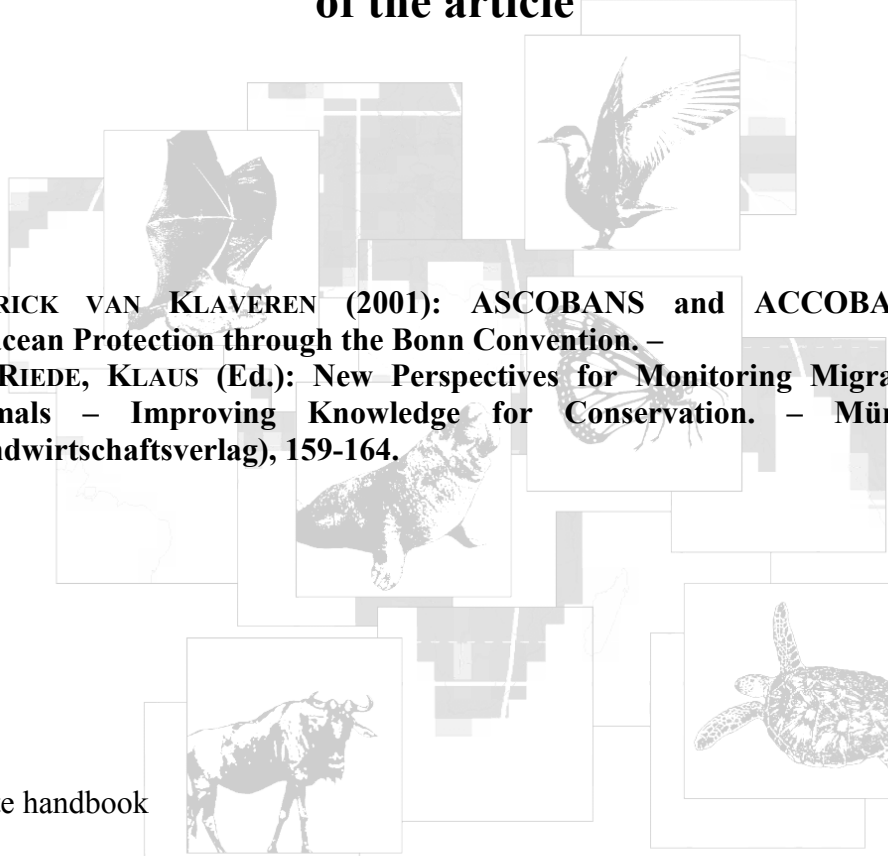


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ASCOBANS and ACCOBAMS: Cetacean Protection through the Bonn Convention

PATRICK VAN KLAVEREN

1 CMS

These luxuriant goods, which nature lavished to the man, began one day to miss. He called them natural resources. When they began to miss, they received the name of common mankind heritage. The better-known part of this heritage lies on the continents, directly imperilled by human activities. But much more diversity is less accessible to human policies, nevertheless its aggressions are deep and insidious. I want to speak, in particular, about our seas and our vast oceans. It is precisely there, that the concept of common heritage takes all its value, with an urgent need for finding the ways and the means of ensuring their sustainable management. Besides this vast system, which appears motionless, exists another heritage, constantly moving. I want to speak, of course, about migrating species.

In this context it's easy to understand that our management efforts focus particularly on marine migratory species. Biodiversity is omnipresent, „*Ex Abyssis ad Alta*,“ from the depth of the seas to the highest of the skies, according to the maxim of the Monaco Oceanographic Institute declare. Cetaceans, marine turtles and large pelagic birds for a long time attracted searchers and conservationists.

For this purpose, as already stated by our CMS Executive Secretary, article IV paragraph 4 of CMS encourages the parties to „take action with a view to concluding agreements for any population or any geographical separate part of the population of any species or lower taxon of wild animals, members of which periodically cross one or more jurisdictional boundaries.“

It is easy to understand why marine mammals are obviously one of the higher taxa falling under this recommendation. To this end, the „Agreement on the Conservation of Small Cetaceans of the Baltic and North Sea“ (ASCOBANS) was concluded in 1991.

In 1996, the Black Sea and the Mediterranean was a focus of CMS, and the „Agreement on the Conservation of Cetaceans of the Black Sea, The Mediterranean and contiguous Atlantic area (ACCOBAMS)“ was concluded.

In the following, I will explain some of the outstanding work of the ASCOBANS's Standing Committee, while for ACCOBAMS I shall concentrate on the Agreement text.

2 ASCOBANS

As a response to the growing concern about the status of small cetaceans, especially harbour porpoise, in the North Sea and the Baltic, ASCOBANS came in force in march 1994. Its secretariat moved from Cambridge to Bonn and is now co-located with the UNEP/CMS secretariat. Dr. Rüdiger Strümpel, is appointed as the executive secretary of the Agreement; he succeeded Dr. Holger Auel from the University of Kiel. The Agreement implements conservation measures for 14 species of cetaceans (dolphins, porpoise and toothed whales) in an area covering Baltic Sea and North Sea.

Which major threats face small cetaceans within the ASCOBANS zone?

Large incidental entanglement of cetaceans in fishing gear, so called by-catch, is considered the most important threat to porpoise and dolphin populations throughout the area. According to an estimate by the International Council for the Exploration of the Sea (ICES) more than 4,400 harbour porpoises are killed each year in bottom-set nets in the North Sea alone. In some areas like the Skagerak, annual by-catch is likely to exceed 4% of the population. I specify that the Advisory Committee agreed that a total by-catch level above 2% of the maximum likelihood estimate of abundance should be considered as an unacceptable interaction.

This situation requires immediate action. By-catch must be significantly reduced, otherwise mortality coupled with relative low reproduction rates will cause a continued decline of porpoise and make their recovery impossible. Aware of this severe problem, the second meeting of the parties made a resolution and organised a workshop to review by-catch mitigation. This workshop is also expected to initiate an improved dialogue with fishermen. In addition to conservation objectives, the workshop will therefore also consider the socio-economic aspects of by-catch mitigation.

With regard to the Baltic harbour porpoise population, which has been suffering an even more dramatic decline and a steady retreat from large parts of its former distribution range, all Parties and range States in the Baltic region are invited to contribute to the development of a recovery plan by the year 2000.

The Advisory Committee also expressed the potential effects of other threats like acoustic and seismic disturbances, leisure sports, high speed ferries, and whale watching. In addition, there is concern about direct and indirect impact of human pollution or exploitation on cetacean food resources. Pollution is the field where collaboration through agreements must be implemented. For this purpose ASCOBANS works closely with HELCOM and OSPARCOM, two International Agreements covering the protection of the marine environment throughout the ASCOBANS area. I cannot close the presentation of ASCOBANS without mentioning the cooperation with the International Whaling Commission (IWC).

Let us migrate southward and join warmer waters. Prince Albert 1st, a well-known oceanographer, once said that he saw more cetaceans from the windows of the Oceanographic Museum in Monaco than during his open sea scientific expeditions.

3 ACCOBAMS

In the Mediterranean and Black Seas, 22 cetaceans species have been spotted at least once; the Cetacean population is thus highly diverse for such a closed sea. But these populations suffer many aggressions. Fishing through incidental capture, overexploitation of the fishing stock, chemical pollution, persistent synthetic materials, the intensification of maritime traffic and the development of 'whale-watching', all exert pressure the impact of which has to be assessed to define priority actions to protect these species. For several decades, the scientific community has been aware of the importance of the rich biodiversity of the Mediterranean Sea. Many efforts have concentrated on marine mammals, whales in particular, for scientific as well as cultural and aesthetic reasons. Given our present state of knowledge, we understand that it is imperative to establish instruments for conservation, but there remain many tasks to be undertaken to refine such protection in an environment where complexity and size should encourage us to work in a close cooperation.

3.1 Historical sketch

The ACCOBAMS Agreement results from consultations between the Secretariats of three conventions: the Barcelona Convention on the Protection of the Marine Environment and the Mediterranean Coast and its new Application Protocol relative to Specially Protected Areas and Biological Diversity in the Mediterranean adopted on 10 June 1995, the Bonn Convention on the Conservation of Migratory Species of Wild Animals, and the Bern Convention relative to the Conservation of European Wildlife and Natural Habitats. They joined after a meeting of the Bucharest Convention on the protection of the Black Sea against pollution.

The first consultations held in Athens on 26 and 27 October 1992 dealt essentially with the mechanisms of cooperation, coordination and transmission of information on Cetaceans between the Secretariats of the three above-mentioned Conventions (Barcelona Convention, Bonn Convention, Bern Convention) and all organisations involved in implementing the Action Plan on the Conservation of Cetaceans in the Mediterranean and Black Seas.

Three years later, two meetings in Monaco negotiated a draft Agreement on the conservation of Cetaceans in the Mediterranean and Black Seas. The first meeting, from 26 to 30 September 1995, led to drawing up the text of the Agreement and its conservation plan as well as extending the taxonomic coverage of the Agreement to large Cetaceans found in the zone (in particular the finback whale or rorqual, and the sperm whale). All questions regarding the exact definition of the Agreement area, in particular the status of the inland waters and the proposal to extend the instrument to the adjacent waters of the Atlantic Ocean that had remained suspended were resolved in a second meeting, from 18 to 24 November 1996 hosted by the Principality of Monaco. Representatives of over 20 countries on the Mediterranean and Black Seas, as well as observers from many intergovernmental and non-governmental organisations participated in the plenipotentiary Conference for signature which closed the meeting.

The Agreement has been ready for signature in Monaco since 24 November 1996 and shall remain so until it comes into effect after having been ratified by seven coastal States, two on the Black Sea and five on the Mediterranean Sea and the contiguous Atlantic area. At present, only the Principality of

Monaco and Spain have ratified the agreement, while 13 countries have already signed it and several more have announced that their ratification process was underway.

The interim secretariat is hosted by the Ministry of Foreign Affairs in Monaco, and Dr. Marie-Christine Van Klaveren, biological oceanographer, is appointed as interim secretary.

3.2 The Agreement

The „agreement area“ consists of all the waters of the Black Sea and the Mediterranean Sea and the inland waters connected to or interconnecting these maritime waters, and of the Atlantic area contiguous to the Mediterranean west of the Straits of Gibraltar. The field of application of the Agreement was drawn up with the possibility for the Parties to issue a reservation on a specifically delimited portion of their internal waters during signature or ratification.

The purpose of the ACCOBAMS Agreement is to reduce the threat to Cetaceans in Mediterranean and Black Sea waters and improve our knowledge of these animals. It is the first Agreement binding the countries in these two subregions, enabling them to work together on a matter of general interest. It requires the States to implement a detailed conservation plan for Cetaceans, based

- first, on respect of legislation banning the deliberate capture of Cetaceans in fishing zones by their flag vessels or those subject to their jurisdiction, with very few possibility of derogation for scientific purpose in order also to avoid capture for public presentation,
- second, on measures for minimising incidental capture, including prohibiting the use of drift nets in the Agreement area of more than 2.5 km in length, preventing also fishing gear from being discarded at sea. Measure already in force within the European Union,
- and, finally, on the creation of protected zones, important for the feeding, breeding and birthing of Cetaceans. But not via ACCOBAMS itself but through the Barcelona Convention system to use already adopted procedure.

The list of species concerned comprises the 18 main Cetacean species in the Mediterranean and Black Seas, as well as any other Cetacean species that may be found incidentally or occasionally in the area covered by the Agreement.

This approach combines both the protection of threatened species and the institution of reinforced geographic protection. Governments are also undertaking efforts to assess and manage the interactions between humans and Cetaceans, conducting research and continuous monitoring, developing programmes to inform, train and educate the public and setting up emergency response measures.

The Agreement is an important milestone for the conservation of the concerned Cetaceans, because some states have no adequate legislation, and a co-ordinate action is needed to reduce the impact of fishing fleets of other states, who are also invited to sign the Agreement. To this end, the Agreement uses the Bonn Convention's notion of „range States,“ defined as „any State exercising sovereignty and/or jurisdiction in any part of the range of a population of Cetaceans covered by this Agreement, or a State whose flag vessels practise activities in the Agreement area that may affect the conservation of cetaceans.“ (article I, paragraph 3,g).

The efficient pelagic marine biodiversity protection in the Mediterranean must take into account that there are no exclusive economic zones in this region. The efficiency of coordinated measures of protection related to external states' flag ships, is always precarious. The agreement is aware of this problem, and the previously analysed concept of „range state“ is not sufficient to solve them. Therefore, the efficiency of envisaged conservation measures requires that all fishing ships operating in the zone of the Agreement.

Therefore, article XIII allows Agreement signature or accession by any range State, „whether or not areas under its jurisdiction lie within the Agreement area, or regional economic integration at least one member of which is a range State.“

3.3 Institutional structure

For purposes of the implementation of its objectives, the agreement settles:

- a Meeting of Parties (article III);
- a Secretariat of the Agreement (article IV);
- two sub-regional coordination Units (article V). For purposes of implementing the cooperative process of the Agreement, article III, paragraph 7 c), states that coordination units will be designated in each sub-region, within an existent institution. For this purpose, institutional structures of the Barcelona (for the Mediterranean) and of the Bucharest (for the Black Sea) conventions are particularly appropriate.
- a Scientific Committee (article VII), involving experts qualified in cetacean conservation science, established as consultative body of the Meeting of the Parties. As for coordination Units, functions of this Committee will be confided to an already existent organisation acting in the zone of the Agreement, with a balanced geographical representation. The International Commission for Scientific Exploration of the Mediterranean is called to play this role.

ACCOBAMS is a very innovative cooperative tool in the conservation of the biodiversity in Mediterranean and Black Sea.

As mentioned first, through its history itself this Agreement is one of the tools for the conservation of the biodiversity in Mediterranean and Black Sea. Besides the participation of third states in the zone, Mediterranean and Black Sea biodiversity conservation relies on integrated management practices involving a real „network“ of agreements and international bodies.

Parting from the species list on the annexes of the Protocol of the Barcelona Convention, harmonisation of the various intergovernmental tools was ensured by the inscription of the most sensitive Mediterranean species, and particularly all the cetaceans, into Bern convention annexes.

Finally, one has to remind the signature in Brussels in 1993 by France, the Principality of Monaco and Italy of a „joined Declaration related to the institution of a Mediterranean Sanctuary for marine mammals,“ as a sub-regional framework. The three concerned States continue their negotiations in view of the establishment of this Sanctuary in the thyreneo-liguro-provençal zone to be concluded as an Agreement, we hope, in few weeks.



CMS

Convention on Migratory Species

<http://www.wcmc.org.uk/cms/>



ASCOBANS

Agreement on the Conservation
of Small Cetaceans of the Baltic
and North Seas

<http://www.ascobans.org/>



ACCOBAMS

Agreement on the Conservation
of Cetaceans In the Black sea,
Mediterranean Sea
and contiguous Atlantic area

<http://www.accobams.mc/>

Fig. 1: Logos and websites of the Bonn Convention and its regional agreements dedicated to the conservation of dolphins. Information on recent changes and current conservation initiatives can be found on the websites.

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