

*Accord sur la Conservation des Cétacés de la
Mer Noire, de la Méditerranée et de la zone
Atlantique adjacente*



*Agreement on the Conservation of Cetaceans
of the Black Sea, Mediterranean Sea and
contiguous Atlantic Area*

Report of the Fifth Meeting of the ACCOBAMS Bureau



ACCOBAMS Secrétariat Permanent
Jardin de l'UNESCO, Les Terrasses de Fontvieille - MC 98000 MONACO
Tel: (377) 98 98 80 10 / 20 78 Fax: (377) 98 98 42 08
E-Mail: mcgrillo@accobams.net - Site web: www.accobams.org



REPORT OF THE FIFTH MEETING OF THE ACCOBAMS BUREAU

The Fifth Meeting of the ACCOBAMS Bureau was convened to take place in Monaco in the premises of the Agreement's Secretariat on December 15th and 16th 2008. It was attended by, Mrs Ana Strbenac, Chair of the Bureau (Croatia); M. Abderraouf Ben Moussa (Morocco) (substitute for Mr Abdelouahed Benabbou); M. Volodymyr Domashlinets (Ukraine); M. Giuseppe Notarbartolo di Sciara, Chair of the Scientific Committee of ACCOBAMS and the Secretariat. The List of Participants appears in Annex 1 to this report.

The Representative of Italy presented his excuses for not being available to participate to this meeting.

The Chair of Bureau suggested that, in such cases, if a Bureau Member cannot participate to a meeting, he/she should designate a substitute to take part to the Bureau meeting.

The Chair of the Bureau welcomed the participants and opened the meeting at 9.00 a.m., on Monday 15th December 2008.

1. Adoption of the Agenda

The Secretariat introduced the draft Agenda (ACCOBAMS-BU5/2008/Doc01) and the List of Documents (ACCOBAMS-BU5/2008/Doc03Rev4). The Meeting reviewed and adopted the agenda. It appears as Annex 2 to this report.

2. Report of the Secretariat

Making reference to document ACCOBAMS-BU5/2008/Doc05, the Executive Secretary informed the meeting about the activities carried out and the status of accessions to the Agreement since the last MOP. She emphasised that:

- Algeria became a Contracting Party to ACCOBAMS on December 1st 2007
- Montenegro had ratified the ACCOBAMS, the ratification instruments were expected to reach the Depository shortly
- The process of ratification was in discussion in Egypt.

The Bureau encouraged the Secretariat to contact the Countries to facilitate the ratification of non Parties including the European Commission before the MOP4

The Executive Secretary briefed the Bureau about the Meetings she attended during the last months and in particular about the participation of the ACCOBAMS Secretariat to the Ninth Conference of CMS (Rome, 1-5 December 2008) and the event "Essence Consulting Summit for the implementation of ACCOBAMS" held in Crete (11-13 December 2008) and where the CMS, WDCS and Ocean Care were represented. One of the issues discussed on this meeting was the implementation of the legislation relevant for cetacean protection in Greece. In this regard, the Bureau raised the question of designation of National Focal Point for ACCOBAMS.

The Bureau commended the efforts done by Essence Consulting and invited the Secretariat to contact the Greek Authorities to designate a National Focal Point as soon as possible.

C. Rais informed the participants on the Meeting of the Scientific Advisory Committee (SAC) of the GFCM, held in Morocco (Marrakech, 1-5 December 2008). He informed the Bureau that a fruitful

collaboration was in place between ACCOBAMS and GFCM. It covers in particular the issues related to interactions between fishing activities and cetaceans. In this context he informed the Bureau that the protocol prepared by ACCOBAMS within the framework of the BYCBAMS Project will be used by GFCM to develop a data collection and reporting scheme on bycatch in endangered species.

The Bureau encouraged the Secretariat to keep a strong contact with the GFCM as the link is now established in order to pursue the collaboration between the two Organisations.

The Chair of ACCOBAMS reported on the IWC meeting held in June. She informed that the Survey Initiative and the ByCBAMS project were presented and welcomed by the IWC which emphasized the importance to link with ACCOBAMS.

The Chair of the Scientific Committee reported on the 10th meeting for the monitoring of cetacean populations held in La Rochelle, France. He stressed that through this meeting ACCOBAMS reinforced its relationship with French scientists. He also informed the Bureau that an informal meeting will be held at the occasion of the next ECS meeting to strengthen harmonisation and collaboration between French, Spanish and Italian cetacean specialists.

The Executive Secretary informed the Bureau about the process launched concerning the establishment of the "Head Quarters Agreement".

The Bureau commended the support provided to ACCOBAMS by the Principality of Monaco and invited the Chair of ACCOBAMS to liaise with the Executive Secretary of CMS and the relevant authorities in Monaco to finalise the Head Quarters Agreement in accordance with the recommendations of MOP3.

3. Budgetary Matters

2007 Budgetary Issues

The Executive Secretary briefly introduced the document ACCOBAMS-BU5/2008/Doc06 and informed the Bureau about the non paid contributions. She emphasised that regarding the administrative activities, the main expenses were related to the Third Meeting of the Parties (MOP3), organising meetings and hiring consultants.

The Chair of the Scientific Committee suggested compiling a triennium summary in order to see how much of the budget is dedicated to conservation and to administrative functions.

2008 Budgetary Issues

The Secretariat presented the document ACCOBAMS-BU5/2008/Doc07Rev1 on the status of the budget for the current year 2008 stressing that the voluntary contributions were superior to the ordinary contributions.

Concerning the Ordinary Contributions, she informed the Bureau that Portugal did not pay its contribution for 2008 but, according to the information she received from the Focal Point, Portugal was envisaging to provide in kind contribution to organise a workshop.

The Bureau, noting that Libya, from its accession to the Agreement, did not pay its contribution to the Trust Fund, invited the Executive Secretary to send a reminder to the relevant authorities in Libya using, where necessary, Diplomatic Channels.

The Bureau welcomed the in kind contribution expected from Portugal, stressing that it could not be considered as compensation to the unpaid ordinary contribution of Portugal to the Trust Fund. It was

decided that the Chair of the Agreement will send a letter to the Portuguese authorities to encourage the payment of the unpaid contribution.

The Bureau requested the Secretariat to adjourn any support to Parties having pending contributions.

The Secretariat informed the Bureau about the creation of an Association: “Whales What Else”. This Association aims to collect fund in order to help developing ACCOBAMS projects and public awareness. The Association is now open to non Monegasque members. A pedagogic kit has been designed for children under ten years old, including a backpack, colour book, pencils, pens, balloon, key holder etc. in order to be distributed to schoolchildren to raise awareness.

The Bureau expressed its gratefulness toward Italy, Monaco and Spain for their voluntary contributions and its satisfactions towards the Secretariat for the compilation of this document and the clarity in the budget presentation.

Provisional Budgetary Issues for 2009

The Executive Secretary submitted to the Bureau the document ACCOBAMS-BU5/2008/Doc08Rev1 specifying that activities regarding the general management will probably be equivalent to those developed in 2008. She informed the Bureau about the organisation of Biennial Conferences for South Mediterranean Countries: a project prepared following requests from scientists in these countries. The First Biennial Conference will be organised in March in Tunisia.

The Executive Secretary presented the project on regional workshops to help the Contracting Parties in the implementation of the Agreement in their respective Country through, when relevant, the reinforcement of bilateral existing collaboration or the identification of common needs in order to optimize the effort.

The Bureau recommended inviting the RAC/SPA and the Bucharest Convention to the workshops and it suggested reorganising the groups presented in the document ACCOBAMS-BU5/2008/Doc08Rev1 as follow:

- **Group 1:** Morocco – Spain – Portugal - Algeria
- **Group 2:** Egypt - Libya -Malta -Tunisia
- **Group 3:** Albania – Croatia – Italy – Montenegro - Slovenia
- **Group 4:** Cyprus – Greece - Lebanon – Syria - Turkey
- **Group 5:** Bulgaria - Georgia – Romania – Ukraine – Turkey – Russian Federation

The Chair of the Scientific Committee informed the Bureau about the need to organise a Round Table to address the noise mitigation issue concerning Beaked Whales.

He also informed the Bureau about the First International Conference on Marine Mammal Protected Areas organised by NOAA in Hawaii. The Executive Secretary emphasised that the ACCOBAMS Secretariat was requested to support the participation of Mediterranean and Black Sea Experts to the Conference. She suggested to coordinate with PELAGOS Sanctuary and the MEDPAN to strengthen the participation of Mediterranean Specialists to the Conference.

Concerning the Emergency Task Force, the Chair of the Scientific Committee pointed out the necessity to organise a workshop of experts to establish two Task Forces: one on mass mortality and another one on maritime disaster.

Mr Benmoussa (Morocco) informed the meeting of a workshop on MPAs to be organised by IUCN in Oujda (Morocco) next January (22nd – 24th). It will be attended by participants from Algeria Morocco and Spain and stressed the importance for the ACCOBAMS Secretariat to participate

The Secretariat announced a meeting on cetaceans live strandings in Monaco the 4 and 5th May 2009. The Chair of Scientific Committee pointed out the main problems regarding the handling of live

strandings and suggested that the Chair of ACCOBAMS and the Scientific Committee consult for the persons and experts to invite to this workshop.

Status of the Contributions

The Executive Secretary submitted to the Bureau the document ACCOBAMS-BU5/2008/Doc09 regarding the status of the Trust Fund and reported on the allocation of the voluntary contributions. She stressed that voluntary contributions for 2008 were granted by two Countries: Italy and Monaco. She also informed the meeting that Spain granted 300 000 € to the “Wide Basin Survey Project” and that Italy was willing to finance a project on collisions through a voluntary contribution of 70 000€. The Chair of the Agreement informed the meeting about possibility that the Italian Ministry of Agriculture and Fishery contributes to implementation of a survey in Adriatic.

Supplementary Conservation Grant Fund: projects submitted for funding

The Executive Secretary submitted to the Bureau the document ACCOBAMS-BU5/2008/Doc11 on the allocation of the Supplementary Conservation Grant Fund. The Secretariat received three applications: one from Lebanon, one from Bulgaria and one from Romania. The projects were evaluated by the Scientific Committee which provided its recommendations.

After reviewing the Scientific Committee evaluations, the Bureau recommended to compile the Bulgarian and Romanian projects into one common project. The Bureau invited the Secretariat to consult with the two Focal Points on how to merge the two proposals. The Chair of the Scientific Committee insisted on the fact that the sustainability of the project over time is very important and ACCOBAMS should inquire if the data collected on bycatch will be institutionalised.

The Bureau recommended to develop the projects in 2 phases:

- Phase 1: to collect the Bycatch data and establish the stranding networks
 - Phase 2: to develop 2 pilot projects on the use of pingers according to the results of the Phase 1
- Phase 2 will be engaged only if the results of Phase 1 are satisfactory.

4. Progress Report on the Activities of the Scientific Committee

The Chair of the Scientific Committee (SC) informed the meeting about the main activities of the SC making reference to Document ACCOBAMS-BU5/2008/Doc10).

a) Concerning the Survey Initiative, he stressed that the proposal should be ready by 2009 to present it to potential donors. He suggested that the proposal be split into in kind participation (allocation of boats, crews...) and actual cash.

The Executive Secretary suggested to the representative of Morocco to investigate if in the framework of the Agreement between EU and Morocco the possibility to get a financial support. In the same spirit, she suggested to propose to the European Commission to participate to the workshop in Oujda (see point 3).

The Chair of the Agreement informed the Meeting that she will investigate the way to use a part of the EU budget for pre – accession, in particular for the preparation of a sub regional survey involving Croatia, Italy and Slovenia.

Concerning the sub regional approach, it was agreed that the Black Sea survey could be made separately.

Finally, the Chair of the Scientific Committee suggested the establishment of a Committee to decide upon the implementation of the Survey Initiative.

The Bureau agreed with the fact that the Black Sea survey could be made separately and also recommended asking the EU for funds.

b) Regarding the joint ACCOBAMS-CIESM-PELAGOS Sanctuary cetacean sightings database, he informed that the Scientific Committee welcomed the proposal and recognised the great contribution of a well-designed sightings database could make towards the conservation and management of cetaceans in the ACCOBAMS region. However, the Committee stressed that for this effort to be successful, it was essential that adequate initial funding was made available in the region of € 40,000 per year. Furthermore, considerable effort would have to be dedicated to the establishment of such a database. Therefore in view of the considerable human and financial resource requirement of such scheme, an alternative path to the fruition of sighting data was currently being investigated by the Committee's Chair, involving the channelling of sighting information directly from the data owners into the "OBIS SEAMAP" global online database for marine mammals, sea birds and turtles.

The Bureau welcomed this initiative and invited the Scientific Committee Chair to prepare a new plan incorporating the "OBIS SEAMAP" global online database which will be sent to the Committee Members. The Bureau invited the Executive Secretary to:

- send information on this database to the Focal Points
- ask to the CIESM to contribute with the historical data
- to inform the PELAGOS Executive Secretary on this issue

c) The Chair of the Scientific Committee presented the work done on MPAs. Considering that it is now entirely up to the Parties to carry the responsibility of bringing forward actions related to the creation of MPAs for cetaceans, the Chair of the Scientific Committee recommended that ACCOBAMS engages with other scientific forums, committees and/or groups, as well as NGOs, with a broader remit than cetaceans only, to embark upon joint actions on matters of mutual interest and benefit, namely creating a network of effective MPAs in the Mediterranean and Black Seas. Such groups should include the RAC/SPA and the Black Sea Commission, officials in charge of the implementation of the EC Habitats and Marine Strategy Directives.

The Bureau encouraged the integration of the ACCOBAMS efforts into the RAC/SPA and Black Sea Commission activities in particular for High Seas MPAs.

d) During the presentation on Noise activities, the Executive Secretary stressed that the Working Group created by the MOP3 didn't start yet any concrete activity and expressed her concern about the workshop to be organized in March 2009 for the finalization of the Guidelines.

e) Concerning the strandings and Tissue Banks, the Chair of the Scientific Committee stressed that Italy did not provide its data to MEDACES.

M. Domashlinets (Ukraine) informed the meeting that Georgia was planning to establish a Tissue Bank and proposed that the Secretariat contacts the Georgian Focal point.

The Bureau mandated the Secretariat to contact Italy and Georgia to ask them to provide their data to MEDACES.

f) The Chair of the Scientific Committee informed that considerable progress was made in the implementation of the ByCBAMS project, in particular in the Italian waters thanks to the funding provided by Italian Ministry of Agricultural policies. A bycatch and depredation monitoring Protocol was drafted and submitted for finalisation and approval to the regional workshop which was held in Rome in September 2008. C. Rais informed that the recommendations of the workshop were presented during the Meeting of the GFCM's Subcommittee on Marine Environment and Ecosystems (SCMEE) held in Antalya in October 2008 and underlined that GFCM will use the Data Collection Protocol developed under ByCBAMS to develop a joint protocol covering the bycatch in other endangered species.

g) The Chair of the Scientific Committee informed the meeting about the forthcoming IWC Workshop on Climate Change. Considering that efforts by the IWC and ACCOBAMS in relation to climate change might be integrated with a view to providing the best possible management and policy advice, the Committee agreed that it would be valuable to wait for the results of the IWC workshop before the organization of an ACCOBAMS workshop to transpose the item to the Mediterranean and Black Sea. C. Rais informed the meeting that the RAC/SPA was working on the impact of climate change on marine biodiversity and organized sub regional workshops. The outcomes of these workshops will be presented to the RAC/SPA Focal points Meeting in 2009.

The Bureau recommended to the Secretariat to present climate change issues during the next MOP.

h) Regarding the Emergency Task Force, the Chair of the Scientific Committee informed the meeting that two Emergency Task Forces will be established: a *mass mortality* Task Force to address unusual mortality events, including epizootics and atypical mass strandings; and a *maritime disaster* Task Force to address oil or chemical spills affecting critical habitats of cetaceans. He also informed that the Working Group for the *mass mortality* Task Force was established and should meet in 2009 or 2010. The Executive Secretary informed the Meeting that she contacted the REMPEC (Barcelona Convention Centre for oil pollution) and was waiting for a reply. She suggested getting help from the RAC/SPA.

i) The Chair of the Scientific Committee informed the meeting about the establishment of a joint working group with PELAGOS Sanctuary to revise the Guidelines on whale watching. He underlined that the Guidelines would be ready for the next MOP and that an inventory of the whale watching operators was already available online.

Concerning the Granting of Exceptions Guidelines, the Executive Secretary introduced the document ACCOBAMS-BU5/2008/Doc16 presenting draft guidelines for granting of exceptions for the purpose of non-lethal *in situ* research in the ACCOBAMS area (Annex 4). She stressed that for any kind of research on cetaceans, Contracting Parties should deliver permits.

She informed the Bureau that these Guidelines are intended to facilitate consistent and efficient implementation of the exception procedure established under Article II.2 of the Agreement. According to this Article, four sets of Guidelines are developed:

- a) guidelines for research permits
- b) emergency plan to be implemented in case of pollution
- c) emergency plan to be implemented in case of epizootics
- d) rescue operations for wounded or sick cetaceans

The draft guidelines (b, c and d) would be examined before the next MOP and ready to be presented at the next Bureau meeting.

5. New Requests for ACCOBAMS Partnership

The Secretariat introduced document ACCOBAMS-BU5/2008/Doc12 relevant to the applications for granting the Status of ACCOBAMS Partner and gave a brief profile for each Organisation. The Bureau granted the Status of ACCOBAMS Partners to the following Organisations:

- EcoOcéan Institute (France), represented by Nathalie Di-Méglio
<http://www.ecoocean-institut.org>
- Turkish Marine Research Foundation TUDAV (Turkey), represented by Bayram Öztürk
<http://www.tudav.org>

The Bureau suggested amending the Resolution regarding the request to become an ACCOBAMS Partner at the next Meeting of the Parties, specifying that their should be a presentation sheet, in English and French, downloadable from the Organisation's website in order to facilitate the understanding of the activities carried out.

6. MOP3 Follow up

a) Establishment of the Extended Bureau

C. Rais introduced Document ACCOBAMS-BU5/2008/Doc13) prepared in accordance with the decision of the MOP3 on the amended Rules of Procedure of the Bureau with the view of further integrating the socio-economic aspects into the implementation of the Agreement

According to this amendment, three socio-economic experts are to be selected by the Chair and invited by the Secretariat to assist the Bureau in reviewing the draft resolutions and other relevant documents to be submitted to the Meetings of Parties. Based on the expected role of the three experts, the Secretariat drafted Terms of Reference for the experts to be selected.

The Bureau reviewed and approved the Draft Terms of Reference as appearing in Annex 3 to this report.

The Bureau invited the Executive Secretary to:

- provide the Chair with a list of potential experts identified according to the approved Terms of Reference
- to appoint a legal expert to attend the works of the Extended Bureau.

The Bureau discussed the risks of duplication and overlap between the work of the Extended Bureau and of the Scientific Committee. In this context, it suggested that an evaluation of the functioning of the Scientific Committee be carried out and presented to the next MOP along with recommendations to harmonize the mandates of the Scientific Committee and of the Extended Bureau. The Chair of the Scientific Committee expressed his readiness to help in the evaluation of the functioning of the Scientific Committee.

The Executive Secretary presented the calendar of the forthcoming institutional meetings and actions regarding the Extended Bureau as below:

DATE / DEAD LINE	ACTION	COMMENT
October 2009	Sixth Meeting of the Bureau	
December 2009	Sixth Scientific Committee Meeting	Preparation of the MOP4 Scientific Recommendations
January 2009 / end of March 2009	The Bureau establish a list of potential experts The Secretariat contact the potential experts asking for a CV.	
End of April	Official selection of the experts and endorsement by the relevant Focal Points	

May – Seventh Meeting of the (Extended) Bureau

b) Reporting on-line

The Executive Secretary informed the Bureau on the progress made so far in the establishment of the ACCOBAMS system for the online submission of National Reports. The Bureau invited the Secretariat to include in the online system the available National Reports and to make it, from end April 2009, open for the input by the Parties of the information they wish to include in their National Report for the Next MOP.

Until the next MOP, the online system shall not be accessible for the public, only the Focal Points would be able to enter the system via logins and passwords.

The Bureau invited the Secretariat to assess the need for amending the format for National Reports and make proposals on this issue to the next MOP.

7. Promotion of the Agreement

The Executive Secretary reported about the main initiatives undertaken to strengthen the collaboration with other instruments (ACCOBAMS-BU5/2008/Doc15).

Collaboration with UNEP

The Executive Secretary informed that the LoA between UNEP and ACCOBAMS concerning their relationship expired in March 2007. The Secretariat contacted UNEP for a renewal and UNEP new juridical staff proposed to establish a MoU. However, considering that such instrument is more legally binding than a LoA, the Secretariat approached the Depository to accelerate the preparation of the Head Quarters Agreement.

The Bureau agreed upon starting the MoU process even before the Head Quarter Agreement was signed and invited the Secretariat to prepare a draft to be presented to UNEP.

The IWC Conservation Committee

The Executive Secretary reported upon the good links and exchanges between ACCOBAMS and the IWC vessel strike data standardization group that has been established and will be maintained active over time.

The Bureau expressed its satisfaction and encouraged the collaboration with the IWC.

The European Commission

C. Rais introduced ACCOBAMS-BU5/2008/Inf05 related to the adoption in June 2008 of the Marine Strategy Framework Directive providing a framework for European Community action in the field of marine environmental policy. He emphasized the importance for the Secretariat and the Scientific Committee of ACCOBAMS to keep watch on the assessment processes to be launched within the framework of the preparation of the marine strategies and, where possible, to ensure that the issues of relevance for the implementation of ACCOBAMS be duly taken into account. He suggested that the ACCOBAMS Secretariat and Scientific Committees work closely with the relevant authorities in the EU countries in particular in the determination of good environmental status and targets in relation with cetaceans.

The Bureau suggested mentioning the EU Marine Strategy as a tool for the implementation of ACCOBAMS during the next MOP.

The Bureau also asked the Secretariat to write a letter to the ACCOBAMS Focal Points of the Parties that are EU Members to underline the need to have the objectives of ACCOBAMS taken into account during their decision making process.

Finally, the Bureau encouraged the Secretariat to continue to approach the EU Commission for its ratification process.

The Black Sea Commission

The Executive Secretary informed the Bureau of the upcoming Ministerial meeting in April for which ACCOBAMS was asked to prepare a statement.

The Bureau expressed its satisfaction and asked the Secretariat to prepare the statement and to circulate it before the meeting.

The Mediterranean Action Plan:

a) The collaboration with RAC/SPA was presented by the Secretariat. In 2008 this collaboration was particularly focussed on the item of the MPAs in the High Sea.

b) Request of a MoU with REMPEC

The Executive Secretary informed the meeting that in accordance with the Resolutions 3.14 and 3.29 adopted during MOP3, the Secretariat was instructed to investigate the most appropriate ways of raising cetacean issues the Regional Marine Pollution Emergency Response Centre (REMPEC) to obtain relevant information from them and to contact REMPEC and its homologous Black Sea organization under the Bucharest Convention framework in order to define a collaborative effort, as appropriate. The REMPEC was contacted. The Secretariat is waiting for its reply.

The International Maritime Organisation (IMO)

The Secretariat informed the meeting that ACCOBAMS asked the IMO observer status, specifying that of the themes on which the two Organisations would collaborate would be the issue of collisions between ships and cetaceans (referring to Resolution 3.14 adopted during the Third Meeting of the Contracting Parties). In September 2008, IMO Secretariat informed ACCOBAMS Secretariat on the positive issue of the request that will be officially approved by the IMO Parties in 2009.

The IUCN

The Executive Secretary emphasized the increase of the collaboration with IUCN in particular in Governance item. In this framework, the Executive Secretary participated to a Round Table on this issue during the 2008 IUCN Congress.

A collaboration regarding MPAs was also established through the participation to the MPAs programme in High Seas launched by RAC/SPA and supported by EC.

The GFCM

As mentioned in Point 4, the collaboration with GFCM was strengthened in 2008. The Secretariat is regularly participating to the meetings of the relevant GFCM bodies.

PELAGOS Sanctuary

The Executive Secretary informed the meeting on the various ways ACCOBAMS and PELAGOS Sanctuary were collaborating such as the preparation of the label for Whale Watching activities, the establishment of the common sighting database, the programme to mitigate collisions and the wide basin survey. The Secretariat participated to the last PELAGOS Standing Committee Meeting held in November 2008 in Genoa.

The Bureau encouraged the Secretariat to keep on this collaboration notably through the establishment of common Working Groups.

IFAW

The Executive Secretary mentioned IFAW interest to participate to the Working Group on noise and their wish to participate to the Ziphius modelling project by offering the data collected in Mediterranean during the 2003 campaign.

The CMS

The Executive Secretary introduced the document ACCOBAMS-BU5/2008/Doc18 on the Resolutions presented during the CMS COP9 that are of relevance to ACCOBAMS:

- o - **Resolution 9.1 Rev 1**

- Concerted and Cooperative Actions

- **Resolution 9.4 Rev 1**
The future of National Reports
- **Resolution 9.6 Rev 2**
Cooperation with other Organisations
- **Resolution 9.8 Rev 2**
Responding to the Challenge of Highly Pathogenic Avian Influenza H5N1
- **Resolution 9.9**
Migratory Marine Species
- **Resolution 9.12 Rev 1**
Capacity Building Strategy
- **Resolution 9.13 Addendum Rev 1**
Terms of Reference for the Intersession Working Group regarding the future shape of CMS, established according to Resolution UNEP/CMS/Res 9.13
- **Resolution 9.18 Rev 2**
By-Catch
- **Resolution 9.19 Rev 2**
Adverse Anthropogenic Marine/Ocean Noise Impacts on Cetaceans and other Biota

Regarding the decisions of the CMS COP9 on the future shape of the CMS, the Bureau encouraged the Secretariat to continue its collaboration with the CMS, to work closely with the CMS Working Group on the Future Shape of the CMS and underlined that all decisions regarding the Agreement should be adopted by the Parties to ACCOBAMS.

8. Other Business

a) The Secretariat introduced the event DELPHIS organized each year in France and Italy and asked the Bureau its advice about a possible implication of ACCOBAMS.

The Executive Secretary informed the Bureau about some exchanges between PELAGOS and the DELPHIS organizers. She stressed that DELPHIS was a positive initiative regarding public awareness. She also mentioned that Algeria and Tunisia were willing to organize a similar event in their respective Country.

The Bureau recommended that ACCOBAMS help this event in being present to avoid any negative impact on cetaceans and to take advantage of this occasion to promote awareness.

b) The Executive Secretary informed the Bureau that she received a letter from the Chair of the Cetacean Alliance, an NGO composed of ACCOBAMS Partners, inviting her to participate to a meeting in February 2009 to define a strategy to strengthen the implementation of ACCOBAMS. She emphasised that the members of the Cetacean Alliance expressed in the letter their frustration because the low level of implementation of the Agreement.

The Bureau invited the Executive Secretary to attend the meeting to be convened by the Cetacean Alliance in February 2008 in order to collect further information on the objectives and work programme of this Alliance and to investigate with its members, in particular those having the Status

of ACCOBAMS Partner, appropriate ways for strengthening the implementation of ACCOBAMS. The Executive Secretary should report to the Bureau and to the National Focal points about the results of the Meeting. She should seek the approval of the Parties before any involvement of the Secretariat in the Alliance's programme of work that implies activities not included in the Secretariat Workplan as approved by MOP 3.

9. Next Meeting

The Bureau agreed to meet by October 2009. The Secretariat will consult with the Chair to define the venue and the exact dates.

10. Closure of the Meeting

After productive discussions, the Chair of the Bureau closed the meeting at 6.00 pm (Tuesday 16th December 2008).

ANNEX 1

LIST OF PARTICIPANTS

MEMBERS of the BUREAU

Abderraouf BEN MOUSSA

Chef de Service de la Coopération Multilatérale
Ministère de l'Agriculture, du Développement
Rural et des Pêches Maritimes
BP 476, Agdal Rabat MAROC
Tel: +212 37 68 81 53 - Fax: +212 37 68 81 94
benmoussa@mpm.gov.ma

Volodymyr DOMASHLINETS

Head of Fauna Conservation division
Ministry of Environmental Protection of Ukraine
Directorate of Biotic Resources and EcoNet
Urytskogo str. 35 Kyiv 03035 UKRAINE
Tel: +380 44 20 63 127 – Fax: +380 44 20 63 134
vdomashlinets@yahoo.com
domashlinets@menr.gov.ma

Ana STRBENAC

Chair of ACCOBAMS
Head of Expertise Division
State Institute for Nature Protection
TRG MAZURANICA 5, 10000 Zagreb CROATIA
Tel: +385 1 5502 912
ana.strbenac@dzzp.hr

CHAIR OF THE SCIENTIFIC COMMITTEE

Giuseppe NOTARBARTOLO di SCIARA

Via B. Marcello 43 Milano - ITALY
Tel: +39 02 29402867
Mob: +39 335 6376035
Fax: +39 02 700518468
disciara@gmail.com

OBSERVER

Alain PIQUEMAL

Directeur
Centre d'Etudes et de Recherches sur les Droits des
Activités Maritimes
1 Av Château de la Tour
06000 Nice - FRANCE
Tel : +33 4 9397 7196 – Fax : +33 4 9396 0131

SECRETARIAT

Marie-Christine GRILLLO-COMPULSIONE

ACCOBAMS Executive Secretary
Les Terrasses de Fontvieille
Jardin de l'UNESCO, MC-98000 MONACO
Tel: +377 9898 8010 – Fax: +377 9898 4208
mccgrillo@accobams.net

Camille MONTIGLIO

Communication Assistante
Les Terrasses de Fontvieille
Jardin de l'UNESCO, MC-98000 MONACO
Tel : +377 9898 2078 – Fax : +377 9898 4208
cmontiglio@accobams.net

Christelle PICCINI

Office Assistant
Les Terrasses de Fontvieille, Jardin de l'UNESCO
MC-98000 Monaco
Tel: +377 9898 4074 – Fax: +377 9898 4208
cpiccini@accobams.net

Chedly RAIS

Menzah VIII, Tunis – TUNISIE
Tel: +216 98444629 – Fax: +216 71708621
chedly.rais@okianos.org

Anne TAPPA

Administrative Assistante
Les Terrasses de Fontvieille
Jardin de l'UNESCO, MC-98000 MONACO
Tel: +377 9898 4243 – Fax: +377 9898 4208
atappa@accobams.net

ANNEX 2

AGENDA

1. Adoption of the Agenda

2. Report of the Secretariat

3. Budgetary matters

3.1 2007 Budgetary issues

3.2 2008 Budgetary issues

3.3 Provisional budgetary issues for 2009

3.4 Status of the contributions

3.5 Supplementary conservation Grants Fund: Projects submitted for funding

4. Progress report on the activities of the Scientific Committee

4.1 Issues arising from the Fifth Meeting of the Scientific Committee

4.2 Progress report on the “ByCBAMS project”

4.3 Progress report on the “Survey project”

4.4 Guidelines on exceptions

4.5 Amendment to the CMS Appendices

5. Partners

New requests for ACCOBAMS partnership

6. MOP3 follow up

6.1 Establishment of the Extended Bureau

6.2 Reporting on line

7. Promotion of the Agreement and collaboration with other instruments

7.1 Collaboration with UNEP

7.2 The IWC Conservation Committee

7.3 The European Commission

7.4 The Mediterranean Action Plan

7.5 The International Maritime Organization (IMO)

7.6 The IUCN

8. Other business

9. Next Meeting

10. Closure of the Meeting

ANNEX 3

ESTABLISHMENT OF THE EXTENDED BUREAU

Appointment of three socio-economic experts to support the work of the Bureau for the preparation of the Fourth Meeting of the Contracting Parties

On the occasion of their Third Meeting held in October 2007, the Contracting Parties to ACCOBAMS amended the Rules of Procedure of the Bureau with the view of further integrating the socio-economic aspects into the implementation of the Agreement. According to this amendment, three socio-economic experts will be selected by the Chair and invited by the Secretariat to assist the Bureau in reviewing the resolutions and other relevant documents to be submitted to the Meetings of Parties.

The Chair shall select the three experts in close consultation with the other Bureau members and the Secretariat. For the sake of ensuring a geographical balance, the three experts shall be selected as follows:

- one from a Northern Mediterranean Party,
- one from a Southern Mediterranean Party and
- one from a Black Sea Party.

As stated in the amended Rules of Procedure, the nomination of each of the three experts should be endorsed by the National Focal Point in his/her country. However it was agreed that this "should not be interpreted to mean that the experts represented their countries, as that would limit their independence to air their views as experts".

Based on the expected role of the three experts, the Secretariat drafted the following Terms of reference:

Tasks:

- To review the working documents of the Bureau Meeting they are invited to attend and check the social and economic relevance of the proposed recommendations/resolutions.
- Attend the Meeting of the Bureau
- [Attend the Meeting of the Parties]
- The selected experts will carry out these tasks on a voluntary basis

Competencies:

- Broad understanding of the marine conservation issues in the Mediterranean and/or the Black Sea
- Sound knowledge of the social and economic implications of the conservation of cetaceans, especially in the fishing sector
- Ability to provide solutions to economic and social policy concerns related to the conservation of cetaceans

Education:

- Expanding the educational background of the experts: Advanced University Degree in one of the following disciplines: social or economic sciences, legislation, fisheries or conservation related fields.

Work Experience:

- At least 15 years of experience in social and/or economic aspects related to the conservation and sustainable use of the marine environment.
- Experience in the works of international organizations is desirable.

Languages:

- Proficiency in written and spoken English is essential.
- Working knowledge of French is an asset.

The Bureau will review the Terms of Reference and decide about the next steps for the identification, selection and appointment of the three experts.

ANNEX 4

GUIDELINES ON THE GRANTING OF EXCEPTIONS FOR THE PURPOSE OF NON-LETHAL IN SITU RESEARCH IN THE AGREEMENT AREA

I. Introduction: existing legal frameworks and guidance on research permits

1. Risks associated with potentially invasive research

Advances in technology have opened up new field research possibilities to a growing number of cetacean researchers. However, several of the procedures to collect data to fill critical information gaps carry risks of harm to the research subjects, i.e. the animals.

One example is non-lethal sampling of cetacean tissues in the wild, the samples being used to improve scientific knowledge generally and to facilitate worldwide scientific collaborations that will lead to better knowledge of cetaceans in the Agreement Area¹. Another is research that involves exposure to potentially harmful noise in order to determine maximum safe levels of exposure and thus ultimately to protect cetaceans from threats posed by sound-generating human activities in their natural environment.

Cetaceans are, like many other organisms, vulnerable to disturbance, which may disrupt normal behaviour and even trigger reactions comparable to those used to avoid predation². Research activities that disturb cetaceans may cause stress and place the animals at greater risk of injury or predation. Excessive stress resulting from harassment can reduce health, performance, immune function and reproduction and harassment may force cetaceans away from optimal habitat.

Potentially invasive research on cetaceans is thus a controversial subject, particularly in the Agreement Area where cetaceans benefit from strict legal protection, have high visibility and are held in considerable public esteem. Parties to ACCOBAMS recognise that non-lethal in situ research can provide a sound scientific foundation for their decisions but that “such activity entails risks to cetacean populations and impacts to individual welfare that may be difficult to evaluate or predict”³.

This leads to a balancing act. Impacts on individual animals need to be weighed against the benefits of the research for conservation at the population, species or ecosystem level. Decisions to authorise research also need to consider the conservation status of the species involved and the possible cumulative impacts of separate research projects.

These draft Guidelines provide a framework for decision-makers to distinguish professionally conducted research with scientifically valid objectives and high welfare standards from unprofessional, irresponsible or superfluous studies carried out by individuals who lack the minimum necessary expertise. They also streamline the permitting process so that high-quality and urgently needed programmes do not get unreasonably delayed.

¹ ACCOBAMS Resolution 2.10 (*Facilitation of exchange of tissue samples*).

² See eg Frid, A. and L. M. Dill. 2002. *Human-caused disturbance stimuli as a form of predation risk*. Conservation Ecology 6(1): 11 (<http://www.consecol.org/vol6/iss1/art11>).

³ Resolution 2.8 (*Framework guidelines on the granting of exceptions for the purpose of non-lethal in situ research aimed at maintaining a favourable conservation status for cetaceans*).

2. ACCOBAMS: relevant provisions and experience to date

The importance of research to improve knowledge of cetacean biology, ecology and population dynamics and support the implementation of conservation measures is a central tenet of the ACCOBAMS Agreement. However, research is not a right under the Agreement but a privilege, an exception to the general prohibition on deliberate taking⁴.

The Agreement imposes the following checks and balances on research:

- it must be non-lethal, *in situ* and aimed at maintaining a favourable conservation status for cetaceans⁵;
- the precautionary principle should be applied to research activities in Annex II⁶;
- advice should be obtained from the Scientific Committee before the Party concerned decides whether to issue a research permit⁷.

A Party is not legally bound to follow the Committee's advice, although a general obligation of good faith applies to treaty implementation⁸. It must immediately inform the Committee, through the Agreement Secretariat, of any research exception it has granted.

The ACCOBAMS system thus combines national decision-making with regional expertise and oversight. If properly implemented, it should deliver consistency in research permitting throughout the Agreement Area.

The Committee has adopted *Procedures for the evaluation of research and management proposals*⁹ which cover submission of proposals, review by individual Committee members and the timeframe for providing opinions to the requesting Party. However, the Secretariat indicates that the Committee has never received a formal request for prior advice on research proposals from any Country Party or non Party. As a result, regional oversight and coordination of research is basically not operational.

Variations between Parties' regulations, definitions and procedures have caused long delays in obtaining multiple permits for international cooperative research projects. Resolution 2.11 (*Facilitation of scientific research campaigns and programs*) calls for improved coordination between States and with international organisations on ACCOBAMS-supported research and for provision to the Secretariat of information on national permit systems and competent authorities. These problems have been taken into account in the draft Guidelines.

⁴ Art.II.1.

⁵ Article II.2.

⁶ Art.II.4.

⁷ The Committee's General Rules of Procedure provide (Rule 20) that "in application of Article II.2 of the Agreement, any Party may ask for advice on derogations. The Secretariat shall communicate the request to the members for advice within 30 days. The advice received within the 30 days will be immediately communicated to the requesting Party".

⁸ With reference to international agreements, "every treaty in force is binding upon the parties to it and must be performed by them in good faith" (Vienna Convention on the Law of Treaties 1969, art. 26).

⁹ At its second meeting (Istanbul, 20-22 November 2003).

II. Guidelines on the granting of exceptions for the purpose of non-lethal *in situ* research aimed at maintaining a favourable conservation status for cetaceans

A. General

1. Objectives

1.1 These Guidelines are intended to facilitate consistent and efficient implementation of the exception procedure established under Article II.2 of the Agreement. According to this Article, four sets of Guidelines are developed:

- a. guidelines for research permits
- b. emergency plan to be implemented in case of pollution
- c. emergency plan to be implemented in case of epizootics
- d. rescue operations for wounded or sick cetaceans

1.2 These Guidelines are designed to ensure that all scientific research on cetaceans in the Agreement Area:

- is conducted to high scientific and animal welfare standards;
- contributes to regional priorities for conservation and management;

is undertaken with appropriate regional co-ordination and oversight in order to maximise the benefit of the research carried out in the Agreement area and minimise negative effects on individuals, populations and ecosystems.

1.3 These Guidelines are a living document maintained by the Scientific Committee of ACCOBAMS. That Committee may revise and clarify the Guidelines in the light of experience gained during their application and in accordance with new techniques or information that becomes available.

2. Target audience

2.1 The Guidelines are intended to provide advice to Parties and the Secretariat with respect to the granting of exceptions and to all wishing to engage in scientific research on cetaceans in the Agreement Area.

2.2 In addition, it is hoped that the Guidelines will prove valuable to the appropriate authorities in other Range States. To that end, the ACCOBAMS Secretariat should send them to all such authorities, both initially and whenever changes are made, with a request for consultation with the Secretariat before the nationals of such states undertake research in the Agreement Area.

3. Geographical scope

3.1 The Guidelines should be interpreted and applied in conformity with relevant rules of international law as reflected in the United Nations Convention on the Law of the Sea 1982, particularly Art 65, 77, 245 and 246.

3.2 Each Party should take the necessary legislative, regulatory or administrative measures to apply the Guidelines to all cetacean research activities:

- conducted in waters under its sovereignty and/or jurisdiction;
- conducted by its nationals on the high seas;
- conducted from any vessel subject to its jurisdiction.

3.3 Parties, other Range States, should cooperate to promote observance of the Guidelines, particularly in waters beyond national jurisdiction. The Parties should notify the Secretariat

immediately if they become aware of unauthorised research activities that could disturb or injure cetaceans. The Secretariat should contact the competent authority of the Range State whose nationals/vessels are engaged in such activities.

B. Legal and institutional guidelines

B1. Guidelines for research permits

1.1 Legal threshold for obligatory research permits

- a) A permit is required for all research activities that involve potential harassment* of cetaceans in breach of the prohibition on deliberate taking* laid down by Article II.1 of the Agreement.
- b) Harassment should be interpreted for the purpose of these Guidelines to mean “disruption of a cetacean’s normal behaviour* or prior activity by deliberate or negligent acts of pursuit, dispersal, herding, interference, torment, tagging, marking, branding or other acts that annoy or trouble cetaceans, as well as attempts and repeated approaches for such purposes.”
- c) Research activities that fall within this category include but are not limited to:
 - tagging of animals, irrespective of the method used;
 - remote biopsy sampling;
 - other activities involving invasive* procedures;
 - restraint or detention of a cetacean, even temporary;
 - acoustic playback experiments;
 - investigation of impacts of active and passive sonar systems, including controlled exposure experiments;
 - experiments involving acoustic deterrent devices; and
 - close-range behavioural observation and photo-identification.
- d) All permit applications should be reviewed and determined in accordance with the criteria listed in Part C of these Guidelines and any technical indicators developed by the Scientific Committee.

1.2 Authorisation of low-impact research

- a) The following activities are considered to present low harassment* risk, provided that the vessel involved does not deliberately approach live cetaceans closer than the minimum distances laid down by Resolution 1.11:
 - behavioural observations;
 - aerial surveys using aircraft or helicopters, including with photo-identification;
 - boat-based surveys, including with photo-identification;
 - collection of tissues, fluids or other cetacean parts naturally sloughed, excreted or otherwise discharged from a live cetacean in the wild;
 - collection of dead cetaceans or parts thereof.
- b) Permit Authorities should implement a simplified authorisation procedure to regulate and monitor such activities. Applicants should provide a written outline of the proposed project, objectives and techniques, giving enough information for the Permit Authority to determine whether the activity is bona fide* scientific research and humane.

- c) Activities conducted under authorisation should avoid chronic, low-grade or cumulative disturbance on research subjects resulting from techniques such as prolonged boat-based focal-follow photography. Where an authorised activity is found to present a risk of harassment*, the Permit Authority should revoke the authorisation and require the researcher(s) to apply for a research permit in accordance with these Guidelines.
- d) Non-compliance with the terms of an authorisation should be an offence.
- e) Researchers holding authorisations should submit an annual report of their activities to enable possible cumulative impacts to be anticipated and monitored.
- f) Procedures conducted on live-stranded animals by professional staff or an attending veterinarian for purposes of animal care, as well as medical procedures that, in the reasonable judgement of the attending veterinarian, would not constitute a risk to the health or welfare of the captive animal, present low harassment risk and do not require a research permit.

1.3 Criteria for evaluating permit applications

1.3.1 Basic determinations

Before issuing a permit, a Permit Authority should determine that the proposed research is:

- bona fide* and does not involve unnecessarily duplicative* research;
- humane*; and
- is not likely to have significant adverse effects on other components of the marine ecosystem of which the target species or population is a part.

1.4 Role of the national permit authority

- a) Each Party should designate a competent authority to issue permits for scientific research on cetaceans in accordance with these Guidelines.
- b) The Permit Authority should ensure compliance with relevant legal requirements for public consultation, environmental impact assessment and/or conservation of marine protected areas prior to the issue of a research permit.
- c) The Permit Authority should have necessary powers to:
 - attach conditions/research protocols to a permit;
 - vary such conditions/protocols where necessary for technical or animal welfare reasons;
 - transfer the permit to a new investigator where consistent with these Guidelines;
 - suspend or cancel a permit in cases of non-compliance.
- d) The Permit Authority should be consulted by the department(s) responsible for environmental impact assessment of sectoral programmes or activities that may incidentally disturb or injure cetaceans. It should have the right to make recommendations and propose mitigation measures prior to any decision being taken on the programme or activity concerned.

1.5 Role of the Scientific Committee

- a) The Scientific Committee is responsible for the independent expert review of applications referred in accordance with these Guidelines and advises the relevant Permit Authority(ies) on how to handle the application.
- b) The Committee should compare and coordinate applications with the help of the Secretariat to:
 - identify any overlaps and duplication;
 - anticipate cumulative impacts on the same target species or populations; and
 - identify complementarities and promote collaboration between research projects.
- c) The Committee should develop technical indicators to facilitate implementation of these Guidelines, consistent with evolving best practice for animal welfare and improvements in the design and function of research equipment.
- d) The Committee should advise the Secretariat on any experimentation, conducted by non-Party Range States in the context of cooperation with ACCOBAMS that may induce or risk cetacean harassment, indicating specific measures to prevent or minimise such risks.

1.5.1 The review process

1. Overall Scientific Committee responsibilities

1.1 The ACCOBAMS Scientific Committee (hereafter the Committee) is responsible for independent expert review of applications referred to it by Parties and others via the Secretariat in accordance with these guidelines. It should provide advice on such applications to the Secretariat for transmission to Parties and other relevant bodies.

1.2 In reviewing applications, the Committee will *inter alia* compare and coordinate applications to the extent possible, including:

- identify unnecessary overlap and duplication;
- consider cumulative impacts on cetacean populations;
- propose collaborative research where this is advantageous to the research and the conservation and management of the cetacean populations, and where possible, individual animals.

1.3 As an integral part of the Guidelines, the Committee will develop and maintain a guide to best practice with respect to research techniques, methods and equipment to address particular research questions and topics and to be amended regularly (Annex III). In developing this guide it will also indicate whether such techniques can normally be considered of 'potentially low impact' or of 'potentially significant impact' (see below), recognising the need to consider the frequency and duration of their use in any one application (or among applications).

2. Procedure for referral of research permit applications

2.1 To facilitate the review process, applications for review by the Scientific Committee must be submitted by the appropriate authorities to the Secretariat:

- only after undertaking a national pre-screening in the light of the Guidelines – this is to ensure that proposals clearly in breach of the Guidelines, e.g. with respect to animal welfare, research objectives or potential damage to the overall marine ecosystem, are not submitted;
- using the agreed *pro forma* (Annex II) – a single joint application *pro forma* should be submitted in the case of multi-partner projects;

- normally in accordance with a timetable for submission of referrals to support coordination and comparison of applications – this timetable will be developed by the Secretariat in conjunction with Parties and the Scientific Committee to ensure efficiency and equitable treatment and will be annexed to these Guidelines;
- 2.2 The Secretariat will develop an appropriate numbering and accounting system to allow applications to be identified and progress to be followed by all concerned.
- 2.3 The Scientific Committee will follow the agreed review procedures and normally provide its advice to the Secretariat within 45 days of referral. The Secretariat will send this advice to the appropriate authorities promptly.
- 2.4 Within 3 months of receiving this advice, the authorities will inform the Secretariat of any decision to grant, modify or refuse the application using the appropriate ACCOBAMS reference number, along with a copy of the permit itself if granted.
- 2.5 The Secretariat will inform the Scientific Committee and all Parties of exceptions granted for research purposes.

3. Factors to be examined by the Scientific Committee in its review

(i) Research team

- 3.1 The relevant qualifications and experience of the Principal Investigator* (and where applicable, the Co-Investigator*) and, where appropriate, other key participants in the research (e.g. boat skippers etc.) will be examined. Attention will be paid as to whether the personnel have the necessary skills and background to ensure that:
- the project has a high probability of meeting its scientific objectives; and
 - stress on the animals is minimised and within current animal welfare standards.
- 3.2 The provision for capacity building, where applicable and appropriate, will be examined.
- 3.3 Underwater observations and operation or manoeuvring of a boat around cetaceans should not be conducted without appropriate training and/or the relevant experience and certification (to be assessed by the Committee as part of its review).
- 3.4 Projects conducted in areas where local expertise is lacking should contribute to capacity building by involving local researchers and/or students and providing opportunities for learning and professional growth.

(ii) Objectives of the research

- 3.5 The clarity and relevance of research objectives will be examined, taking into account:
- regional conservation and management priorities defined by Parties to the Agreement¹⁰
 - research needs identified by the Scientific Committee;
 - the development of appropriate conservation and management measures at the national or regional level; and/or
 - the implementation of recommendations adopted by relevant intergovernmental organisations insofar as these are consistent with policies and recommendations adopted by ACCOBAMS.

¹⁰ e.g. Resolution 1.9 International Implementation Priorities 2002-2006 (Annex I).

(iii) Quality of the project design

3.6 The proposed *temporal* and *geographical scope* of the project, the *field* and *laboratory methods* and the *analytical techniques* will be examined. The review will consider whether they are scientifically appropriate and have a realistic chance of meeting the project's objectives within the proposed timeframe. In considering this, due care will be given to reviewing whether:

- sample size (including age/sex class) is appropriate;
- the research is unnecessarily duplicative; and
- the proposed methods techniques are well understood and specified.

3.7 Project *location*, *timing* and *field methods* will also be examined to ensure that they:

- minimise potential negative effects on populations, ecosystems and individuals consistent with the research objectives – justification for use of techniques that involve potential negative effects will be carefully examined and alternative methods may be recommended if consistent with achieving the objectives of the study in an efficient manner;
- are consistent with applicable legislation and current best practice for cetacean research and animal welfare as reflected in these Guidelines.

In examining the above, due consideration will be given to (a) the status of the population(s) concerned; (b) the potential value to the conservation of the population(s) concerned and (c) the potential value of the research to the overall goals of ACCOBAMS -- particular attention will be given to proposed new field methods and recommendations may be made regarding the need for further assessment of potential negative effects before recommending their use.

3.8 Plans for response to accidental death or serious injury will also be examined. These should include, at least, agreement to suspend research for a sufficient time to review the circumstances surrounding the incident and identify measures to reduce the risk of further incidents. This will normally include:

- agreement that the Principal Investigator will notify the Permit Authority and the ACCOBAMS Secretariat of any such incident as soon as possible and submit a written report within seven days describing the relevant circumstances and proposed mitigation measures;
- Provision for prompt review of the report by the Permit Authority (and if requested, the Committee) and if necessary, revision of the research protocol under the permit before authorising the work to recommence.

(iv) Archiving

3.9 The proposal will be examined to ensure that biological, photographic and other material will be archived appropriately, with regard for such aspects as:

- assurance that any samples remaining after the completion of initial research are deposited into an appropriate scientific collection (i.e. one that meets acceptable standards of curation and data cataloguing);
- assurance that optimal use is made of any tissues collected, e.g. the carrying out of other analyses not part of the primary research proposal, or the facilitation of tissue exchanges. Exchange of cetacean tissue samples collected during research activities should be facilitated, notably between competent laboratories registered with the CITES Secretariat, in accordance with Resolution 2.10 (Facilitation of exchange of tissue samples).¹¹

¹¹ See ACCOBAMS Resolutions 2.10 (Facilitation of exchange of tissue samples) and 2.15 (Guidelines on tissue banks).

(v) Reporting procedures and presentation/use of final results

3.10 The proposal will be examined to determine whether there are adequate and timely reporting procedures:

- between the permit holder and the Permit Authority;
- between the permit holder and the scientific community (e.g. the ACCOBAMS Scientific Committee, other national or international bodies) in terms of progress and final reports;
- plans for publication of results in the scientific literature.

3.11 Consideration will also be given to plans for:

- using the results to develop practical recommendations for conservation and management;
- using the results to promote capacity building at the appropriate level.

3.12 The ACCOBAMS reference number should be quoted in any published material relating to the research to which the permit applied.

B.2. Emergency plan to be implemented in case of pollution (to be developed)

B.3 emergency plan to be implemented in case of epizootics (to be developed)

B.4 Guidelines on rescue operations for wounded or sick cetaceans (to be developed)

C. Compliance

1. Activities conducted under a research permit must comply with:

- applicable requirements of the country and/or in the marine area of research operations with regard to cetacean conservation, marine environmental protection, animal welfare and the import, transit or export of biological material;
- specific conditions laid down by the permit.

2. It should be an offence to carry out or attempt to carry out research or related activities without the necessary permit or in breach of permit conditions or applicable legislation, whether intentionally or negligently. National legislation should provide for meaningful penalties in the event of a conviction.

3. The Permit Authority should notify the Secretariat of cases of non-compliance, citing the ACCOBAMS reference number.

Annex I

Definitions

Agreement Area: The geographical area defined under Article I.1.a) of ACCOBAMS

Approach - A continuous sequence of vessel manoeuvres involving a vessel, aircraft, or researcher's body in the water, including drifting, directed toward a cetacean or group of cetaceans for the purposes of conducting authorized research which involves one or more instances of coming closer than 100 m to that cetacean or group of cetaceans or closer than permitted under the common rules of cetacean watching as presented in Resolution 1.11.

Bona fide research - Scientific research on cetaceans that is (a) conducted by qualified personnel, the results of which are likely to contribute to basic knowledge of cetacean biology or ecology or to the identification, evaluation or resolution of conservation problems affecting cetacean populations, species or habitats in the Agreement Area, and (b) likely to be submitted to and accepted for publication in a refereed scientific journal. This definition excludes non-cetacean research that may incidentally lead to taking of cetaceans.

Co-investigator - On-site representative of the Principal Investigator with comparable qualifications and responsibilities.

Harassment¹² – Disruption of a cetacean's normal behaviour* or prior activity by deliberate or negligent acts of pursuit, dispersal, herding, interference, torment, tagging, marking, branding or other acts that annoy or trouble cetaceans, as well as attempts and repeated approaches for such purposes.

Invasive (intrusive) research –A procedure conducted for bona fide scientific research involving:

- a break in or cutting of the skin or equivalent;
- insertion of an instrument or material into an orifice, introduction of a substance or object into the animal's immediate environment that is likely either to be ingested or to contact and directly affect animal tissue (i.e., chemical substances); or
- a stimulus directed at animals that may involve a risk to their health or welfare or that may have an impact on their normal function or behaviour (e.g. audio broadcasts directed at animals that may affect behaviour).

Normal behaviour - Behaviour of an animal in the wild in the absence of disturbance or threat resulting from human activities, including but not limited to migrating, breathing, nursing, breeding and feeding.

Permit Authority – Competent authority designated by a Contracting Party to consider and determine research permit* applications.

Range State - Any State that exercises sovereignty and/or jurisdiction over any part of the range of a cetacean population covered by this Agreement, or a State, flag vessels of which are engaged in activities in the Agreement area which may affect the conservation of cetaceans.

Research permit – A general term covering any form of national procedure used to grant an exception to the prohibition on deliberate taking of cetaceans for the purpose of conducting specified scientific research in accordance with Article II.2 of the Agreement.

¹² This proposed definition combines elements from Resolution 2.8 and the Australian, Canadian and American legislative definitions.

Permit Holder - Person, institution or agency that applies for the permit and has ultimate responsibility for the activities carried out by individuals under the authority of the permit.

Principal Investigator - The individual with primary responsibility for the work carried out under a research permit*, including selection and supervision of research assistants (may also be the Permit Holder*).

Research Assistant - Individual who works under the direct supervision of the Principal Investigator and/or Co-investigator and is assigned responsibilities commensurate with his or her qualifications, knowledge and experience (including but not limited to data recording and serving as safety observer or boat tender).

Taking - Hunting, fishing, capturing, harassing, deliberately killing, or attempting to engage in any of these (CMS Article I.1.i, incorporated into the Agreement by Article I.3).

Unnecessarily duplicative research – Research for which the results are not necessary to verify the results of previous studies; can be reasonably and accurately predicted from the body of knowledge currently available in the scientific literature; or can be predicted from the expected results of ongoing or authorised studies.

Annex II

Pro forma for referrals to the Scientific Committee

The *pro forma* provides the format that must be used for Permit Authorities to refer research permit applications to the ACCOBAMS Scientific Committee for advice in accordance with Article II.2 of the Convention.

PART A - SUMMARY OF APPLICATION

1. **Project Title**
2. **Date of submission**
3. **Party(ies) referring the application to the Scientific Committee**
4. **Name of Permit Authority(ies) and contact details of responsible official**
5. **Location of proposed research**

Will the proposed research be conducted (tick more than one box where applicable):

- 5.1 In waters under the sovereignty and/or jurisdiction of the Party/ies referring the application?
YES / NO
- 5.2 In international waters by nationals of your country?
YES / NO
- 5.3 From vessels under the jurisdiction of your country?
YES / NO

6. **National legislation**

State the legislation and regulatory provision(s) under which a permit would be issued.

Describe any additional requirements (environmental impact assessment, other approvals) applicable to the proposed research.

7. **Project abstract (maximum 200 words)**

Summarise the problem or question to be addressed, the methods to be used, possible outcomes and the importance of the proposed research for advancing cetacean science and conservation in the Agreement Area.

8. **Funding**

How will the proposed research be funded?

PART B - RESEARCH TEAM

9. Permit holder*

Provide full name and contact details of the person, institution or agency making the permit application.

Where applicable, is this institution an ACCOBAMS Partner Organisation?

Where applicable, is this person the Principal Investigator?

10. Principal Investigator*

Provide full name and contact details of the person who will have primary responsibility for any taking and related activities carried out under the research permit.

Specify qualifications, knowledge and experience relevant to the type of proposed activities, with particular reference to cetacean research already conducted in the Agreement Area.

Indicate professional links to any ACCOBAMS Partner Organisation.

Attach to the *pro forma* a copy of the curriculum vitae and a list of publications relevant to the objectives, methods or other aspects of the proposed research.

11. Co-Investigator*

Where the research team includes a Co-Investigator (on-site representative of the Principal Investigator with comparable qualifications and responsibilities), please provide information as for Section 10.

12. Research assistants*

Provide name and contact details of each research assistant who will be working under the direct supervision of the Principal and/or Co-Investigator.

Provide a brief summary of each assistant's role in the project and relevant experience, qualifications and training. Do not send full curriculum vitae.

13. Capacity building

Does the project provide for participation of scientists from other countries in the Agreement Area?

For research involving waters under the jurisdiction of another State, what if any steps have been taken to involve local researchers and/or students?

PART C - DETAILED DESCRIPTION OF THE PROPOSED RESEARCH

14. Specific location of research activities

Describe each marine area in which research activities will be conducted, including longitude and latitude, and attach an A4 sized map to show the boundaries of such area or areas.

Is any part of these waters designated as a marine protected area or fisheries reserve? If so, indicate whether an additional permit is required to conduct research, from which agency or department and whether this has already been obtained.

15. Objectives of the proposed research

State the broad goal and specific objectives of the research and where applicable, the hypothesis to be tested.

Describe how the proposed research will contribute to maintaining a favourable conservation status for cetaceans in the Agreement Area, making specific reference where possible to:

- conservation and management priorities defined by Parties to the Agreement;
- research needs identified by the Scientific Committee;
- relevant recommendations of other intergovernmental organisations.

What is the expected nature of the research results and how will success be evaluated?

16. Coordination with other research programmes

What steps have been taken to identify:

- complementary or overlapping research programmes in the Agreement Area?
- activities in the research area that may affect the conduct or results of this research and/or increase the risk of adverse effects on the research subjects (i.e. cetacean species or populations)?

How would the proposed research be coordinated with such programmes or activities to avoid duplication and minimise impacts on cetaceans?

17. Start date and duration of proposed research

Indicate the start date and duration of the proposed research.

Provide a timetable for fieldwork and analysis.

18. Sample size and design

For each species covered by the study, please specify:

- Common and scientific name;
- Number of animals to be sampled or disturbed (only applies to certain types of research);
- Age/size (e.g. are calves, mothers and/or pregnant females likely to be disturbed?);
- Time of year when the research will take place.

Justify the size and design of the sample by reference to statistical power or other aspects.

19. Research techniques

For each technique that involves potential harassment of a cetacean, specify:

- reasons for selection;
- specific research questions being posed;
- data required to answer these questions;
- estimated accuracy of the data that will be collected;
- how such data will address the project's overall objectives;
- means that will be used to evaluate the project's success.

Where a project involves multiple techniques (capture, marking, tagging, sampling etc.), indicate the number of procedures to which each animal may be subjected and the steps that will be taken to minimise re-use of the same animals.

20. Ethics and animal welfare considerations

- 20.1 Have non-invasive or less invasive techniques been considered for collecting the data necessary for this research? If so, on what basis were they rejected?
- 20.2 Describe the likely short- and long-term impacts on the welfare of the individual(s) and the population(s) under study? How will these be assessed and monitored?
- 20.3 Provide evidence to support the choice of invasive techniques (e.g. approval of research protocol by a competent Animal Ethics Committee, consistency with a code adopted by a professional association).
- 20.4 What steps will be taken to minimise pain or distress to the subjects of the research?
- 20.5 Has a contingency plan been prepared?

21. Aerial or boat-based surveys and/or photo-identification

- boundaries of the survey area(s);
- time(s) of year for the surveys;
- type of survey craft (e.g. fixed-wing, helicopter, etc.) or vessel.

For aerial surveys

- survey altitude;
- ground speed
- photo-ID altitude
- number of passes per animal or group;
- measures to minimize disturbance.

For boat-based surveys

- protocols for going "off track" to photo-id animals
- type/size of photo-id vessel
- vessel speed
- number of close approaches per animal or group

- measures to minimize disturbance.

22. Procedures involving collection of tissues or other samples from animals

Justification for selection of sampling technique

Remote biopsy sampling

- type of vessel and speed
- minimum approach distance
- number of close approaches per animal
- type of sample (blubber biopsy, muscle biopsy)
- size and kind of biopsy dart
- dart deployment method (e.g. cross bow, rifle, pole, etc.) including force of impact
- maximum depth of dart penetration
- preferred sampling site on animal (i.e. shoulder, back, hindquarter, etc.)
- target number of samples and sampling scheme
- size of individual sample (diameter x depth)
- measures to avoid serious injury or mortality.

Blood sampling

- method of collection
- location of sample (which blood vessel);
- total volume needed for assay;
- total volume to be collected.

Serial blood samples (e.g., total body water or metabolic rate measurements)

- total number of samples per animal
- sampling interval
- total volume per sample.

23. Procedures involving remote attachment of scientific instruments

- minimum approach distance
- approach method (i.e. type of vessel, vessel speed etc.)
- maximum number of close approaches per animal
- deployment method (i.e. pole, crossbow, shotgun etc.)
- attachment method (i.e. suction cup, implantable)
- if implantable, depth of penetration (blubber layer, implant in the muscle?) and composition of attachment device
- maximum duration of attachment (implications for tag design and battery requirements)
- method of removal/retrieval, if applicable
- location of attachment on animal
- type of instrument
- mass and total external dimensions of instrument
- if instrument emits signal, indicate frequency (Hz), intensity (dB), pulse rate and duration of signal
- maximum number and type of tags an individual animal would receive
- arrangements for monitoring the individual during tagging research (re-sights)
- post-tagging monitoring.

24. Procedures involving non-remote external attachment of scientific instruments

- attachment method (e.g., epoxy, harness, flipper or fin tag, etc.)
- location of attachment on animal
- type of instrument attached
- mass and total external dimensions of instrument
- if instrument emits signal, indicate frequency (Hz), intensity (dB), pulse rate and duration of signal
- maximum duration of attachment and implications for tag design and battery requirements
- method of removal/retrieval, if applicable
- arrangements for monitoring the individual during tagging research (re-sights)
- post-tagging monitoring.

25. Procedures involving active acoustics (playbacks or broadcasts):

- type of signal
- depth in water column
- power output
- source level
- frequency
- maximum intended received level
- signal duration and duty cycle
- inclusion of a propagation model is desirable.

PART D – RESULTS OF THE PROPOSED RESEARCH

26. Intended outputs

- 26.1 Describe the anticipated products of the research (e.g. articles for publication in peer-reviewed literature, reports, photographs, acoustic recordings, workshops, identification catalogues)
- 26.2 How will the research results contribute to technical recommendations to governments and/or management bodies?
- 26.3 Where and when will the research results be published or made available to the public?
- 26.4 Could the research results be used in capacity-building activities in other parts of the Agreement Area?

27. Disposal of biological material

- 27.1 Will biological material be collected under the research permit for laboratory or other analysis?
- 27.2 If so, describe the proposed arrangements for disposal or archiving of such material after completion of initial research goals.

Annex III

Technical indicators for acceptable research methods and equipment (for use by the Scientific Committee)

Several jurisdictions outside the Mediterranean and Black Seas have established highly prescriptive conditions for observing and treating cetaceans under research permits (e.g. Standard Conditions for Cetacean Permits under Australia's Environment Protection and Biodiversity Conservation Act 1999). Some of those were reviewed during the preparation of this annex. They include, for example, specific limits on approach distances for tagging, biopsy sampling and photography; specifications on how many approaches are allowed during a unit of time; and requirements for work to be interrupted if the animals respond in specific ways.

It was decided that at the present stage of development of an ACCOBAMS strategy for dealing with the granting of exceptions, a less prescriptive approach was appropriate and that the technical indicators would be optimally presented as guidelines rather than as requirements. Also, it was agreed that this annex would be subject to ongoing review and revision by the Scientific Committee such that improvements could be made in the light of experience and new scientific findings.

Aerial survey

This is a generally low-impact activity, particularly as long as the aircraft is flying on a steady course along predetermined routes as in a line- or strip-transect survey. Circling over the animals, a procedure that is often necessary to obtain reliable identifications and accurate counts during surveys, is of most concern. Disturbance is caused mainly by noise from the aircraft's propeller rotation and engine although the shadow of an overflying craft can elicit a startle response on the part of cetaceans at the surface. The level of sound entering the water generally decreases with flight altitude, so as a general rule, the survey design should ensure that the searching altitude is 600 feet (= 183 m) or higher – the chosen altitude will depend on the size of the target animals (e.g. 600 feet for porpoises and other small cetaceans found in small groups; 750 feet for larger cetaceans, e.g. fin whales). Circling over animals should only occur if it is necessary to confirm species identification and/or school size and it should be carried out as quickly and as high as possible whilst still meeting the scientific objectives.

Ship-based survey

This is also a generally 'low impact' activity. The main concern is how the animals are approached, if they are approached. The following guidelines should be applicable in most circumstances:

- When approaching animals:
 - Maintain an oblique angle in relation to their heading (ca. 110° to 160°) and do not attempt to cut them off; try to ensure that they are aware of the approaching vessel; establish a course parallel to theirs before closing to within 50 m.
 - Reduce speed to accommodate to the animals' speed.
 - Never make sharp turns or quick changes in speed when near the animals; all turns and speed changes should be progressive and slow to give the animals a chance to notice and react.
 - Do not allow the vessel to come between a mother and calf.
- If animals show strong reactions to an approach, abandon it and move away.
- Do not chase the animals if they show an avoidance response.

Photo-identification

This too is a generally 'low impact' activity. The main concern is how the animals are approached (this is also a component in the evaluation of other techniques such as biopsy sampling and tagging/marking).

- Approach the animal(s) following the guidelines for ‘Ship-based survey’ above, but once parallel to the individual or group, start closing slowly at a small angle until the necessary distance for obtaining suitable photographs has been achieved, then complete the photography session and move away deliberately and without revving the engine.
- Before closing in to cetacean(s) known to bow-ride, allow some time for animals to approach and bow-ride your boat, an act that will facilitate photographing as well as sampling/tagging.
- If the animals show strong reactions to the approach, abandon it and move away.
- Do not allow the vessel to come between a mother and calf.
- Do not chase the animals if they show an avoidance response.

Biological sampling

Small tissue (and faecal) samples collected from free-living cetaceans are used in a wide variety of studies, many with high relevance to conservation. In all cases, such sampling should be carried out only by experienced, trained researchers. Also, if the target animals show strongly negative reactions to repeated approaches (e.g. rapid movement away from the research vessel, changing their respiratory cycle in an obvious way), the procedures should stop and the animals left alone.

Biological samples are obtained in three main ways, as follows:

Biopsies

Obtaining biopsies from live, free-ranging cetaceans should not be attempted unless it is well justified within the context of a bonafide research program. The use of biopsy darts fired from a rifle or crossbow is generally regarded as the most invasive non-lethal method of obtaining biopsies. It should be carried out only by experienced and trained researchers. As a general rule, biopsies from large cetaceans should be collected using a specially designed rifle, crossbow or pole; those from medium-sized cetaceans using a pole or, in special circumstances and with caution, a crossbow; and those from small cetaceans using only a pole. Some additional general guidelines for biopsy sampling are as follows:

- Avoid calves and mothers with small calves except when well justified by the importance of genetic or other information.
- For long-range biopsies (rifle, crossbow) do not fire at ranges of less than:
 - 7 m for large whales (baleen whales, sperm whale, adult male killer whale) and
 - 12 m for medium-sized whales (female and immature killer whale, pilot whales, Risso’s dolphin, beaked whales).
- Rifles and crossbows should be avoided for smaller cetaceans (striped, common and bottlenose dolphins, and porpoises).
- If animals show strong reactions to repeated approaches, stop procedures and leave them.
- Try to avoid multiple sampling of the same animal during a single encounter, e.g. by always sampling from the same side of animals.
- Do not use oversized tips (e.g. large whales’ tips for small cetaceans).
- Calibrate the strength of the rifle (e.g. according to species) and the distance according to the power of the device. Avoid using powerful crossbows (compound ones) at short distances (7 m); consider having different crossbows for different species of cetaceans (e.g. one for large ones and one for medium-sized ones).

Skin swabs

- Try to avoid small calves and mothers with small calves.
- Try to avoid multiple sampling of the same animal during a single encounter.

Sloughed skin and faeces

- Try to use nets and avoid entering the water unless necessary.
- Do not force animals to make shallow dives to encourage skin sloughing.
- Do not place the boat between mothers and calves to collect faeces or sloughed skin.

Many of these suggestions are not much more than common sense. What is important is that researchers, when applying for an exception, provide an explicit rationale as to why any potentially disturbing or intrusive procedures are necessary to acquire data, and how the data will contribute to scientific understanding and cetacean conservation. It should be possible to demonstrate in the application that every reasonable effort has been made to minimize disturbance and the risk of harm to the animals themselves.

Tagging or marking

The application of tags to animals (or actively marking them in some way), whilst often being extremely informative, is among the most intrusive research methods. This is particularly true if deliberate live-capture to apply the tags or marks is proposed. As a result a great deal of effort has been made to develop devices and procedures to reduce, and minimize, the risk of harm. Any tagging or marking must be performed quickly, easily, and with minimal pain. While care for individual animals is always important, from a conservation perspective, it is especially important to take carefully into account the status of the population when deciding the appropriate research technique to use to answer questions. For endangered/severely depleted populations, the conservation benefits of learning more about the animals (and thus informing better mitigation against threats) must be weighed against the potential for damage to the health of an individual animal or animals.

Different tagging or marking techniques have different levels of ‘invasiveness’ and the choice of the most appropriate techniques should be considered carefully in relation to the questions being asked. Time-depth recorders (TDRs) attached by suction cups are often used for short-term monitoring of diving behaviour, while implanted or dart-attached satellite tags are often used to obtain longer-term data on movements and migration.

When applying for a permit, a detailed description of the method(s) selected and a justification for that selection should be included. If a more invasive technique is proposed (e.g. implanted tag instead of suction cup), the pros and cons should be reviewed thoroughly in order to justify one method over the other. If similar results can be obtained with a less intrusive attachment technique, priority should be given to it over any more invasive one.

When reviewing an application for tagging/marking, the following must be considered:

- the conservation status of the affected population;
- the approach will yield valuable results (especially from a conservation/management perspective);
- the process is not likely to result in immediate or long-term hindrance or irritation to the animal;
- the process is not likely to significantly affect an individual’s survival or reproductive capacity.

Controlled Exposure Experiments (CEEs)

Controlled exposure experiments provide a way of testing the effects of various stimuli on wildlife. Such experiments, when carried out on free-ranging cetaceans, need to be carefully designed and rigorously executed to ensure that the information being sought is obtained efficiently but with minimal or no risk to the research subjects. ACCOBAMS (MOP3 Resolution 3.10), particularly concerned about the potential proliferation of CEEs on beaked whales in areas of the Mediterranean

Sea where circumstances are amenable (e.g. the animals are predictably present, logistics and environmental conditions are often favorable) has established clear guidelines for Parties contemplating such activities. These include prior notification to the Scientific Committee and requirements that (a) all possible alternative means of obtaining the needed information, e.g. opportunistic study of beaked whales exposed to measured types and levels of underwater sound, have been fully explored; (b) monitoring has a high probability of detecting both target and nontarget animals in real time across the area of potential exposure; and (c) the experimental design is sufficient to satisfy clear, specific management objectives and is part of a long-term study of population status and health.
