



# Guidelines for Commercial Cetacean-Watching Activities in the Black Sea, the Mediterranean Sea and Contiguous Atlantic Area



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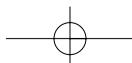
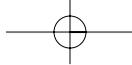
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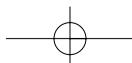
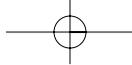
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## FOREWORD

With the exception of very few places, such as a short stretch of coastline in southern Spain, whale watching in the region comprising the Mediterranean and Black Seas is still in a rather primitive state of development. However, as has been shown by a recent flourishing of scientific studies, cetacean populations are abundant in many portions of this region, and within easy reach from coasts that are seasonally of major tourist importance. We should therefore expect that whale and dolphin watching might develop significantly in the Mediterranean and Black Seas in the coming years. It is quite fortunate that international agreements to protect cetaceans – such as the Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area (ACCOBAMS) and the Pelagos Sanctuary for the Conservation of Mediterranean Marine Mammals have been enacted in the region before whale watching has had the chance of undergoing unregulated growth, because they will provide a precious opportunity for “starting with the right foot”.

This document represents an important contribution to this process. It gathers two related and complementary works: firstly, the Guidelines for commercial whale watching activities in the Black Sea, the Mediterranean Sea and contiguous Atlantic Area. These guidelines were recommended to be taken into consideration by the Contracting Parties to ACCOBAMS when drafting or updating their domestic legislation on cetacean watching (2002) and were recommended for adoption by the Contracting Parties of the Barcelona Convention (2003) after a common review by ACCOBAMS and the Regional Activity Centre for Specially Protected Areas (RAC/SPA); secondly, the document presents a much-needed Worldwide review document on existing whale watching codes of conduct, guidelines and regulations, prepared for RAC/SPA by leading expert Carole Carlson.

The background information on an impressive body of expertise in the field, accumulated over the years in various parts of the world, and the specific suggestions provided by Dr. Carlson and the Scientific Committee of ACCOBAMS to the elaboration process of these guidelines for cetacean watching in the ACCOBAMS Agreement and Barcelona Convention areas, will be of great assistance in the collective effort of managing the harmonic growth of respectful whale watching in our region. In particular, this compilation is a substantial output of the collaboration between ACCOBAMS and the Mediterranean Action Plan (MAP), in particular its Regional Activity Centre for Specially Protected Areas in its capacity of Mediterranean Sub-regional Coordinating Unit of that Agreement.

**Giuseppe Notarbartolo di Sciarra**  
**Chair of ACCOBAMS Scientific Committee**

## I - Scope of the Guidelines

### Point 1

The Guidelines presented here address those cetacean-watching activities carried out for commercial purposes and subject to the jurisdiction of the Parties to ACCOBAMS and to the Barcelona Convention. The Guidelines relate to all marine activities where funds are being generated from whale or dolphin watching and this may include research activities that have a commercial component<sup>1</sup>.

They are intended to serve as a framework for the development of more detailed guidelines by national and regional authorities<sup>2</sup> at a local level. These Guidelines should be used to identify what issues need to be addressed and how this may be appropriately done.

Variations on this framework will be required to cater for different species<sup>3</sup>, different geographical considerations and differences in other human activities within the area where whale watching is occurring or planned to occur.

Help in the interpretation and development of guidelines can be sought from ACCOBAMS and these framework guidelines will be subject to regular review and amendment by the ACCOBAMS scientific committee<sup>4</sup>.

The implementation of these guidelines is in accord with Article 2 of ACCOBAMS.

<sup>1</sup> This is one issue where the appropriate authorities should decide the scope of activities to be included within the guidelines. The options are  
 a. All marine activities that include whale or dolphin watching as a means of raising funds, including all commercial and research activities; or  
 b. All marine activities that include whale or dolphin watching as a means of raising funds, including all commercial activities but excluding primarily research activities, which should be separately licensed, perhaps by a special permit system.  
 The authorities should also pay special attention to those whale watching activities run by conservation organisations and which contribute to cetacean conservation by research or education or in some other fashion. In such cases, a special permit may again be appropriate.

<sup>2</sup> "Authorities" here is intended to primarily mean the relevant parts of the government (i.e. ministries or agencies) of Barcelona Convention and ACCOBAMS Parties which have appropriate powers and interests. It may also include other bodies, including for example regional integration bodies, if such bodies have appropriate interests and powers.

<sup>3</sup> In fact it may be necessary to develop variations on these guidelines for different portions of populations (for example mothers and calves in breeding areas may be sensitive to disturbance and displacement.)

<sup>4</sup> Those intending to make use of this framework are recommended to verify that they are using the most-up-to-date version by checking with the ACCOBAMS Secretariat and/or the RAC/SPA.

## II - Impact assessment

### Point 2

Before allowing cetacean-watching activities to commence, the Parties should make a formal assessment of their potential impact on the favourable conservation status of cetaceans. Advice relating to how to conduct such an assessment may be sought from ACCOBAMS and RAC/SPA.

No new cetacean-watching activities should be authorised if there are threats of significant adverse impact on the behavioural patterns or physiological well-being of cetaceans<sup>5</sup>.

Based on the results of the impact assessment, the authorities should establish conditions under which cetacean watching may be established. The types of conditions are outlined below.

The impact assessment should be repeated at periodic intervals of between five and ten years.

## III - Permits

### Point 3

#### 1 - Commercial Operations

Any commercial cetacean-watching activity should only be carried out under a permit granted by the appropriate authority. Permits for commercial operations should be issued by area, with a restricted number of commercial vessels operating in any given area on a given day.

#### 2 - Special Permits

On occasion, activities such as research or media work may require individuals or vessels to approach whales at a distance closer than that identified below. In such cases, it is suggested that special permits, issued by appropriate authorities, be required. Advice on the issuance of special permits can be sought from ACCOBAMS.



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#### 3 - Criteria

Before issuing a permit or certification, the authorities should be satisfied that there is substantial compliance with the following criteria:

<sup>5</sup> The precautionary principle should be employed in every instance (meaning that the benefit of any doubt should be given to the animals).

- a. That the commercial operation should not have any discernable adverse effect on the behavioural patterns of the cetacean to which the application refers;
- b. That it should not conflict with the conservation, management, or protection of the cetacean concerned;
- c. That the proposed operator, and the operator's staff who may come in contact with cetacean, should have sufficient experience with cetacean;
- d. That the proposed operator, and the operator's staff who may come into contact with cetacean, should have sufficient knowledge of the local area and of the sea and weather conditions;
- e. That the commercial operation should have sufficient educational value to participants or to the public;
- f. That the commercial operation, when possible, facilitates the collection of scientific data and ultimately the publication of these data in a useful form<sup>6</sup>;
- g. That the vessel used meets appropriate national safety standards;
- h. That the vessel used be insured for the passengers that it carries; and
- i. That the vessel be judged appropriate for whale watching.



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#### 4 - Applications

To obtain such a permit, vessel or aircraft based cetacean-watching operations would be expected to submit to the competent authority an application in writing setting out relevant information that should include the following:

- a) the type<sup>7</sup>, number and speed of vessels or aircraft intended for use and the maximum number of vessels or aircraft the operator proposes to operate at any time;
- b) where possible, information relating to the noise level of each vessel or aircraft both above and below the sea;

<sup>6</sup> To be useful data need to be collated, analysed and ultimately published. This may require consultation with appropriate scientists.

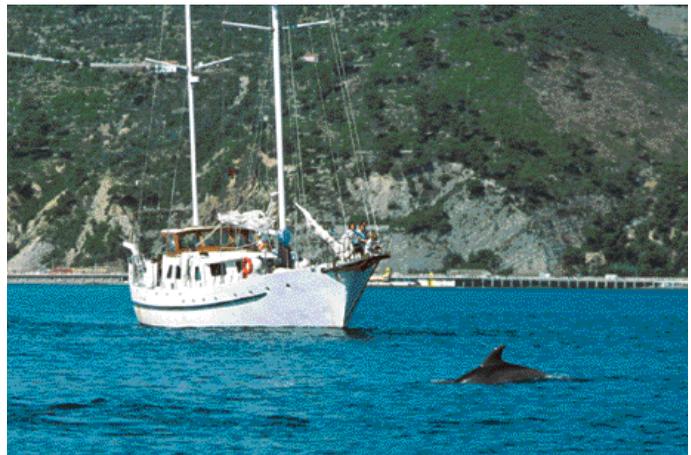
<sup>7</sup> The competent authority is also encouraged to consider whether the vessel is appropriate for use around cetaceans. Care should be taken to minimise the risk of injury and noise disturbance to cetaceans.

- c) the area of operation;
- d) the base or bases of the operation;
- e) the duration and frequency of trips;
- f) the species of cetaceans with which the operation will be expected to have contact;
- g) the nature of the contact (e.g. viewing from a boat's decks, an underwater-viewing platform or whether passengers will be entering the water);
- h) the method of location of cetaceans;
- i) the maximum number of passengers to be taken on board;
- j) the persons in command of the vessel or aircraft, their qualifications and, where appropriate, those of their staff;
- k) the educational information and materials that will be provided to the passengers (e.g. will there be an onboard commentary provided by a naturalist);
- l) an outline of any research activities to be conducted in conjunction with the cetacean-watching;
- m) where relevant<sup>8</sup>, the minimum altitude that will be used in the presence of cetaceans; and
- n) a commitment to keeping a daily log of cetacean watching activities that can be provided to the authorities at the end of a year/season.

## 5- Refusals

No permit should be granted if the competent authority is not satisfied that:

- a) the operator and the staff who come into contact with cetaceans have sufficient experience with cetaceans;
- b) the operator and the staff have sufficient knowledge of the local area and of sea and weather conditions;
- c) the operator and the staff who come into contact with cetaceans have no convictions for offences involving the mistreatment of animals;
- d) the operation proposed has sufficient educational value to the public; and
- e) the vessel meets appropriate safety standards, including carrying safety equipment, and is adequately insured for such purpose.



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<sup>8</sup> For aircraft.

## 6 - Changes in permit agreements

The competent national authority should be able at any time to suspend, revoke or amend a permit, or restrict the operation authorised by a permit, where:

- a) the conservation status or welfare of the cetaceans is being threatened by the activity; and/or
- b) the holder contravenes or fails to comply with any statutory requirement relating to cetacean-watching or any condition specified in the permit;

## IV - Behaviour around cetaceans

### 1 - Basic Principles

#### Point 4

Noting that different conditions for conduct in the proximity of cetaceans may apply to different species and even for different sub-sections of a population (for example mothers and calves), the following recommendations for this aspect of codes of conduct will require specific development at the local level.

Ideally, the situation should be managed such that it allows cetaceans to control the nature and duration of the encounter.

Cetacean watch operators should have a “duty” to care for the animals that they exploit. Every effort should be made to minimise disturbance to cetaceans and avoid collisions between vessels.

The following basic principles should be established in codes of conduct and considered in the permitting process:

- vessels and aircraft should be operated so as not to disrupt the normal behaviour<sup>9</sup> of cetaceans;
- contact with cetaceans should be abandoned at any stage if they show signs of becoming disturbed or alarmed;
- there should be periods during the day when the animals are not subjected to whale watching activities by any vessel, including those in possession of a research or filming licence/permit. These “quiet periods” should be at least one third of the period of daylight;
- particular care should be taken when calves are present; and
- no rubbish, sewage or other polluting substances (including oil) or food should be disposed of in the proximity of the cetaceans.

<sup>9</sup> Advice concerning what constitutes “normal behaviour”, disturbance and alarm can be sought from ACCOBAMS and RAC/SPA.

## 2 - Managing Vessel<sup>10</sup> Activity in the proximity of cetaceans.

Except in circumstances of human safety or other emergency:

- operators should avoid having more than one vessel watching a marine mammal or a cohesive group of cetacean;



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- if more than one vessel is in the approach zone<sup>11</sup>, they should be in radio communication to coordinate their movements around cetacean;
- a dedicated observer should be on duty wherever possible in addition to the captain of the vessel;
- care should be taken such that no cetacean should be separated from a group or a mother from her calf or that a group be dispersed;
- under no circumstances should cetaceans be driven or their movements blocked by vessels;
- sudden or repeated change in the speed or direction of vessels or aircraft should not be made except in the case of an emergency;
- vessels should not drift down towards cetaceans;
- if cetaceans approach the vessel or bow ride, maintain a slow<sup>12</sup>, steady speed without changing course<sup>13</sup>;
- where a vessel stops to enable the passengers to watch a cetacean, the engines should be placed in neutral;
- when departing from watching cetaceans it is of importance to determine where the animals are relative to the vessel to avoid collisions or coming too close to the animals. In some circumstances it may be necessary to wait for animals to return to the surface from a dive to be certain as to their position<sup>14</sup>;
- cetaceans should never be approached head-on, but from the rear or the side, nor should they be closely paralleled by vessels or approached by vessels under sail; and
- isolated mother and calf pairs and isolated calves should also be left alone, as should animals that appear to be resting or avoiding vessels.

<sup>10</sup> Vessels here include all motorized, paddle and sail craft. Personal motorized craft (jet skis and similar craft) are not suitable for watching whales and dolphins and permits should not be issued to such craft.

<sup>11</sup> See note below concerning zones.

<sup>12</sup> For guidance 6 knots and below could be considered as slow.

<sup>13</sup> If unsure of their movements, operators should slow down gradually and put the engine into neutral.

<sup>14</sup> This may particularly apply to deep diving cetaceans.

### 3 - Special Considerations for Sperm Whales<sup>15</sup> :

- a. when a sperm whale abruptly changes its orientation or starts to make short dives of about 1 to 5 minute durations without showing its tail flukes, the vessel should leave the watching zone at a no wake speed until outside of the approach zone;
- b. do not stay with a sperm whale or group of sperm whales for more than 3 of the whales' dive sequences; and
- c. do not stay with a social group of sperm whales for more than 15 minutes.

### 4 - Swim-with

- Because of the risks to cetaceans and humans there should be a presumption against commercial programmes that include entering the water with the animals. Only under exceptional circumstances should such "swim-with" programmes be licensed.



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### 5 - Zones

- Except in circumstances where the cetaceans themselves choose to approach, vessels should always maintain themselves at a particular distance from the animals being watched. In the case of large whales, 100m is recommended and, for dolphins, 50m. Vessels at this distance from the animals are at the edge of the "Watching Zone";
- between the watching zone and a distance of 300m from the animals, vessels should maintain a slow and constant no-wake speed this should allow them to close with the animals but not chase them. The area between 300m and the watching zone is the "Approach Zone";
- a vessel departing from the vicinity of cetaceans should also proceed slowly (i.e. travelling at no more than 6 knots), until it is at least 300 metres from the nearest cetacean;
- only one vessel at any one time should be in the watch zone and no more than two in the approach zone;
- time in the watching zone should be limited; periods of twenty or thirty minutes may be appropriate<sup>16</sup>;

<sup>15</sup> The particular biology of sperm whales makes it necessary to have specific guidelines for them and this section serves as a reminder that similar species-specific aspects of guidelines may need to be produced for other species.

<sup>16</sup> This may vary in relation to local circumstances and the species involved. In circumstances where there are multiple whale watch operators working in one area, they will need to liaise with each other to manage access to the animals.

## 6 - Managing Aircraft Activity in the proximity of cetaceans

- Helicopters should not be used for cetacean watching;
- no aircraft should be flown below 150 metres above sea level within the watching zone (i.e. 50m for dolphins and 100m for whales); and
- only one aircraft (or one vessel) should be over (or in) the watching zone at any one time.

## V - Training and special quality mark

### Point 5

- The Parties should organise training courses for operators and their staff (preferably including on-board naturalists) and, where appropriate, relevant authorities should grant them a dated certificate of proficiency that can be displayed; and
- refresher courses should also be offered and further training for on-board naturalists also be considered.

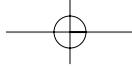
## VI - Sanctions and remedies

### Point 6

- The Parties should impose sanctions of sufficient gravity to deter violations of the conditions identified in the permits issued and in the local guidelines, including the suspension or revocation of permits; and
- those who are responsible for violations should be required to compensate the damage in the form of restitution or mitigation.



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## VII - Other matters.

### Point 7

#### 1 - Detection of cetaceans.

The use by cetacean watching operations of sonar systems that emit noise to detect cetaceans or to bring them to the surface should not be permitted under any circumstances.

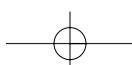
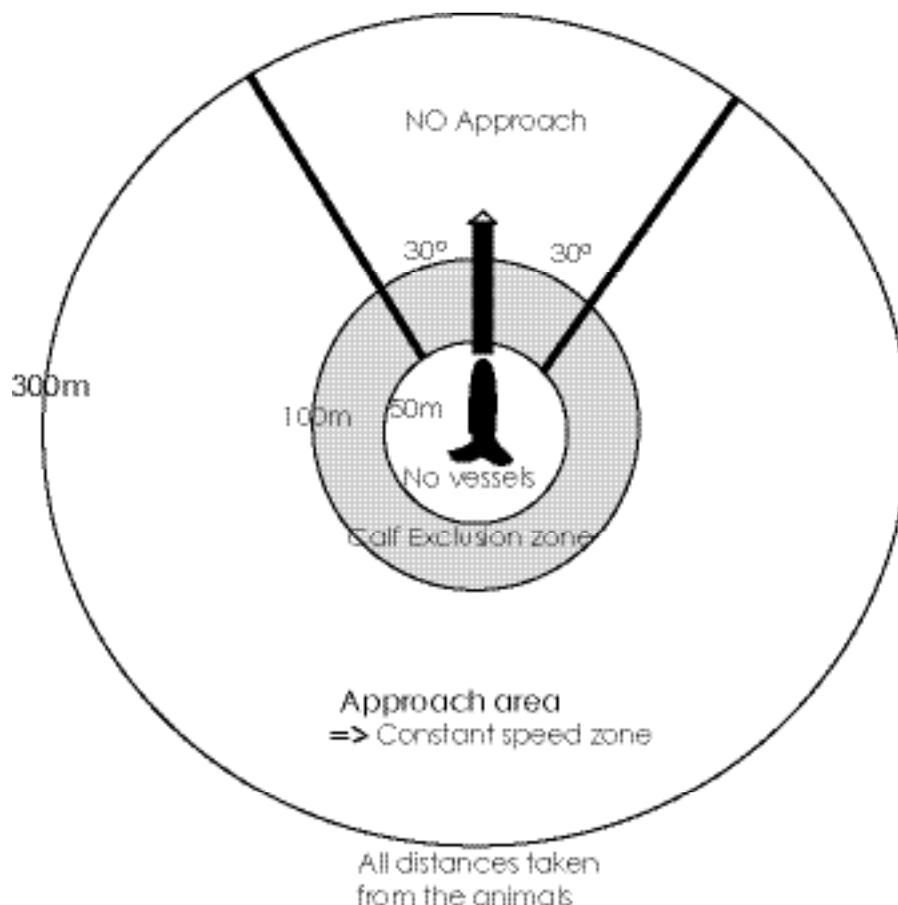
Consideration should be given to banning or limiting the use of passive whale detection systems (e.g. hydrophones) where it is believed that they may cause cetacean watching activities to become too concentrated.

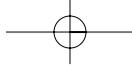
#### 2 - Implementation

Arrangements should be made to allow independent inspection of cetacean watching activities to ensure compliance with guidelines. One consideration for continued licensing of an operator would be appropriate compliance.

#### 3 - Whale Watching Associations

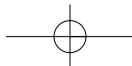
In order to encourage best practice and appropriate management of resources, consideration in any one area or region may be given to the development of an Association of whale watch operators.

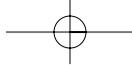




# **Annex :**

**A worldwide review of regulations, guidelines  
and codes of conduct for whale watching  
as a reference for the Mediterranean Sea**





*Note: The designations employed and the presentation of the material in this document do not imply the expression of any opinion whatsoever on the part of UNEP concerning the legal status of any State, Territory, city or area, or of its authorities, or concerning the delimitation of their frontiers or boundaries.*

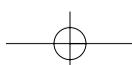
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## A. Introduction

Commercial whale watching is a rapidly growing industry worldwide. It is estimated that the industry attracts more than nine million participants a year in eighty-seven countries and territories, generating revenue of at least one billion US dollars<sup>1</sup>.

In the Mediterranean, the high profile of the recently designated Mediterranean Cetacean Sanctuary and associated scientific research and education programs may well lead to an increase and expansion of whale watching activities. Hoyt (2001) reports that the sanctuary provides "an outstanding potential for future whale watching both in terms of the Ligurian Sea and access to other areas of the Mediterranean"<sup>2</sup>. In fact, the number of people watching whales has greatly increased in Italy, Spain, Greece, France and Croatia.

While whale-watching activities may enhance environmental tourism, regional economics, environmental education and research, it is critical that whale watching does not cause undue stress or harm to cetacean individuals or populations.

To encourage responsible whale watching, ad hoc rules of behavior have been established in many areas. To date, there are at least thirteen countries with whale watching regulations and at least twenty with guidelines or codes of conduct.



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The regulations, guidelines and codes of conduct have two general roles: to minimize disturbance (which may lead to long-term biologically significant impacts); and to avoid collisions.

These precautionary measures attempt to assure that whales and dolphins are not disturbed while breeding, resting or feeding. Thus, the joy of spotting the whale is preserved, even enhanced, while neither individual animals nor populations are subjected to undue stress. Common sense aspects of responsible whale watching may include discouraging vessel activities such as: approaching mothers and calves; separating whales in a group; altering a whale's behavior by making sudden changes in speed or direction; approaching whales too closely or chasing and encircling whales.

Regulations and guidelines vary worldwide according to area, species and the use of their habitat. Whales may have different reactions or tolerance to disturbance depending on the species and whether they are resident, migrating, feeding, socializing or involved in calving or mating. For example, in the United States, it is illegal for any vessel to approach within 500m of a northern right whale off the east coast or 100m of a humpback whale off Alaska and Hawaii. However, as long as a whale is not disturbed, vessels are legally allowed to make close approaches to humpbacks outside of Alaska and Hawaii, and can make close approaches to all other species of whales in U. S. waters. In addition, several countries have varying guidelines for dolphin watching. In New Zealand, swimming with dolphins is allowed with restrictions while in the UK and Galapagos Islands it is not recommended.

<sup>1</sup> Hoyt, E. 2001. *Whale Watching 2001: Worldwide Tourism Numbers, Expenditures, and Expanding Socioeconomic Benefits. A special report for the International Fund for Animal Welfare.* 158pp.

<sup>2</sup> *Id* page 90.

Government agencies responsible for regulating whale watching activities vary from country to country. Agencies who develop guidelines or legally binding regulations range from the military to national and local governments; cooperative groups of whale watch operators and non-governmental groups often develop voluntary codes of conduct. Whale watching, if permitted, should be conducted in such a way that fosters positive respectful interactions between whales and whale watchers and does not result in an increase in irritability or overt stress of the whales.

In this document, guidelines, regulations and codes of conduct from around the world are analyzed and summarized. Recommendations are presented for a code of conduct for cetacean watching in the Mediterranean Sea. Appropriate codes of conduct for this area, complemented by the opportunity for scientific and education programs aboard commercial whale watch vessels, will help to bring the message of cetacean and marine conservation to the public while ensuring cetacean safety and maximum socioeconomic benefits from the activities.

## B. Definition of terms: <sup>3</sup>

Whale watching	watching cetaceans in the wild. Almost invariably, whale watching is conducted from a platform (e.g. ship, cliff or airplane). However, activities such as feeding or swimming with cetaceans are not excluded.
Commercial whale watching	whale watching with some commercial element
Research whale watching	the conduct of non-lethal research on live cetaceans
Opportunistic whale watching	non-commercial whale watching conducted by amateurs on an ad hoc (non-commercial) basis



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## C. Cetaceans of the Mediterranean Sea

The following species briefs, with the exception of the long-finned pilot whale are from Ward et al. 2001<sup>4</sup>.

### • short-beaked common dolphin (*Delphinus delphis*)

Moderately slender dolphin with a medium to long beak and tall, slightly falcate dorsal fin. Strikingly marked, with distinctive criss-cross 'hourglass' pattern with dark cape and yellowish patch on both sides behind eye. Commonly confused with striped, spinner, spotted, and Atlantic white-sided dolphins. Adults typically reach 2.3 to 2.6 metres (7.5–8.5 ft), 135 kilograms; at birth approximately 0.8 metres (32 in). Common dolphins travel in large groups of 10 to 500 animals (up to 2000 in the eastern tropical Pacific). Often move at high speed, and may bowride. Distribution: Oceanic, widely distributed worldwide, in subtropical to temperate waters. IUCN Status: Insufficiently known. Cosmopolitan.

<sup>3</sup> From the Report of the Workshop on the Scientific Aspects of Managing Whale Watching, Montecastello di Vibio, Italy, 30th March –4th April 1995. International Fund for Animal Welfare, Tethys research Institute and European Conservation. 40pp.

<sup>4</sup> Ward, N., Moscrop, A. and C. Carlson. 2001. Elements for the Development of a Marine Mammal Action Plan for the Wider Caribbean: A Review of Marine Mammal Distribution. U.N.E.P. Technical Report. 83pp.

- **striped dolphin (*Stenella coeruleoalba*)**

Similar in body shape to other *Stenella* and *Delphinus* species with a falcate dorsal fin and moderately long beak. Stunning coloration with a bluish-grey or brownish upper side with a distinctive pale-grey stripe along its entire side. A pale grey 'finger' extends below a dark, prominent fin. Black beak extends into a stripe back to eye and along lower flank to anus. May be confused with Fraser's dolphin or Atlantic spotted or bottlenose dolphins. Adults reach 2.2 to 2.6 metres (7–8.5 ft), 130 kilograms, at birth, approximately 1 metre (3 ft). Striped dolphins typically travel in groups of 10 to 500 animals, reaching aggregations of 3000 individuals. They are fast swimmers, sometimes known as 'streakers'. Distribution: Primarily a warm water species but worldwide in temperate to tropical oceans. Observed only close to shore where deep water approaches the coast. IUCN Status: Insufficiently known. Tropical.

- **common bottlenose dolphin (*Tursiops truncatus*)**

The most familiar of the small cetaceans. Bottlenose are large robust dolphin with short to moderate stocky beak with obvious crease between the beak and melon. The dorsal fin is



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tall and falcate. May vary greatly in size, shape, and colour (several species may exist), with larger offshore form and smaller inshore morph. Features a grey colouring with a distinct beak and rounded forehead. Adults may reach 1.9 to 3.8 metres (6–12 ft), 140 to 650 kilograms. At birth, approximately 1 metre (3 ft), 25 kilograms. Usually travel in small groups, but as many as 500 individuals may occur offshore. Sometimes aerially active. Distribution: Worldwide, tropical to temperate waters. IUCN status: Insufficiently known. Cosmopolitan.

- **long-finned pilot whale (*Globicephala melas*)**

Large animals, jet black in color, with a large, strongly curved, prominent dorsal fin, bulbous head, and no beak. Easily confused with short-finned pilot whale, though long-finned pilot whales have longer, sickle-shaped flippers and more teeth. Males are distinguishable from females by their longer-based, blunter-tipped dorsal fin. Adult males may reach 6 metres (20 ft), 3.5 tons. Adult females may reach 5.5 metres (18 ft), 3 tons. At birth, approximately 1.8 metres (6 ft), 90 kilograms. Pilot whales typically travel in groups of 10 to 50 animals, though several hundred animals may occasionally be found. Strong social bonds exist within the relatively stable, female-based groups. Distribution: Deep, offshore, worldwide temperate waters. IUCN Status: Insufficiently known.



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- **fin whale (*Balaenoptera physalus*)**

Very large, sleek, and streamlined baleen whale reaching 17 to 24 metres (56–79 ft), 70 tons. At birth, approximately 6.5 metres (21 ft), 2 tons. Unique features include asymmetrical head pigmentation, with the lower 'lip' dark in colour on the left side but white on the right. May be confused with sei, blue, or Bryde's whales. Group size typically small (1 to 7 animals), but 100 or more may gather at feeding grounds. Distribution: Worldwide, oceanic. IUCN Status: Vulnerable. Cosmopolitan.

- **sperm whale (*Physeter macrocephalus*)**

The largest toothed cetacean. Identifiable by its low, bushy blow extending forward and to the left. Features a huge, blunt head, a triangular or rounded hump on its dorsal side with 'knuckles' extending from hump to flukes. Narrow, underslung lower jaw. Wide, spatulate flippers, broad tail flukes with a deep median notch. Commonly flukes are raised out of the water when diving. Behind the head the body surface tends to be crinkled. Highly sexually dimorphic. Adult males may reach 18 metres (59 ft), 60 tons. Adult females may reach 12 metres (39 ft), 18 tons. At birth, approximately 4 metres (13 ft), 1 ton. Group size typically extends from 1 to 50 animals, though hundreds may travel together. Highly social on breeding/nursery grounds. Distribution: Deep, oceanic waters worldwide, between 60 ° N and 60 ° S latitude, although generally only large males venture polewards of 40 ° latitude. IUCN Status: Insufficiently known. Cosmopolitan.

- **Cuvier's beaked whale (*Ziphius cavirostris*)**

Relatively robust medium-sized toothed whale, with short, poorly defined beak and mouthline that is upcurved at the rear. The most widespread and abundant of the beaked whales. Slightly concave top to head; this becomes increasingly obvious in older animals. Swirling colour pattern ranges from brown to white, depending on location, sex, or age. Circular scars common. Two small teeth at tip of jaw are visible with the mouth closed. Adult males to 7 metres (23 ft), exceeding 5 tons; adult females to 7.5 metres (24.6 ft), 2 to 3 tons. At birth approximately 2.7 metres (8.8 ft). Distribution: Offshore, worldwide except polar waters. IUCN Status: Insufficiently known. Cosmopolitan.

- **Risso's dolphin (*Grampus griseus*)**



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Robust, blunt-headed animals without a distinctive beak. Older animals highly recognisable by very tall dorsal fin and white scars covering a blue-grey to almost white body colour. Battered appearance may be a result of Risso's dolphin teeth or confrontations with squid. Flippers are long and pointed. Adults have a distinctive vertical crease on the front of the melon. Young animals range from light grey to darkish brown and are relatively unmarked. Adults reach 3 to 3.8 metres (10–12.5 ft), 600 kilograms. At birth, approximately 1.5 metres (5 ft). Risso's dolphins typically travel in groups of 3 to 50 animals, and may gather temporarily in groups of up to 150. May also be found travelling in mixed schools with several species of dolphin or pilot whales. Distribution: Worldwide in deep, oceanic and continental slope, tropical and temperate waters. IUCN Status: Insufficiently known. Cosmopolitan.

Sources of information for Cetacean Species Briefs: Minasian et al. 1984<sup>5</sup>; Reeves et al. 1992<sup>6</sup>; and Carwardine 1995.<sup>7</sup>

<sup>5</sup> Minasian, S. M., K. C. Balcomb, and L. Foster. 1984. *The World's Whales: A Complete Illustrated Guide*. Smithsonian Books, Washington, DC. 224 pp.

<sup>6</sup> Reeves, R. R., B.S. Stewart, and S. Leatherwood. 1992. *The Sierra Club Handbook of Seals and Sirenians*. Sierra Club Books, San Francisco.

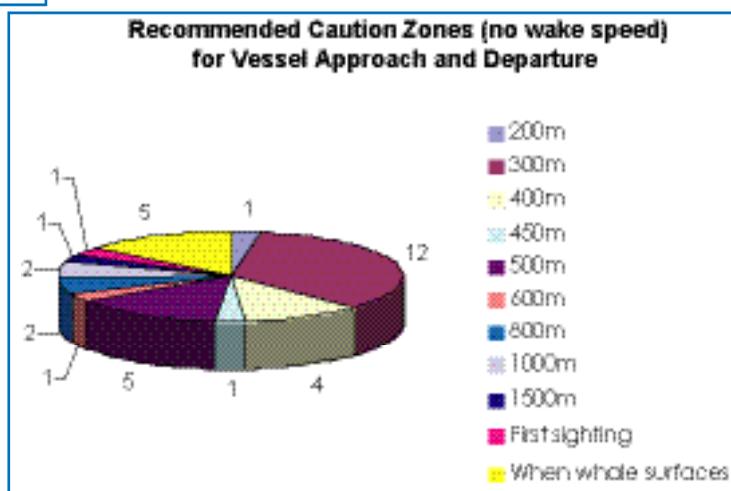
<sup>7</sup> Carwardine, M. 1995. *Whales, Dolphins and Porpoises: The visual guide to all the world's cetaceans*. 1st edition. Dorling Kindersley Limited, London. 256 pp.

## D. Analysis of Regulations and Guidelines for Whale Watching

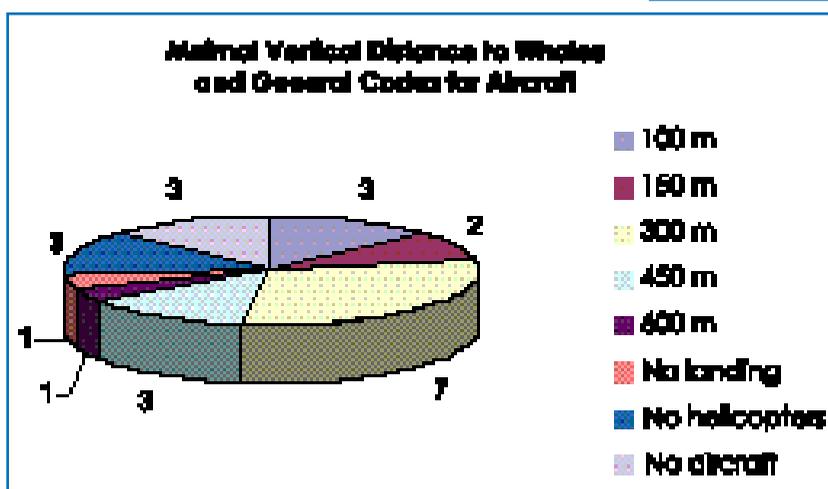
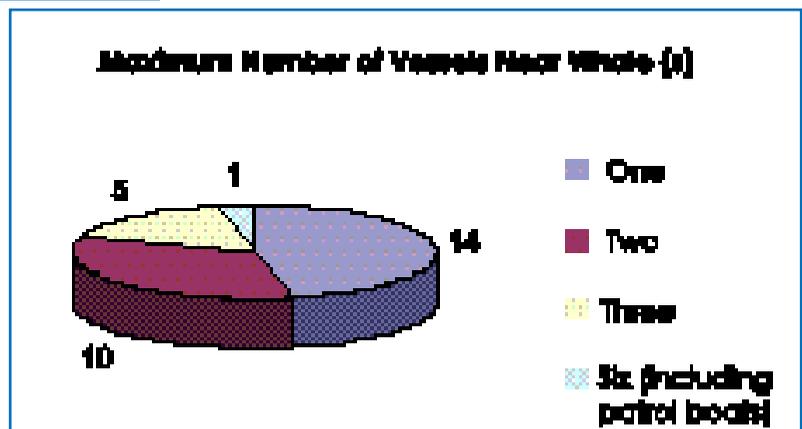
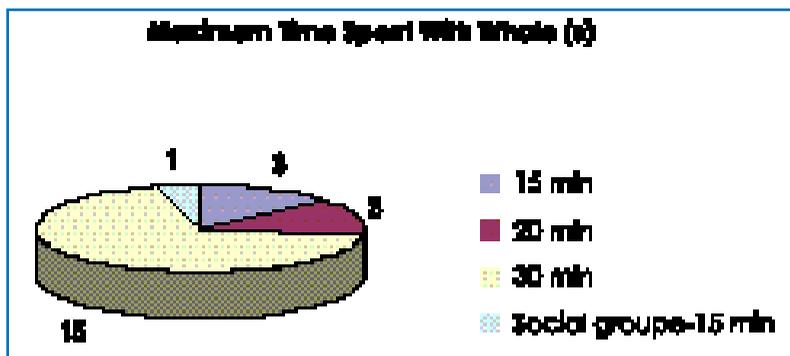
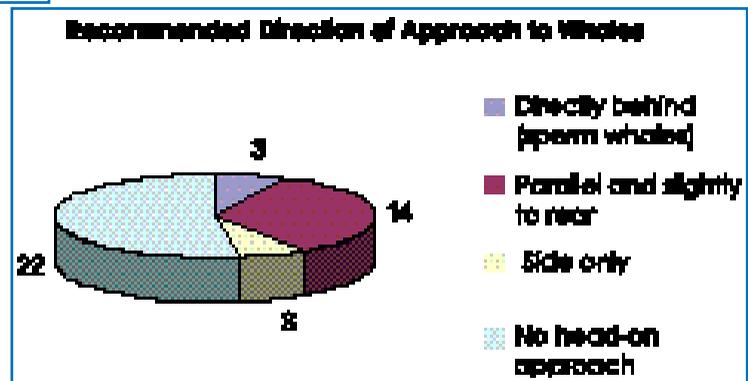
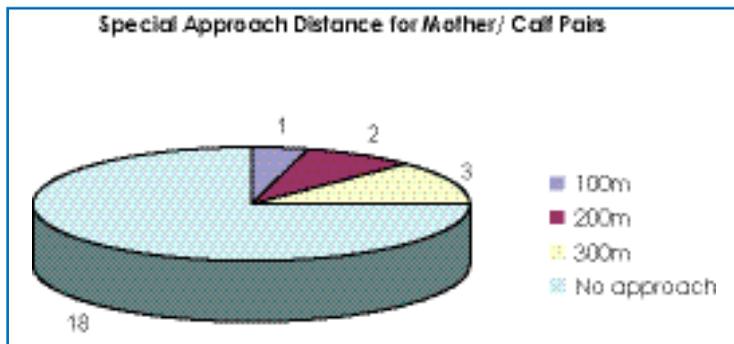
The analysis is derived from a review of whale watch regulations and guidelines around the world.<sup>8</sup> The reference paper collates and lists available information on whale watching regulations and guidelines; the effectiveness of the various policies is not addressed. For the purposes of this paper, regulations are defined as legally binding, mandatory standards issued by some type of government authority; guidelines are defined as suggested behavior issued by some type of government authority; and codes of conduct are defined as suggested behavior issued by non-governmental entities.

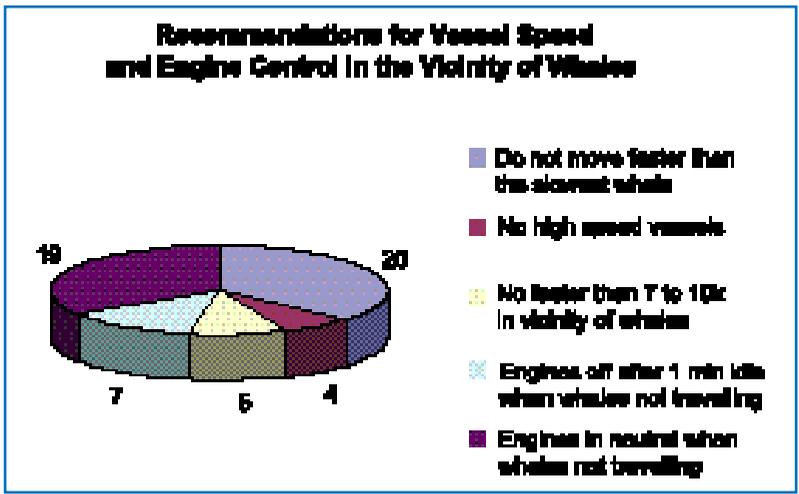
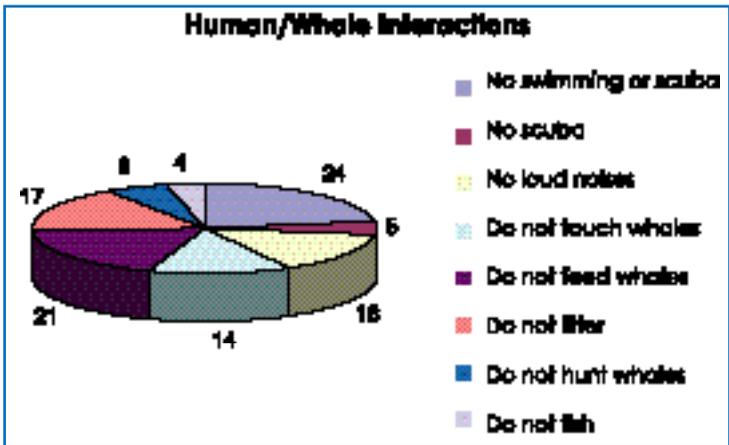
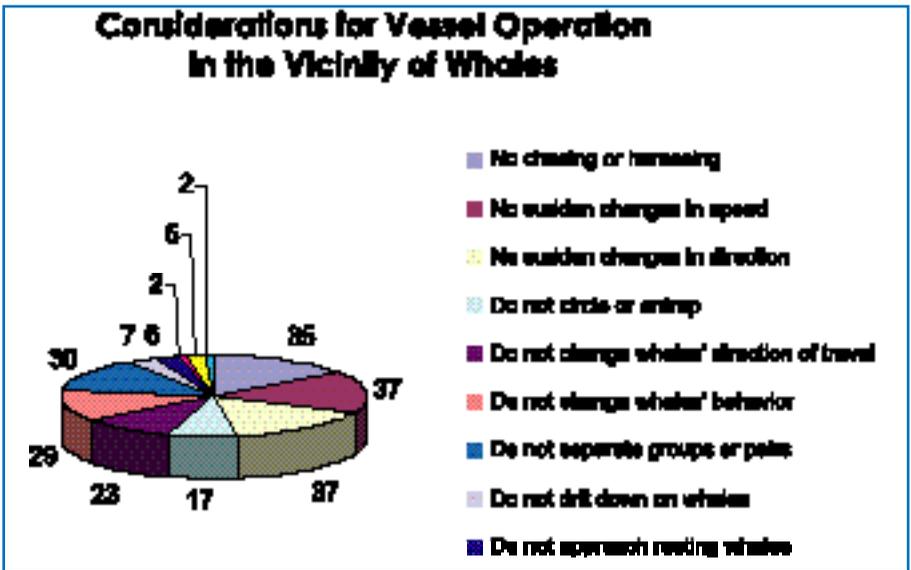
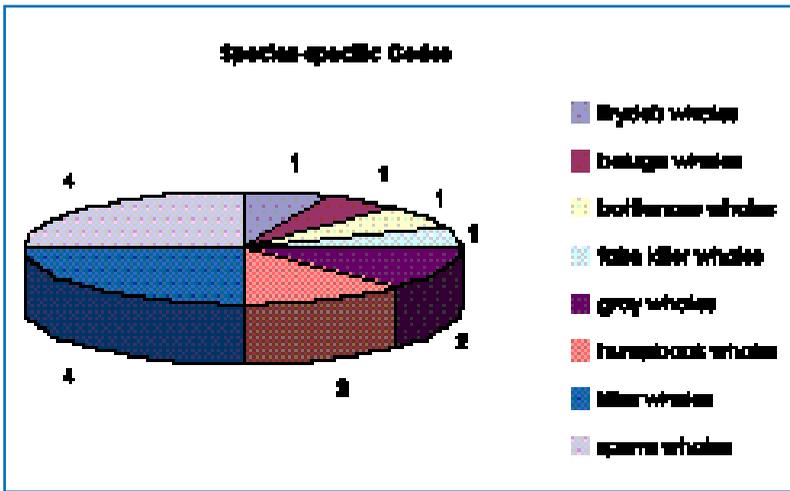
Regulations, guidelines and draft codes of conduct from the following countries and territories (including thirteen special areas of interest) were reviewed and generally summarized: Argentina, Australia, Azores, Bahamas, Brazil, British Virgin Islands, Canada, Canary Islands, Chile, Colombia, Dominican Republic, France, Galapagos, Guadeloupe, Hong Kong, Ireland, Iceland, Japan, Madagascar, Mexico, New Zealand, Norway, Oman, Puerto Rico, Saint Lucia, South Africa, Tanzania, Tonga, Turks and Caicos, the United Kingdom and the United States. Also reviewed are regulations, guidelines and draft codes of conduct from organizations, operator associations and the International Whaling Commission. The report is not exhaustive but rather part of an on-going process. Examples of the regulations and guidelines are shown in Appendix 1.

The following analysis (shown in pie charts) is but a first step in examining and comparing guidelines and regulations that have been established to achieve better protection of the whales.



<sup>8</sup> Carlson, C. 2001. A Review of Whale Watch Guidelines and Regulations Around the World. Scientific Committee, International Whaling Commission, document SC/53/WW4. 113pp.





## E. Short And Long-Term Impacts Of Whale Watching On Cetaceans

Impacts of whale watching on cetaceans may be measured by short-term behavioral reactions or long-term effects. Short-term impacts may, for example, include changes in surfacing, ventilating, dive patterns, swimming speed, direction of travel, surface activity, heart rate and vocalization rate. Long-term effects may include negative changes in reproductive success, physiological conditioning, survivability and major shifts from critical areas of habitat.

Short-term impacts are more readily measured and correlated to human-induced activities than the more critical long-term effects. Studies of short-term impacts use numerous methodological approaches, employ a wide array of statistical methods, and a wide range of platforms depending on the variable and species studied, and the species use of its habitat. It is therefore difficult, if not impossible to compare results and apply the scientific evidence to other species and/or contexts<sup>9</sup>.

However, many of the studies have found some significant short-term reactions from cetaceans to human activities. A small subset of these studies includes: changes in ventilation and surfacing rates; <sup>10 11</sup> changes in surface activity; <sup>12 13 14</sup> and changes in acoustic rates. <sup>15 16</sup>

Yet, there is no conclusive evidence of long-term impacts or of linkage between short-term and long-term impacts to cetacean individuals or populations. Furthermore, it may not be possible to distinguish long-term potential effects of whale watching from other potential sources such as environmental change. To accomplish this, comparative data from similar populations of cetaceans with and without exposure to whale watching is critical.

To date, there is virtually no evidence of significant, long-term impacts on cetacean individuals, groups or populations from whale watching. The assessment of long-term cumulative impacts remains a challenge for future research. In the absence of scientific data, it is critical that whale watch operations are managed to minimize short-term impacts to cetaceans and that the activity be continuously monitored to understand the risks and measures that need to be taken.

<sup>9</sup> Richter, C., Lusseau, D., Martinez, E. and E. Slooten. 2000. A Review of the Methodologies Employed to Assess Impacts of Boat-based Marine Mammal Watching Activities on Cetaceans. Report to the International Whaling Commission: SC/52/WW19. 14pp.

<sup>10</sup> Stone, G. S., Katona, S. K., Mainwaring, A., Allen, J. M. and H. D. Corbett. 1992. Respiration and Surfacing Rates of Fin Whales (*Balaenoptera physalus*) Observed from a Lighthouse Tower. Report of the International Whaling Commission 42:739-745.

<sup>11</sup> Janik, V. M. and P. M. Thompson. 1996. Changes in the Surfacing Patterns of Bottlenose Dolphins in Response to Boat Traffic. *Canadian Journal of Zoology* 73:1290-1299.

<sup>12</sup> Baker, C. S. and L. M. Herman. 1989. Behavioral Responses of Humpback Whales to Vessel Traffic: Experimental and Opportunistic Observations. National Park Service Technical Report PS-NR-TRS-89-01

<sup>13</sup> Corkeron, P. J. 1995. Humpback Whales (*Megaptera novaeangliae*) in Hervey Bay, Queensland: Responses to Whale-watching Vessels. *Canadian Journal of Zoology* 73:1290-1299.

<sup>14</sup> Jahoda, M., Lafortuna, C., Almirante, C., Zanardelli, M., Panigada, S. and G. Notarbartolo di Sciarra. Mediterranean Fin Whales' Response to Disturbance Assessed Through Passive Tracking and Timing of restoration. In press, *Marine Mammal Science*.

<sup>15</sup> Scarpaci, C., Corkeron, P. J. and D. Nugegoda. Monitoring Whistles Produced by Bottlenose Dolphins (*Tursiops truncatus*) During Approaches by Commercial Dolphin Swim Charters: A New Perspective to Managing Cetacean Based Ecotourism. Report to the International Whaling Commission 52: SC/52/WWWP10.

<sup>16</sup> Gordon, J. Leaper, R., Hartley, F. G., and O. Chapell. 1992. Effects of Whale Watching Vessels on the Surface and Underwater Acoustic Behavior of Sperm Whales off Kaikoura, New Zealand. Department of Conservation. Science and research Series No. 52. 64pp.

## F. General Considerations For The Establishment Of Guidelines, Codes Of Conduct And Regulations For Whale Watching

### 1. Objectives

The primary objectives of whale watch guidelines, codes of conduct or regulations regarding whale watching are to protect whales from harm and minimize disturbance during the activity. These objectives have been expressed at both national and international levels. For example, the objective stated by Canada in its departmental guidelines is “to prevent harmful effects on the biological functions of marine mammals from recreational observation activities conducted from ships, boats, aircraft, amphibious vehicles, snow vehicles, and any other means, in or on the water, on ice and from land”. The International Whaling Commission established the following objectives for consideration:

1. ensuring that whale watching does not significantly increase the risk to the survival or ecological functioning of local populations or species or their environment; and that, therefore, in the short-term, whale watching does not result in significant adverse change in population dynamics such as birth or mortality rates or impede normal patterns of habitat use or activity, including feeding, resting and reproduction;
2. the development and maintenance of viable, responsible whale watch activities.

### 2. Factors

Guidelines, codes of conduct or regulations for whale watching should take into account human-induced factors affecting any population of cetaceans in a given area. These may include possible impacts from commercial whale watching, swim-with or feeding programs, leisure craft and high-speed vessels. Thus, when developing guidelines, codes of conduct or regulations, all potential impacts as well as local conditions should be considered.



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It is equally important to consider the species of cetaceans to be watched and their use of the habitat. A cetacean may have different reactions or tolerance to disturbance depending on species and social structure (solitary or group living) and whether it is resident, migrating, feeding, resting, socializing or involved in calving or mating.

Furthermore, guidelines, codes of conduct or regulations should reflect scientific concerns about impacts or potential impacts and be flexible enough to incorporate new scientific evidence. They should also complement other local, national or regional guidelines or regulations concerning the general marine environment. These may include but are not limited to: pollution; safety; navigation; hunting; and habitat degradation.

### 3. Binding or Non-binding

The advantages and disadvantages of binding and non-binding approaches to the management of whale watching was considered at the Workshop on the Legal Aspects of Whale Watching in Punta Arenas, Chile in 1997.<sup>17</sup> The report of the Workshop lists advantages and disadvantages of both approaches. In summary, the participants noted “binding legislation, generally in the form of regulations, has important value as a deterrent though its effect may be weakened if the ability to enforce is lacking. On the other hand, non-binding guidelines or codes of practice and other forms of recommendations, for breach of which no penalty is incurred, may not be respected in certain societies.” They further noted, “Self-regulation, on a voluntary basis, coupled with the education of the operators and the public, is thus regarded by many as being the most effective means of ensuring compliance with all forms of measures in the long-term. Nonetheless, the ‘command and control’ approach still retains value and the combination of both approaches is probably the preferred option.”

### 4. Commercial Vessels, Aircraft and Personal Craft

Guidelines, codes of conduct and regulations for whale watching vary greatly from area to area in the type of vessel ‘managed’. In some areas, only commercial operations are targeted; in others, a two-tiered approach limits permitted vessels to whale watch at a set distance while non-permitted vessels are either not allowed to whale watch or have to stay at a greater distance. Helicopters and jet skis (and related personal crafts) are banned from whale watching in some areas and not restricted in others.

### 5. Educational Programs and Campaigns

The development of educational programs and an educational campaign to create public awareness is an important part of the process of managing whale watching. This, along with a process for a follow-up evaluation should be developed at the outset.

## G. The Development of Codes Of Conduct For Whale Watching

The process of developing regional codes of conduct for whale watching should complement national law and relevant regional and international agreements. Two agreements of relevance to the regulation of whale watching in the Mediterranean are: the Protocol to the 1976 United Nations Environmental Programme Convention for the Protection of the Mediterranean Sea against Pollution, revised in 1995; and the Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Ocean (ACCOBAMS). The first includes an article providing for the regulation of any activity that is likely to harm or disturb threatened or endangered species; the latter requires the signatories of the agreement to prohibit any deliberate take of cetaceans and allows only non-lethal research. It also provides that the parties develop guidelines or codes to manage or regulate tourist activities involving interactions with humans and cetaceans. Furthermore, France, Italy and Monaco signed an agreement relative to the creation of Pelagos, a Mediterranean Sanctuary for Marine Mammals. The agreement calls for the regulation of whale watching for tourism within the Sanctuary, however, even if binding, it would not give the contracting parties authority over vessels on the high seas flying non-party flags.

<sup>17</sup> IFAW. 2000. *Report of the Workshop on the Legal Aspects of Whale Watching, Punta Arenas Chile, 17-20 November 1997*. 48pp.

International scientists at the Scientific Committee of the International Whaling Commission developed the following general principles for whale watching. These principles remain a valid framework for the establishment of codes or rules for the management of whale watching activities.

## H. General Principles for Whale Watching

### (1) Manage the development of whale watching to minimize the risk of adverse impacts:

- (i) implement as appropriate measures to regulate platform numbers and size, activity, frequency and length of exposures in encounters with individuals and groups of whales;
  - management measures may include closed seasons or areas where required to provide additional protection;
  - ideally, undertake an early assessment of the numbers, distribution and other characteristics of the target population/s in the area;
- (ii) monitor the effectiveness of management provisions and modify them as required to accommodate new information
- (iii) where new whale watching operations are evolving, start cautiously, moderating activity until sufficient information is available on which to base any further development.
- (iv) implement scientific research and population monitoring and collection of information on operations, target cetaceans and possible impacts, including those on the acoustic environment, as an early and integral component of management;
- (v) develop training programs for operators and crew on the biology and behavior of target species, whale watching operations, and the management provisions in effect;
- (vi) encourage the provision of accurate and informative material to whale watchers, to:
  - developed an informed and supportive public;
  - encourage development of realistic expectations of encounters and avoid disappointment and pressure for increasingly risky behavior.

### (2) Design, maintain and operate platforms to minimize the risk of adverse effects on cetaceans, including disturbance from noise:

- (i) vessels, engines and other equipment should be designed, maintained, and operated during whale watching to reduce as far as practicable adverse impacts on the target species and their environment;
- (ii) cetacean species may respond differently to low and high frequency sounds, relative sound intensity or rapid changes in sound; vessel operators should be aware of the acoustic characteristics of the target species and of their vessel under operating conditions; particularly of the need to reduce as far as possible production of potentially disturbing sound. Vessel design and operation should minimize the risk of injury to cetaceans; should contact occur, for example, shrouding of propellers can reduce both noise and risk of injury;
- (iii) operators should be able to keep track of whales during an encounter.

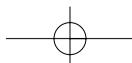
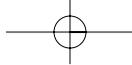
### (3) Allow the cetaceans to control the nature and duration of 'interactions':

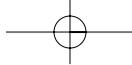
- (i) operators should have a sound understanding of the behavior of the cetaceans and be aware of behavioral changes which may indicate disturbance;
- (ii) in approaching or accompanying cetaceans, maximum platform speeds should be determined relative to that of the cetacean, and should not exceed it once on station;
- (iii) use appropriate angles and distances of approach; species may react differently, and most existing guidelines preclude head-on approaches;
- (iv) friendly whale behavior should be welcomed, but not cultivated; do not instigate direct contact with a platform;
- (v) avoid sudden changes in speed, direction or noise;
- (vi) do not alter platform speed or direction to counteract avoidance behavior by cetaceans;
- (vii) do not pursue, head off, or encircle cetaceans or cause groups to separate;



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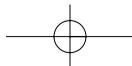
Approaches to mother/calf pairs and solitary calves and juveniles should be undertaken with special care as there may be an increased risk of disturbance to these animals, or risk of injury if vessels are approached by calves; cetaceans should be able to detect a platform at all times -while quiet operations are desirable, attempts to eliminate all noise may result in cetaceans being startled by a platform which has approached undetected; -rough seas may elevate background noise to levels at which vessels are less detectable





## **APPENDIX :**

# **Examples of whale watch guidelines and regulations**



## EXAMPLES OF WHALE WATCH GUIDELINES AND REGULATIONS

### BRAZIL REGULATION

#### Environmental Protection Area of Anhatomirim

*The federal government has established this as a protection area to protect tucuxi dolphins and assure proper regulation of tourism and fishing activities. Information incomplete.*

#### Brazilian Institute Of The Environment And Renewable Natural Resources-Ibama

#### EDICT 117 OF DECEMBER 26, 1996

THE PRESIDENT OF THE BRAZILIAN INSTITUTE OF THE ENVIRONMENT AND RENEWABLE NATURAL RESOURCES – IBAMA, in the use of his authority as provided in Article 24 of the Regimental Structure annexed to decree 78 of April 5, 1991, and in Article 83, item xiv of its Internal Rules, approved by EDICT GM/MINTER no. 445 of August 16, 1989, and what is contained in Process no. 02001.4424/90-23;

Considering the need to reform Edict no. 2306 of November 22, 1990, which defined rules to avoid intentional harassment of cetaceans in Brazilian jurisdictional waters, in order to allow its application to every cetacean species;

Considering the existence of several cetacean species, which regularly occur inside Conservation Units<sup>18</sup> where public access is allowed and the need to ensure their adequate protection against intentional harassment;

Considering the growing development of tourism aimed at the observation of cetaceans in Brazilian waters and the need to regulate it, in order to provide for its adequacy to the conservation needs of these animals;

Resolves:

Article 1 – It is hereby defined a regulation to prevent and suppress the intentional harassment of cetaceans found in Brazilian jurisdictional waters, in accordance with Law 7.643 of December 18, 1987.

Article 2 – it is forbidden to all vessels operating in Brazilian jurisdictional waters:

- a) approach any whale species (cetaceans of the order Mysticeti ; sperm whale *Physeter macrocephalus*; and orca, *Orcinus orca*) to less than 100 metres of the closest animal, with engines operating;
- b) resume engine operation before clearly sighting the whale(s) at the surface, or in a distance of at least 50 metres from the vessel;
- c) chase any whale, with engine operating, for more than 30 minutes, even when respecting the above mentioned distances;
- d) interrupt the path of any cetacean of any species, or try to direct or alter its movement;
- e) intentionally penetrate in a group of cetaceans of any species, dividing or dispersing it;
- f) make excessive noises, such as music, any kind of percussion, or others beyond those generated by the normal operation of the vessel, when less than 300m from any cetacean;
- g) dump overboard any sort of detritus, substance or materials when less than 500m of any cetaceans, in addition to all other pollutant dumping prohibitions contained in the laws.

Article 3 – It is forbidden to swim within a distance of 50m from any whale.

Article 4 – During operation of commercial tour vessels inside Conservation Units where cetaceans regularly occur, such Unit will determine:

- a) the registration of vessels regularly engaged in operation inside the Conservation Unit, including its Navy registration number, name, size, propulsion type and passenger capacity, as well as qualifications and address of its responsible person(s);

<sup>18</sup> Conservation Units in Brazilian law are any legally established protected areas such as National Parks, Reserves, and Environmental Protection Areas.

- b) the maximum number of vessels which are allowed to simultaneously operate inside the Conservation Unit;
- c) in the case of units with know areas of regular cetacean use, the route(s) and speed(s) for vessel traffic inside such areas;

Article 5 – It is mandatory, for commercial tour vessels operating inside Conservation Units where cetaceans regularly occur, the provision for passengers, on a permanent basis, of interpretive information on these animals and their conservation needs.

Article 6 – For the effect of enforcing this Edict, commercial tour vessel is any vessel transporting paying tourists.

Article 7 – It is forbidden to approach any cetacean with aircraft in altitudes less than 100 meters.

Article 8 – Infractions to this Edict and its norms will be punished according to Law 7.643 of December 18, 1987.

Article 9 – This Edict is valid from its publication date, all depositions in contrary to it being hereby revoked.

## **DOMINICA DRAFT CODES OF CONDUCT**

The following Marine Mammal Codes of Conduct are a compilation of existing international guidelines and regulations for watching whales that may be applicable to commercial operations in Dominica. These codes of conduct suggest permits for commercial operations and define the criteria for issuing permits, requirements to be satisfied before issuing permits for commercial vessels, land based operations, commercial aircraft operations and behaviour around marine mammals. These include:

**CRITERIA:** Before issuing a permit, the governing authorities shall be satisfied that there is substantial compliance with the following criteria:

1. That the commercial operation should not have any significant adverse effect of the behavioural patterns of the marine mammals to which the application refers.
2. That it should be in the interests of the conservation, management, or protection of the marine mammals that a permit be issued.
3. That the proposed operator, and the operator's staff who may come in contact with marine mammals, should have sufficient experience with marine mammals.
4. That the proposed operator, and the operator's staff who may come into contact with marine mammals, should have sufficient knowledge of the local area and of the sea and weather conditions.
5. That the commercial operation should have sufficient educational value to participants or to the public. Education can be enhanced by a talk on whales, natural history, geology or a comprehensive leaflet.
6. That the commercial vessel meets appropriate safety standards (for example: US Coast Guard or British Department of Commerce)
7. That the appropriate vessel be insured for the passengers that it carries.
8. That the vessel be judged appropriate for whale watching.

### **PERMITS:**

Permits for commercial operations should be issued by area, with no more than three commercial vessels operating in any given area on a given day.

### **SUGGESTED CONDITIONS GOVERNING ALL COMMERCIAL OPERATIONS AND BEHAVIOUR OF ALL INDIVIDUALS AROUND WHALES AND DOLPHINS:**

We suggest that every commercial operation and every person coming into contact with any class of marine mammals comply with the following conditions:

1. Persons shall use their best endeavours to operate vessels, and aircraft, so as not to disrupt the normal movement or behaviour of any marine mammal.

2. Contact with any marine mammal shall be abandoned at any stage if it becomes disturbed or alarmed.
3. No person shall cause any marine mammal to be separated from a group of marine mammals or cause any members of such a group to be scattered.
4. No rubbish or food shall be thrown in the water near marine mammals.
5. No sudden or repeated change in the speed or direction of any vessel or aircraft shall be made except in the case of an emergency.
6. Where a vessel stops to enable the passengers to watch any marine mammal, the engines shall either be placed in neutral or allow engines to idle for one minute before turning off.
7. When operating at an altitude of less than 600 meters, no aircraft shall be closer than 500m horizontally from a point above any marine mammal unless in the process of taking off or landing.
8. No person or vessel shall approach within 50m of any marine mammal or group of marine mammals.
9. No person or vessel shall cut off the path of a marine mammal or prevent a marine mammal from leaving the vicinity of any person or vessel
10. The master of any vessel less than 400m from any marine mammal shall use their best endeavours to move the vessel at a constant, slow speed, no faster than the slowest marine mammal in the vicinity, or at an idle, no wake speed.
11. Vessel departing from the vicinity of any marine mammal shall proceed slowly at idle or no wake speed until at least 400m from the nearest marine mammal.
12. no aircraft shall be used to watch whales.
13. No swimmer or diver shall enter the water in the vicinity of marine mammals.
14. Do not approach animals that appear to be resting or continually avoiding the vessel.
15. A log of daily activities including cases of infractions should be recorded. Any infractions should be reported immediately to the department of Fisheries.

#### **SUGGESTED CONDITIONS APPLYING TO SPERM WHALES:**

1. No swimmer or diver shall enter the water in the vicinity of sperm whales.
2. No vessel shall approach within 50m of a sperm whale or a group of sperm whales.
3. If a whale or group of whales approaches a vessel, the master of the vessel shall put the vessel and neutral and turn off the engine.
4. No vessel shall approach within 300m of any whale or group of whales for the purpose of enabling passengers to watch the whale, if two vessels are already positioned to watch the whale or group of whales.
5. Where 2 vessels approach an unaccompanied whale, the masters concerned shall co-ordinate their approach and manoeuvres in compliance with existing regulations.
6. When within 100 m of a whale, slowly approach at idle or no wake speed.
7. When within 100m of sperm whales, approach the whales very slowly and cautiously from behind or from an angle. Do not approach sperm whales from the front or closely parallel whales; they will invariably take avoiding action.
8. Where a sperm whale abruptly changes its orientation or starts to make short dives of about 1 to 5 minute duration without showing its tail flukes, all vessels shall abandon contact with the whale.
9. Do not suddenly accelerate, go into reverse or use outboard motors near whales, as they are extremely sensitive to sudden noises and sights.
10. Do not approach calves when alone on the surface.
11. Do not stay with a whale or group of whales for more than 3 of the whales' dive sequences.
12. Vessels should behave so that no whale or group of whales is visited for more than 3 of the whales' dive sequences per day
13. Do not stay with a social group of sperm whales for more than 15 minutes.
14. Do not go upwind of the whales and drift down on them.
15. Do not use helicopters to watch the whales.
16. When departing from the vicinity of the whales, proceed slowly or at no wake speed until at least 400m from the nearest whale.

#### **SUGGESTED CONDITIONS APPLYING TO DOLPHINS:**

1. No swimmer or diver shall enter the water in the vicinity of dolphins.
2. No vessel shall proceed through a pod of dolphins.

3. Do not chase dolphins, whenever possible, let them approach you.
4. No vessel shall approach within 50m of a pod of dolphins.
5. No vessel shall approach within 300m of a pod of dolphins, for the purpose of enabling passengers to watch the dolphins, if two vessels are already positioned to enable the passengers to watch the dolphins.
6. Where 2 vessels approach an unaccompanied pod of dolphins, the masters concerned shall co-ordinate their approach and manoeuvres in compliance with existing regulations.
7. Vessels shall approach dolphins from a direction that is parallel to the dolphin and slightly to the rear of the dolphin.
8. Do not separate dolphins in a pod from one another.
9. Do not stay with a pod of dolphins for more than 20 minutes.

### **SPECIAL PERMITS:**

On occasion, activities such as research, or media coverage may require individuals or vessels to approach whales or dolphins at a distance closer than 50m. In such cases, we suggest that special permits, issued by the Department of Fisheries, be required. Criteria for the evaluation of such permits should be drafted by a special "task force". Members of the task force should include representatives from the Department of Fisheries, Department of Tourism, Dominica Conservation Association, National Development Corporation, Dominica Water Sports Association and marine mammal specialists.

### **GALAPAGOS ISLANDS GUIDELINES**

A pamphlet for norms on whale watching tour groups in the Galapagos has been compiled by Hal Whitehead and Godfrey Merlen.<sup>19</sup>

The pamphlet recommends that:

1. Vessels do not aggressively approach whales.
2. Mask and snorkel be used if the chance to swim with whales occurs, as whales do not seem to like the air bubbles from scuba.
3. Enter the water as quietly as possible.

The pamphlet suggests that since different species of whales have different behavior patterns they should be treated in varying ways. For Bryde's and humpback whales:

1. If a whale is approaching the vessel, or turning nearby, stop or maintain a slow and steady course.
2. If a whale is moving in a straight line, it is sometimes possible to parallel, with the boat keeping the same course and speed as the whale, but do not approach the animal.

Sperm whales are more sensitive to interference than other species of large whales and to maximize the chance of seeing them clearly boats should:

1. Manoeuvre with great care near sperm whales.
2. If whales are heading towards the boat, then stop the boat.
3. If they are heading away, follow behind them very slowly and cautiously at less than 2.5km. If approached too fast, they will quickly dive.
4. Do not approach sperm whales from the front or side, they will invariably take avoiding action.
5. Do not suddenly accelerate, go into reverse or use outboard motors near the whales as they are extremely sensitive to sudden noises and sights.

For beaked whales

6. Do not approach the whales aggressively, they will almost certainly disappear from view.
  7. When near the whales, stop the boat entirely.
- For killer whales:
8. Do not approach the whales aggressively. If approached cautiously, it may be possible to parallel them.

For pilot whales or false killer whales:

1. Handle the boat gently with no sudden change in direction or acceleration. It is possible both species may come to the boat.

<sup>19</sup> Whitehead, H. and G. Merlen. 1988. Norms for whale-watching tour groups in the Galapagos. Produced by Parque Nacional Galapagos and Estacion Cientifica Charles Darwin.

For dolphins:

1. There is little point in actively approaching bottle-nosed dolphins when within 400m of them as they will approach the boat if they wish to.
2. For other species (such as the common or Risso's dolphin, do not chase them as they appear to panic and flee when aggressively approached.

In summary:

When within 400m:

1. If they are travelling more than 3 knots, do not travel faster than them. If they are travelling at less than 3 knots, do not travel faster than 3 knots;
2. Do not actively approach any whale except from behind, and then slowly. Either parallel the whale's movement or (especially for sperm whales) stay behind;
3. Except in emergency (e.g., you are about to hit a whale) do not accelerate suddenly or go into reverse;
4. If the whales are moving consistently at more than 4 knots, stop following after 10 minutes- you may be chasing them;
5. Do not steer the boat to separate whales from one another; these may be special social groups or mothers with calves.
6. Do not try to scuba dive (with compressed air) around whales;
7. Do not use high-speed launches with outboard motors near whales, especially sperm whales

### **INTERNATIONAL WHALING COMMISSION**

A major new development in the IWC's involvement in whale watching as a sustainable use of cetacean resources. In 1993 the IWC invited Contracting Governments to undertake a preliminary assessment of the extent, and economic and scientific value of whale watching activities. These reports on the value and potential of whale watching were consolidated by the Secretariat and considered by a Working group at the 1994 meeting. As a result, the IWC has reaffirmed its interest in the subject, encouraged some scientific work and adopted a series of objectives and principles for managing whale watching proposed by the Scientific Committee. In 1996 it adopted a resolution that underlined the IWC's future role in monitoring and advising on the subject. The IWC Scientific Committee has agreed the following general guidelines for whale watching:

#### **General Principles for Whale Watching**

##### **1) Manage the development of whale watching to minimise the risk of adverse impacts:**

- i. implement as appropriate measures to regulate platform numbers and size, activity, frequency and length of exposures in encounters with individuals and groups of whales; management measures may include closed seasons or areas where required to provide additional protection; ideally, undertake an early assessment of the numbers, distribution and other characteristics of the target population/s in the area;
- ii. monitor the effectiveness of management provisions and modify them as required to accommodate new information
- iii. where new whale watching operations are evolving, start cautiously, moderating activity until sufficient information is available on which to base any further development;
- iv. implement scientific research and population monitoring and collection of information on operations, target cetaceans and possible impacts, including those on the acoustic environment, as an early and integral component of management;
- v. develop training programs for operators and crew on the biology and behavior of target species, whale watch operations and the management provisions in effect;
- vi. encourage the provision of accurate and informative material to whale watchers, to: developed an informed and supportive public; encourage development of realistic expectations of encounters and avoid disappointment and pressure for increasingly risky behavior.

##### **2) Design, maintain and operate platforms to minimize the risk of adverse effects on cetaceans, including disturbance from noise:**

- i. vessels, engines and other equipment should be designed, maintained, and operated during whale watching to reduce as far as practicable adverse impacts on the target species and their environment;

- ii. cetacean species may respond differently to low and high frequency sounds, relative sound intensity or rapid changes in sound;
- iii. vessel operators should be aware of the acoustic characteristics of the target species and of their vessel under operating conditions; particularly of the need to reduce as far as possible production of potentially disturbing sound;
- iv. vessel design and operation should minimize the risk of injury to cetaceans should contact occur, for example, shrouding of propellers can reduce both noise and risk of injury;
- v. operators should be able to keep track of whales during an encounter.

### 3) Allow the cetaceans to control the nature and duration of 'interactions':

- i. operators should have a sound understanding of the behavior of the cetaceans and be aware of behavioral changes which may indicate disturbance;
- ii. in approaching or accompanying cetaceans, maximum platform speeds should be determined relative to that of the cetacean, and should not exceed it once on station;
- iii. use appropriate angles and distances of approach; species may react differently, and most existing guidelines preclude head-on approaches;
- iv. friendly whale behavior should be welcomed, but not cultivated; do not instigate direct contact with a platform;
- v. avoid sudden changes in speed, direction or noise;
- vi. do not alter platform speed or direction to counteract avoidance behavior by cetaceans;
- vii. do not pursue, head off, or encircle cetaceans or cause groups to separate;
- viii. approaches to mother/calf pairs and solitary calves and juveniles should be undertaken with special care as there may be an increased risk of disturbance to these animals, or risk of injury if vessels are approached by calves;
- ix. cetaceans should be able to detect a platform at all times; while quiet operations are desirable, attempts to eliminate all noise may result in cetaceans being startled by a platform which has approached undetected; rough seas may elevate background noise to levels at which vessels are less detectable.

## NEW ZEALAND REGULATIONS

### Marine Mammals Protection Regulations 1992

New Zealand's Marine Mammal Protection regulations (1992) requires permits for commercial operations. The regulations define the criteria for issuing permits, requirements to be satisfied before issuing permits for commercial vessel, land based operations, commercial aircraft operations and behavior around marine mammals. These include:

**Criteria** Part 1, #6). Before issuing a permit, the Director-General shall be satisfied that there is substantial compliance with the following criteria:

- a) That the commercial operation should not have any significant adverse effect on the behavioral patterns of the marine mammal to which the application refers, having regard to, among other things, the number and effect of existing commercial operations;
- b) That it should be in the interests of the conservation, management, or protection of the marine mammals that a permit be issued;
- c) That the proposed operator, and such of the operator's staff who may come into contact with marine mammals, should have sufficient experience with marine mammals.
- d) That the proposed operator, and such of the operator's staff who may come into contact with marine mammals, should have sufficient knowledge of the local area and of the sea and weather conditions;
- e) That the proposed operator, and such of the operator's staff who may come into contact with marine mammals, should not have convictions for offenses involving the mistreatment of animals;
- f) That the commercial operation should have sufficient educational value to participants or to the public.

**Behavior around marine mammals** (Part III):

**17. Applications of this part:** Nothing in regulation 18 or regulation 19 or regulation 20 of these regulations shall apply to persons, vessels, aircraft, or vehicles rendering assistance to stranded or injured marine mammals.

**18. Conditions governing commercial operations and behavior of all persons around any marine mammal-** Every commercial operation, and every person coming into contact with any class of marine mammals, shall comply with the following conditions:

- a) Persons shall use their best endeavors to operate vessels, vehicles, and aircraft so as not to disrupt the normal movement or behavior of any marine mammal:
- b) Contact with any marine mammal shall be abandoned at any stage if it becomes or shows signs of becoming disturbed or alarmed:
- c) No person shall cause any marine mammal to be separated from a group of marine mammals or cause any members of such a group to be scattered:
- d) No rubbish or food shall be thrown near or around any marine mammal:
- e) No sudden or repeated change in the speed or direction of any vessel or aircraft shall be made except in the case of an emergency:
- f) Where a vessel stops to enable the passengers to watch any marine mammal, the engines shall be either placed in neutral or be switched off within a minute of the vessel stopping:
- g) No aircraft, engaged in a commercial aircraft operation shall be flown beneath 150 meters (500 feet) above sea level, unless taking off or flying:
- h) When operating at an altitude less than 600 meters (2,000 feet), above sea level, no aircraft shall be closer than 150 meters (500 feet) horizontally from a point directly above any marine mammal or such lesser or greater distance as may be approved by the Director General, by notice in the Gazette, from time to time based on the best available scientific evidence:
- i) No person shall disturb or harass any marine mammal:
- j) Vehicles must remain above the mean high water spring tide mark and shall not approach within 50 metres of a marine mammal unless in an official car park or on a public or private slipway or on a public road:
- k) No person, vehicle or vessel shall cut off the path of a marine mammal or prevent a marine mammal from leaving the vicinity of any person, vehicle, or vessel:
- l) Subject to paragraph (m) of this regulation the master of any vessel less than 300 metres from any marine mammal shall use their best endeavors to move their vessel at a constant, slow speed no faster than the slowest marine mammal in the vicinity, or at idle, or "no wake" speed":
- m) Vessels departing from the vicinity of any marine mammal shall proceed slowly at idle or "no wake" speed until the vessel is at least 300 metres from the nearest marine mammal, except that in the case of dolphins vessels may exceed idle or "no wake" speed in order to outdistance the dolphins but must increase speed gradually, and shall not exceed 10 knots within 300 metres of any dolphin:
- n) Pilots of aircraft engaged in a commercial aircraft operation shall use their best endeavours to operate the aircraft in such a manner that without comprising safety, the aircraft's shadow is not imposed directly on any marine mammal.

**19. Special conditions applying to whales-** In addition to complying to the conditions set out in the regulation 18 of these regulations, every commercial operation and every person coming into contact with whales shall also comply with the following conditions:

- a) No person in the water shall be less than 100 metres from a whale, unless authorized by the Director-General:
- b) No vessel shall approach within 50 metres of a whale, unless authorized by the Director-General:
- c) If a whale approaches a vessel, the master of the vessel shall, whenever practicable: maneuver the vessel so as to keep out of the path of the whale; and maintain a minimum distance of 50 metres from the whale:
- d) No vessel or aircraft shall approach within 300 metres (1,000 feet) of any whale for the purpose of enabling passengers to watch the whale, if the number of vessels or aircraft or both already positioned to enable passengers to watch that whale is 3 or more:
- e) Where 2 or more vessels or aircraft approach an unaccompanied whale, the masters concerned shall co-ordinate their approach and maneuvers, and the pilots concerned shall co-ordinate their approach and manoeuvres:
- f) No person or vessel shall approach within 200 metres of any female baleen or sperm whale that is accompanied by a calf or calves:
- g) A vessel shall approach a whale from a direction that is parallel to the whale and slightly to the rear of the whale:

- h) No person shall make any loud or disturbing noise near the whales:
- i) Where a sperm whale abruptly changes its orientation or starts to make short dives of between 1 and 5 minutes duration without showing its tail flukes, all persons, vessels, and aircraft shall forthwith abandon contact with the whale;

**20. Special conditions applying to dolphins and seals-** In addition to complying with the conditions set out in regulation 18 of these regulations, any commercial operation and any person coming into contact with dolphins and seals shall also comply with the following conditions:

- a) No vessel shall proceed through a pod of dolphins:
- b) Persons may swim with dolphins and seals but not with juvenile dolphins or a pod of dolphins that includes juvenile dolphins:
- c) Commercial operators may use an airhorn to call swimmers back to the boat or to the shore:
- d) Except as provided in paragraph © of this regulation, no person shall make any loud or disturbing noise near dolphins or seals:
- e) No vessel or aircraft shall approach within metres (1,000 feet) of any pod of dolphins or herd of seals for the purpose of enabling passengers to watch the dolphins or seals, if the number of vessels or aircraft, or both, already positioned to enable passengers to watch that pod or herd is 3 or more:
- f) Where 2 or more vessels or aircraft approach an unaccompanied dolphin or seal, the masters concerned shall co-ordinate their approach and manoeuvres, and the pilots concerned shall co-ordinate their approach and manoeuvres:
- g) A vessel shall approach a dolphin from a direction that is parallel to the dolphin and slightly to the rear of the dolphin.

These regulations, which came into force on 1 January, 1993, revoke and replace the marine mammal regulations 1990.

## **PUERTO RICO REGULATION**

**Government Of Puerto Rico  
Department Of Natural Resources And Environment  
San Juan**

Under Article 11, clause i of law number 70 enacted on 10 may, 1976, the regulations that are in force to regulate the management of vulnerable and endangered species in the Commonwealth of Puerto Rico are amended and added as Appendix 3 of the law. Rules for the protection of the humpback whale (*Megaptera novaeangliae*) and other cetaceans that are vulnerable and in danger of extinction and to regulate the operations of passenger boats for the observation of these marine mammals.

### **I. Purpose**

This rule is adopted with the purpose of protecting the humpback whale (*Megaptera novaeangliae*) and other cetaceans that are vulnerable and in danger of extinction in the territorial waters of Puerto Rico. It is publicly known that the activity of humpback whale watching in the Northwest area of Puerto Rico has developed and peaked in the last few years, which could threaten the presence of this marine mammal and other marine mammals in our waters. In addition, it can interfere with the behaviour natural life cycles of these marine mammals.

### **II. Application and Management**

**These rules are applicable in the territorial waters of Puerto Rico and its adjacent islands during the entire year.**

### **III. Prohibition**

**In addition to the provisions of Section 12 in this ruling, it will be illegal for any person to engage in the following activities:**

- a. To provoke the whales to change their natural direction, or to provoke the separation of the whales from their group, that might cause them to get lost, or to separate a mother from its calf as a result of interference.

- b. To feed the whales.
- c. To enclose or trap the whales inbetween boats or crafts impeding their path.
- d. Observe whales from jet skis.
- e. Observe whales from airplanes at less than 1,000 feet from sea level.
- f. It is prohibited to approach a mother and calf.
- g. it is prohibited to swim or dive near the whales.

#### **IV. Minimum Distances for the Observation of Whales from Boats**

- a. The minimum distance for observing the whales will not be less than 100 meters. The motor of the craft will remain in neutral as long as the minimum distance is obtained.
- b. The approach will always be from the posterior (rear) or bt the side of the whales, in parallel position to the last whale and/or slower whale of the group allowing for an area of 180 degrees in front of the whale(s).
- c. Swimmers and divers can get within a minimum distance of fifty meters.
- d. Scientific investigators, with federal and state permits in non-commercial vessels will be allowed to approach the whales at a distance less than the one stipulated as long as they comply with the established rules in their permits.

#### **V. Measures for Management**

- a. One boat is permitted to remain a distance of 100 meters(not less than 100 meters), and not more than two boats at a distance of no less than 400 meters at the same time.
- b. The time limit is no more than 30 minutes per boat.

#### **VI. Permits**

- a. Every owner or operator of commercial boat(s) that is dedicated to transporting passengers in the territorial waters of Puerto Rico with the purpose to observe humpback whales or other Cetaceans that are vulnerable or endanger of extinction must solicit a permit from the Department of Natural Resources and the Environment. The owners or operators of private boats that observe the whales as a pastime are exempt from this requisite, but must obey the rules of the law. The applicants for this permit must provide the following information:
  - a copy of their license or permit issued by the Public Service Commission Service to transport Passengers (or for the transportation of passengers)
  - a copy of the license issued by the Coast Guard of the United States certifying the vessel fit to transport passengers.
  - fill out the application for the permit to observe humpback whales. This permit is good for one year only.

#### **VII. Penalties**

Any person that violates any of these rules according and included in this Appendix will be penalized under section 18.00 of the Regulations to Manage the Species That are Vulnerable and Endangered in the Commonwealth of Puerto Rico.

This regulation will be enacted immediately, conforming to the section 2.8 a) (1) Law Number 170, 12 August, 1988 as amended.

Approved in San Juan, Puerto Rico, today, the 27th of June 1997.

English translation by the Liga Ecologica Puertorriquena de Rincon.

### **SOUTH AFRICA REGULATIONS**

#### **Marine Living Resources Act, 1998 (Act No. 18 of 1998)**

#### **Regulations in Terms of Marine Living Resources Act, 1998**

The Minister of Environmental Affairs and Tourism has under sections 7(5), 9(3), 12(2), and (3), 39(2), 50(1), 77 and 80(2) of the marine Living resources Act, 1998 (Act No.18 of 1998) made the regulations set out in the Schedule.

## Whales, dolphins and turtles

58. (1) No person, shall except on the authority of a permit-

- (a) engage in fishing, collecting, killing, attempting to kill, disturbing, harassing, keeping or controlling of, or be in possession of, any whale or any part or product thereof at any time;
- (b) use any fish processing establishment, fishing vessel or any other vessel for the freezing or processing of whales or participate in any manner in the operation of or such activities on such an establishment, fishing vessel or vessel;
- (c) have on board any fishing vessel or vessel any gear, apparatus or appliance which can be used in any manner for the fishing, freezing or processing of whales;
- (d) supply any ships stores to any fishing vessels registered in a foreign state and used for the fishing, freezing or processing of whales or which has any connection with such fishing, freezing, or processing.
- (e) operate any whale watching business that causes a disturbance or harassment of any whale within the meaning of subregulation (2); or
- (f) offer his or her services for or make available his expertise in connection with any of the activities referred to in this subregulation.

(2) For the purpose of subregulation (1), "disturbing or harassing" shall also include-

- (a) the shooting at any whale;
- (b) approaching closer than 300 metres to any whale by means of a fishing vessel, vessel, aircraft or other method; and
- (c) that in the event of a whale surfacing closer than 300 metres from a fishing vessel, vessel or aircraft, the person in charge of such fishing vessel, vessel or aircraft fails to proceed immediately to a distance of at least 300 metres from the whale: Provided that paragraphs (b) and (c) shall not apply to Bonifide efforts by any person rendering aid to a beached, Entrapped or entangled whale.

(3) No person shall, except on the authority of a permit, engage in fishing, collecting, killing, attempting to kill, disturbing, harassing, keeping or controlling of, or be in possession of, any dolphin or porpoise or any part or product thereof.

(v) No person shall-

- (a) feed any wild dolphin or porpoise; or
- (b) advertise or engage in any fishing vessel or vessel trip, whether for gain or not, which is intended to provide for a swim-with-dolphin experience.

(4) Subregulations (3), (4), and (5) shall not apply to bona fide Efforts by any person rendering aid to a beached, entrapped or entangled dolphin or porpoise.

(5) No person shall, except on the authority of a permit, engage in fishing, collecting, killing, attempting to kill, disturbing, harassing, keeping or controlling of, or be in possession of, any turtle or any part or product thereof.

## Behaviour Around Marine Mammals

Code of Conduct: Conditions Governing Commercial Operations Around Any Marine Mammal

**Aim:** The Code of Conduct for Cetaceans under Observation by permit holders, covers interactions between people and cetaceans in the wild during recreational observation activities and has three main aims:

- to minimize harmful impacts on cetacean populations by ensuring that the normal pattern of daily and seasonal activity of whales and dolphins is maintained for the short and long term.
- to ensure opportunities for watching or interacting with cetaceans in the wild can be sustained.

- to develop a supportive public, to encourage realistic expectations of encounters and to prevent pressure from the public for increasingly risky behavior.

### Special Conditions Applying to Whales

The operator must be a registered SATOUR guide and must have completed the special whale module in terms of the tourism act, and be a member of the local tourism structure.

No alcohol to be consumed or sold during the whale watching trips.

The operator is responsible for the behaviour of all passengers and crew.

Vessels may not be placed in the path of an approaching whale.

Operators must avoid restricting the movement or behaviour of the whales.

Anchorage within 300 metres of a whale is prohibited.

Echo sounders must remain switched either off or on within 300 metres of a cetacean.

Designated closed areas are to be avoided.

Swimmers and divers may not enter the water or be closer than 300 metres from any whale or dolphin.

Playback of underwater sound of any kind is prohibited. This includes playback of recorded whale, dolphin or seal sounds or songs.

It is not permitted for the passengers to touch or attempt to feed whales or dispose of any garbage or sewerage in the sea (including cigarette butts). There is to be no smoking on all permitted vessels visiting whales.

### Speed of Departure

When approaching or leaving cetaceans operators must move at a slow, "no wake" speed within 300 metres of the closest animal. Operators must avoid speeds over 10 knots, or sudden changes of speed or direction within 500 metres of whales and 300 metres for dolphins.

### Approach Distances

Permit holders may not approach closer than 50 metres of any whale or dolphins.

Permit holders may not allow vessels to drift down to within 50 metres of any species of cetacean, due to wind, currents, or forward movement. Such movement constitutes an approach and is not permitted.

### Approach and Engagement of Whales

- 1). Within a minimum distance of 300m all whales should be approached quietly, with motors at near idling speed ("no wake speed"). No person shall make any loud or disturbing noise near whales.
- 2). All approaches should be made from a parallel direction, slightly from the side and not directly from the rear or head-on. Vessels may not drift down on whales.
- 3). At a distance of 50m from any cetaceans, the vessel must proceed in a slow, straight course away from the cetacean or may proceed parallel to the cetacean at "no wake speed" or may place the engine in neutral. Continuous engagement and disengagement of the propellers to remain on station must be avoided. At 50m distance for all species, the cetaceans must be permitted to control the nature and duration of the interaction, including any close approach to the vessel. Operators should be able to keep track of all whales during an encounter.
- 4). The duration of the close contact (<50m) with the whale or group of whales should be limited to 20 minutes, while the total duration of the contact (<300m) should not exceed 30 minutes. Whales approached may only be revisited a maximum of twice in a day, with a minimum of 3 hours between visits.
- 5). There must be no rapid changes in direction or speed except in an emergency. If the whale flukes, the propellers must be disengaged until the whale surfaces again.

- 6). "Common sense" rules should be applied, in that whales that are not friendly, should not be approached at all. Animals displaying threatening behaviour such as tail slapping, must be avoided for the safety of all-onboard. **In addition, contact with any Marine Mammal should be abandoned at any stage if one of the following indicators suggests disruptive behaviour caused by the vessel:**
- (i) Rapid changes in the speed and direction of movement of the cetaceans.
  - (ii) Escape tactics such as prolonged diving, underwater course changes or underwater exhalations.
  - (iii) Evasive swimming patterns such as rapid swimming at the surface.
  - (iv) Changes in respiration patterns.
  - (v) Certain surface behaviour such as tail slashes or flipper or tail slap.
- 7). Whales may not be encircled, separated from other whales, or the vessel placed within a group of whales.
- 8). Approaching cow-calf pairs (closer than 300 m) is forbidden. Should this accidentally occur, the vessel must leave the area at a constant "no wake" speed.
- 9). When departing, wait until all the whales are clear before moving directly away at no wake speed until 300m away.

### **Approach and Engagement of Bryde's, Humpback and Sperm Whales**

Should any of these species of whales not approach the vessel but continue to move in a straight line, vessels may travel at "no wake" speed from a parallel direction, slightly from the side, and not directly from the rear or head on, but may not approach closer than 50 m or move ahead of the whale. In such cases, after an observation period of twenty minutes the vessel must break off the contact and proceed directly away. Vessels may not drift down on whales.

Vessels must however immediately abort contact if any one of the above indicators suggest disruptive behaviour.

### **Special Conditions Applying to Dolphins**

In addition to complying with conditions set out above, any commercial operation shall comply with the following:

No vessel may exceed the speed of the slowest moving dolphin within 50 m of dolphins.  
No vessel shall proceed directly through a school of dolphins.

Dolphins may be approached to within 50 m and contact should be broken unless the animals leave the school to approach the vessel. In particular, females with calves should not be approached or pursued and should be avoided unless they approach the vessel to bow ride. Engagement times for dolphin schools should not exceed 20 minutes.

Diving or swimming with dolphins is prohibited.

Feeding dolphins is prohibited.

Humpback dolphins (*Sousa chinensis*) may be approached, but as this species is particularly shy, care should be taken not to approach closer than 50 m unless the dolphins approach the vessel.

Vessels departing from the vicinity of dolphin schools may exceed 3 knots in order to outdistance the dolphins but must increase the speed gradually and shall not exceed 10 knots within 300 m of any dolphin.

Where two or more vessels approach a school of dolphins, the skippers concerned shall co-ordinate their approach and manoeuvres. Only one boat shall approach at a time while the other stands off at a distance of 100 metres.

### Permit Conditions

- 1). The letter "W" must be displayed on the vessel next to the area number.
- 2). The permit holder shall not use any vessel unless it bears the registration letters and numbers assigned thereto by the Director-General. Such letters and numbers shall be painted in white on a black background or in black on a white background on both bows in characters not less than 15 cm in height, 10 cm in breadth and 2 cm in thickness. ....Any registration numbers and letters assigned to and born by a vessel must be maintained in a clean, distinct and legible condition and shall at all times be clearly seen.
- 3). Should the permit holder not perform during the period for which this permit is valid, or fails to make any attempt to utilize his/her permit, such rights may be renewed, reduced or withdrawn.
- 4). Certified and dated statistics shall be rendered monthly on the Standardized Logbook prescribed for this purpose. This book must be kept on board the vessel at all times, and the relevant information must be entered each day before the end of the trip. It must be available for inspection by a Fishery Control Officer at all times. The permit holder shall submit a monthly facsimile of the Logbook no later than the 15th of the following month by registered post to the Chief Director of Sea Fisheries.
- 5). The permit holder shall not transfer this vessel or any interest therein without the prior approval of the Chief Director of Sea Fisheries.
- 6). The permit and a Code of Conduct or a copy thereof shall be available on board the vessel and shall be produced on demand to a Fishery Control Officer or any other authorized officer.
- 7). The permit is only valid for the specific area issued and is not transferable to any other area.
- 8). The permit holder must adhere to all the conditions prescribed in the Boat Based Whale Watching Code of Conduct. If any conditions are violated, or the monthly statistics for the Logbook not submitted before the 15th of the following month, the permit may be withdrawn.
- 9). Vessels used for whale watching must conform to all South African Maritime Safety Authority (formerly Department of Transport-DOT) regulations. They must be licensed by SAMSA for commercial passenger carrying.
- 10). Skippers of all whale watch vessels must be in possession of a valid SAMSA skipper's license.
- 11). The vessels skipper or guide must be a registered SATOUR guide and must have completed the specialized module on whales or within a period of three months from the date of issue of this permit.
- 12). The permit holder shall be the skipper or the guide of the vessel.
- 13). All whale watch vessels to carry a specified flag when carrying clients on whale watch excursions.
- 14). All whale watch vessels shall provide an adequate interpretation/education service as prescribed.
- 15). Permit holders may be required to carry one or more bona fide Sea Fisheries representatives, given a minimum notification period of 24 hours.
- 16). All whale watching vessels shall carry a logging GPS and must log positions every 5 minutes. Positions may only be deleted at the start of the next trip.