

**CONVENTION ON
MIGRATORY
SPECIES**

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**ADVERSE IMPACTS OF ANTHROPOGENIC NOISE ON CETACEANS
AND OTHER MIGRATORY SPECIES**

Adopted by the Conference of the Parties at its 12th Meeting (Manila, October 2017)

Recalling that in Resolution 9.19 and Resolution 10.24¹ the CMS Parties expressed concern about possible “adverse anthropogenic marine/ocean noise impacts on cetaceans and other biota”,

Recognizing that anthropogenic marine noise, depending on source and intensity, is a form of pollution, composed of energy, that may degrade habitat and have adverse effects on marine life ranging from disturbance of communication or group cohesion to injury and mortality,

Aware that, over the last century, anthropogenic noise levels in the world’s oceans have significantly increased as a result of multiple human activities,

Recalling the obligations of Parties to the United Nations Convention on the Law of the Sea (UNCLOS) to protect and preserve the marine environment and to cooperate on a global and regional basis concerning marine mammals, paying special attention to highly migratory species, including cetaceans listed in Annex I of UNCLOS,

Recalling that the United Nations General Assembly Resolution A/RES/71/257 on *Oceans and the Law of the Sea* adopted in 2016 “[n]otes with concern that human-related threats, such as marine debris, ship strikes, underwater noise, persistent contaminants, coastal development activities, oil spills and discarded fishing gear, together may severely impact marine life, including its higher trophic levels, and calls upon States and competent international organizations to cooperate and coordinate their research efforts in this regard so as to reduce these impacts and preserve the integrity of the whole marine ecosystem while fully respecting the mandates of relevant international organizations”,

Recalling CMS Resolution 10.15 on *Global Programme of Work for Cetaceans*, which urges Parties and non-Parties to promote the integration of cetacean conservation into all relevant sectors by coordinating their national positions among various conventions, agreements and other international fora and instructs the Aquatic Mammals Working Group of the Scientific Council to develop advisory positions for use in Environmental Impact Assessments at the regional level and to provide support to governments and regional bodies for assessing and defining appropriate standards for noise pollution,

¹ Both now consolidated as Resolution 12.14

Recalling that other international fora recognize anthropogenic marine noise as a potential threat to marine species conservation and welfare, and have adopted related decisions and resolutions or issued guidance, including:

- a) the Convention on Biological Diversity (CBD) through Decision X.29 concerning marine and coastal biodiversity and in particular its paragraph 12 relating to anthropogenic underwater noise and Decision XIII.10 addressing impacts of anthropogenic underwater noise on marine and coastal biodiversity and in particular paragraphs 1-2 relating to anthropogenic underwater noise,
- b) the Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area (ACCOBAMS) through Resolution 2.16 on *Impact Assessment of Man-Made Noise*, Resolution 3.10 on *Guidelines to Address the Impact of Anthropogenic Noise on Marine Mammals in the ACCOBAMS Area*, Resolution 4.17 on *Guidelines to address the impact of anthropogenic noise on cetaceans in the ACCOBAMS area*, Resolution 5.15 on *Addressing the Impact of Anthropogenic Noise* and Resolution 6.17 on *Anthropogenic Noise*,
- c) the Agreement on the Conservation of Small Cetaceans in the Baltic, North East Atlantic, Irish and North Seas (ASCOBANS) through Resolution 5.4 on *Adverse Effects of Sound, Vessels and other Forms of Disturbance on Small Cetaceans*, Resolution 6.2 on *Adverse Effects of Underwater Noise on Marine Mammals during Offshore Construction Activities for Renewable Energy Production* and Resolution 8.11 on *CMS Family Guidelines on Environmental Impact Assessments for Marine Noise-generating Activities*,
- d) the International Maritime Organization (IMO), which in 2008 established in its Marine Environmental Protection Committee a high priority programme of work on minimizing the introduction of incidental noise from commercial shipping operations into the marine environment, and which in 2014 issued MEPC.1/Circ.833 *Guidelines for the Reduction of Underwater Noise from Commercial Shipping to Address Adverse Impacts on Marine Life*,
- e) the Convention for the Protection of the Marine Environment of the North-East-Atlantic (OSPAR) Guidance on environmental considerations for offshore wind farm development,
- f) the International Union for Conservation of Nature (IUCN) Resolution 3.068 concerning undersea noise pollution (World Conservation Congress at its 3rd Session in Bangkok, Thailand, 17–25 November 2004),
- g) following International Whaling Commission (IWC) Resolution 1998-6, the IWC Scientific Committee has investigated the impacts of military sonar, seismic surveys, masking and shipping noise; it has concluded that, in addition to some instances of severe acute effects (e.g. from military sonar and similar noise sources), existing levels of ocean noise can have a chronic effect, and agreed that action should be taken to reduce noise in parallel with efforts to quantify these effects; and the IWC has identified the importance of continued and increased collaboration on this issue with other organizations including ACCOBAMS, ASCOBANS, IMO and IUCN,

Recalling that according to Article 236 of UNCLOS, that Convention's provisions regarding the protection and preservation of the marine environment do not apply to warships, naval auxiliary and other vessels or aircraft owned or operated by a State and used, for the time being, only on governmental non-commercial service; and that each State is required to ensure, by the adoption of appropriate measures not impairing operations or operational capabilities of such vessels or aircraft owned or operated by it, that such vessels or aircraft act in a manner consistent, so far as is reasonable and practicable, with UNCLOS,

Noting that the Convention on Biological Diversity (CBD) decision VI/20 recognized CMS as the lead partner in the conservation and sustainable use of migratory species over their entire range,

Acknowledging the ongoing activities in other fora to reduce underwater noise such as the activities within NATO to avoid negative effects of sonar use,

Noting Directive 2014/52/EU of the European Parliament and of the Council, amending Directive 2011/92/EU on the *Assessment of the Effects of Certain Public and Private Projects on the Environment*,

Noting the EU Marine Strategy Framework Directive and its implementing act, where Member States in European Union marine waters shall take necessary measures by 2020 to achieve or maintain their determined good environmental status, including on underwater noise, established by each of them and in coordination at Union, regional and sub-regional levels,

Grateful for the invitation of ACCOBAMS and ASCOBANS, accepted in 2014, that CMS participate in the Joint Noise Working Group, which provides detailed and precautionary advice to Parties, particularly on available mitigation measures, alternative technologies and standards required for achieving the conservation goals of the treaties,

Aware that some types of marine noise can travel faster than other forms of pollution over more than hundreds of kilometres underwater unrestricted by national boundaries and that these are ongoing and increasing,

Taking into account the lack of data on the distribution and migration of some populations of marine species and on the adverse human-induced impacts on CMS-listed marine species and their prey,

Aware that incidents of stranding and deaths of some cetacean species have coincided with and may be due to the use of high-intensity mid-frequency active sonar,

Reaffirming that the difficulty of proving possible negative impacts of acoustic disturbance on CMS-listed marine species and their prey necessitates a precautionary approach in cases where such an impact is likely,

Noting the draft research strategy developed by the European Science Foundation on "*the effects of anthropogenic sound on marine mammals*", which is based on a risk assessment framework,

Noting the OSPAR *Code of Conduct for Responsible Marine Research in the Deep Seas and High Seas of the OSPAR Marine Area* and the ISOM *Code of Conduct for Marine Scientific Research Vessels*, providing that marine scientific research is carried out in an environmentally friendly way using appropriate study methods reasonably available,

Aware of the calls on the IUCN constituency to recognize that, when there is reason to expect that harmful effects on biota may be caused by anthropogenic marine noise, lack of full scientific certainty should not be used as a reason for postponing measures to prevent or minimize such effects,

Recognizing with concern that cetaceans and other marine mammals, reptiles and fish species, and their prey, are vulnerable to noise disturbance and subject to a range of human impacts,

*The Conference of the Parties to the
Convention on the Conservation of Migratory Species of Wild Animals*

1. *Reaffirms* that there is a need for ongoing and further internationally coordinated research on the impact of underwater noise (including inter alia from offshore wind farms and associated shipping) on CMS-listed marine species and their prey, their migration routes and ecological coherence, in order to give adequate protection to cetaceans and other marine migratory species;
2. *Confirms* the need for international, national and regional limitation of harmful anthropogenic marine noise through management (including, where necessary, regulation), and that this Resolution remains a key instrument in this regard;
3. *Urges* Parties and invites non-Parties that exercise jurisdiction over any part of the range of marine species listed on the appendices of CMS, or over flag vessels that are engaged within or beyond national jurisdictional limits, to take special care and, where appropriate and practical, to endeavour to control the impact of anthropogenic marine noise pollution in habitats of vulnerable species and in areas where marine species that are vulnerable to the impact of anthropogenic marine noise may be concentrated, to undertake relevant environmental assessments on the introduction of activities that may lead to noise-associated risks for CMS-listed marine species and their prey;
4. *Strongly urges* Parties to prevent adverse effects on CMS-listed marine species and their prey by restricting the emission of underwater noise; and where noise cannot be avoided, *further urges* Parties to develop an appropriate regulatory framework or implement relevant measures to ensure a reduction or mitigation of anthropogenic marine noise;
5. *Calls* on Parties and *invites* non-Parties to adopt whenever possible mitigation measures on the use of high intensity active naval sonars until a transparent assessment of their environmental impact on marine mammals, fish and other marine life has been completed and as far as possible aim to prevent impacts from the use of such sonars, especially in areas known or suspected to be important habitat to species particularly sensitive to active sonars (e.g. beaked whales) and in particular where risks to marine species cannot be excluded, taking account of existing national measures and related research in this field;
6. *Urges* Parties to ensure that Environmental Impact Assessments take full account of the effects of activities on CMS-listed marine species and their prey and consider a more holistic ecological approach at a strategic planning stage;
7. *Endorses* the “CMS Family Guidelines on Environmental Impact Assessments for Marine Noise-generating Activities” attached as Annex and *welcomes* the Technical Support Information contained in UNEP/CMS/COP12/Inf.11²;
8. *Invites* Parties to ACCOBAMS and ASCOBANS to consider adopting these Guidelines, in the elaboration of which they were fully involved, at their next Meetings of the Parties;
9. *Further invites* Signatories to relevant Memoranda of Understanding concluded under CMS to consider using these Guidelines as guiding documents;
10. *Recognizes* that the work done in relation to marine noise is rapidly evolving, and *requests* the Scientific Council, in collaboration with the Joint Noise Working Group of CMS, ACCOBAMS and ASCOBANS, to review and update these Guidelines regularly;

² also provided online at <http://www.cms.int/guidelines/cms-family-guidelines-EIAs-marine-noise>

11. *Urges* Parties and *encourages* non-Parties to disseminate these Guidelines, where necessary translating the Guidelines into different languages for their wider dissemination and use;
12. *Invites* the private sector and other stakeholders to make full use of these Guidelines in order to assess, mitigate and minimize negative effects of anthropogenic marine noise on marine biota;
13. *Welcomes* the efforts of the private sector and other stakeholders to reduce their environmental impact and *strongly encourages* them to continue making this a priority;
14. *Recommends* that Parties, the private sector and other stakeholders apply Best Available Techniques (BAT) and Best Environmental Practice (BEP) including, where appropriate, clean technology, in their efforts to reduce or mitigate marine noise pollution;
15. *Further recommends* that Parties, the private sector and other stakeholders use, as appropriate, noise reduction techniques for offshore activities such as: air-filled coffer dams, bubble curtains or hydro-sound dampers, or different foundation types (such as floating platforms, gravity foundations or pile drilling instead of pile driving);
16. *Stresses* the need of Parties to consult with any stakeholder conducting activities known to produce anthropogenic marine noise with the potential to cause adverse effects on CMS-listed marine species and their prey, such as the oil and gas industry, shoreline developers, offshore extractors, marine renewable energy companies, other industrial activities and oceanographic and geophysical researchers recommending, how best practice of avoidance, diminution or mitigation of risk should be implemented. This also applies to military authorities to the extent that this is possible without endangering national security interests. In any case of doubt the precautionary approach should be applied;
17. *Encourages* Parties to integrate the issue of anthropogenic noise into the management plans of marine protected areas (MPAs) where appropriate, in accordance with international law, including UNCLOS;
18. *Invites* the private sector to assist in developing mitigation measures and/or alternative techniques and technologies for coastal, offshore and maritime activities in order to minimize anthropogenic noise pollution of the marine environment to the highest extent possible;
19. *Encourages* Parties to facilitate:
 - regular collaborative and coordinated temporal and geographic monitoring and assessment of local ambient noise (both of anthropogenic and biological origin);
 - further understanding of the potential for sources of noise to interfere with long-range movements and migration;
 - the compilation of a reference signature database, to be made publicly available, to assist in identifying the source of potentially damaging sounds;
 - characterization of sources of anthropogenic noise and sound propagation to enable an assessment of the potential acoustic risk for individual species in consideration of their auditory sensitivities;
 - studies on the extent and potential impact on the marine environment of high-intensity active naval sonars and seismic surveys in the marine environment; and the extent of noise inputs into the marine environment from shipping and to provide an assessment, on the basis of information to be provided by the Parties, of the impact of current practices; and
 - studies reviewing the potential benefits of “noise protection areas”, where the emission of underwater noise can be controlled and minimized for the protection of cetaceans and other biota;

whilst recognizing that some information on the extent of the use of military sonars (e.g. frequencies used) will be classified and would not be available for use in the proposed studies or databases;

20. *Recommends* that Parties that have not yet done so establish national noise registries to collect and display data on noise-generating activities in the marine area to help assess exposure levels and the likely impacts on the marine environment, and that data standards are made compatible with regional noise registries, such as the ones developed by the International Council for the Exploration of the Sea (ICES) and ACCOBAMS;
21. *Urges* all Parties to endeavour to develop provisions for the effective management of anthropogenic marine noise in CMS daughter agreements and other relevant bodies and Conventions;
22. *Invites* the Parties to strive, wherever possible, to ensure that their activities falling within the scope of this Resolution avoid harm to CMS-listed marine species and their prey;
23. *Requests* the Scientific Council, supported by the Joint Noise Working Group of CMS, ACCOBAMS and ASCOBANS, to continue monitoring new available information on the effects of underwater noise on marine species, as well as the effective assessment and management of this threat, and to make recommendations to Parties as appropriate;
24. *Requests* the Secretariat and *calls upon* Parties to contribute to the work of the IMO MEPC on noise from commercial shipping;
25. *Invites* Parties to provide the CMS Secretariat, for transmission to the Scientific Council, with copies of relevant protocols/guidelines and provisions for the effective management of anthropogenic noise, taking security needs into account, such as those of relevant CMS daughter agreements, OSPAR, IWC, IMO, NATO and other fora, thereby avoiding duplication of work; and
26. *Repeals*
 - a) Resolution 9.19, *Adverse Anthropogenic Marine/Ocean Noise Impacts on Cetaceans and Other Biota*; and
 - b) Resolution 10.24, *Further Steps to Abate Underwater Noise Pollution for the Protection of Cetaceans and Other Migratory Species*.