



**GUIDELINES FOR IMPLEMENTING A PELAGOS/ACCOBAMS LABEL FOR
COMMERCIAL WHALE WATCHING ACTIVITIES**



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CREATION AND ADOPTION OF THE LABEL BY THE PARTIES ON THEIR TERRITORY

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Introduction

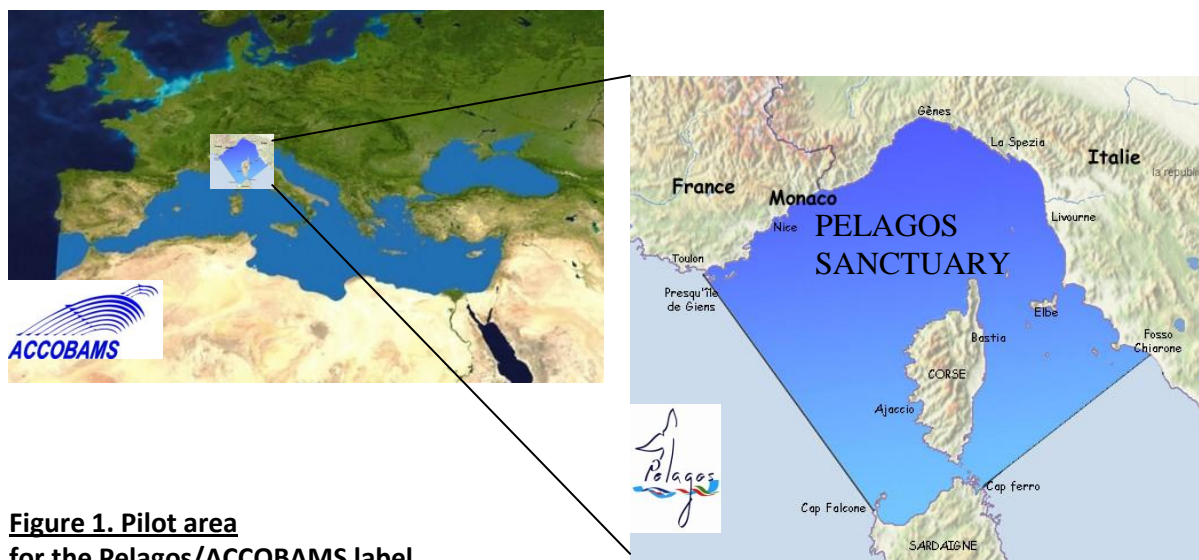
The unregulated practice of watching cetaceans in their natural environment from the sea or the air (referred to below as 'whale watching') is likely to result in harm both to biodiversity and to sea ecotourism. In the absence of a whale watching label delivered by a State or competent International Organisation, the danger is that such self-awarded 'labels' will be produced by commercial operators, with no scientific or economic ecotourism guarantee.

During the 3rd Meeting of the ACCOBAMS Parties in November 2007, the Contracting Parties to the Agreement adopted the principle of establishing a label for whale watching activities and the test of such label in the Pelagos Sanctuary. The Permanent Secretariat, in collaboration with the Scientific Committee and the President of Pelagos, were asked to present draft Guidelines on the implementation of the label, subject of this report, during the 4th Meeting of the ACCOBAMS Parties.

Previously, during the 4th Conference of Pelagos Parties in Monaco in November 2009, Contracting Parties to the Agreement opted to grant a **label** for whale watching in the Pelagos Sanctuary and then extended this to the ACCOBAMS area. Legal ownership of this label belonged mutually and jointly to Pelagos and ACCOBAMS; it was **joint legal property**. Subsequently, the Bureau of ACCOBAMS, in consultation with the President of Pelagos, decided to opt for a national certification process.

To acquire the label, whale watching operators have to **take the initiative in a voluntary scheme**. The label must be a way of promoting those operators who respect a certain number of rules of conduct in this activity already adopted in the ACCOBAMS context. The label implies a form of partnership with operators, as well as a yearly assessment of how well it is working in the light of developments in its content. **The aim of this project is to suggest in the long term, the introduction of a license** for whale watching, in order to guarantee the strictest possible respect for the principles enunciated by Pelagos and ACCOBAMS.

These guidelines, intended for the Parties, indicate the technical and administrative steps that are necessary for creating and adopting a label in its territory.



**Figure 1. Pilot area
for the Pelagos/ACCOBAMS label**

1. Procedure for creating the label

1.1 Label

The label is made up of a logo plus conditions of contract, both complying with ISO 14001 and 14024 international standards. The constituent elements of the label appear in the annex.

1.1.1 Conditions of contract

The conditions of contract collate conditions for granting the label. It includes the following items: training in the quality practice of whale watching activities;

- Code of Good Conduct for whale watching in the Mediterranean Sea;
- practical details of whale watching activities;
- contribution of whale watching operators to scientific research on cetaceans;
- informing passengers for a responsible approach to whale watching;
- The letter of intention, to be signed by the operator, commits him to respecting the conditions of contract that he has to accept in order to use the label. The letter is drafted as follows: *'The applicant promises explicitly to respect the obligations for which he is liable in the Code of Conduct and possibly supplementary additions that may be necessary.'*

The conditions of contract must be evaluated by the Bureau of ACCOBAMS in consultation with a representative of the Pelagos Agreement, every two years after they enter into force for an eventual reviewing.

1.1.2 Logo

The label's identity is represented by a logo, deemed from the intellectual property angle to be both a brand and a drawing.

1.1.3 Deposit of the Label

The label must be deposited at an international level by ACCOBAMS and Pelagos Secretariats.

1.2 National Certification Committee

1.2.1 Composition proposed

- A national representative of ACCOBAMS;
- A national representative of Pelagos (needed in the Pelagos Sanctuary and desirable beyond);
- The manager of the Marine Protected Area (only in the concerned territory);
- A representative of relevant authorities in whale watching (example: Ministry of Tourism, of Economy or Transport);
- A scientific expert;
- A legal and/or economist expert.

1.2.2 Powers and responsibilities

The Certification Committee is responsible for:

- assessing the cost of labeling from study of administrative costs in examining cases on its territory and modalities of financing;
- granting, refusing, suspending and withdrawing the whale watching operators' labels;
- monitoring and control of the respect of the label's conditions of contract;
- recognising training bodies on respect for the label;
- monitoring of the plan communication for label promotion;
- notifying granting, refusing, suspending and withdrawing of the label to the Pelagos and ACCOBAMS Secretariat;
- evaluating of the label functioning by Pelagos and ACCOBAMS Scientific Committees.

1.3 Communication plan

The Certification Committee shall ensure that adequate publicity of the label is implemented with the whale watching operators and the general public and shall promote the label including by the following tools:

- visuals to be affixed to the boats and reception centres of the relevant operators,
- various means of communication intended for the public (webpage, media and awareness for prescribers of the tourist supply involved in whale watching activity, such as tourist offices and booking agencies, directing the public to label-holding operators, etc.),
- a regular (yearly) reference work made available to the public (on offer in tourist offices, town halls and naturalist shops). It will introduce:
 - whale watching in the Mediterranean, and the stakes involved;
 - the Code of Good Conduct,
 - the species that can be observed, how to identify them and some ideas about ecology,
 - interest in calling on label-holding operators (guaranteed ecological approach and quality educational provision),
 - a complete list of label-holding operators, their rates and their names and phone numbers.

2. Procedure for adopting the label by the Parties on their territory

2.1 Consulting the partners

Parties wishing to establish the label on their territory will beforehand consult their local, regional and national partners associated in introducing the label (institutional bodies like Ministry of Environment, of Tourism, of Maritime Transport and Scientific research, research centres, Marine Protected Area agencies, the local authorities concerned, etc.).

Also, one should associate in the various stages of the label's introduction representatives of those people working in the field and non-profit making associations who are engaging in a whale watching activity.

The Parties can also seek the consultative advice of recommended bodies like tourist offices, marinas, industrial tribunals for fisheries, etc.).

2.2 Creating of the National Certification Committee

Each party wishing to adopt the label on its territory, committed to creating a National Certification Committee in consultation with the Bureau of ACCOBAMS, and only in the Pelagos area, a representative of the Pelagos Agreement.

2.3 Protecting the label

After adopting the label, the Parties commit themselves to ensuring its protection, by:

- **registering** it with the national and international intellectual property protection bodies (in France, for example, the INPI);
- **having it nationally recognised** through law or statutory regulation, by establishing a text of recognition, recommendation and protection for the label enacted by each Party.

2.4 Authorizing the controlling agents

Each labelling request from operators must be forwarded to the Secretariat of the National Certification Committee, responsible for investigating cases. It should be noted that the cost of preparing the file falls on the person making the request.

The National Certification Committee decides on the granting or refusal of the label and reserves the right to appeal to independent expertise for the processing of cases.

3. Procedure for delivering the label and checking on its use

3.1 Requests for the label

Each requests for the label must be prepared by each country's National Focal Point and then handed over, accompanied by an opinion, to the Certification Committee.

The Certification Committee may then possibly call on independent experts to prepare the file and may decide to grant or refuse the label.

3.2 Granting the label

The granting of the label is subjected to respect the conditions of contract attached.

The Secretariat of the Certification Committee will notify the Bureau of ACCOBAMS and Pelagos representative to each label granting.

3.3 Refusal of the label

In case of refusal to issue a label, the Certification Committee sends the recipient a briefing justified.

The Secretariat of the Certification Committee will notify the Bureau of ACCOBAMS and Pelagos representative to each label refusal.

3.4 Report to the Parties

The overview of the label requests, granting and refusal must be presented in the national report which will be submitted to the both Agreements.

4. Checking that the label is respected

4.1 Controlling agents

Use of the label must be checked by the public service agents of the state, who have been given prior training that is recognised or authorized by the National Certification Committee.

4.2 Control operations

The certified operators can be inspected at any time by public service of the same state only, with the exception of the Pelagos area where the right of control should be covered within the Pelagos Agreement.

All certified operators should be visited at least once a year or more if necessary (in case of breach or unsatisfactory recurrent back of observation sheets, whose format is presented in the appendix).

If there is breach, the reports drawn up by the controlling agents must be handed over to the Secretariat of the National Certification Committee. The Committee decides on the suspension or withdrawal of the label from an operator who has not respected the set of obligations linked to the label.

The National Certification Committee reserves the right to appeal to independent expertise for the processing of cases.

4.3 Breach

4.3.1 Penalties

When the commitments appertaining to the label are not respected, penalties are provided for. These concern two levels: that of the staff on board who have undergone training (the training is now null and void and has to be redone) and that of the operator (the label may be suspended). The following Table summarizes this assessment system:

Breach	Level	Description of the penalty
1st report contract	Staff who have undergone training	Recommendation plus a reminder of the conditions of contract.
	Structure (operator)	Recommendation plus a reminder of the conditions of contract.
2nd report contract	Staff who have undergone training	Warning, possibly plus the training being declared null and void, according to the seriousness of the breach.
	Structure (operator)	Warning, possibly plus suspension of the label for a period of 1-2 years according to the seriousness of the breach.
3rd report contract	Staff who have undergone training	Training declared null and void.
	Structure (operator)	Label is cancelled, plus a ban on requesting another for a period of between 3 to 5 years. The person responsible for the structure must once again undergo training if he wishes to request a new attribution of the label at the end of the period of cancellation.

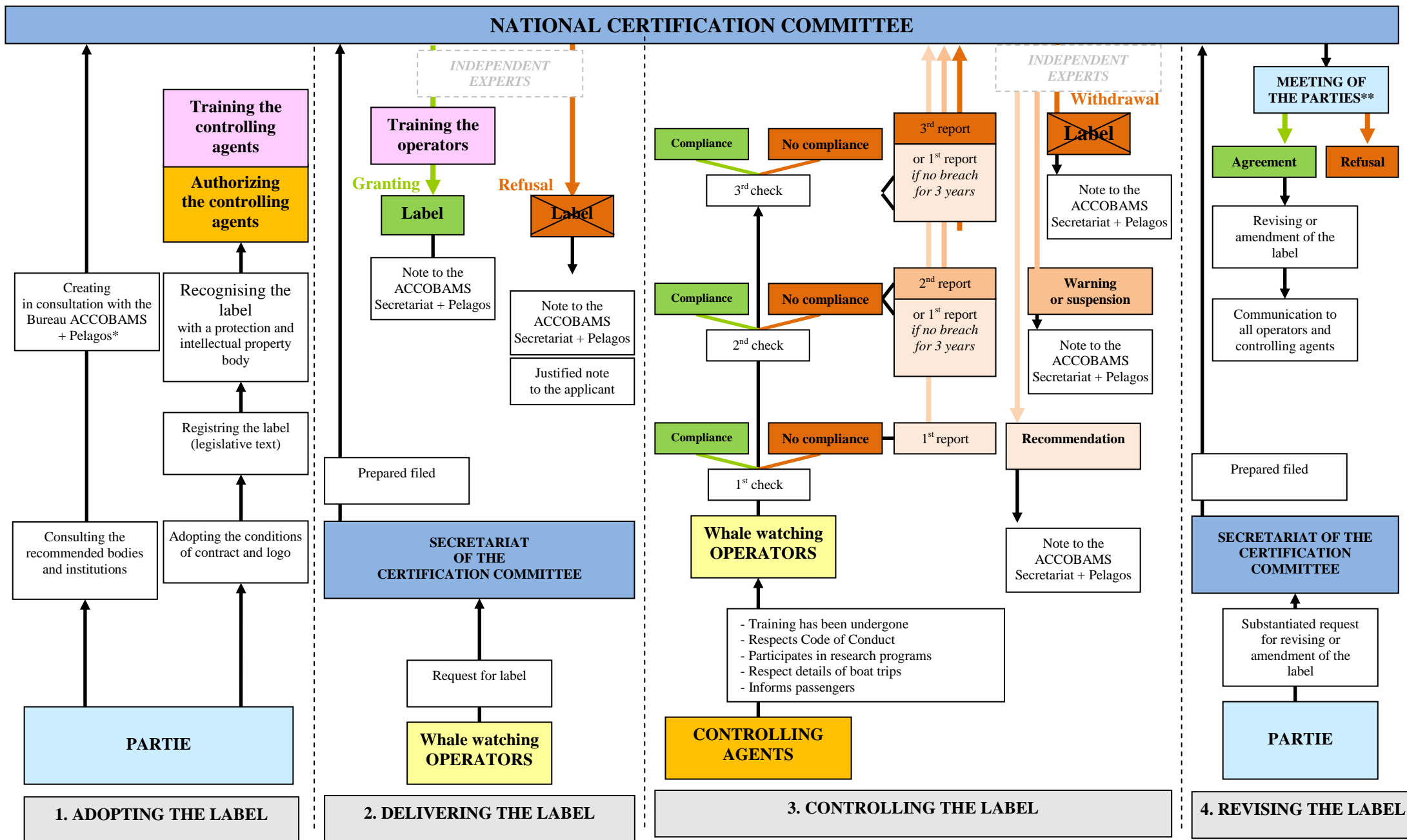
If, after a first or second report of a breach, the person (who has undergone training) and the (label-holding) structure have not committed a breach for three consecutive years, the slate is then wiped clean. According to the reports made by the controlling agents on the label users, the Certification Committee decides on the suspension or withdrawal of the label.

4.3.2 Withdrawing or suspending the label

The suspension or withdrawal of the label by the Certification Committee is provided for in the letter of intention signed by the operator when the label is granted.

4.4 Appeal

No appeal is provided in case of conflict about a refusal or a withdrawal of the label.



* In the Pelagos Sanctuary only

** Meeting of the ACCOBAMS Parties with, if it's necessary, a representative of Pelagos and a representative of the relevant Marine Protected Area

Figure 2 : Recapitulative flowchart for adopting, delivering, controlling and revising the label

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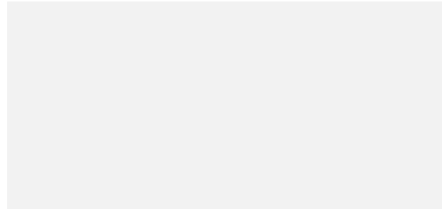
ANNEXES



ANNEX 1: THE LOGO OF THE WHALE WATCHING LABEL

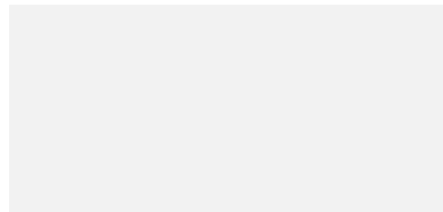
Any change in the logo (form, composition, colour) is strictly forbidden. Only the official version and its variations may be used by label users.

1. Official version

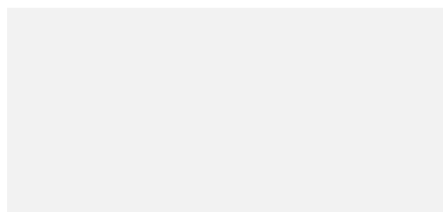


2. Variations

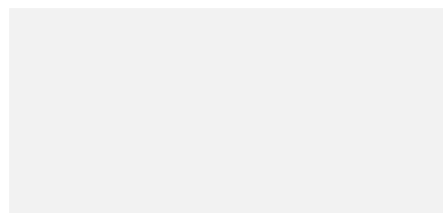
a. Colour on dark ground



b. Colour on light ground



c. Black and white



d. No-vector

No-vector logos are made for specific use; their size is defined according to the requirements of stationary, signposting, publication etc. They must not be used in larger size because of the risk of their being pixelled (bad graphic quality).



ANNEX 2: CONDITIONS OF CONTRACT OF THE WHALE WATCHING LABEL

The Certification Committee	<i>Between and</i>	The beneficiary
Represented by:		Represented by:
Name :		Name :
Forename :		Forename :
Profession :		Profession :
Address :		Address :
.....	
Tel :		Tel :
Fax :		Fax :
Internet site:		Internet site:
.....	
		SIRET :

on the one hand,

on the other hand,

*the following has been
agreed:*

Section 1. General arrangements

Article 1. Object

The Pelagos Agreement and ACCOBAMS work groups on cetaceans have highlighted a growth in whale watching in the Mediterranean. Without any management or regulation programme, this development may prove irrational and not in general meet the ecological, sociological and economic stakes borne by this activity.

Thus, in compliance with their commitments, the Pelagos Agreement and ACCOBAMS have chosen to promote voluntary management of this activity in the shape of a label intended for whale watching operators who commit themselves to a quality, ecologically responsible approach. The label may be requested by all those whale watching operators who wish to commercially, educationally, socially or scientifically promote their activity with the public.

Article 2. Duration of engagement

The label may be used by the beneficiary from the moment the present conditions of contract have been signed by both parties, for an indeterminate period. The beneficiary's use of the label ends without notice when a breach on his part of the general and specific arrangements in these present conditions of contract has been reported.

Article 3. Expenses of preparation

The expenses involved in preparing requests for the label are borne by the beneficiary.

Article 4. Checking that the label is being respected

The state's controlling agents regularly check that the present conditions of contract are being respected by the label-holding operators. These checks, that may be carried out anonymously, are made at sea either at a distance or on board the operators' ships, according to assessment grids that have been established and revised by the Certification Committee.

All the label-holding operators will be visited at least once a year, more frequently if necessary (in case of breach, for example, or of a recurrent return of unsatisfactory assessment sheets).

Article 5. Penalties

When the commitments appertaining to the label have not been respected, penalties are provided for. They concern two levels: that of the trained staff on board (their training becomes null and void and must be undertaken anew), and/or that of the operator (the label may be suspended). The following Table summarizes this assessment system:

Breach	Level	Description of the penalty
1st report contract	Staff who have undergone training	Recommendation plus a reminder of the conditions of contract.
	Structure (operator)	Recommendation plus a reminder of the conditions of contract.
2nd report contract	Staff who have undergone training	Warning, possibly plus the training being declared null and void, according to the seriousness of the breach.
	Structure (operator)	Warning, possibly plus suspension of the label for a period of 1-2 years according to the seriousness of the breach.
3rd report contract	Staff who have undergone training	Training declared null and void.
	Structure (operator)	Label is cancelled, plus a ban on requesting another for a period of between 3 to 5 years. The person responsible for the structure must once again undergo training if he wishes to request a new attribution of the label at the end of the period of cancellation.

If, after a first or second report of a breach, the person (who has undergone training) and the (label-holding) structure have not committed a breach for three consecutive years, the slate is then wiped clean.

Article 6. Termination

Use of the label may be terminated on the initiative of the National Certification Committee when there has been a breach of the arrangements in the present conditions of contract by the beneficiary (Section 1, Article 5).

Article 7. Reviewing the conditions of contract

The conditions of contract must be evaluated by the Bureau of ACCOBAMS in consultation with a representative of the Pelagos Agreement, every two years after they enter into force for an eventual reviewing.



Section 2. Specific arrangements

Article 1. Undergoing training

High quality whale watching-linked activity requires a considerable level of skill. That is why compulsory training is given to staff on board. This training will aim at:

- giving added value to the concerned operators' trips;
- promoting quality service and an ecologically sensible approach with the public;
- restricting the impacts of the activity on cetaceans and helping protect them;
- thus ensuring that whale watching has a sustainable future.

This training will take at least one week, during which the following subjects will be addressed:

- introducing and identifying the main species of cetaceous population in the Mediterranean;
- ideas of the groups' and populations' physiology, biology and ecology;
- the special ecological features of cetaceans in the Mediterranean (especially degree of endemism), threats and conservation status;
- introducing and identifying other species that may be observed at sea (avifauna and ichthyofauna);
- the Mediterranean's special ecological features;
- the roles and importance of cetaceans in the Mediterranean ecosystem;
- rules and regulations specific to cetaceans that are applicable in the Mediterranean; introducing the Pelagos Agreement and ACCOBAMS;
- reminder of the stakes and values of whale watching;
- the Code of Good Conduct for whale watching and signs of disturbance that must be taken into consideration when approaching the animals (ideas of ethology);
- educating the public about the environment: information to be given out;
- interest of research, databases on cetaceans and teaching a procedure of scientific observations that can be applied by the operators;
- the practical side (sea trips as often as possible).

To hold the label, the beneficiary promises both that the person in charge of the structure has undergone this training and also that each trip will be accompanied by at least one trained person.

The only valid training is that given by a body that is authorized or recognised by the Certification Committee, that is undertaken in its entirety, and that has been validated by a final test. This training may be rendered null and void when there is a breach of the label's conditions of contract (Section 1, Article 5).

The captain of the ship or the helmsman will make sure that the person who has undergone training respects the recommendations, in particular as regards approaching the cetaceans.

The initial training is free of charge. Training that follows suspension as a result of breach has to be paid for.

Article 2. Respecting the Code of Good Conduct

To hold the label, **the beneficiary promises to respect the Code of Good Conduct** appearing in Appendix 1.

Article 3. Respecting the details of the trips

The beneficiary promises to organise **nature-oriented trips** rather than excursions focusing solely on cetaceans, in compliance with the teaching of the above-mentioned training. The aim is to restrict the pressure on the animals while ensuring public awareness and satisfaction.

To limit fuel consumption and effectively raise public awareness, the trips must be sufficiently long (at least half a day, on average one day, ideally several days).

Coarse fishing combined with whale watching within a single package is not allowed (the fishing techniques are incompatible with the Code of Good Conduct). To qualify as a label-holder, structures which offer both activities must organise them separately, in distinct excursions.

Commercially offered swimming with cetaceans is not allowed at this stage in the context of the label. This point will be assessed at the regular updatings of the conditions of contract (Section 1, Article 7).

The beneficiary must provide his passengers with containers that allow **selective sorting of waste**. As far as possible, the boats must possess **waste water recycling** tanks.

Article 4. Information to be given to passengers

In compliance with the Code of Good Conduct, **the beneficiary promises to spread a quality message on board the ship** on a common basis, including:

- a description and identification of the cetacean and other species that can be watched;
- biological and ecological ideas on the cetaceans and ecosystems of the Mediterranean;
- an introduction to the Pelagos and ACCOBAMS Agreements;
- the main existing threats to cetaceans and those linked, in priority, to watching that does not respect the Code of Good Conduct.

The message must not focus only on cetaceans but should be widened to a nature-oriented approach.

At the end of the day, a standardised assessment sheet with contact details of the National Committee Certification will be distributed to the clients. These will be invited to send their observations to this Committee.

Article 5. Participation in research programmes

Observation sheets

Researcher/beneficiary collaboration is essential for designing a high quality activity. This contribution to research constitutes added value for the operators, a rich supplementary element for the passengers, a logistical aid for researchers and a real advantage for cetacean protection.



This cooperation takes the form of observation sheets filled in by the operators and intended to enrich databanks. It can also be intensified in the context of a precise research programme.

The beneficiary promises to participate in enriching the joint ACCOBAMS/CIESM/Pelagos database. For this purpose, a cetacean observation sheet is made available to whale watching operators (cf. Appendix 2).

The observation sheet requires elementary data such as the state of the sea, the GPS position, the concerned species and the number of individuals or direction taken by the animals. This data is gathered during an 'in transect' observation, according to the beneficiary's arrangements and in compliance with the teaching given in the above-mentioned training.

The beneficiary promises to fill in these sheets on each of his trips and to send them every month to the Certification Committee.

Work group on putting a scientist on board as part of the precise research programmes

In the context of precise research programmes, this will involve analysing the possibility of putting a scientist on board large capacity (more than twelve passengers) units. Such a step requires a good knowledge of the means available (boat speed, height of observer's eyes, sectors prospected and regularity of trips, possibility of having acoustic equipment, etc.). It thus automatically involves consultation between the operators and scientists within a work group who will have to decide on:

- the means provided by the operators for research;
- the contribution researchers will make in return (e.g. the scientist helps inform the passengers).

The results of this reflection should systematically be made available to the scientists who propose any new projects. These could then study the logistical possibilities offered by the operators and whether these are compatible with their programme, in order to cut, if need be, the budget devoted to boats.

Beneficiaries with units carrying more than twelve passengers promise to participate in this work group.

Direct issues, or issues related to whale watching, will arise from the work groups in which the operators are invited to participate. These work groups will in particular handle the following subjects:

- contributing to research programmes;
- research and development to limit the activity's dependence on fossil fuels;
- acoustic insulation of the hulls, shafts, and engines.



Article 6. Signing the letter of intention

The beneficiary promises to explicitly respect the obligations for which he is liable in the conditions of contract and possibly supplementary additions that may be necessary.

In, on

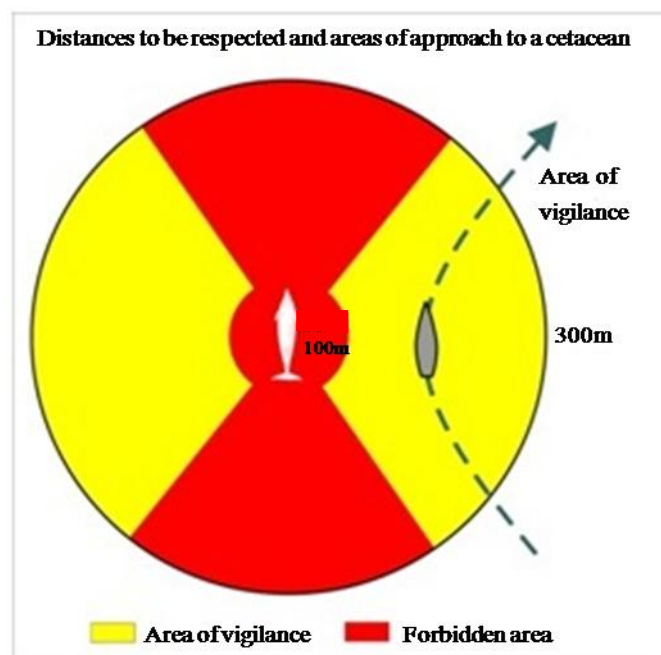
The Beneficiary
Read and approved

The Certification Committee
Read and approved

Code of Good Conduct for whale watching in the Mediterranean

Whale watching can be a source of serious disturbance if badly done. The following rules allow our impacts on the vital behaviour of dolphins and whales (hunting, repose or inter-individual socialization) to be mitigated. Whether one is an amateur sailor, fisherman, whale watching operator or other user of the marine domain, these rules, set out below, apply equally inside and outside the Pelagos Sanctuary.

The pie chart defines two areas that are essential when approaching cetaceans: the area of vigilance (yellow) and the forbidden area (red).



1. Area of vigilance (yellow)

The area of vigilance (**300 m**) defines the sector in which the disturbance caused by your boat (presence, noise and exhaust fumes) is strongly felt by the animals. When you enter this area, your behaviour must respect strict rules to limit this disturbance:

- the boat's speed must be constant and attuned to the speed of the slowest animal. It must not be more than 5 knots;
- any approach must be made according to a trajectory that gradually draws parallel to the animal's path (green arrow in the pie chart). The boat thus positions itself alongside the cetaceans, moving in the same direction;
- any sudden change of speed or direction is forbidden;
- to mitigate acoustic disturbance, sounders and sonar must be switched off;
- be even more careful, and limit your distance of approach if you remark the presence of new-born animals;
- you must immediately leave the area of vigilance if the animals are disturbed: for example, flight behaviour (acceleration, changing direction, trying to get away from the observer) must be considered as a sign of disturbance;
- observation time is limited to half an hour;



- if many boats are present, only one is tolerated within the area of vigilance. Observation time is then shortened to a quarter of an hour and the other boats have to wait patiently 300 m away. Radio contact between the various boats will enable the watching to be coordinated;
- when the observation is over, the boat must gradually leave the site, taking a path that clearly signals that it is leaving. The speed will remain moderate for a distance that is sufficient to avoid the risk of collision.

2. Forbidden area (red)

The forbidden area defines the sector which your boat must never enter (except when the cetaceans approach the boat of their own accord). This distance is **100 m**. Any nearer than this and the cetaceans will see your presence as a danger or an intrusion into their vital space, and their behaviour will become greatly disturbed by it.

Also, the boat must not enter the sector in front of the animals (reduced field of vision). Neither must it approach them from behind, since the boat may then be seen as a pursuer.

When the boat reaches the outside limit of the forbidden area, its relative speed must be reduced to zero and its engine put into neutral gear.

It is forbidden to enter groups, for this will cause social disturbance.

3. Special case when the animals come to the boat of their own accord

When cetaceans voluntarily approach the boat, the passengers must not try to touch them directly or with an instrument, bathe near them or feed them. Most of the above rules also remain in force, particularly the ban on entering groups, and keeping to a slow, regular pace.

4. Generally speaking...

Once the cetaceans are spotted, or at 1,000 m distance, particular vigilance and a speed limited to 10 knots are compulsory: other animals may be present in the sector and the risk of collision cannot be ruled out. Furthermore, a greater speed would be likely to disturb the animals, even at this greater distance.

Generally speaking, whale watching is not recommended within the 5-mile coastal strip, since the cetaceans there are already greatly disturbed by human activity.

An operator must accompany his trip with an educational talk on cetaceans and the marine environment. This must be given by a qualified, trained guide. He must be able to identify the species encountered, determine their activity phases and notice possible disturbance.

5. In short

- ✓ Slow pace and calm, constant advance the moment the cetaceans are spotted, especially within the 300 m area
- ✓ No approach closer than 100 m
- ✓ Length of observation limited to 30 minutes, 15 minutes if other boats are waiting
- ✓ Only one boat within the 300 m area
- ✓ Never try to touch, feed or swim with a cetacean.

[illegible]