In the event that the Executive Director of UNEP anticipates that there might be a shortfall in resources over the financial period as a whole, the Executive Director shall consult with the Secretariat, who shall seek the advice of the Advisory Committee through the Chair as to its priorities for expenditure.
18. Commitments against the resources of the Trust Fund may be made only if they are covered by the necessary income of the Agreement. No commitments shall be made in advance of the receipt of contributions. In the case of voluntary (non-statutory) contributions by Parties or non-Party Range States, commitments may be made immediately upon conclusion of the relevant donor agreement.
19. At the beginning of the first calendar year of a triennium, the Secretariat, after seeking the advice of the Parties through the Chair of the Advisory Committee, shall be authorised to allocate the surplus of the previous triennium left in the Trust Fund above and beyond the six-month operational reserve¹ to reducing the annual contributions of Parties for the second and third years of that triennium, in accordance with their scales of assessments for the ASCOBANS budget.
20. Upon the request of the Secretariat of the Agreement, after seeking the advice of the Advisory Committee, the Executive Director of UNEP should, to the extent consistent with the Financial Regulations and Rules of the United Nations, make transfers from one budget line to another. At the end of any calendar year within the financial period, the Executive Director of UNEP may transfer any uncommitted balance of appropriations to the following calendar year, provided that the total budget approved by the Parties is not exceeded, unless this is specifically sanctioned in writing by the Advisory Committee.
21. At the end of each calendar year within the financial period², the Executive Director of UNEP shall submit to the Parties, through the UNEP/ASCOBANS Secretariat, the accounts for the year. The Executive Director shall also submit, as soon as practicable, the audited accounts for the financial period. These shall include full details of actual expenditure compared to the original provisions for each budget line.
22. Those financial reports required to be submitted by the Executive Director of UNEP shall be transmitted simultaneously by the Secretariat of the Agreement to the members of the Advisory Committee.
23. The Secretariat of the Agreement shall provide the Advisory Committee with an estimate of proposed expenditures over the coming year simultaneously with, or as soon as possible after, distribution of the accounts and reports referred to in the preceding paragraphs.
24. The present terms of reference shall be effective from 1 January 2007 to 31 December 2009.

¹ The operational reserve amounts to 15% of the budget of a calendar year or three months' salaries, whichever is higher.

² The calendar year 1 January to 31 December is the accounting and financial year, but the accounts official closure date is 31 March of the following year. Thus, on 31 March the accounts of the previous year have to be closed, and it is only then that the Executive Director can submit the accounts of the previous calendar year.

United Nations  Nations Unies

INTEROFFICE MEMORANDUM

MÉ MORANDUM INTÉRIEUR

UNITED NATIONS OFFICE AT NAIROBI

BUDGET AND FINANCIAL MANAGEMENT SERVICE (BFMS)

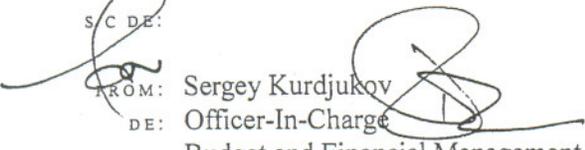
TO: Mr. Rüdiger Stempel
A: Executive Secretary
UNEP/ASCOBANS Secretariat
UN Premises in Bonn,
Martin-Luther-King-Street 8
53175, BONN, F.R. Germany

DATE: 29 July, 2004

RÉFÉRENCE: BA

THROUGH:

S/C DE:


FROM: Sergey Kurdjukov
DE: Officer-In-Charge
Budget and Financial Management Service

SUBJECT: **BIENNIUM ACCOUNTS – BA TRUST FUND AND XV EARMARKED**
OBJET: **CONTRIBUTIONS**

Attached please find the financial statements and the status of contributions for the biennium 2002-2003 ended 31 December 2003, related to:

1. *Trust Fund for the Conservation of Small Cetaceans of the Baltics and North Seas (ASCOBANS) (BA); and*
2. *Voluntary Earmarked Contributions in Support of the ASCOBANS Secretariat (XV).*

Kindly ensure that these accounts are transmitted, through you, to the members of the relevant bodies.

For your ample information, we are also sending you a copy of the Financial Report and Accounts for the biennium.

Thank you.

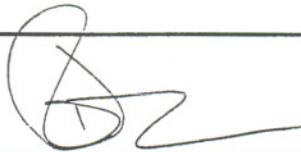
**General Trust Fund for the Conservation of Small Cetaceans of the Baltics and
North Seas Agreement (ASCOBANS)**

**I. Statement of income and expenditure and changes in reserves and fund balances for the biennium
2002-2003 ended 31 December 2003**

<u>Income</u>	USD
Voluntary contributions	304,264
Interest income	14,886
Total Income	319,150
<u>Expenditure</u>	
Staff and other personnel costs	229,116
Contractual services	9,563
Travel	15,420
Operating expenses	29,140
Acquisitions	7,900
Programme support costs	37,752
Total Expenditure	328,891
Excess/(shortfall) of income over expenditure	(9,741)
Prior period adjustments	(36)
Net excess/(shortfall) of income over expenditure	(9,777)
Reserves and fund balances, beginning of period	135,820
Reserves and fund balances, end of period	126,043

II. Statement of assets, liabilities, reserves and fund balances as at 31 December 2003

<u>Assets</u>	
Cash and term deposits	141,673
Voluntary pledges receivable	25
Other accounts receivable	1,806
Total assets	143,504
<u>Liabilities</u>	
Interfund payable	7,580
Reserve for obligation	9,881
Total liabilities	17,461
<u>Reserves and fund balances</u>	
Cumulative surplus	126,043
Total reserves and fund balances	126,043
Total liabilities, reserve and fund balance	143,504


David Hastie

Chief

ACCOUNTS SECTION

BAL

BUDGET AND FINANCIAL MANAGEMENT SERVICE, UNON

23/06/2004

Status of Contributions as at 31 December 2003
(United States Dollars)

Countries/ Organisations	Unpaid pledges as at 1 January 2002	Adjustments to prior years' pledges and receipts	Pledges for 2002 - 2003	Revaluations	Net pledges	Collections for future years	Collections in 2002 - 2003 for 2002 - 2003 and prior years	Unpaid pledges for 2002 - 2003 and prior years
BAL	General Trust Fund for the Conservation of Small Cetaceans of the Baltics and North Seas (ASCOBANS)							
Belgium	17,219	-	35,953	-	35,953	-	53,172	-
Denmark	1,502	-	23,828	-	23,828	-	25,330	-
Finland	180	-	16,606	-	16,606	-	16,786	-
Germany		-	64,421	-	64,421	-	64,421	-
Netherlands	3,173	-	55,315	-	55,315	-	58,488	-
Poland	-	-	11,041	-	11,041	-	11,041	-
Sweden	225	-	32,679	-	32,679	-	32,879	25
United Kingdom	-	-	64,421	-	64,421	-	64,421	-
BAL Total	22,299	-	304,264	-	304,264	-	326,538	25

Support of the ASCOBANS Secretariat

I. Statement of income and expenditure and changes in reserves and fund balances for the biennium 2002-2003 ended 31 December 2003

<u>Income</u>	USD
Voluntary contributions	153,606
Interest income	2,359
Total Income	155,965
<u>Expenditure</u>	
Contractual services	144,563
Operating expenses	(382)
Acquisitions	195
Programme support costs	18,769
Total Expenditure	163,145
Excess/(shortfall) of income over expenditure	(7,180)
Net excess/(shortfall) of income over expenditure	(7,180)
Reserves and fund balances, beginning of period	(15,426)
Reserves and fund balances, end of period	(22,606)

II. Statement of assets, liabilities, reserves and fund balances as at 31 December 2003

<u>Assets</u>	
Cash and term deposits	15,982
Total assets	15,982
<u>Liabilities</u>	
Interfund payable	5,785
Reserve for obligation	32,803
Total liabilities	38,588
<u>Reserves and fund balances</u>	
Total reserves and fund balances	(22,606)
Total liabilities, reserve and fund balance	15,982



David Hastie

Chief

ACCOUNTS SECTION

QVL

BUDGET AND FINANCIAL MANAGEMENT SERVICE, UNON

25/06/2004

Status of Contributions as at 31 December 2003

(United States dollars)

Support of the ASCOBANS Secretariat (QVL)

<u>Countries/Organizations</u>	<u>Collections in 2002-2003</u>
Germany	52,091
United Kingdom	101,515
Total	153,606

Approved and actual expenditure from Trust Fund for 2003 in US Dollars					
Budget line	MOP-appr. budget 2003	2002 unspent balances	Revised budget 03	Actual expenditures 2003	Balance
10 Personnel					
1100 Professional Staff					
1101 Executive Secretary (P3)	91,000	52,773	143,773	82,990	60,783
1102 Administrative and Fund Management Officer (UN)	0		0	0	0
1220 Consultancies	4,000	8,000	12,000	9,563	2,437
1300 Administrative Support					
1301 Secretary (G4)	45,500	9,957	55,457	50,388	5,069
1600 Travel on official business					
1601 Secretariat staff	6,500	585	7,085	6,684	401
1602 Experts on mission	1,600	0	1,600	1,225	375
1999 Personnel Subtotal	148,600	71,315	219,915	150,850	69,065
30 Meetings					
3301 Meeting of Parties	5,000	0	5,000	4,813	187
3302 Meeting of the Advisory Committee	3,700	858	4,558	4,558	0
3999 Meetings Subtotal	8,700	858	9,558	9,371	187
40 Equipment and Premises					
4100 Expendable equipment					
4101 Miscellaneous office supplies	2,100	1,353	3,453	1,691	1,762
4200 Non-expendable equipment					
4201 Office equipment	1,800	5,534	7,334	6,812	522
4300 Premises					
4301 Rent and maintenance costs	0		0	0	0
4999 Equipment and Premises Subtotal	3,900	6,887	10,787	8,503	2,284
50 Miscellaneous Costs					
5100 Operation and Maintenance					
5101 Operation/maintenance computers	1,000	880	1,880	556	1,324
5102 Operation/maintenance of photocopier/fax	1,000	415	1,415	872	543
5200 Reporting Costs					
5201 Information material	2,000	4,918	6,918	4,803	2,115
5202 Reference material	500	23	523	434	89
5300 Sundry					
5301 Telephone and Fax	1,300	1,664	2,964	2,174	790
5302 Postage and miscellaneous	1,500	2,834	4,334	2,004	2,330
5304 Other expenditures - loss on exchange				630	-630
5401 Hospitality	800	1,215	2,015	1,908	107
5999 Miscellaneous Costs Subtotal	8,100	11,949	20,049	13,381	6,668
SUBTOTAL	169,300	91,009	260,309	182,105	78,204
6000 UNEP programme support costs (13%)	22,009	11,831	33,840	23,592	10,248
GRAND TOTAL	191,309	102,840	294,149	205,697	88,452

Trust Fund Balance (provisional)*	
Beginning balance of trust fund on 1 January 2003	168,684
Contribution income 2003	156,185
Interest income 2003	6,907
Expenditure 2003	205,697
Prior period adjustments	-36
Closing balance of trust fund on 31 December 2003	126,043

unpaid pledges

25

* Prepared by Secretariat

UNEP final audited statement of income and expenditure and changes in reserve and fund balances as of 31 December 2003 will be provided in due course.

United Nations  Nations Unies

INTEROFFICE MEMORANDUM

MÉ MORANDUM INTÉRIEUR

UNITED NATIONS OFFICE AT NAIROBI

BUDGET AND FINANCIAL MANAGEMENT SERVICE (BFMS)

TO: Mr. Rüdiger Stempel
A: Executive Secretary
UNEP/ASCOBANS Secretariat
UN Premises in Bonn,
Martin-Luther-King-Street 8
53175, BONN, F.R. Germany

DATE: 28 June 2005

RÉFÉRENCE: BA

THROUGH:

S/C DE:

FROM: David G. Hastie
DE: Deputy Chief, Division of Administrative Services &
Chief, Budget and Financial Management Service

SUBJECT: *BIENNIUM ACCOUNTS – BA TRUST FUND AND XV EARMARKED*
OBJET: *CONTRIBUTIONS*

Attached please find the financial statements and the status of contributions for the first year of the biennium 2004-2005 ended 31 December 2004, related to:

1. *Trust Fund for the Conservation of Small Cetaceans of the Baltics and North Seas (ASCOBANS) (BA); and*
2. *Voluntary Earmarked Contributions in Support of the ASCOBANS Secretariat (XV).*

Kindly ensure that these accounts are transmitted, through you, to the members of the relevant bodies.

For your ample information, we are also sending you a copy of the Certified Financial Report and Accounts for the first year of the biennium.

Thank you.

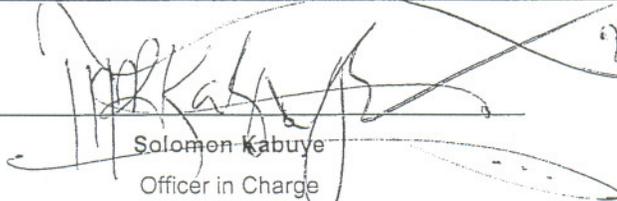
General Trust Fund for the Conservation of Small Cetaceans of the Baltics and North Seas (ASCOBANS)

I. Statement of income and expenditure and changes in reserves and fund balances for the first year of biennium 2004-2005 ended 31 December 2004

	USD
Income	
Voluntary contributions	180,178
Interest income	2,671
Miscellaneous income	36
Total Income	182,885
Expenditure	
Staff and other personnel costs	152,430
Contractual services	3,480
Travel	8,164
Operating expenses	9,213
Acquisitions	2,927
Programme support costs	22,899
Total Expenditure	199,113
Excess/(shortfall) of income over expenditure	(16,228)
Prior period adjustments	(13,810)
Net excess/(shortfall) of income over expenditure	(30,038)
Reserves and fund balances, beginning of period	126,044
Reserves and fund balances, end of period	96,006

II. Statement of assets, liabilities, reserves and fund balances as at 31 December 2004

Assets	
Cash and term deposits	93,950
Voluntary contributions receivable	25
Inter-fund balances	3,093
Other accounts receivable	1,680
Total assets	98,748
Liabilities	
Unliquidated obligations	2,742
Total liabilities	2,742
Reserves and fund balances	
Cumulative surplus	96,006
Total reserves and fund balances	96,006
Total liabilities, reserve and fund balance	98,748



 OK Jumo
 26/5/05

Solomen Kabuye
Officer in Charge

ACCOUNTS SECTION

BAL

BUDGET AND FINANCIAL MANAGEMENT SERVICE, UNON

24/05/2005

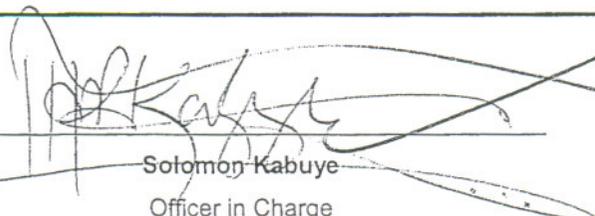
Support of the ASCOBANS Secretariat

I. Statement of income and expenditure and changes in reserves and fund balances for the first year of the biennium 2004-2005 ended 31 December 2004

<u>Income</u>	USD
Voluntary contributions	74,202
Interest income	596
Total Income	74,798
<u>Expenditure</u>	
Contractual services	23,161
Programme support costs	3,011
Total Expenditure	26,172
Excess/(shortfall) of income over expenditure	48,626
Prior period adjustments	13,810
Net excess/(shortfall) of income over expenditure	62,436
Reserves and fund balances, beginning of period	(22,606)
Reserves and fund balances, end of period	39,830

II. Statement of assets, liabilities, reserves and fund balances as at 31 December 2004

<u>Assets</u>	
Cash and term deposits	36,449
Voluntary contributions receivable	13,059
Interfund balances	2,897
Other accounts receivable	(1)
Total assets	52,404
<u>Liabilities</u>	
Unliquidated obligations	12,574
Total liabilities	12,574
<u>Reserves and fund balances</u>	
Cumulative surplus	39,830
Total reserves and fund balances	39,830
Total liabilities, reserve and fund balance	52,404



 OK MINUS

Solomon Kabuye
Officer in Charge

ACCOUNTS SECTION

QVL

BUDGET AND FINANCIAL MANAGEMENT SERVICE, UNON

27/05/2005

Status of Contributions as at 31 December 2004

(United States dollars)

Support of the ASCOBANS Secretariat (QVL)

<u>Countries/Organizations</u>	<u>Collections in 2004</u>
Denmark	3,323
Germany	57,285
United Kingdom	13,594
Total	74,202

Status of Contributions as at 31 December 2004
(United States Dollars)

Countries/ Organisations	Unpaid pledges as at 1 January 2004	Adjustments to prior years' pledges and receipts	Pledges for 2004	Revaluations	Net pledges	Collections for future years	Collections in 2004 for 2004 and prior years	Unpaid pledges for 2004 and prior years
BAL	General Trust Fund for the Conservation of Small Cetaceans of the Baltics and North Seas (ASCOBANS)							
Belgium	-	-	20,188	-	20,188	-	20,188	-
Denmark	-	-	13,559	-	13,559	-	13,559	-
Finland	-	-	10,066	-	10,066	-	10,066	-
Germany	-	(3,918)	40,575	-	40,575	-	36,657	-
Netherlands	-	-	31,916	-	31,916	-	31,916	-
Poland	-	-	4,452	-	4,452	-	4,452	-
Sweden	25	(9,892)	18,847	-	18,847	-	8,955	25
United Kingdom	-	-	40,575	-	40,575	-	40,575	-
BAL Total	25	(13,810)	180,178	-	180,178	-	166,368	25

5th MEETING OF THE PARTIES TO ASCOBANS
The Netherlands, 18-20 September and 12 December 2006

Resolution No. 2d

**Joining the forces of ASCOBANS and CMS for improved management and
operation of the ASCOBANS Secretariat**

Conscious of the need to guarantee the maintenance of the conservation efforts of ASCOBANS;

Recognizing the need to maintain a strong focus on the conservation of the most threatened populations of small cetaceans, in particular the harbour porpoises in the Baltic Sea;

Acknowledging the need to make optimal use of the resources at the disposal of the Agreement;

Recalling Resolution 1 of the Third Meeting of the Parties to ASCOBANS (MOP3, Bristol, 26-28 July 2000) *Integration of the ASCOBANS Secretariat into the Agreements Unit of UNEP/CMS*;

Aware of the necessity to reach an increase of efficiency and output of the limited financial means and in awareness of the need to strengthen the power of the Agreement;

Underlining the political will to reach a stronger, stable and more cost efficient agreement prepared for forthcoming challenges and for a better and closer interrelation with the mother convention CMS on small cetaceans issues;

Mindful of the report from the United Nations' Office of Internal Oversight Services (OIOS), Internal Audit Division, dated 24 August 2006 which found a lack of clarity in the roles and responsibility for the administration of budgetary preparations and management contributed to a sizeable overspend against provision in the triennium 2004-2006;

Welcoming the recommendations in the OIOS report that budget guidelines should be prepared by UNEP covering roles and responsibilities for budget preparation;

Recognizing that in the wider context of improving international environmental governance, there is a need to be open to synergistic arrangements which can help secure economies of scale and more effective delivery of environmental goals;

The Meeting of the Parties to ASCOBANS

Agrees to maintain the ASCOBANS Agreement as an autonomous agreement of CMS under the immediate auspices of UNEP/CMS;

Decides that from 1 January 2007 the UNEP/CMS Secretariat shall serve as the secretariat pursuant to provision No. 4 of the ASCOBANS Agreement, and the Executive Secretary of UNEP/CMS shall be the acting Executive Secretary for ASCOBANS;

Agrees that the Executive Secretary of CMS, in his capacity of the acting Executive Secretary of ASCOBANS, should adopt for a provisional three year period the responsibility for managing the ASCOBANS Secretariat, acting as the Executive Secretary; requests the Executive Director of UNEP to undertake an independent evaluation of the new Secretariat arrangements in mid 2008; and further requests the results of this evaluation to be considered by the Conference of the Parties (COP) of CMS in 2008, followed in due time by the MOP of ASCOBANS in 2009, with the aim of identifying the best organizational solutions for ASCOBANS;

Instructs the Executive Secretary of CMS, in his capacity as the acting Executive Secretary of ASCOBANS, to ensure that:

- the current cycle of ASCOBANS meetings is maintained with papers circulated a month in advance of each meeting (in accordance with the relevant rules of procedure);
- tasks, programmes and strategies agreed by the MOP pursuant to Annex I of the Agreement will be implemented, including the Jastarnia Plan (for the protection of the harbour porpoises in the Baltic Sea), the future development of a Conservation Plan for harbour porpoises in the North Sea, and the geographic extension of the Agreement expected to enter into force in 2007;
- an adequate focal point and website for the ASCOBANS Agreement area will be available for the Parties;
- reports are provided to future Meetings of Parties and Advisory Committee Meetings, including their subgroups on scientific or technical issues and including 6 monthly overviews of the state of affairs on administrative and budgetary issues and the delivery of these tasks;
- they continue and improve effective communication with Parties, Range States, non governmental organisations and international organisations, such as the European Commission, OSPAR, HELCOM, ICES, ACCOBAMS, CBD and IWC;
- awareness-raising and public information activities, including through the 2007 Year of the Dolphin, are maintained and enhanced for species under the Agreement;
- there is an increased profile and a proper representation at an adequate level at meetings of other relevant agreements and conventions;
- there is no loss of continuity in the administration and functioning of ASCOBANS during the transition period;
- the budget for the next triennium is provided for consideration by the Advisory Committee at least six months prior to the next Meeting of the Parties;

Agrees to fund through an independent budget the operational costs of the Secretariat, including provisions for the CMS Executive Secretary, in his capacity as the acting

Executive Secretary of ASCOBANS, and any other staff resources which are allocated to the running of the Secretariat, as set out in Resolution 2c on Financial, Budgetary and Administrative issues of ASCOBANS MOP5;

Encourages close co-operation, exchange of information as well as expertise between the Advisory Committee of ASCOBANS and the Standing Committee and Scientific Council of CMS;

Reaffirms the autonomy of the Meeting of the Parties as the decision making body of the Agreement;

Agrees that, for the administration of the ASCOBANS Secretariat within the UNEP/CMS Agreements Unit, the Terms of Reference annexed to Resolution 3.1 (ASCOBANS MOP3) shall continue to apply.

5th MEETING OF THE PARTIES TO ASCOBANS

The Netherlands, 18 - 22 September and 12 December 2006

Resolution No. 3

Extension of the ASCOBANS Agreement Area

Recalling Resolution No. 4 adopted by the Fourth Meeting of the Parties;

Noting the unforeseen delays in ratification of the extended Agreement;

Noting, moreover, that these delays were beyond the control of ASCOBANS Parties and of the ASCOBANS Secretariat;

Recalling the obligation of States Parties to the United Nations Convention on the Law of the Sea (UNCLOS) to cooperate through the appropriate international organizations for the conservation and management of marine mammals (Articles 65 and 120);

Reiterating that the conservation of small cetaceans in the current ASCOBANS Agreement Area and in European waters as a whole will benefit from the extension of the ASCOBANS Agreement Area to the parts of the North Eastern Atlantic covered by the aforementioned Resolution and from the establishment of the direct geographical link between the Agreement Areas of ASCOBANS and ACCOBAMS implicit therein;

Guided by a common will to further strengthen the Agreement and the conservation of small cetaceans in European waters as a whole;

The Meeting of the Parties to ASCOBANS

Urges Parties to the Agreement that have not yet done so to ratify the amendment contained in MOP 4 Resolution No 4 as soon as possible;

Instructs the Executive Secretary to ASCOBANS, Parties to the Agreement and the Secretariat of the Convention of Migratory Species of Wild Animals to continue to encourage non-Party Range States to accede to the Agreement.

5th MEETING OF THE PARTIES TO ASCOBANS**The Netherlands, 18 - 22 September and 12 December 2006****Resolution No. 4****Adverse Effects of Sound, Vessels and Other Forms of Disturbance on Small Cetaceans**

Recalling that the Conservation and Management Plan Annexed to the Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas stipulates that ASCOBANS work towards "the prevention of other significant disturbance, especially of an acoustic nature";

Recalling Resolution No. 5 of the 4th Meeting of the Parties and previous related Resolutions and recommendations adopted within the framework of ASCOBANS and *welcoming* progress within Parties to implement that Resolution;

Recalling Resolution 8.22 adopted by the Eighth Conference of the Parties to the Convention on Migratory Species (CMS) on adverse human induced impacts on cetaceans; Resolution 7.5 of the Seventh Conference of the Parties to the Convention on the Conservation of Migratory Species on wind turbines and migratory species, and previous related Resolutions and Recommendations adopted within the framework of CMS;

Recalling the obligation of States Parties to the United Nations Convention on the Law of the Sea (UNCLOS) to cooperate through the appropriate international organizations for the conservation and management of marine mammals (Articles 65 and 120);

Recalling the results of the ASCOBANS study (MoP4/Doc.17) on the effects of sound and of vessels on cetaceans, which range from disturbance to potential lethal consequences from some military sonars and from ship strikes;

Noting the recommendations arising from the 58th meeting of the Scientific Committee of the IWC on the potential impacts of seismic surveys on cetaceans;

Noting the United Kingdom's regulatory guidelines on seismic surveys;

Reaffirming that the difficulty of proving detrimental effects of acoustic disturbance on cetaceans necessitates a precautionary approach in dealing with this issue;

Recognizing the commitment of Parties to a change to using renewable sources of energy;

Recognizing the potential disturbance caused by offshore extractive industries and other activities including those associated with renewable energy;

Recognizing the political sensitivities in relation to military activities;

The Meeting of the Parties to ASCOBANS

Requests Parties and Range States that have not yet done so to introduce guidelines on measures and procedures for seismic surveys in order to minimise risks to small cetaceans following current best practice;

Reiterates and extends its invitation to Parties and Range States to

- (1) develop, with military and other relevant authorities, effective mitigation measures including environmental impact assessments and relevant standing orders to reduce disturbance of, and potential physical damage to, small cetaceans;
- (2) conduct further research into the effects on small cetaceans of:
 - (a) vessels, particularly high speed ferries;
 - (b) acoustic devices used by the fishing and fish-farming industries including deterrent (scarers) and warning (pingers) devices and fish-finding sonar;
 - (c) extractive and other industrial activities, including windfarms;
 - (d) other acoustic disturbances.

This should include research on physical and behavioural effects, and be at the individual and population level;

- (3) conduct research and develop appropriate management measures, guidelines and technological adaptations to minimise any adverse effects on small cetaceans of the above sound sources;
- (4) develop and implement procedures to assess the effectiveness of any guidelines or management measures introduced;
- (5) report on high energy seismic surveys per one degree by one degree rectangle using shot point density.

Invites Parties and Range States to cooperate with the Secretariat in developing and implementing the measures recommended in the Annex to Resolution 8.22, adopted by the Eighth Meeting of the Parties to CMS, insofar as these are applicable and relevant to ASCOBANS;

Repeals Resolution No. 5 of the 4th Meeting of the Parties.

5th MEETING OF THE PARTIES TO ASCOBANS**The Netherlands, 18 - 22 September and 12 December 2006****Resolution No. 5****Incidental Take of Small Cetaceans**

Recalling the Annex to the Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas, according to which "... management measures shall be applied ..." to develop, in the light of available data indicating unacceptable interaction, modifications of fishing gear and fishing practices in order to reduce by-catches;

Recalling the Resolutions on Incidental Take of Small Cetaceans adopted by the 2nd, 3rd and 4th Meetings of the Parties (ASCOBANS/MOP2/DOC. 4, MOP 3 Resolution 3, MOP 4 Resolution No. 6), and noting Resolution 3 from MOP 3 is still operational;

Recalling the relevant EU Articles and Regulations relevant to the Agreement and measures applicable in the waters of EU Member States, including most recently Council Regulation (EC) No. 812/2004 that lays down measures concerning incidental catches of cetaceans in fisheries, makes pingers mandatory in specified fisheries and requires observer monitoring in specified fisheries and phases out driftnets in the Baltic Sea;

Recalling relevant resolutions and recommendations adopted by the Conference of the Parties to the Convention on the Conservation of Migratory Species of Wild Animals (CMS) including most recently Resolution 8.14 at its Eighth Meeting on bycatch;

Welcoming the success of the recent SCANS II survey and noting the final abundance estimates (Doc. 26 MOP 5);

Appreciating the ongoing efforts made to reduce bycatch and noting the measures taken by the Parties which have led to a reduction in bycatch in certain fisheries in the North Sea while *Regretting* that the recommendations set out in the relevant Resolutions of previous MOPs to reduce bycatch to below 'unacceptable interaction' levels have probably not been fulfilled;

In conjunction with Resolutions 1, 6 and 9 adopted at the present meeting;

Without prejudice to the exclusive competence of the European Community for the conservation, management and exploitation of living aquatic resources,

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Reiterates the recommendations of Resolution 3 of MOP 3 particularly that total anthropogenic removal is reduced by the Parties to below the threshold of "unacceptable interactions" with the precautionary objective to reduce bycatch to less than 1% of the best available abundance estimate and the general aim to minimise bycatch (i.e. to ultimately reduce to zero).

Urges that Parties and Range States:

- continue to develop and implement national plans of action or similar measures to reduce the bycatch of small cetaceans;
- consistent with EC Regulation 812/2004, collect and provide to the Advisory Committee further information on levels of bycatch, the measures undertaken to reduce bycatch, their efficacy and their wider environmental impact, and where appropriate, undertake further research into bycatch mitigation measures;
- collect and provide to the Advisory Committee information on the extent, type and distribution of static gillnet and tanglenet effort in a format to be determined by the Advisory Committee.

Repeals Resolution No. 6 of the 4th Meeting of the Parties.

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Resolution No. 6

Activities of the ASCOBANS Advisory Committee 2007-2010

Reaffirming the importance of cooperating with, and not duplicating the work of, other international bodies and the desirability of drawing upon their expertise;

Recognising that much progress is achieved by the commissioning of work by specialists, whether members of the Advisory Committee or otherwise;

Reaffirming that the Advisory Committee, as a body tasked to provide advice on scientific, policy-related and administrative matters, needs a balance of scientists, policy-makers and administrators to adequately cover its role;

Stressing that the successful work of the Advisory Committee depends on the ability of its members to allocate sufficient time to the work of the Committee and its working groups;

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Instructs the Advisory Committee to:

Make Resolution 2b of MOP5 operational for ASCOBANS;

Continue to invite the intergovernmental bodies such as IWC, ICES, CMS, HELCOM, NAMMCO, OSPAR, ACCOBAMS and the European Commission and relevant international organisations such as ECS, to send representatives to Advisory Committee meetings;

Explore the possibilities of further developing positive relationships with other stakeholders, especially the fishing industry and Regional Advisory Councils;

Improve co-operation, exchange of information as well as expertise between the Advisory Committee of ASCOBANS and the Standing Committee and the Scientific Council of CMS;

Continue to review at each meeting a list of international meetings, compiled by the Secretariat, at which the aims of ASCOBANS might most usefully be promoted, and recommend which meetings should be attended, by whom and with what objective and to review the outcomes of meetings attended;

Continue to review, on an annual basis, new information on pollution (including the IWC programme POLLUTION 2000+) and its effects on small cetaceans which occur in the ASCOBANS area and, on the basis of this review, provide recommendations to Parties and other relevant authorities;

Continue to review the extent of negative effects upon small cetaceans of sound, vessels and other forms of disturbance on small cetaceans and to review relevant technological

developments, with a view to providing recommendations to Parties, by the 6th Meeting of the Parties, on possible ways to mitigate those negative effects;

Review, on an annual basis, the implementation of the ASCOBANS Recovery Plan for Baltic Harbour Porpoises (Jastarnia Plan) (Document MoP4/Doc.23) and, when in operation, the Conservation Plan for Harbour Porpoises in the North Sea and to continue its efforts to further the implementation of those plans;

Provide a clear format for the information to be provided by Parties and Range States on static gillnet and tangle net effort;

Review, on an annual basis and as far as possible in conjunction with the EU, ICES and IWC, new information on bycatch and make recommendations to Parties and other relevant authorities for further action. This should include information provided by Parties and Range States on the implementation, efficacy and impacts of measures introduced to reduce bycatch, and on effort in relevant fisheries;

Review new information on cetacean population size, distribution, structure, and causes of mortality in the ASCOBANS area and based on implications for conservation make appropriate recommendations to Parties and other relevant authorities.

Review, before MoP6, the formal structures and processes of the Agreement to determine whether other mechanisms would be more effective in achieving the conservation objectives of ASCOBANS;

Consider how the work of ASCOBANS should be extended to take account of the new Agreement Area, which includes areas beyond national jurisdiction;

Consider, in 2009, the possible amendment of the ASCOBANS Agreement to include all cetacean species;

Explore ways in which ASCOBANS can better liaise and work with the EC on issues of mutual interest;

Repeals Resolution 9 of MOP4;

Reiterates its request that Parties

Ensure that all nominated Advisory Committee members and their advisors can allocate time to attend Advisory Committee meetings, to intersessional work, and to participate in the intersessional Advisory Committee working groups;

Continue to ensure where possible suitable expertise within delegations to the Advisory Committee.

5th MEETING OF THE PARTIES TO ASCOBANS
Netherlands, 18 - 22 September and 12 December 2006

Resolution No. 7

**Research on Habitat Quality, Health and Status of
Small Cetaceans in the Agreement Area**

Recalling that the conservation, research and management measures listed in the Conservation and Management Plan in the Annex to the Agreement require an action plan for the full implementation of the Agreement;

Recognizing the commitments by the Parties in other international bodies and fora to cetacean conservation and other commitments that will aid cetaceans;

Reaffirming the importance of the need for Parties to cooperate and not to duplicate the work of other international bodies and the desirability of drawing upon their expertise;

Recognizing the requirements under EU legislation;

Recalling that ASCOBANS endorsed (MoP3, Res. No.7) the IWC programme of research that investigates the causative link between levels of pollutants and physiological responses in cetaceans, known as POLLUTION 2000+;

Recalling that OSPAR, HELCOM and the European Commission through its Chemicals Strategy are working towards reduction of emissions and sources of chemical pollutants and will develop their objectives and strategy with regard to hazardous substances further; and RECOGNIZING previous ASCOBANS action in drawing the attention of OSPAR and HELCOM to substances hazardous to small cetaceans;

Recalling that OSPAR and HELCOM are working towards the conservation of marine biodiversity. OSPAR has in 2005 adopted an Ecological Quality Objective for harbour porpoise bycatch in the North Sea. A network of Baltic Sea protected areas for harbour porpoises have been established under HELCOM. HELCOM acknowledged the actions taken by ASCOBANS and gives political support to the adoption and implementation of the Recovery Plan for Baltic harbour porpoise, the Jastarnia Plan (HELCOM Bremen Declaration 2003).

Noting that knowledge of the harbour porpoise is better developed than that of most small cetacean species;

Noting the recommendations related to noise impacts on cetaceans that were developed at the 58th IWC Scientific Meeting in 2006 and endorsed by the IWC.

Recalling the commitment of ASCOBANS to non-lethal research;

Commending existing efforts to identify and protect specific areas for small cetaceans;

In conjunction with Resolutions 1, 4 and 9 adopted at this meeting;

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Recommends a one day workshop to establish criteria and guidelines for the identification of sites of importance for small cetaceans should be held as soon as possible;

Invites Parties and Range States to

Continue or *Initiate* research aimed at identifying the location of any further suitable sites for the establishment of protected areas, and to implement appropriate management actions in these areas on their own or in the context of other intergovernmental bodies to ensure the protection of small cetaceans;

Continue or *Initiate* support for schemes that ensure that the bodies stranded and/or bycaught small cetaceans are, where appropriate, subject to full and expert post-mortem analysis for cause of death and any other studies relevant to conservation, including pathological indications for acoustic trauma, and take appropriate measures to reduce those impacts on small cetacean populations, recognised to increase mortality rates;

Continue to support the POLLUTION 2000+ initiative and *to support* research into the occurrence and potential effects of priority chemicals identified by OSPAR and HELCOM (including brominated flame retardants, organotins and other endocrine disrupting chemicals) with the aim of collecting information on the distribution and accumulation of these compounds and their effects, and to ensure that this information is brought to the attention of authorities responsible for the reduction of such pollution;

Continue to support co-operative work with the IWC Scientific Committee and the SCANS II programme on the management procedure approach for limiting anthropogenic removals from small cetacean populations in the agreement area ;

Continue to support efforts to develop efficient long-term monitoring methods for small cetaceans of sufficient power to detect trends in status and distribution to be of use to management;

Continue to support non-lethal research, with the emphasis on the less well-known cetacean species of the ASCOBANS area, in particular as regards life-history parameters and population structure;

Encourage further research relevant to ASCOBANS objectives on abundance, life history parameters, distribution, migration patterns and population structure of small cetaceans as a basis for an improvement of conservation measures;

Repeals Resolution 8 of the 4th Meeting of the Parties.

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Resolution No. 8

Educational and Promotional Activities

Recalling Resolution No. 2 of the 4th Meeting of the Parties and related resolutions of previous Meetings of the Parties;

Reiterating that public support of the aims of ASCOBANS continues to be critical to its success;

Acknowledging the continuous successful efforts of the ASCOBANS Secretariat to initiate and implement promotional and educational activities, such as the increasingly successful International Day of the Baltic Harbour Porpoise and the ASCOBANS Award;

Noting, however, that despite the ongoing activities, public awareness of ASCOBANS and the issues of cetacean conservation still needs to be increased in the original ASCOBANS area;

Mindful of the extension of the ASCOBANS Agreement area as decided by the Fourth Meeting of the Parties, and the need to launch promotional activities specifically geared to the needs of the regions covered by the newly extended Agreement area;

Reiterating that a particular emphasis of future promotional work will need to be on new Parties and non-Party Range States, on the implementation of the ASCOBANS Recovery Plan for Baltic Harbour Porpoises (Jastarnia Plan), on the Conservation Plan for Harbour Porpoises in the North Sea and on the regions covered by the extended Agreement area;

Noting the importance of joint or synergistic initiatives with its sister agreement ACCOBAMS, such as the Year of the Dolphin 2007 initiative;

Acknowledging the valuable contribution made by NGOs to ASCOBANS to date;

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Recommends that the Secretariat continue and step up its activities to raise awareness of issues related to cetacean conservation in the Agreement area and to promote the Agreement itself especially with non-Party Range States, *inter alia* by continuing to translate ASCOBANS information material and to undertake promotional activities in both Party and non-Party Range States;

Recommends that the Secretariat continue to develop the ASCOBANS website, aiming to meet the needs of a wide range of target audiences and including educational material;

Recommends that host Parties of Meetings of the Parties and of the Advisory Committee, in co-operation with the Secretariat, continue to consider ways by which the Agreement and its aims might be best promoted using the opportunity afforded by these meetings;

Encourages Parties and non-Party Range States to continue to co-operate with the Secretariat in these endeavours and to support this work through voluntary contributions throughout the triennium;

Encourages the Secretariat to clearly define its own role in working together with the EU, CMS, OSPAR, HELCOM and ACCOBAMS in order to synchronize joint actions in Educational and Promotional activities, and create synergy to provide added value while avoiding duplication of effort;

Recommends that the Secretariat, taking appropriate advice, produces targeted information material on conservation issues facing small cetaceans in the region. In particular, it is recommended that the Secretariat, in consultation with appropriate fishermen's organisations, RACs and others develop material to distribute to fishermen, especially with respect to bycatch issues;

Encourages NGOs to support the educational and promotional activities of the Secretariat and the Parties if and when possible;

Encourages institutions or individuals to share the use of their intellectual property free of charge for use in non-profit information and education campaigns in support of ASCOBANS objectives;

Encourages Parties, non-Party range States and NGOs to nominate candidates for the ASCOBANS Award for 2007 and 2009.

Repeals Resolution No. 2 of the 4th Meeting of the Parties.

5th MEETING OF THE PARTIES TO ASCOBANS

The Netherlands, 18 – 20 September and 12 December 2006

Resolution No. 9**Implementation of the Jastarnia Plan**

Noting that the ASCOBANS Recovery Plan for Baltic Harbour Porpoises (Jastarnia Plan) (MoP4/Doc.23) states that with respect to Baltic harbour porpoises the available evidence clearly points to a population that is in serious danger and that as a matter of urgency, every effort should be made to reduce bycatches towards zero as quickly as possible;

Noting the requirements of the EU treaty and its subsidiary legislation in particular in the framework of European Nature Protection and the Common Fisheries Policy;

Recalling the relevant EU Articles and Regulations relevant to the Agreement and measures applicable in the waters of EU Member States, including

- Article 2 of Council Regulation (EC) No. 2371/2002 of 20 December 2002 regarding the common fisheries policy
- Article 12.4 of Council Directive 92/43/EEC that requires States to establish a system to monitor the incidental capture and killing of cetaceans, and in the light of the information gathered take further research or conservation measures to ensure that incidental capture and killing does not have a significant negative impact on the species concerned;
- EC Regulation 812/2004 that amends Council Regulation 88/98 and was subsequently repealed by Council Regulation 2187/2005, makes the use of pingers by vessels >12m mandatory for gillnet fisheries from June 2005 in certain areas of the Baltic and North Sea, and requires EU Member States to phase out driftnets in the Baltic Sea by 1 January 2008;

Recalling the recommendations of the 1st and 2nd Meetings of the ASCOBANS Jastarnia Group (Bonn, Germany, March 2005 and Stralsund, Germany, February 2006) as reviewed and endorsed by the 12th and 13th Meetings of the Advisory Committee (Brest, France, April 2005 and Tampere, Finland, April 2006);

Recalling the requirement under the Jastarnia Plan to undertake a formal process of re-evaluation and revision of the plan no less than every five years;

Recalling the Resolutions on Incidental Take of Small Cetaceans adopted by the 2nd, 3rd and 4th Meetings of the Parties (ASCOBANS/MOP2/DOC. 4, MOP 3 Resolution 3, MOP 4 Resolution No. 6);

Acknowledging with appreciation the efforts undertaken by Parties to date to implement the Plan;

Stressing that further action to implement the Plan will be needed

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Urges Parties in the Baltic Sea region, to continue and to step up implementation of the Jastarnia Plan and *invites* non-Party Range States to also implement the Plan;

Reiterates that the reduction of fishing effort in relevant fisheries called for in the Jastarnia Plan remains the highest priority for Parties;

Encourages Parties, non-Party Range States and other relevant authorities to prioritise funding to undertake a detailed study of the use of fixed gillnets in the Baltic Sea as a matter of urgency;

Encourages Parties and non-Party Range States to intensify research on pingers and to continue trials of alternative gear and methods, following the guidelines laid down in the Plan;

Encourages Parties and non-Party Range States to ensure the at-sea enforcement of pinger use and the monitoring of its efficiency;

Encourages Parties and non-Party Range States to re-evaluate pinger use at the latest by early 2008 in the light of current findings (noting Art. 7 of EC Regulation 812/2004);

Recommends that a three-day workshop on population structure of the harbour porpoise in the ASCOBANS area, including one-day dedicated to the Baltic Sea harbour porpoises, take place as soon as possible;

Recommends that the Secretariat cooperate with Parties and others to find funding for the continuation, beyond the year 2007, of the web-based, international database on opportunistic sightings, strandings and bycatch;

Encourages Parties to continue to provide additional funds for the production of information material in the languages of the Baltic Sea region;

Notes that clear definitions of fishing gear harmful to harbour porpoises used in the Baltic which are required for effective legal protection for harbour porpoises are not yet contained in the respective European legislation, and *encourages* the European Community to adopt such definitions.

ASCOBANS Triennium Work Plan for 2007 - 2009

ACTIVITY	ACTION REQUIRED OF	INTERVAL/TIME LINE
Entire ASCOBANS Area		
Review, on an annual basis, and as far as possible in conjunction with EU, ICES and IWC, new information on bycatch and make recommendations to Parties and other relevant authorities for further action. This should include information provided by Parties and Range States on the implementation, efficacy and impacts of measures introduced to reduce bycatch, and on effort in relevant fisheries	Advisory Committee	
Provide a clear format for the information to be provided by Parties and Range States on static gillnet and tangle net effort	Advisory Committee	
Continue to review, on an annual basis, new information on pollution (including the IWC programme POLLUTION 2000+) and its effects on small cetaceans which occur in the ASCOBANS area and, on the basis of this review, provide recommendations to Parties and other relevant authorities	Advisory Committee	Annually
Continue to review the extent of negative effects upon small cetaceans of sound, vessels and other forms of disturbance on small cetaceans and to review relevant technological developments with a view to providing recommendations to Parties, by the 6 th Meeting of the Parties, on possible ways to mitigate those negative effects	Advisory Committee	By MOP6 (recommendations)
Organise a one day workshop to establish criteria and guidelines for the identification of sites of importance for small cetaceans	Secretariat	Spring 2007
Organise a three-day workshop on population structure of the harbour porpoise in the ASCOBANS area, including one-day dedicated to the Baltic Sea harbour porpoises	Secretariat	26-28 February 2007 (now September 2007)

ACTIVITY	ACTION REQUIRED OF	INTERVAL/TIME LINE
Review new information on cetacean population size, distribution, structure, and causes of mortality in the ASCOBANS area and based on implications for conservation to make appropriate recommendations to Parties and other relevant authorities	Advisory Committee	Annually
Continue to step up activities to raise awareness of issues related to cetacean conservation in the Agreement Area	Secretariat	Throughout the triennium
Continue to translate ASCOBANS information material and to undertake promotional activities in both Party and non-party Range States	Secretariat	Throughout the triennium
Continue to develop the ASCOBANS web site, aiming to meet the needs of a wide range of target audiences and including educational material	Secretariat	Throughout the triennium
Clearly define the role of the Secretariat in working together with the EU, CMS, OSPAR, HELCOM and ACCOBAMS in order to synchronize joint actions in educational and promotional activities, and create synergy to provide added value while avoiding duplication of effort	Secretariat	Throughout the triennium
Take appropriate advice, produce targeted information material on conservation issues facing small cetaceans in the region, and in particular in consultation with appropriate fishermen's organisations, RACs and others develop material to distribute to fishermen, especially with respect to bycatch issues	Secretariat	Throughout the triennium
Baltic Sea Sub-Region		
Continue to produce information material in the languages of the Baltic Sea region	Secretariat	Throughout the triennium
Review the implementation of the ASCOBANS Recovery Plan for Baltic Harbour Porpoises (Jastarnia Plan) (Document MoP4/Doc.23) and continue efforts to further its implementation	Advisory Committee, Jastarnia Group	Annually

ACTIVITY	ACTION REQUIRED OF	INTERVAL/TIME LINE
Liaise with Parties and others to find funding for the continuation, beyond the year 2007, of the web-based, international database on opportunistic sightings, strandings and bycatch	Secretariat	2007
North Sea Sub-Region		
Develop a conservation plan for the North Sea Harbour Porpoise	AC Chair, Vice-chair, Secretariat	By AC14
Review, once it is in place, the implementation of the Conservation Plan for Harbour Porpoises in the North Sea and continue efforts to further its implementation	Advisory Committee	Annually
North Atlantic Sub-Region (Extension Area)		
Continue to consider how the work of ASCOBANS should be extended to take account of the new Agreement Area, which includes areas beyond national jurisdiction	Advisory Committee, Secretariat	Throughout the triennium
Institutional Issues		
Make Resolution 2b of MOP5 (Operating Procedures of the Agreement 2007-2009) operational for ASCOBANS	Advisory Committee	
Continue to invite the intergovernmental bodies such as IWC, ICES, CMS, HELCOM, NAMMCO, OSPAR, ACCOBAMS and the European Commission and relevant international organizations such as ECS, to send representatives to Advisory Committee meetings	Advisory Committee, Secretariat	Throughout the triennium
Explore the possibilities of further developing positive relationships with other stakeholders, especially the fishing industry and Regional Advisory Councils	Advisory Committee, Secretariat	Throughout the triennium

ACTIVITY	ACTION REQUIRED OF	INTERVAL/TIME LINE
Improve co-operation, exchange of information as well as expertise between the Advisory Committee of ASCOBANS and the Standing Committee and the Scientific Council of CMS	Advisory Committee	Throughout the triennium
Continue to review at each meeting a list of international meetings, compiled by the Secretariat, at which the aims of ASCOBANS might most usefully be promoted, and recommend which meetings should be attended, by whom and with what objective and to review the outcomes of meetings attended	Advisory Committee, Secretariat	Annually
Review, before MOP6, the formal structures and processes of the Agreement to determine whether other mechanisms would be more effective in achieving the conservation objectives of ASCOBANS	Advisory Committee, Secretariat	By MOP 6
Explore ways in which ASCOBANS can better liaise and work with the EC on issues of mutual interest	Advisory Committee, Secretariat	Throughout the triennium
Promote the Agreement and its aims in Parties, Range States and with other relevant players	Secretariat	Throughout the triennium
Promote accession of non-Party Range States to the Agreement	Secretariat	Throughout the triennium
Consider, in 2009, the possible amendment of the ASCOBANS Agreement to include all cetacean species	Advisory Committee	By AC16
Support Parties, Range States and Agreement bodies in implementing the above Work Plan, in so far as primary responsibility does not lie with the Secretariat	Secretariat	Throughout the triennium

Conclusions of the First Session of the 5th Meeting of the Parties to ASCOBANS

Concerning a request of the President of the MOP to the Executive Director of UNEP

Parties request the President of the 5th Meeting of the Parties to write a letter to the Executive Director of UNEP asking to draft with the next six weeks – or earlier if possible – a detailed proposal how to guarantee the maintenance of ASCOBANS for the next triennial or quadrennial.

The Executive Director of UNEP will be asked kindly to address in his detailed proposal the following items:

- At least two options for the future arrangements for the secretariat for the ASCOBANS agreement, that is:
 1. a merger option, in which the CMS secretariat will serve as the secretariat for ASCOBANS, pursuant to provision no. 4 of the ASCOBANS agreement;
 2. the least expensive viable independent secretariat option.
- UNEP will be invited to take other options into account if they feel that other options could serve as a better solution for a sustainable maintenance of ASCOBANS.
- Accompanying draft budgets (both triennial and quadrennial) for the two or more options for future arrangements UNEP will elaborate upon.
 - A request to UNEP for assistance as regards the necessary one time payments (consisting of the transitional costs of a possible merger and the operating reserve) in a way that these payments can be delivered throughout the next triennial/quadrennial instead of in one year.
 - An update of the annex to resolution 1 of the Meeting of Parties 3.

The Netherlands has agreed to draft the letter for the Executive Secretary of UNEP, based on the discussions in and results so far of working group 1. A first draft will be circulated by mail and hard copy to all Parties to be commented on. The letter will be sent out Friday 22nd September 2006.