

Agenda Item 6: Matters related to Parties and Range States

Report on Jensen's meeting with Ireland, 2 March 1998

Submitted by the Secretariat

Comment: This modified version of the report by the previous Secretary has now been approved by Ireland.

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

Meeting with Ireland, 2 March 1998, Dublin, Ireland

INTRODUCTION

During the initial negotiating stage of ASCOBANS, Ireland had shown some interest in a possible extension of the Agreement to include Irish waters to coincide with their Whale and Dolphin Sanctuary, which was declared in 1991. However, Ireland did not sign the Agreement. Since ASCOBANS has been in force there have been bilateral discussions between Ireland and the UK Department of the Environment on the question of the extension of the waters covered by the Agreement. During these it became clear that the Department of the Marine and Natural Resources had serious reservations about Ireland signing the Agreement.

The Advisory Committee had decided that it was an issue in which the Secretariat and the chairman of the Advisory Committee should become actively involved. I therefore decided, with the agreement of our chairman Peter Reijnders, that I should visit Ireland and try to establish better cooperative links and discuss further the possible extension of the ASCOBANS area.

The meeting was held on 2 March 1998 in Dublin at the offices of the Department of Art, Heritage, Gaeltacht and the Islands. The participants were Philip Buckley, Katryn Ward, Joe Hamill and Patrick Gilheaney from the Heritage Policy of the Department of Art, Heritage, Gaeltacht and the Islands, and Michael O'Driscoll of the Department of the Marine and Natural Resources.

I introduced a number of points from the ASCOBANS perspective, including

- (1) an extension of the scope of ASCOBANS to Irish waters would not only be beneficial to ASCOBANS but would also be of assistance to Ireland in managing her Whale and Dolphin Sanctuary; and
- (2) if the representative of the Department of the Marine and Natural Resources could explain more precisely what their reservations were then it might be possible for me to allay them or at least bring back their concerns to the Advisory Committee for further consideration;
- (3) countries with equivalent or bigger by-catch problems than Ireland e.g. Denmark, were active members of ASCOBANS, and had managed to convince their fisheries organisations of the benefits of signing the agreement - Ireland might wish to discuss these issues with them directly;
- (4) ASCOBANS has excellent cooperation with Norway despite the fact that Norway does not want to sign the Agreement - it may be beneficial to both ASCOBANS and Ireland if Ireland began any consideration of joining ASCOBANS by, for instance, attending Advisory Committee meetings;
- (5) cooperation on small cetacean issues at the research level was important and exchange of research information could be mutually beneficial.

I received the following responses from the Departments:

RESERVATIONS AGAINST ASCOBANS

The representative from the Department of the Marine and Natural Resources stated that the extension of ASCOBANS to Irish waters could lead to the introduction of unwarranted legislation that would curtail commercial fishing. Alleged by-catches of cetaceans could be used as a lever to restrict the activities of commercial fishermen and in some cases might lead to closure of areas and/or a ban on certain types of fishing gear.

He gave as an example the issue of tuna fisheries. The EU is planning to ban drift-netting for tuna and other species, on the recommendation of ICCAT, because of allegedly high by-catches of cetaceans. He stated that there was no scientific justification for the ban as a study carried out in 1994 by University College, Cork showed that the cetacean by-catch in the Irish albacore tuna driftnet fishery was of no consequence.

I stressed that primarily ASCOBANS is an Agreement that only urges cooperation - there are no provisions for sanctions against Parties or for forcing Parties into implementing legislation. It is up to the member countries to decide how they want to implement the Agreement. In practice, with respect to fisheries matters, it is the EU that has exclusive competence for its members, including Ireland. Thus, irrespective of ASCOBANS, Ireland would have to obey the laws of the EU.

FUTURE COOPERATION WITH ASCOBANS

The Irish representatives explained that they had received and considered the invitation to the MOP but had decided that it would be premature to attend the MOP, in that their attendance might appear to suggest more than they were willing to concede at this point. However, after hearing my explanation of the work of ASCOBANS they became more positive about the Agreement, and in particular the idea of attending an Advisory Committee meeting to become better acquainted with the work of ASCOBANS. Both Departments agreed that they would seriously consider sending a representative to an Advisory Committee meeting but were unsure as to whether it would be possible to attend the forthcoming meeting in Hel, given the relatively short notice. They also agreed that cooperating with ASCOBANS may be beneficial to further the effectiveness of the Irish sanctuary. In addition, they believed that cooperation with ASCOBANS might result in them receiving useful advice and help with respect to the forthcoming problems over the banning of the Irish albacore tuna fisheries.

They considered that indirect and direct interactions between marine mammals and fisheries represented a potentially difficult if not intransigent problem, and they expressed interest in cooperating with ASCOBANS on this issue.

NATIONAL LEGISLATION AND COOPERATION WITH FISHERMEN

The representatives agreed that providing good information to fishermen is very important and noted that Irish fisheries organisations are probably not particularly aware of ASCOBANS and its work. In this context they enquired about the possibility of receiving the national reports from the parties, in particular that of the United Kingdom, to see what the United Kingdom's national legislation contained and to find out how the UK had tried to overcome problems with their fisheries organisations. They agreed that this might help them when negotiating with their own fisheries organisations. *[On my return to the Secretariat I sent them copies of the national reports.]*

CONCLUSION

I think that this was an extremely useful meeting. I am reasonably positive that Ireland will play a prominent role in discussions over the future extension of the ASCOBANS area.

Jette Jensen
ASCOBANS Secretariat