

Conclusions and Recommendations

Nicolas Entrup and Fabienne McLellan, OceanCare, Wädenswil, Switzerland



Given the status of many cetacean species and populations and the myriad of significant threats that they are now facing, it is obvious that existing legislation and conservation schemes are either not properly implemented and/or are insufficient in their scope, and greater effort is required from all stakeholders to make real change. We certainly need to scale up appropriate actions to avoid losing cetacean populations and species, including by better protecting their habitats, which will also improve the health and resilience of European waters.

Reflecting on the conclusions from the experts within the individual chapters and taking into consideration our experience over many years of working within national, regional and international conservation schemes, we have come up with a number of specific asks and recommendations. These are directed at the decision-makers of Range States, Multilateral Environmental Agreements (MEAs) and international bodies and detail how the protection of whales, dolphins and porpoises in European waters can be improved, including how to address gaps in existing conservation frameworks and legislation. If not mentioned explicitly, our recommendations and asks are directed at decision makers and management authorities of *all* European States, regardless of whether they are Member States of the European Union or not.

Asks and Recommendations

Legislation

- Legislation should reflect that cetaceans are granted the highest level of protection.
- The precautionary principle in conservation policy must be rigorously applied.
- All European States need to follow best environmental practices within their Programmes of Measures and Conservation Action Plans to achieve Good Environmental Status within European waters¹.
- Priority must be given so that the legislative provisions and internationally agreed conservation measures intended to protect cetaceans are properly implemented, controlled and enforced.

Marine Protected Areas (MPAs)

- Marine Protected Areas (MPAs) must have an associated and effective conservation management plan in place, and the measures described in the plan must be implemented and properly resourced to achieve the set conservation objectives.²
- Important Marine Mammal Areas (IMMAs) shall guide the declaration of new MPAs and shall be taken into account within marine spatial planning processes.

Hunting

- The deliberate take of all cetacean species must be prohibited by all European States³.

¹ Programmes of Measures are core to Marine Strategies for the implementation of Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008, establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive/MSFD). Article 13 says "Member States shall, in respect of each marine region or subregion concerned, identify the measures which need to be taken in order to achieve or maintain good environmental status". The MSFD encourages regional cooperation, which is defined in Article 6 as follows: "Member States shall, where practical and appropriate, use existing regional institutional cooperation structures, including those under Regional Sea Conventions, covering that marine region or subregion". Therefore, OceanCare encourages all European States to make use of this approach.

² Invasive activities such as intense or non-selective fishing activities, impulsive noise-generating activities in, and even outside, the MPA (which shall establish noise-buffer-zones) and other detrimental activities must be prohibited.

³ Deliberate takes of cetaceans should only be permitted for subsistence purposes by indigenous communities and should be subject to the strict oversight of and regular review by the International Whaling Commission (IWC). When such 'aboriginal subsistence whaling' quotas are calculated by the IWC Scientific Committee, they will need to be based on clear subsistence needs. All removals should be taken into account and cumulative and synergistic impacts should also be considered in order to ensure that appropriate management advice is generated.

Fisheries⁴

- Illegal, unreported and unregulated (IUU) fishing should be stopped immediately through the application of appropriate monitoring, enforcement and sanctions.
- Spatial and temporal time-area closures are needed to avoid large-scale bycatch. Fishing gear known to cause significant cetacean mortality should be banned.
- In general, methods to reduce or avoid bycatch should primarily target the fisheries involved, rather than be technical fixes that cause collateral damage to marine life including cetaceans (e.g. through the use of harassment devices that may result in displacement from key habitat, hearing impairment, reduced food intake, social disruption and other problems).
- Fishing gear known to damage marine habitats, thus hampering an ecosystem's potential to support healthy populations of marine predators including cetaceans, should be banned.
- Overall fishing effort must be reduced, with the ultimate aim of preserving diverse and resilient ecosystems where whales and dolphins (as well as marine life in general) can recover and thrive.

Visible and invisible pollution

- Reducing input at source is the most effective way of reducing the impact of various forms of pollution (including chemical pollution, marine plastic pollution and noise pollution).

Noise pollution

- A ban on oil and gas exploration activities in European waters, including pending licences, should be imposed.
- Speed reductions and limitations for shipping should be put in place where possible.
- A European-wide shipping strategy should be adopted focusing on multi-environmental benefits, including the reduction of noise emissions, CO₂ and other air pollutants.
- The greening of ports strategies should be adopted.
- The use of technologies and improved design that reduce the transmission of sound from ship engines and propellers to the marine environment should be encouraged.
- Time and area closures for impulsive noise generating activities should be imposed⁵.
- The mandatory application of the CMS Family Guidelines on Environmental Impact Assessments (EIAs) for Marine Noise-generating Activities should be required prior to granting permission for noise-generating activities which do not fall under the aforementioned specific provisions.

Plastic pollution

- A legally binding global plastic treaty, addressing the full lifecycle of plastics, should be developed⁶.

⁴ While fishing was only marginally addressed in the various contributions to the Report, it remains the main threat to marine life in general. Hence, this recommendation section elaborates further on this.

⁵ This approach shall include military activities such as the employment of active sonar systems or explosions, the establishment of buffer-zones to reduce the impact of noise in particular for sensitive habitats, including MPAs, etc.

⁶ European States should support a new international, legally binding plastic treaty, addressing the full lifecycle of plastics, including measures to reduce virgin plastic production and prevent microplastic pollution.

- Local, national and European strategies are needed to drastically reduce plastic consumption through behavioural change campaigns.
- European States need to phase-out and totally ban the most hazardous substances and materials used in plastic packaging⁷.
- Port reception facilities need to be improved with separate waste collections for plastic waste from ships, including fishing gear, as well as facilitating reuse, recycling and adequate waste management.
- European governments shall apply the Voluntary Guidelines for the Marking of Fishing Gear developed by FAO (Food and Agriculture Organization of the United Nations) as well as becoming members of the Global Ghost Gear Initiative.

Chemical pollution

- The most hazardous chemicals and pesticides need to be banned as a priority.
- Chemical pollutants should be included in risk analyses and impact assessments of other activities that impact cetaceans to take potential cumulative effects into account.

Climate change

- Exploration for any new hydrocarbon resources in the seabed should be banned. All concessions already in force for the exploitation of fossil fuel deposits should be phased-out and abandoned⁸.

Strandings and diseases

- Stranding response protocols and data-sharing among European States should be harmonised and collaboration should be intensified.

Whale watching

- Whale watching tours shall be subject to a permit system, including defining a carrying capacity on a regional basis. A certification system promoting high quality whale watching shall be established.

European Union specific

- Measurable actions, implementation oversight, incentive and enforcement tools are essential for reaching Good Environmental Status. Similarly there should be harmonization of the Programmes of Measures with a best practice approach and annual reporting of efficiency and progress.

International

- European governments shall pro-actively promote the highest level of protection for cetaceans within multilateral negotiations and international policy frameworks.
- An international moratorium on directed hunts of all cetacean species should be called for⁹.

⁷ This includes nine substances used in plastic packaging according to the "Database of Chemicals associated with Plastic Packaging (CPPdb)" (Groh *et al.*, 2018). <https://zenodo.org/record/1287773#.YBPvrHkxIEY>, as well as a ban of the hazardous material Polystyrene (PS) including Expanded Polystyrene (EPS) in food contact materials.

⁸ Abandonment of all concessions already in force for the exploitation of fossil fuel deposits that are located in any part of the territory of European States, including their territorial sea, their Exclusive Economic Zones (EEZ) and the continental shelf, establishing January 1, 2035, as the end date of activity for all of those concessions.

⁹ Exemptions shall only be granted selectively and under strict management oversight for cultural and subsistence needs for indigenous communities (see above).

- Regional and International Agreements need compliance and enforcement mechanisms to ensure proper implementation of provisions and decisions¹⁰.
- European States not yet Party to species conservation treaties are urgently requested to join such Conventions, for example the Convention on Biological Diversity (CBD), the Convention on the Conservation of Migratory Species of Wild Animals (CMS), and Regional Agreements such as the Agreement on the Conservation of Small Cetaceans of the Baltic, North East Atlantic, Irish and North Seas (ASCOBANS) and the Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic Area (ACCOBAMS), as appropriate.
- European States should increase engagement and elevate their efforts to the highest diplomatic levels to secure an ambitious treaty for the high seas¹¹.
- Economic interests should not continue to override conservation measures¹².
- Given that species monitoring and assessments at sea are inherently difficult, slow and, once published, often quickly outdated, actions addressing threats no matter what the species' Red List status must not be delayed.
- A new conservation approach should be promoted and implemented focusing on protecting individuals and social units decoupled from the species or population-focused approach by recognising the social complexity of cetacean species and the academic acceptance that many cetacean species have cultures¹³.

It is a crucial time. Greater ambition is required by all stakeholders to address the many threats that whales, dolphins and porpoises in European waters are facing. Conservation effort and collaboration need to be intensified to prevent losing further populations or even species. Protecting cetaceans and their habitats will also improve the health and resilience of European waters.

Whales and dolphins depend on us and we depend on them.

¹⁰ Such mechanisms need to provide tools to impose sanctions, as well as acting in a transparent manner by allowing civil society participation.

¹¹ Beyond national European marine waters and beyond the 200 nautical miles EEZ, i.e. outside the realm of national laws, EU laws (e.g., the EU Habitats Directive), Regional Seas Conventions, international UN Treaties (e.g., UNCLOS, CBD), MEAs and non-UN treaties (e.g., the Bern Convention, ICRW) and where legislative gaps exist, the new legally binding treaty to protect the High Seas (BBNJ ILBI) will be ever so important filling the governance gap for biodiversity beyond national jurisdictions.

¹² The precautionary principle needs to be a fundamental part of the Blue Economy. As the Agenda 2030 for Sustainable Development shows, conservation and sustainable development are intrinsically linked.

¹³ In such an approach, the most recent developments, decisions and recommendations within and by the CMS to which most European States are Party to, shall be followed.