



**CONVENTION ON  
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Samarkand, Uzbekistan, 12 – 17 February 2024  
Agenda Item 27.3

**RECREATIONAL IN-WATER INTERACTIONS**

*(Prepared by the Secretariat)*

Summary:

This document reports on progress to implement Decisions 13.66-13.68 Marine Wildlife Watching. The document also proposes amendments to Resolution 12.16 Recreational In-water Interaction with Aquatic Mammals, presents Guidelines for Recreational In-Water Interactions, and proposes draft Decisions for adoption.

Rev.1 makes consistent the language in decisions directed to the Scientific Council.

## RECREATIONAL IN-WATER INTERACTIONS

### Background

1. After the 12<sup>th</sup> meeting of the Conference of the Parties (COP12), the two workstreams for recreational in-water interactions and boat-based marine wildlife watching were combined into one: marine wildlife watching. The earlier work of CMS focused on the boat-based side of marine wildlife tourism; guidelines for boat-based marine wildlife watching were adopted by COP12 ([Annex to CMS Res.11.29 \(Rev.COP12\)](#)). Those guidelines include sirenians, marine turtles, pinnipeds, elasmobranchs, and seabirds, but exclude cetaceans – which are covered in the joint IWC-CMS [Whale Watching Handbook](#). COP12 requested similar guidance to be developed for in-water interactions with marine megafauna, and adopted [Resolution 12.16 Recreational In-Water Interaction with Aquatic Mammals](#). For COP13, a review was produced of existing guidelines, good practices, and scientific evidence of the issues of concern for marine mammals, elasmobranchs and turtles resulting from recreational in-water interactions (RIWI). This review is available in Annex 2 of [UNEP/CMS/COP13/Doc.26.2.5](#). COP13 then requested the CMS Scientific Council to develop guidelines for RIWI.

2. COP13 adopted the following Decisions 13.66-13.68 on Marine Wildlife Watching:

#### **13.66 Directed to the Parties**

*Parties are requested to:*

- a) *provide the Secretariat with copies of the relevant documents for any measures as described in paragraph 1 of Resolution 12.16 Recreational In-Water Interaction with Aquatic Mammals that they have adopted regarding recreational in-water interactions with aquatic mammals or other CMS-listed species, attached to the National Report;*
- b) *provide the Secretariat with copies of the relevant documents for any measures that they have adopted as described in paragraph 1 of Resolution 11.29 (Rev.COP12) Sustainable Boat-Based Marine Wildlife Watching, attached to the national report;*
- c) *provide the Secretariat with country profiles for countries not already covered, or for suggestions for case studies for inclusion in the joint International Whaling Commission (IWC)-CMS Whale Watching Handbook.*

#### **13.67 Directed to the Secretariat**

*The Secretariat shall, subject to the availability of resources, support the Scientific Council in the development of the guidelines on recreational in-water interactions.*

#### **13.68 Directed to Scientific Council**

*The Scientific Council is requested, subject to availability of resources, to:*

- a) *utilize the review of existing guidelines undertaken in partial fulfillment of Decision 12.51 (b) and presented to the 13th meeting of the Conference of the Parties (COP13), develop guidelines, including a recommended code of conduct for operators on recreational in-water interactions with CMS-listed species;*
- b) *consult with the Secretariats and Advisory Committees, where appropriate, of the CMS Memoranda of Understanding dealing with aquatic species, in the development of these guidelines;*
- c) *consult with the IWC Scientific Committee in the development of these guidelines and, if practical, consider agreeing a joint product, at least with respect to cetaceans;*
- d) *present the guidelines and recommended code of conduct for operators concerning recreational in-water interaction to COP14, for formal consideration.*

Progress on implementing Decisions on Marine Wildlife Watching

3. The Secretariat circulated Notification 2021/010 (August 2021), requesting Parties to provide relevant documents for any measures as described in paragraph 1 of Resolution 12.16 that they have adopted regarding RIWI with aquatic mammals or other CSM-listed species, in addition to those already compiled in Annex 2 to UNEP/CMS/COP13/Doc.26.2.5. Parties were also requested to send relevant documents for any measures they have adopted as described in paragraph 1 of Resolution 11.29 (Rev.COP12). By the deadline, responses had been received from Argentina, Australia, the European Union, Germany, Maldives, the Netherlands, Peru, the Philippines, and Spain.
4. To assist the Scientific Council with the implementation of CMS Decision 13.68, the Secretariat developed draft guidelines for recreational in-water interactions with marine species: cetaceans, sirenians, pinnipeds, marine turtles, sharks, mobulid rays, stingrays, and seabirds. The production of these guidelines was funded by the Government of the Principality of Monaco under the CMS Migratory Species Champion Programme.
5. In early December 2021, a draft document was circulated to the members of the Scientific Council, CMS Aquatic Mammals Working Group; Secretariats of ACAP, ACCOBAMS, AEWA, ASCOBANS, IWC, the Common Wadden Sea, SPREP, the Dugong MOU, the IOSEA Marine Turtle MOU and the Sharks MOU. By the deadline (the end of February 2022), feedback had been received from over 20 experts or organizations.
6. A webinar to present an advanced version to the CMS Scientific Committee was held in February 2023. Feedback from the webinar was further considered by the Secretariat, and the resulting version is presented in Annex 2 of this document.
7. In line with Decision 13.68 (c), the Secretariat has discussed the possibility of developing, if practical, a joint RIWI product with IWC with respect to cetaceans. The suggestion received a positive response at the IWC Scientific Committee meeting in April-May 2023 and discussions are ongoing.

Discussion and analysis

8. The guidelines aim to assist Parties in adopting appropriate measures to regulate recreational in-water interactions with marine wildlife. The guidelines do not systematically address all situations, but provide a general overview of the measures that have been adopted or are recommended. CMS Parties are encouraged to undertake relevant impact assessments and expert consultations to identify the most appropriate and effective way to adopt and adapt these guidelines to their specific local contexts.

Recommended actions

9. The Conference of the Parties is recommended to:
  - a) adopt the draft amendments to Resolution 12.16 contained in Annex 1 of this document;
  - b) endorse, as part of the draft amendments to Resolution 12.16, the *Guidelines for Recreational In-water Interactions with Marine Wildlife*, which can be accessed via the link in Annex 2;

- c) adopt the draft Decisions contained in Annex 3 of this document;
- d) delete Decisions 13.66-13.68.

## ANNEX 1

## PROPOSED AMENDMENTS TO RESOLUTION 12.16

*NB. Proposed new text is underlined. Text to be deleted is ~~crossed-out~~.*

### RECREATIONAL IN-WATER INTERACTION WITH AQUATIC WILDLIFE MAMMALS

*Concerned* that recreational in-water interaction with aquatic ~~mammals~~ wildlife is a fast-growing tourism and recreational activity which may cause disturbance to aquatic ~~mammals~~ wildlife in many different situations and habitats, with potentially serious conservation consequences,

*Noting* that many of the aquatic ~~mammal~~ species affected by in-water interactions are listed on the CMS Appendices, ~~and that impacts on species of other taxonomic groups listed on the Appendices are also occurring,~~

*Conscious* that a large number of aquatic ~~mammal~~ species are sensitive to the disturbances caused by in-water interactions, and that in addition they carry a risk of direct physical impacts, that can lead to injuries and even death,

*Concerned* that in-water interactions with aquatic ~~mammals~~ species put not only the animals at risk, but can also compromise the safety of human participants,

*Aware* that the global growth of the in-water interaction phenomenon has outpaced the advancement of relevant science and the provision of timely and site-specific impact assessments to inform management,

*Concerned* that in many cases effects may only be detected once they have already reached biologically significant levels, hence providing information to decision-makers only when impacts are already occurring,

*Recognizing* the work carried out on whale watching by the International Whaling Commission,

*Recognizing* that CMS can contribute to regulation and sustainable management of ~~the~~ in-water interactions phenomenon,

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

1. Endorses the Guidelines on Recreational In-water Interactions with Marine Wildlife, contained in the Annex;

4. ~~2.~~ Urges Parties, in whose areas of jurisdiction recreational in-water interactions with aquatic wildlife ~~mammals~~ take place, to adopt appropriate measures, such as national guidelines, codes of conduct, and if necessary, national legislation, binding regulations or other regulatory tools, to address the consequences of, and carefully regulate, all such activities;

- ~~2.~~ 3. *Encourages* Parties to ensure that these activities do not have negative effects on the long-term survival of populations and habitats and have minimal impact on the behaviour of the exposed animals;
- ~~3.~~ 4. *Recommends* that, insofar as they are applicable, measures adopted by the Parties also cover opportunistic in-water encounters with aquatic wildlife ~~mammals~~;
- ~~4.~~ 5. *Also recommends* that when vessel-based and in-water activities occur concurrently, measures adopted by the Parties ensure the safety of marine wildlife and human participants;
- ~~5.~~ 6. *Encourages* Parties to facilitate research allowing an assessment of the long-term effects and biological significance of disturbances, noting that this requires information on the biology, behaviour and ecology of the species, adequate historical data, and suitable modelling techniques that use behavioural observation collected over shorter time frames to predict potential long-term effects on populations, and use these predictions to inform management decisions; and
- ~~6.~~ 7. *Strongly encourages* Parties to review any measures periodically to enable any impacts detected through research and monitoring of the populations to be taken into account as necessary.

**ANNEX 2**

**GUIDELINES FOR RECREATIONAL IN-WATER INTERACTIONS WITH MARINE  
WILDLIFE**

*NB: The guidelines are presented in a separate file [here](#).*

DRAFT DECISIONS

**MARINE WILDLIFE WATCHING**

***Directed to Parties***

14.AA Parties are encouraged to disseminate the *Guidelines on Recreational In-water Interactions with Marine Wildlife* to relevant organizations and operators in their countries, and to utilize them in national planning.

***Directed to the Scientific Council***

14.BB The Scientific Council is requested to:

- a) develop a report to assess the long-term effects and biological significance of disturbances from boat-based and in-water interactions for all CMS-listed marine species, and make recommendations to Parties;
- b) recommend in which areas activities should be strictly limited to boat-based activities from an increased distance for particularly vulnerable populations, and make recommendations to Parties;
- c) report to the Conference of the Parties at its 15<sup>th</sup> meeting on the progress in implementing this Decision.

***Directed to the Secretariat***

14.CC The Secretariat is requested, subject to the availability of external resources, to:

- a) support the Scientific Council in implementing Decision 14.BB;
- b) combine the *Guidelines for Boat-Based Wildlife Watching*, annexed to Resolution 11.29 (Rev.COP12), and the *Guidelines for Recreational In-water Interactions for Marine Wildlife*, annexed to Resolution 12.16 (Rev.COP14), into a CMS Technical Series Publication.