



GENERAL FISHERIES COMMISSION
FOR THE MEDITERRANEAN
COMMISSION GÉNÉRALE DES PÊCHES
POUR LA MÉDITERRANÉE



GENERAL FISHERIES COMMISSION FOR THE MEDITERRANEAN

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**DRAFT FRANCE, ITALY AND MONACO PROPOSAL ON GFCM
RECOMMENDATION RELATED TO THE PELAGOS SANCTUARY
FOR THE CONSERVATION OF MARINE MAMMALS**

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RECOMMENDATION GFCM/2006/...

The General Fisheries Commission for the Mediterranean (GFCM);

NOTING the imperative international responsibility concerning the conservation of the living marine resources in the Mediterranean Sea for the needs of present and future generations;

RECALLING ALSO that establishing close or specially regulated fishing areas is a measure recognized to be favourable to the reconstitutions of marine fish stocks;

RECALLING that fish stocks sustainable management is closely linked with and may benefit from the conservation of others marine biodiversity components and in particular high trophic level species;

NOTING that an Intergovernmental “Agreement related to the creation in the Mediterranean of a Sanctuary for Marine Mammals” hereafter named the “Pelagos Agreement” extends, *inter alia*, on waters beyond national sovereignties or jurisdictions of the coastal States (as in Annex 1);

NOTING ALSO the wishes expressed by the Pelagos Agreement Contracting Parties to cooperate with GFCM in matter related to fisheries issues;

TAKING NOTE of the measures, attached to this Intergovernmental Agreement, related to fisheries matters. In particular Article 7 (b) and (c) by which the Pelagos Contracting Parties:

- Will comply with the international regulations and those of the European Community, regarding the use and the keeping of fishing equipment known as “pelagic drift net”,
- Will exchange their view, as deemed necessary, to promote in the appropriate fora and after scientific evaluation, the adoption of regulations relating to the use of new fishing equipment that could result in the indirect capture of marine mammals or that could endanger their sources of prey, while also considering the risk of loss of or deliberate disposal of fishing equipment at sea.

NOTING that the Pelagos Agreement in its Article 17 invites “other States, exercising activities within the area defined in Art. 3, to take protection measures similar to those foreseen by the present Agreement”;

NOTING ALSO that Pelagos Sanctuary, as a Specially protected Area, refers to the UNEP/CMS/ACCOBAMS Agreement and was recognized by the Contracting Parties of the Barcelona Convention’s “Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean” as Specially Protected Area of Mediterranean Importance (SPAMI) and as such

the Contracting Parties to this Protocol agrees (Article 8.3.b) "to comply with the measures applicable to the SPAMI and not to authorize nor undertake any activities that might be contrary to the objectives for which the SPAMIs were established";

CONSIDERING that most of the GFCM Mediterranean Riparian States and the EU are Parties to one or both of these agreements and that the Conservation Plan adopted by the Pelagos Contracting Parties refers for fisheries measure to the competence of GFCM;

CONSIDERING ALSO the Recommendation [xx/06] related to the criteria for obtaining the status of cooperating non-contracting party in GFCM Area;

ADOPTS in conformity with the provisions of paragraph 1 (b), (e) and (h) of Article III, Article V and Article VIII of the GFCM Agreement:

1. The Pelagos Sanctuary is recognized as a Specially Protected Area with fisheries implications;
2. The GFCM Permanent Secretariat is requested to cooperate with the Pelagos Secretariat on exchange data and reporting to their relative Governing Bodies.

Annex 1

Excerpt of the

“Agreement related to the creation in the Mediterranean of a Sanctuary for Marine Mammals”

Article 3

The sanctuary is composed of maritime areas situated within the internal waters and territorial seas of the French Republic, the Italian Republic and the Principality of Monaco, as well as portions of adjacent high seas. The limits of the sanctuary are the following:

- to the west, a line extending from Point Escampobariou (western point of the Giens peninsula: 43°01'70"N, 06°05'90"E) to Cape Falcone, situated on the western coast of the island of Sardinia (40°58'00"N, 008°12'00"E),
- to the east, a line extending from Cape Ferro, situated on the north-eastern coast of Sardinia (41°09'18"N, 009°31'18"E) to Fosso Chiarone, situated on the western Italian coast (42°21'24"N, 011°31'00"E).

Annex 1**AGREEMENT ON THE CREATION OF A
MEDITERRANEAN SANCTUARY FOR MARINE MAMMALS**

(unofficial translation)

The Parties to the present Agreement:

- Considering the threats encountered by Mediterranean marine mammals and in particular on their habitats,
- Considering that in the Mediterranean Sea there is an area within the distribution range of these animals, that is of particular importance for their conservation,
- Considering that according to the United Nations Convention on the Law of the Sea, the area in question is in part constituted by waters, with respect to which, each of the Contracting Parties exercises its sovereignty or jurisdiction,
- Considering that the European Community, as regards to two of the state parties, exercises complete competence in the field of conservation and management of living aquatic marine resources; that the technical measures of conservation of fishery resources in the Mediterranean are currently established by EC Council Regulation No. 1626/94, of 27.06.94,
- Recognising that as regards to two state parties, the provisions that will be adopted in the application of the present Agreement cannot prejudice the relevant Community principles and provisions, neither that they may put in question their obligation and duties as EC member states,
- Keeping in mind the treaties and the other relevant international instruments, namely,
 - the conventions on the conservation of migratory species of wild fauna and the relating convention on the conservation of European habitats and wildlife fauna,
 - the international convention for the regulation of whaling and the Agreement for the Conservation of Cetaceans of the Mediterranean and Black Seas and Contiguous Atlantic areas,
 - the Convention for the Protection of the marine environment and the coastal region of the Mediterranean, and its relative Protocols,

wishing to take action for the conservation of Mediterranean marine mammals, have agreed as follows:

Article 1

With respect to the present Agreement:

- a) a conservation status is deemed to be “favourable” when the knowledge on the populations, indicate that the marine mammal species of the region are maintaining themselves as a viable component of their ecosystem.
- b) the term “habitat” means any part of the range area of marine mammals, temporarily or permanently occupied by them, and utilised in particular for reproductive, birthing, feeding activities as well as a migration route.
- c) the term “taking” means the hunting, the capturing, the killing and the harassment of marine mammals including the attempt to conduct such activities.

Article 2

1. The parties establish a marine sanctuary within the area of the Mediterranean Sea as defined in article 3, whose biological diversity and richness represent an indispensable attribute for the protection of marine mammals and their habitats.
2. The Parties will protect all species of marine mammals within the Sanctuary.

Article 3

The sanctuary is composed of maritime areas situated within the internal waters and territorial seas of the French Republic, the Italian Republic and the Principality of Monaco, as well as portions of adjacent high seas. The limits of the sanctuary are the following:

- to the west, a line extending from Point Escampobariou (western point of the Giens peninsula: 43°01'70"N, 06°05'90"E) to Cape Falcone, situated on the western coast of the island of Sardinia (40°58'00"N, 008°12'00"E),
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Article 4

The Parties undertake to adopt within the sanctuary, the appropriate measures mentioned in the following articles, so as to ensure the favourable conservation status of marine mammals, by protecting both them and their habitat, from any negative direct or indirect impacts resulting from human activities.

Article 5

The Parties shall co-operate with the intent of periodically assessing the marine mammal population status, the causes of mortality, and the threats interfering on their habitat and in particular on their biological functions such as feeding and reproductive activities.

Article 6

1. Taking into account their international obligations, the Parties shall conduct monitoring activities within the Sanctuary and shall intensify the fight against any form of pollution, whether of maritime or land-based origin having or likely to have a direct or indirect impact on the marine mammal conservation status.
2. The Parties will adopt national strategies aimed at phasing out the release of toxic compounds within the sanctuary, giving priority to substances listed in Annex I of the Protocol against Pollution from Land Based Sources and Activities of the Barcelona Convention for the Protection of the Mediterranean Sea against Pollution.

Article 7

Within the Sanctuary the Parties:

- a) will forbid any deliberate take or intentional disturbance of marine mammals; however the non – lethal take of individuals shall be authorised in case of emergency situations or within the scope of scientific activities carried out "*in situ*" and in compliance with the terms of this Agreement,

- b) will comply with the international regulations and those of the European Community, regarding the use and the keeping of fishing equipment known as “pelagic drift net”,
- c) will exchange their view, as deemed necessary, to promote in the appropriate fora and after scientific evaluation, the adoption of regulations relating to the use of new fishing equipment that could result in the indirect capture of marine mammals or that could endanger their sources of prey, while also considering the risk of loss of or deliberate disposal of fishing equipment at sea.

Article 8

In the sanctuary, Parties shall regulate the watching of marine mammals for touristic purposes.

Article 9

The Parties will exchange views with the aim of regulating and if appropriate, forbidding high-speed motorboat competitions within the Sanctuary.

Article 10

The Parties exchange their views in order to harmonise, as far as possible, the regulation measures pursuant to the previous articles.

Article 11

Without prejudice of the relevant provisions of international law and if appropriate of the European Community regulations, nothing of the preceding dispositions will prevent the Parties from enacting stricter national regulation measures.

Article 12

1. The Parties will hold regular meetings for the putting in action and the follow-up of the present Agreement. The Parties establish the organisational aspects required for such meetings taking into account the presence of already existing structures.
2. In this framework they shall favour and encourage:
 - a) national and international research programs geared to establish the scientific aspects of application of the present Agreement;
 - b) awareness-building campaigns geared at professional and other marine users, and non-governmental organisations, with particular emphasis on campaigns regarding the prevention of collision between vessels and marine mammals and the need to communicate the presence of dead or distressed mammals to the competent local authorities.

Article 13

In order to ensure the application of the measures included in the present Agreement the Parties appeal, in particular, to the authorities responsible for maritime patrolling. They agree to exchange all relevant information recorded in this context. To this purpose the Parties will facilitate the mutual use of their air and maritime ports through simplified procedures.

Article 14

1. In the part of the sanctuary located within the waters subject to its sovereignty or jurisdiction, each of the State Parties to the present Agreement is responsible for the application of the relevant provisions.

2. In the other parts of the sanctuary, each of the State Parties is responsible for the application of the provisions of the present Agreement with respect to ships flying its flag as well as, within the limits provided for by the rules of international law, with respect to ships flying the flag of third States.

Article 15

Nothing in the present Agreement will prejudice the sovereign immunity of warships or other ships owned or operated by a State while engaged in government non-commercial service. However, each Contracting Party shall ensure that its vessels and aircraft entitled to sovereign immunity under international law, act in a manner consistent with the present Agreement.

Article 16

As soon as the Protocol concerning specially protected areas and biological diversity in the Mediterranean enters into force for them, the Parties will present a joint proposal for inclusion of the sanctuary in the list of specially protected areas of Mediterranean importance.

Article 17

1. The Parties invite other States, exercising activities within the area defined in Art. 3, to take protection measures similar to those foreseen by the present Agreement, taking into account the Action Plan adopted within the UNEP/MAP framework for the conservation of cetaceans in the Mediterranean and the Agreement on the conservation of cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic area, or any other pertinent treaty.

2. The present Agreement is communicated to all international organisations competent at the international or regional level, as well as to the Parties to the Convention for the protection of the marine environment and the coastal region of the Mediterranean.

Article 18

The present Agreement is subject to ratification, acceptance or approval by the signatory parties.

Article 19

1. The instruments of ratification, acceptance or approval will be deposited with the Government designed as depository of the present Agreement.

2. The present Agreement will enter into force on the thirtieth day following the date of deposit of the instruments of ratification, acceptance or approval of the signatory Parties.

Article 20

1. The Parties may invite any other interested State or international organisation to accede to the present Agreement. Accession will be open after the entry into force of the Agreement.

2. The present Agreement will enter into force, with regard to the acceding Parties, on the thirtieth day following the date of deposit of the instrument of accession, acceptance or approval.

Article 21

1. Any Party may ask for the convening of a conference for the revision of the Agreement. All revisions will require the agreement of the signatory Parties.

2. Any Party may denounce the Agreement. The denunciation will take effect three months after its notification to the depository. The denunciation by an acceding Party will not cause the termination of the Agreement for the other Parties.

Article 22

1. The present Agreement, written in the French and Italian languages, each version being equally authentic, is deposited with the archives of the Government of the Principality of Monaco.

2. The present agreement will be registered by the depository in conformity to Art. 102 of the Charter of the United Nations.

Signed in Rome, on the 25th of November 1999.

For the Principality of Monaco

For the French Republic

For the Italian Republic

DECLARATION

The representatives of the three signatory Parties express their satisfaction for the happy finalisation of a document on which they have worked for more than six years. Being it understood that, as with all human work, this agreement is perfectible, it represents the first crucial step towards a real and effective protection of mammals in the western Mediterranean.

Without waiting for the ratification procedures, the signatory Parties will as from today endeavour to facilitate the application of the Agreement by establishing the bases for the management of the sanctuary.

The signatory Parties may rely on the work already accomplished by themselves at the state and the territorial entities level. In particular, the experience gained within the RAMOGE agreement will positively contribute to the establishment and management of the sanctuary.

The Parties hope that, besides the rapid fulfilment of the undertakings embodied in the Agreement by the competent authorities of the State and territorial entities, studies on a certain number of points that may complete the substance of the Agreement be conducted, applying the precautionary principle. This refers in particular to the consequences on marine mammals of the use of means for seismic and acoustic prospecting and detection, as well as the possible exploitation of non-living natural resources. Lastly, the question of noise and speed of vessels, already addressed in the Agreement with regard to high-speed motorboat races, will need to be also examined.