

Progress Report to the IWC on The Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas (ASCOBANS), October 1997-May 1998

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1. THE 2ND MEETING OF PARTIES

The Meeting of Parties to ASCOBANS is the decision-making body of the Agreement that can adopt resolutions and it determines the outline of the work for the following triennium. The Second Meeting of Parties was held 17-19 November 1997 in Bonn, Germany. A Working Group on Scientific Matters was established to consider:

- (1) the draft resolutions on incidental take of small cetaceans, effects of pollutants on cetaceans health, further implementation of ASCOBANS, and the activities of the Advisory Committee;
- (2) the functioning of the Advisory Committee;
- (3) an Action Plan for the triennium 1998-2000;
- (4) national reports and a new reporting format;
- (5) protected areas.

The Report of the Working Group on Scientific Matters is attached as Annex A. The two adopted resolutions of direct relevance to IWC i.e. the resolutions on incidental take of small cetaceans and on the effects of pollutants on cetaceans health are attached as Annexes B and C, respectively.

2. CONSERVATION OBJECTIVES

The following definitions are extracted from the Working Group on Scientific Matters (attached as Annex A) and the adopted resolution (attached as Annex B).

2.1 Aim of ASCOBANS

It was agreed that the aim of ASCOBANS can be interpreted as

to restore and/or maintain biological or management stocks of small cetaceans at the level they would reach when there is the lowest possible anthropogenic influence.

2.2 Objectives

It was agreed that a suitable interim objective would be

to restore populations to, or maintain them at, 80% or more of the carrying capacity.

This level was chosen after taking account of information for other cetacean species (c.f. the development of the International Whaling Commission's Revised Management Procedure)

which indicate this is above the level of maximum productivity and therefore more appropriate for a conservation agreement.

2.2.1 Longer term approach

The Working Group recognised that while it is difficult, and perhaps impossible, to determine carrying capacity, such a theoretical target level will allow the development and application of a longer-term approach, which will take into account the uncertainty, which is inevitably inherent in the data required to assess the status of stocks. The Working Group also agreed that this defined longer term approach was appropriate, and that it should be developed further by the Advisory Committee in cooperation with other organisations, particularly the International Whaling Commission.

3. BYCATCH

The following definitions are extracted from the Working Group on Scientific Matters (attached as Annex A) and the adopted resolution (attached as Annex B).

3.1 Aims

3.1.1 Long-term aim

It was accepted that a long-term aim of the Agreement should be

to minimise all by-catches (i.e. reduce them to zero),

within some yet-to-be defined time frame.

3.1.2 Short-term aim

It was accepted that in the shorter term it should

set interim targets for the levels of by catch.

3.2 Definition of unacceptable interactions

It was accepted that

in the short term, a total by-catch level in all fisheries above 2% of the maximum likelihood estimate of abundance within an appropriately defined management region should be considered as an 'unacceptable interaction'.

However it was recognised that for populations which were severely depleted, this level would not be acceptable even in the short-term. The Working Group noted that the IWC's Scientific Committee had

advised that an estimated annual by-catch of 1% of estimated population size indicates that further research should be undertaken immediately to clarify the status of the stocks. There was some discussion as to whether this might be a more appropriate short-term target level than 2%, but this was not agreed by the Parties.

4. POLLUTANTS

The following is a summary from the Working Group on Scientific Matters (attached as Annex A) and the adopted Resolution on Pollutants (attached as Annex C).

The Working Group concluded that there was sufficient evidence for it to be concerned about the effects of pollution on the health of small cetaceans in the ASCOBANS area and it recognised that there is a need to determine the significance of specific levels of certain chemical pollutants for individual cetaceans and for their populations.

The Meeting of Parties endorsed strongly the recommendations of the IWC Workshop on Chemical Pollution and Cetaceans and the research programme on the establishment of cause-effect relationships between cetacean health and chemical pollutants developed by the IWC's Scientific Committee and it agreed that the Parties and the Advisory Committee should consider ways to facilitate the development and execution of that part of the programme which addresses cause-effect relationships between harbour porpoise health and chemical pollutants, in co-operation with the IWC and other relevant bodies.

5. THE FUTURE LOCATION OF THE SECRETARIAT

It was decided at the Meeting of Parties that for the next triennium the ASCOBANS Secretariat be established in Bonn within the Secretariat of the Convention on the Conservation of Migratory Species of Wild Animals (CMS). This will take effect from 1 June 1998.

6. RESEARCH OPTIONS FOR THE BALTIC

During the 4th ASCOBANS Advisory Committee Meeting, 30 June-2 July 1997, Texel, The Netherlands, the question was raised whether there would be any value in carrying out another sighting survey for harbour porpoises in the Baltic, due to the few (n=3) sightings previously made in that area. The meeting decided that a feasibility study on the most cost-effective way to carry out research in the Baltic

Sea should be carried out. The ASCOBANS Secretariat funded the contract study and the Report can be obtained from the ASCOBANS Secretariat. Lack of time prevented detailed consideration of the Report at the Meeting of Parties.

An e-mail discussion group (ABDG) was set up in advance of the 5th Advisory Committee meeting, 22-24 April 1998, Hel, Poland, to discuss the conclusions of the Report and provide recommendations. However the ABDG did not have time to reach consensus recommendations in time for the Hel meeting. However, there is agreement on the highest priority recommendation: that fishing effort data be collected from all Parties and Range States for setnet and driftnet ('net') fisheries in the Baltic.

The Advisory Committee agreed that the work of the ABDG so far had been useful, and asked that the ABDG continue its deliberations, with the aim of producing a consensus final report in time for the next Advisory Committee Meeting.

LIST OF DOCUMENTS TO BEL ADVISORY COMMITTEE MEETING RELEVANT TO IWC SCIENTIFIC COMMITTEE

ASCOBANS/ADV.COM.15/DOC.

- (3) JENSEN, J. Report from the 49th Annual Meeting of the International Whaling Commission's Scientific Committee, 30/9- 9/10/1997, Bournemouth, England
- (4) JENSEN, J. Report from the 49th Annual Meeting of the International Whaling Commission, 20-24 October 1997, Monaco
- (6) Draft Second Annual Compilation of the National Reports.
- (8) Information from OSPARCOM on pollutants and observership.
- (9) UNITED KINGDOM Guidelines for minimising acoustic disturbance to marine mammals from seismic surveys.
- (10) LARSEN, F. The effect of acoustic alarms on the by-catch of harbour porpoises in bottom set gill nets. Preliminary analysis.
- (11) THE UNITED KINGDOM NGOs. Bycatch Response Strategy.
- (13) GORDON J., GILLESPIE D., CHAPPELL O., HIBY L.. Potential Uses of Automated Passive Acoustic Techniques to Determine Porpoise Distribution and Abundance in the Baltic Sea.
- (14) BERGGREN P., BRAVINGTON M, BUCKLAND S., CARLSTROM J., CLARKE L., DONOVAN G., HAMMOND P., HIBY L., LARSEN F. Draft Report of the ASCOBANS Baltic Discussion Group.
- (15) CLARKE E.D., HIBY L., BUCKLAND S. T. The Estimation of the Bycatch Mortality of Harbour Porpoise in the Baltic Sea.
- (16) LOCKYER, C. Information on EPIC, a new EU. Funded project.

ANNEX A TO SC/50/SM12

REPORT OF THE WORKING GROUP ON SCIENTIFIC MATTERS ANNEX G OF THE REPORT OF THE 2nd MEETING OF PARTIES TO ASCOBANS

1. INTRODUCTION

The Working Group met on 17 and 18 November under the chairmanship of Dr Reijnders, who was assisted by Mr Tasker. Prof. Harwood was appointed rapporteur. It agreed that the best way to conduct its business was to concentrate on the drafting of specific resolutions on by-catch, the effects of pollution, the activities of the Advisory Committee (including reporting format), and on further implementation of the Agreement. Appropriate sections of these resolutions would then be extracted to form an action plan for the next triennium.

2. CONSERVATION OBJECTIVES

Before addressing specific resolutions, however, the Chairman believed that it was important to discuss ASCOBANS/MOP/2/OOC.4. This document explained the necessity for defining specific conservation objectives for ASCOBANS and suggested an approach to achieve this. This approach involves the definition of a main conservation objective from which sub-objectives are derived. This then allows specific action to be identified and enables progress towards the sub-objectives to be evaluated.

2.1 Aim of ASCOBANS

The Working Group agreed to this general approach outlined above. Specifically it agreed that, in this context, the aim of ASCOBANS can be interpreted as

to restore and/or maintain biological or management stocks of small cetaceans at the level they would reach when there is the lowest possible anthropogenic influence.

This form of words was chosen to be as close as possible to the original wording of the Agreement ('to achieve and maintain a favourable conservation status for small cetaceans in the Agreement area'), but to enable a specific conservation objective, and sub-objectives, to be formulated.

2.2 Objectives

In practice, it is necessary to have specific target population levels so that the status of a stock and the effectiveness of conservation measures can be evaluated. It was agreed that a suitable interim objective would be

to restore populations to, or maintain them at, 80% or more of the carrying capacity.

This level was chosen after taking account of information for other cetacean species (c.f. the development of the International Whaling Commission's Revised Management Procedure) which indicate this is above the level of maximum productivity and therefore more appropriate for a conservation agreement.

2.2.1 Longer term approach

The Working Group recognised that while it is difficult, and perhaps impossible, to determine carrying capacity, such a theoretical target level will allow the development and application of the longer-term approach described in ASCOBANS/MOP/2/OOC.4. This approach will take into account the uncertainty, which is inevitably inherent in the data required to assess the status of stocks. The Working Group also agreed that this longer term approach was appropriate, and that it should be developed further by the Advisory Committee in cooperation with other organisations, particularly the International Whaling Commission (ASCOBANS/MOP/21DOC.27).

3. BY-CATCH

3.1 Aims

3.1.1 Long-term aim

The Working Group accepted that a long-term aim of the Agreement should be

to minimise all by-catches (i.e. reduce them to zero),

within some yet-to-be defined time frame.

3.1.2 Short-term aim

The Working Group accepted that in the shorter term it should

set interim targets for the levels of by-catch.

3.2 Definition of unacceptable interactions

The First Meeting of Parties had requested that the Advisory Committee develop a definition of the phrase 'unacceptable interactions' with fishing activities, which occurs in the Annex to the Agreement. The Report of the Working Group on By-catch (ASCOBANS/MOP/2/DOC.1) was reviewed and certain factual errors noted and a new version of the report (ASCOBANS/MOP/2/DOC.1 revised) was issued. The Report concluded that,

in the short term, a total by-catch level in all fisheries above 2% of the maximum likelihood estimate of abundance within an appropriately defined management region should be considered as an unacceptable interaction'.

The Working Group accepted this, however it recognised that for populations which were severely depleted, this level would not be acceptable even in the short-term. The Working Group noted that the IWC's Scientific Committee had advised that an estimated annual by-catch of 1% of estimated population size indicates that further research should be undertaken immediately to clarify the status of the stocks. There was some discussion as to whether this might be a more appropriate short-term target level than 2%, but this was not agreed by the Parties.

3.3 Resolution on incidental take

The Working Group agreed on a revised wording of ASCOBANS/MOP/2/DOC 2, which took account of its discussions. This resolution can be found in ASCOBANS/MOP/2/DOC.2, revised. The adopted resolution is attached to the report of the Meeting of Parties as Annex K.

3.4 EU competency in fisheries regulations

The Working Group noted the importance of recognising the exclusive competency of the European Union in the regulation of fisheries in EU waters and by EU vessels elsewhere.

4. EFFECTS OF POLLUTION ON CETACEAN HEALTH

The IWC Workshop on Chemical Pollution and Cetaceans had concluded that there was sufficient evidence for there to be concern about the effects of contaminants on marine mammals, but that this evidence was insufficient to establish a cause-and-effect relationship. It had therefore identified a need for further research.

4.1 Reduction of emissions and sources of pollutants

The Working Group concluded that there was sufficient evidence for it to be concerned about the effects of pollution on the health of small cetaceans in the ASCOBANS area. It agreed that Parties should work towards the reduction of emissions and sources of pollutants, and that the most appropriate way to do this was within existing international agreements, such as HELCOM and OSPARCOM, which have their own defined objectives.

4.2 Levels of chemical pollutants

The Working Group also recognised that there is a need to determine the significance of specific levels of certain chemical pollutants for individual cetaceans and for their populations. It suggested that the most appropriate way to do this was for the Parties to endorse the focused, interdisciplinary, multinational programme of research on this topic which had been developed by the IWC's Scientific Committee, to help find funding for this programme, and to endeavour to supply samples from by-caught animals.

4.3 Resolution on pollutants

The Working Group revised the draft resolution on this subject (ASCOBANS/MOP/2/DOC.7) in the light of its discussions. This can be found in ASCOBANS/MOP/2/DOC.7 revised. The adopted resolution is attached to the report of the Meeting of Parties as Annex L.

5. ACTIVITIES OF THE ADVISORY COMMITTEE AND THE FURTHER IMPLEMENTATION OF ASCOBANS

5.1 Resolution on the activities of the Advisory Committee in the next triennium

The Working Group reviewed ASCOBANS/MOP/2/DOC.18, a draft resolution on the activities of the Advisory Committee over the next triennium. The revised version of the resolution can be found in ASCOBANS/MOP/2/DOC.18 revised. The adopted resolution is attached to the report of the Meeting of Parties as Annex M.

5.2 Resolution on further implementation of ASCOBANS

ASCOBANS/MOP/2/DOC.17 provides a draft resolution on the further implementation of ASCOBANS. It was noted that many sources, such as seismic activities (including both exploratory and research uses), recreation, military activity, anti-predator devices and cetacean watching, could cause disturbance to small cetaceans, but the Parties decided not to include specific examples in the resolution. The Working Group suggested some revisions to this resolution, and the revised version can be found in ASCOBANS/MOP/2/DOC.17 revised. The adopted resolution is attached to the report of the Meeting of Parties as ANNEX N.

5.3 EU competency on protected areas

It should be noted that there is no intention in either of these resolutions to suggest that Parties which are members of the EU should undertake action on protected areas which in any way undermines actions already taken or planned under EC Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora.

6. FUNCTIONING OF THE ADVISORY COMMITTEE

6.1 Evaluation of the functioning of the Advisory Committee

The Working Group considered ASCOBANS/MOP/2/DOC.16 which suggests that the function of the Advisory Committee is to *'drive forward the objectives of ASCOBANS between the triennial Meetings of the Parties'*. It was particularly concerned with ways to ensure that the Advisory Committee had the necessary expertise to work efficiently. In part, this could be achieved by co-operation with other intergovernmental and governmental organisations, such as the IBSFC, IWC, ICES, HELCOM, and OSPARCOM, so that there is no duplication of effort.

However, even on issues that were outside the expertise of these organisations, the restricted amount of time that Advisory Committee members, and their advisors, can allocate to ASCOBANS activities had proved to be a problem in carrying forward the objectives of the Agreement.

6.2 A suggested way forward

Two solutions were suggested:

to ensure that the composition of the Advisory Committee is such that all relevant areas of scientific and administrative expertise are represented and to seek guarantees that permanent members have sufficient time for intersessional activities,'

to accept that the total expertise of the Advisory Committee is limited and to invite external advisors to contribute to particular meetings. In some cases this may involve commissioning studies through external contracts.

6.3 Involvement of invited experts

The Working Group noted that the use of invited experts and external contracts had been a very effective way of carrying forward the work of the Advisory Committee in the first triennium of the Agreement.

7. OTHER BUSINESS

7.1 Isle of Sylt

The Working Group noted that ASCOBANS/MOP/2/DOC.29 included a resolution calling for the establishment of a protected area around the Isle of Sylt. It was noted that the Rules of Procedure for the Meeting of Parties only permit Parties, the Advisory Committee or the Secretariat to propose resolutions. Since none of these was in a position to submit the resolution in question, the Chairman ruled that it was not possible to consider it. The IUCN observer indicated that IUCN was well aware of the Rules of Procedure of the Agreement, had respected them, and accepted the Chairman's ruling.

Germany provided some background information on the current status of proposals for a protected area around Sylt. Such a proposal is already on the table in the State of Schleswig-Holstein. The Federal Government had commissioned a study (which is described in ASCOBANS/MOP/2/DOC.23) to determine whether the establishment of a protected area for the harbour porpoise in this area was possible and appropriate. This should be completed within the next 12 months. Although the Federal Ministry of the Environment, Nature Protection and Nuclear Safety had indicated that it felt there was a need for a protected area for this species within German waters, the responsibility for establishing such an area rests with the appropriate Federal State (in this case, Schleswig-Holstein). The appropriate authorities are currently taking the appropriate steps to explore the designation of this area as a specific protection area.

RESOLUTION ON INCIDENTAL TAKE OF SMALL CETACEANS

ANNEX K OF THE REPORT OF THE 2nd MEETING OF PARTIES TO ASCOBANS

The Meeting of Parties:

RECALLING that the Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas agreed in its Annex that '...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 and that in the waters of EU member states, Article 2 of Council Regulation (EEC) No. 3760/92 of December 1992 stipulates that the common fisheries policy shall provide for rational and responsible exploitation on a sustainable basis, taking account of the implications for the marine ecosystem;

RECALLING that; in the waters of EU Member States, Article 12.4 of Council Directive 92/43/EEC requires States to establish a system to monitor the incidental capture and killing of all cetaceans, and that in the light of the information gathered they shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned;

RECALLING the Statement of Conclusions at the Intermediate Ministerial Meeting on the Integration of Fisheries and Environmental Issues held in March 1997 in Bergen, where Ministers agreed to take appropriate measures to minimise, in accordance with the FAO Code of Conduct for Responsible Fisheries, adverse impact of fishing activities on North Sea species and their habitats;

NOTING the findings in the report of the ASCOBANS working group on by-catch, November, 1997 "Cetacean by-catch issues in the ASCOBANS Area", which documents levels of by-catch levels in some North Sea fisheries, and studies that have helped define the sub-structure of harbour porpoise populations in the North Sea;

NOTING that the above report documents an abundance estimate of 170,000 harbour porpoises in the central and south North Sea and a minimum estimated annual by-catch of 4,450 harbour porpoises in this area; and an abundance estimate of 36,000 harbour porpoises and a minimum estimate annual by-catch of 2,200 animals on the Celtic Shelf, which is adjacent to the ASCOBANS area and where catches may have an adverse effect on the recovery of porpoise populations within ASCOBANS waters;

NOTING the findings of the 'Review of Marine Mammal By-catch Observer Schemes' which recommended that a properly designed observer scheme is the best way of acquiring reliable information on by-catch, but that extrapolation from existing information on comparable gear types and areas may be necessary when an observer scheme is logistically impossible;

NOTING that the International Whaling Commission has endorsed its Scientific Committee's advice that an estimated annual by-catch of 1% of estimated population size indicates that further research should be undertaken immediately to clarify the status of the stocks and that an estimated annual by-catch of 2% may cause the population to decline and requires immediate action to reduce by-catch;

RECOGNISING the high selectivity of bottom set gillnets in relation to target fish species;

Decide to invite Parties and non-Party Range States to:

AGREE that specific conservation objectives need to be defined to enhance the work of ASCOBANS and monitor its success;

AGREE with the approach to achieve this and the working definitions given in ASCOBANS/MOP/2/DOC.4, specifically:

that the aim of ASCOBANS can be interpreted as 'to restore and/or maintain biological or management stocks of small cetaceans at the level they would reach when there is the lowest possible anthropogenic influence' -a suitable short-term practical sub-objective is to restore and/or maintain stocks/populations to 80% or more of the carrying capacity;

that the general aim should be to minimise (ie. to ultimately reduce to zero) anthropogenic removals within some yet-to-be specified time frame, and that intermediate target levels should be set; and

that the longer term approach, which involves *inter alia* taking into account uncertainty in the available data, should be developed by the Advisory Committee;

ANNEX B TO SC/50/SM12

COMMEND those countries that have set up and continued observer programmes to estimate marine mammal by-catch in fisheries, and which have undertaken research on methods to reduce levels of by-catch;

REQUEST that Parties and Range States continue to investigate methods to reduce by-catch and fully evaluate them and their ecological implications, noting the valuable input the fishing industry may have to such studies;

DEFINE, for the present, 'unacceptable interactions' as being, in the short term, a total anthropogenic removal above 2% of the best available estimate of abundance within an appropriate management region; however, if available evidence suggests that a population is severely reduced then 'unacceptable interaction' may involve an anthropogenic removal of much less than 2%;

PROPOSE that competent authorities accept this interim definition in respect of findings of current and future research in the ASCOBANS area, and in adjacent waters where there may be conservation implications for cetacean populations within ASCOBANS;

RECOMMEND, in view of the foregoing, that competent authorities take measures to ensure that the total anthropogenic removal of harbour porpoises in the central and south North Sea (ICES Areas IVb and IVc) is reduced as soon as possible to less than 2% of the current abundance estimate per year, preferably by the Third Meeting of Parties;

RECOMMEND that relevant Parties and Range States make estimates of annual by-catch for North Sea set-net fisheries and pelagic trawl fisheries, where they are currently lacking, especially in the northern North Sea;

REQUEST that relevant Parties and Range States provide an estimate of total harbour porpoise by-catch in the Skaggeak/Kattegat/Belt Sea;

REQUEST that Parties and Range States make appropriate fisheries data available to enable the Advisory Committee to make estimates of annual by-catch rates in all the above fisheries;

INVITE Parties and Range States in the Baltic Sea region (referring to HELCOM recommendation 17/2), together with the Advisory Committee, to develop by 2000 a recovery plan for porpoises in the Baltic Sea, one element of which should be to identify human activities which are potential threats to the recovery of this species in the Baltic, and that the competent authorities consider appropriate methods to limit such threats.

ANNEX C TO SC/50/SMI2

RESOLUTION ON MANAGEMENT AND FURTHER RESEARCH NEEDS TO ADDRESS EFFECTS
OF POLLUTANTS ON CETACEAN HEALTH
ANNEX L OF THE REPORT OF THE 2nd MEETING OF PARTIES TO ASCOBANS

The Meeting of Parties:

RECALLING Resolution 2 of the First Meeting of Parties, where the Advisory Committee was asked to assess which pollutants are likely to adversely affect small cetaceans, in the light of the results of the IWC Workshop on Chemical Pollution and Cetaceans, and further provide advice to the Parties both for management measures and further research needs;

RECALLING that OSP ARCOM and HELCOM are working towards reduction of emissions and sources of chemical pollutants and will develop their objectives and strategy with regard to hazardous substances further;

NOTING that the IWC Workshop concluded that a considerable amount of fundamental research is needed before it will be possible to adequately address the question of effects of pollutants on all cetaceans;

NOTING that the IWC Workshop was strongly convinced that, if any progress in this area is to be made within a reasonable time frame, an interdisciplinary, multinational programme of research is required that focuses on those species/areas where there is most chance of success, and further that harbour porpoises in the North Atlantic represented one such species/area;

NOTING that at its 49th Annual meeting, the IWC Scientific Committee endorsed a comprehensive scientific research programme to implement the Workshop recommendations, and that the International Whaling Commission accepted this endorsement and agreed to finance the initial planning phase thereof;

Decide to invite Parties and non-Party Range States to:

ENDORSE strongly the recommendations of the IWC Workshop on Chemical Pollution and Cetaceans and the research programme on the establishment of cause-effect relationships between cetacean health and chemical pollutants developed by the IWC's Scientific Committee (ASCOBANS/MOP/2/DOC.15);

AGREE that the Parties and the Advisory Committee should consider ways to facilitate the development and execution of that part of the programme which addresses cause-effect relationships between harbour porpoise health and chemical pollutants, in co-operation with the IWC and other relevant bodies;

ADVISE that the sampling and storage procedures described in the Report on the IWC Pollution Workshop (ASCOBANS/ADV.COM./4/DOC.4) and the forthcoming IWC Special Volume on Pollutants and Cetaceans should be followed when pollution studies on small cetaceans are carried out;

STRIVE within OSPARCOM and HELCOM, for a significant reduction of pollutant emissions and sources in the ASCOBANS area, particularly for those pollutants where levels in small cetaceans exceed those associated with adverse effects.