

# INTERNATIONAL PROTECTION OF CETACEANS

*A number of international treaties, agreements and legislative instruments have been established, particularly since 1990, which either provide a legal basis for the conservation and protection of marine wildlife, including cetaceans, or represent statements of intent through agreements. Some of these are regional in their scope while others have global application. The main ones that pertain to waters covered by the Atlas are listed below.*

## Regional Conventions, Agreements and Legislation

### Bern Convention

(1979; implemented 1982). The Convention on the Conservation of European Wildlife and Natural Habitats is concerned with the protection of natural habitats in Europe, especially the endangered habitats and wild flora and fauna that are listed in two Appendices. Appendix II accords strict protection to common dolphin, bottlenose dolphin, harbour porpoise, blue whale, humpback whale, northern right whale and bowhead whale. Appendix III lists species of wild fauna that may be exploited so long as regulation keeps the populations out of danger, and includes all other cetaceans. The Emerald Network (1996) of Areas of Special Conservation Interest (ASCI; 1989), which applies to all European countries including those bordering the Baltic and Black Seas, was established under the Bern Convention.

### Bonn Convention

(1979; implemented 1983). The Convention on the Conservation of Migratory Species (CMS) provides strict protection for 28 endangered migratory species listed in Appendix I. Among cetaceans, this includes blue whale, humpback whale, bowhead whale and northern right whale. It also concludes multilateral agreements for the conservation and management of migratory species listed in Appendix II (i.e. those species considered to have unfavourable conservation status, including all other cetaceans), and promotes the undertaking of co-operative research activities. ASCOBANS (see below) was negotiated under its auspices.

### EU Habitats and Species Directive (1992)

Council Directive 92/43/EEC on the conservation of natural habitats and of wild flora and fauna applies to marine waters out to the 200 nautical mile limits of the Economic Exclusion Zones (EEZ) of European Union member states. Member states are legally obliged to observe the Directive. Two species, harbour porpoise and bottlenose dolphin, are listed in Annex 2, which comprises 'animal and plant species of Community interest whose conservation require the designation of Special Areas of Conservation'. Sites for these two wide-ranging aquatic species will be proposed only where 'there is a clearly identifiable area representing the physical and biological factors essential to their life and reproduction'. There is an obligation on member states to avoid deterioration at such sites. Annex 4 includes all cetaceans in a list of animal and plant species of Community interest in need of strict protection. Member states of the European Union are required to establish a system to monitor the incidental capture and killing of all cetaceans and to take measures to ensure that such capture and killing does not have a significant negative impact on the species concerned.

### Other EU Directives and Regulations

A number of other EU Directives, regulations and policies are of direct relevance to the protection of cetaceans. Among them are the Regulations controlling fishing under the Common Fisheries Policy. Regulation 2371/2002 requires that fishing should not have a negative impact on marine ecosystems and various other measures are required when taking decisions on fisheries management to reduce impact on the marine environment.

### OSPAR

(Oslo and Paris Convention 1992; implemented 1998). The Convention for the Protection of the Marine Environment of the Northeast Atlantic provides in Annex V for the 'protection and conservation of the ecosystem and biological diversity of the maritime area', and in Appendix 3 lays down 'criteria for identifying human activities for the

purpose of Annex V'. Seven species of cetacean are listed in Annex V. Four species are proposed for inclusion on OSPAR's first list of threatened and declining species: bowhead whale, blue whale, northern right whale and harbour porpoise.

## ASCOBANS

(1992; implemented 1994). The Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas was established under the Bonn Convention CMS (see above). It applies to all odontocetes except the sperm whale within the area of the Agreement, and obliges signatories to apply the conservation, research and management measures prescribed in its Annex that provide for monitoring, research, information exchange, bycatch reduction, pollution control, and heightening public awareness.

## Global Conventions and Agreements

### International Convention for the Regulation of Whaling

(1946; implemented 1948, with a protocol of amendment to the Convention adopted in 1956). This convention aims inter alia to 'provide for the proper conservation of whale stocks and thus make possible the orderly development of the whaling industry'. It established the International Whaling Commission (IWC). Although concerned primarily with the direct exploitation and conservation of large whales (the baleen whales and the sperm whale) as a resource, it also considers scientific matters related to small cetaceans, and has more recently begun to address other human activities affecting cetaceans. A moratorium on commercial whaling came into force in 1986. The only commercial whaling currently undertaken is by Norway, which objected to the moratorium within a prescribed period and so is not bound by it. Other whaling that is regulated by the IWC comes under the heading of aboriginal subsistence whaling. However, some hunting is not regulated, including Faroese pilot whaling.

### Convention on International Trade in Endangered Species of Wild Fauna and Flora - CITES

(1973; implemented 1975). This prohibits international trade in species listed in Appendix I, which includes sperm whale,

northern right whale, and members of the family Balaenopteridae (including blue, fin, sei, and humpback whales, but with the exception of West Greenland populations of humpback and minke whales). It allows controlled trade in all other cetacean species.

## MARPOL Agreement

(1973/78; implemented 1983). The 1973 International Convention on the Prevention of Pollution from Ships and 1978 Protocol Relating Thereto covers all technical aspects of pollution from ships of all types: accidental and operational oil pollution, pollution by chemicals, goods in packaged form, sewage and garbage. Parties are obliged to give effect to the provisions of the Convention and its Annexes in order to prevent the pollution of the marine environment by the discharge of harmful substances or effluents containing such substances in contravention of the Convention.

## UNCLOS

(1982; implemented 1995). The UN Convention on the Law of the Sea, among other requirements, establishes fundamental obligations including the preservation and protection of the marine environment and the conservation of marine living resources both within and beyond national jurisdiction. Under UNCLOS, coastal states can extend their jurisdiction to their Exclusive Economic Zone (EEZ).

## Earth Summit

(1992; implemented 1994). The Convention on Biological Diversity (CBD) requires each signatory to identify processes and categories of activities that are likely to have significant adverse impacts on the conservation and sustainable use of biological diversity, and to monitor their effects through sampling and other techniques. This should involve the introduction of appropriate procedures requiring environmental impact assessment of proposed potentially detrimental projects with a view to avoiding or minimising such effects. Parties are obliged to adopt in-situ measures to rehabilitate and restore degraded ecosystems and to promote the recovery of threatened species; to endeavour to provide the conditions needed for compatibility between present uses and the conservation of biological diversity and the sustainable use of its components; and to regulate or manage the relevant processes and categories of activities where a significant effect on biological diversity has been determined.

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