

Agenda Item 2.1

Review of New Information on Threats and
Other Issues Relevant to Small Cetaceans

Noise

Information Document 2.1a

**Terms of Reference and Operational
Procedures for the Joint Noise Working
Group of CMS, ACCOBAMS and
ASCOBANS**

Action Requested

Take note

Submitted by

Secretariat

Secretariat's Note

The new Terms of Reference and Operational Procedures for the Joint Noise Working Group of CMS, ACCOBAMS and ASCOBANS (JNWG) were shared to the Working Group members in December 2020. The three Secretariats had revised the document, combining the Terms of Reference (TOR) and Operating Procedures (OPs) back into one document, reorganized everything and moved the time-bound or more specific tasks were to a Work Plan, which is now also included in the end of the document. The idea was that the TOR and OPs will be in place long term, while the Work Plan (see AC26/Inf.2.1b) will be updated after each governing body meeting of each of the three Agreements, to reflect the latest mandates.

To facilitate consultation with industry experts on the technical feasibility of proposed measures as well as on any alternative measures or solutions, an Industry Advisory Group (IAG) has been created. Please find the IAG TOR in AC26/Inf.2.1c.

The above-mentioned documents are also available on the [JNWG webpage](#)

Terms of Reference and Operational Procedures for the Joint Noise Working Group of CMS, ACCOBAMS and ASCOBANS

Purpose and Objective

The Joint Noise Working Group (JNWG) will support the Parties, scientific and advisory bodies and Secretariats of CMS, ACCOBAMS and ASCOBANS in the implementation of the mandates of relevant Resolutions of all three organizations, such as [CMS Resolution 12.14](#) and [Decisions 13.58-13.60](#), [ACCOBAMS Res 2.16](#), [ACCOBAMS Res.3.10](#), [ACCOBAMS Res.5.15](#), [ACCOBAMS Res.6.17](#), [ACCOBAMS Res 7.13](#), [ASCOBANS Res.6.2](#), [ASCOBANS Res.9.1](#), [ASCOBANS Res.8.11\(Rev.MOP9\)](#), and any relevant Resolutions still to be passed.

The JNWG serves as an advisory group to the ACCOBAMS Scientific Committee, ASCOBANS Advisory Committee and CMS Scientific Council. As such, its purpose is to ensure progress is being made towards mitigating the negative impact of underwater noise on cetaceans and other marine biota.

In line with CMS Resolution 12.14, the recommendations of the JNWG should always follow a precautionary approach. The advice given by the Group should be based on the best available scientific information. The absence of scientific consensus shall not be used as a reason for postponing or failing to recommend relevant measures.

It is important to note that the JNWG has an **advisory role only**.

Terms of Reference

The Working Group will carry out the following functions:

1. Prepare, and update following each meeting of the decision-making bodies of CMS, ACCOBAMS and ASCOBANS, a work plan responding to relevant Resolutions and Decisions of CMS, ACCOBAMS and ASCOBANS. The work plan may be adjusted intersessionally upon request by the scientific and advisory bodies or the Secretariats.
2. Update and compile information on:
 - a) Relevant activities and developments in other international bodies (both regional and global) and under the EU Marine Strategy Framework Directive
 - b) Relevant developments and new literature especially with respect to technologies aimed at mitigating the propagation of marine noise and noise sources that may present a threat to marine life and how cetaceans are affected
 - c) Parties' progress in implementation of the resolutions mentioned above.
3. Provide advice on Best Available Techniques (BAT) and Best Environmental Practice (BEP) in efforts to reduce or mitigate marine noise pollution, e.g. by improvement of existing guidelines based on new scientific findings, detailing available mitigation measures, alternative technologies and standards required for achieving the conservation goals of the treaties, including by:
 - a) Consulting stakeholders through the Industry Advisory Group for advice on operational constraints, the technical feasibility of proposed measures, as well as alternative measures or solutions to take into account
 - b) Recommending appropriate biological indicators and thresholds.
4. Provision of advice on:
 - a) Collaboration with other international bodies, such as Barcelona Convention, Black Sea Commission, OSPAR, HELCOM, CBD, IMO and IWC

- b) Requirements of the relevant other bodies that countries have elected to adhere to with respect to underwater noise, such as European Directives (i.e. the Marine Strategy Framework Directive and the Habitats Directive)
 - c) Opportunities for influencing decisions of other relevant bodies in order to achieve more effective protection of marine life from impacts of underwater noise.
5. Design, and help implement as appropriate, pilot projects to test and improve the existing noise guidelines (ACCOBAMS Res. 7.13 and ASCOBANS AC17/Doc.4-08) and mitigation measures for their application in the field.

Operational Procedures

Responsibilities of the JNWG

1. The JNWG performs its activities based on the Terms of Reference outlined above.
2. The Co-Chairs will consult on the work plan and its updates with the Secretariats before finalisation. The Secretariats will seek advice and guidance on the work plan from its scientific and advisory bodies, as appropriate.
3. The Secretariats will relay any requests for support to the Co-Chairs of the Group, and any advice generated by the JNWG will be forwarded by the Secretariats to the appropriate bodies.
4. The JNWG will present reports on progress and new information to each meeting of the CMS Scientific Council, ACCOBAMS Scientific Committee and ASCOBANS Advisory Committee; if several of these meet in short succession, the same report with only relevant updates should be submitted.
5. Prior to making any commitment and/or performing any function on behalf of ACCOBAMS, ASCOBANS and CMS, group members shall receive written authorization from the Secretariats.
6. By agreeing to join the Working Group, group members commit themselves to the aims of CMS, ACCOBAMS and ASCOBANS.

Group Composition

1. The Group is led by two Co-Chairs, drawn from at least two of the three Instruments represented, and ensuring that the specific situation in the ACCOBAMS and ASCOBANS areas can be fully taken into account.
2. The co-chairs will serve for a term of three years, after which an election will be called for. The Co-Chairs are eligible for re-election.
3. The Group will nominate and elect its own Chairs from among the members, advisers as well as observers of any of the advisory bodies of CMS, ACCOBAMS and ASCOBANS.
4. Group members may include relevant experts from the fields of science, policy and relevant civil society organizations that are members and observers of the scientific and advisory bodies of CMS, ACCOBAMS and ASCOBANS.

5. In the interest of achieving an informed outcome of high quality, the working group may recommend adding additional group members. The Co-Chairs and Secretariats will invite such additional experts provided at least three of them are in favour.
6. Group members serve in an expert capacity, not as representatives of their organizations or Countries.

Modus Operandi

1. The Co-Chairs shall inform all members by email of each document that is planned to be prepared.
2. The JNWG shall use electronic means for its communication and ensure full transparency, either by copying all members to email communication or by making use of an online workspace to be provided by the Secretariats.
3. The Co-Chairs shall consult the Industry Advisory Group (IAG) set up for this purpose by the Secretariats, as required, on the technical feasibility of proposed measures as well as to receive advice on alternative measures or solutions. The Co-Chairs will communicate only with the Co-Chairs of the IAG, who will relay the IAG's final output to them by a deadline fixed by the JNWG Co-Chairs. The JNWG Co-Chairs will circulate the IAG's advice to JNWG members. The extent to which any advice will be reflected in their outputs is within the discretion of the JNWG.
4. In providing advice, suggesting recommendations, or submitting reports to the relevant bodies and/or Secretariats, the following conditions shall apply:
 - The Working Group should make every effort to reach consensus on issues before its attention. However, it is not necessary for group members to reach a consensus on an issue, if views differ fundamentally.
 - Where there is no consensus on an issue, the views of the dissenting minority shall be recorded so as to explain the reason why they dissent. The views of the dissenting minority will be included in the relevant reports and/or added to the advice provided/the recommendations suggested.
 - Any documents or recommendations presented to the advisory bodies shall be supported by a simple majority of the group members.
5. All documents prepared by the JNWG should be sent to the Secretariats, which should circulate them to the relevant body of each organization for advice / guidance.
6. Each document finalized by the JNWG should be circulated by email to each member for information.

Amendments of the Terms of Reference and Operational Procedures

These provisions can be amended by the Secretariats of CMS, ACCOBAMS and ASCOBANS, acting at the request of their relevant bodies.