

Agenda Item 6.3: Resolutions for MOP 5

**Draft Resolution No. 5:
Incidental Take of Small Cetaceans**

Submitted by: Secretariat



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

5th MEETING OF THE PARTIES TO ASCOBANS
Egmond aan Zee, Netherlands, 19 - 22 September 2005

Draft 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 and that in the waters of EU Member States, Article 2 of Council Regulation (EC) No. 2371/2002 of 20 December 2002 stipulates that the common fisheries policy shall ensure exploitation of living aquatic resources that provides sustainable economic, environmental and social conditions;

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 that amended Council Regulation 88/98 requires EU Member States to phase out driftnets in the Baltic Sea by 1 January 2008 and makes the use of pingers mandatory for gillnet fisheries by vessels of more than 12 m from June 2005 in the Baltic and North Sea, from January 2006 in the Celtic Sea and the western Channel and from January 2007 in the eastern Channel;

Welcoming the greater emphasis placed on environmental considerations in Council Regulation 2371/2002 on the Common Fisheries Policy (CFP) of the European Union;

Recalling the Ministerial Declaration of the Fifth International Conference on the Protection of the North Sea of 20-21 March 2002 (The "Bergen Declaration"), where Ministers agreed on a precautionary objective to reduce bycatch of marine mammals to less than 1% of the best available population estimate and called for "the development and adoption, as soon as possible and in cooperation with the competent authorities, of a recovery plan for harbour porpoises in the North Sea";

Recalling the Joint OSPAR-HELCOM "Statement on the Ecosystem Approach to the Management of Human Activities" where the need for "minimising by-catch of species which are not the intended object of commercial fishing" is highlighted (Bremen, Germany, 25-26 June 2003);

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);

Recalling Resolution 6.2 on bycatch adopted by the Conference of the Parties to the Convention on the Conservation of Migratory Species of Wild Animals (CMS) at its Sixth Meeting (Cape Town, November 1999), Recommendation 7.2, adopted by the Conference of the Parties to CMS at its Seventh Meeting (Bonn, September 2002) and Resolution 8.14 adopted by the Conference of the Parties to CMS at its Eighth Meeting (Nairobi, November 2005);

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 commitment of Parties to the CBD to achieve, by 2010, a significant reduction of the current rate of biodiversity loss (CBD COP 6, Decision VI/26) and the endorsement of this target in the Plan of Implementation adopted by the World Summit on Sustainable Development (WSSD) in 2002;

[Noting an abundance estimate of...in 2005...as established by the SCANS II survey...]*

Recalling the findings of the 1996 Northridge Review of Marine Mammal Bycatch Observer Schemes (JNCC Report No. 219), which found 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 difficult;

Noting that the ASCOBANS Recovery Plan for Baltic Harbour Porpoises (Jastarnia Plan) (MoP4/Doc.23), following the final report of the ASCOBANS Baltic Discussion Group, 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;

* To replace the following text in MOP 4 Res. Once SCANS II data are available: 6 *Recalling* an abundance estimate of 170,000 (95% confidence intervals 124,000 – 232,000) harbour porpoises in the central and south North Sea in 1994 and *noting* revised estimates of bycatch for harbour porpoises in this area (Denmark: annual mean 5,591, min. 3,887, max. 7,366, 1987-2001; UK: annual mean 599, min. 436, max. 818, 1995-1999), and that these data may not reflect the current situation caused by changes in certain fishing practices since 1998;

Recalling abundance estimate of 36,000 (95% confidence interval 13,000 – 103,000) harbour porpoises in 1994 and a minimum estimated annual bycatch of 2,200 (95% confidence interval 1,230 – 3,220) in 1993/94 in the Celtic Sea, where bycatches may have an adverse effect on the recovery of porpoise populations within ASCOBANS waters;

Noting the outcomes of the first and second meetings of the Jastarnia Group, held in Bonn, Germany, in March 2005 and Stralsund, Germany in February 2006 and the recommendations adopted on the basis of the work of the Jastarnia Group by the 12th Meeting of the Advisory Committee (Brest, France, April 2005) and the 13th Meeting of the Advisory Committee (Tampere, Finland, April 2006);

Noting the ASCOBANS report on "Potential Mitigation Measures for Reducing the By-catches of Small Cetaceans in ASCOBANS Waters" (2000) (AC8, Doc. 5.1);

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;

Noting that efforts to reduce bycatch require close co-operation between managers, scientists and fishermen;

Recognizing the need to further integrate bycatch reduction measures into sustainable fisheries practices and socio-economic considerations, particularly in the context of the Common Fisheries Policy of the European Union;

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;

Regretting that ASCOBANS has elaborated the Jastarnia Plan and can contribute substantially to the development of a recovery plan for North Sea harbour porpoises;

Noting the initiatives taken by the European Community and particularly the proposal of July 2003 for a regulation laying down measures concerning incidental catches of cetaceans in fisheries;

[Noting the increasing levels of stranded cetaceans in parts of the southern North Sea and on the coasts of the Celtic Sea and immediately adjacent to the original Agreement area, which may be caused by interaction with pelagic trawling];

The Meeting of the Parties to ASCOBANS

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

Requests that Parties and Range States continue to develop and implement national plans of action or similar measures to reduce the bycatch of small cetaceans;

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;

Strongly supports the recovery plan for harbour porpoises in the North Sea, called for in the Bergen Declaration adopted by the Fifth International Conference on the Protection of the North Sea (Bergen, March 20-21 2002) and elaborated within the framework of ASCOBANS, *urges* Parties in the North Sea region to proceed with the implementation of the Plan, and *invites* non-Party Range States to do likewise;

Recommends that total anthropogenic removal is reduced without delay by the Parties with a view to achieving a total anthropogenic removal below the threshold of “unacceptable interaction”, defined as 1.7% of the best available abundance estimate;

Requests the Parties and Range States to provide further information on levels of bycatch and if appropriate to undertake further research into bycatch mitigation measures.