



Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic area, concluded under the auspices of the Convention on the Conservation of Migratory Species of Wild Animals (CMS)

Accord sur la Conservation des Cétacés de la Mer Noire, de la Méditerranée et de la zone Atlantique adjacente, conclu sous l'égide de la Convention sur la Conservation des Espèces Migratrices appartenant à la Faune Sauvage (CMS)



Seventh Meeting of the Parties to ACCOBAMS

Istanbul, Republic of Turkey, 5 - 8 November 2019

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REPORT OF THE ACCOBAMS FOLLOW UP COMMITTEE

*Delegates are kindly invited to bring their own documents to the Meeting.
This document will be available only in electronic format during the Meeting.*

REPORT OF THE ACCOBAMS FOLLOW UP COMMITTEE

The ACCOBAMS Follow-up Committee was created by the ACCOBAMS Parties at MOP5 through the adoption of the Resolution 5.4.

The following members were appointed:

Members nominated by Parties

Victor ESCOBAR PAREDES	Full term (2014-2019)
Nadia DECKERT	Full term (2017-2022)
Moustafa FOUDA	Full term (2017-2022)
Imane TAI	Alternate

Members nominated by ACCOBAMS Partners

Drasko HOLCER	Full term (2014-2019)
Tilen GENOV	Full term (2017-2022)
Dimitar POPOV	Alternate

The Second Meeting of the ACCOBAMS Follow up Committee was convened in Monaco (Auditorium Rainier III) on Monday 5th March and Tuesday 6th March 2018.

The ACCOBAMS Permanent Secretariat has received four submissions, all by one ACCOBAMS Partner that has reservations about a Party's follow up with its obligations under the Agreement:

- Submission by OceanCare on the assessment and control by Greece of military activities around South-East Crete;
- Submission by OceanCare on the assessment and control by Spain of petroleum exploration activities around the Balearic Islands;
- Submission by OceanCare on the assessment and control by Portugal of petroleum exploration activities in the Algarve and Alentejo basins;
- Submission by OceanCare on the failure by Albania, Algeria, Croatia, Cyprus, Egypt, France, Greece, Italy, Lebanon, Libya, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Syria, Tunisia to implement the ACCOBAMS Conservation Plan for Mediterranean common dolphins.

Moreover, the Follow up Committee was requested by the Sixth Meeting of the Parties to ACCOBAMS (22-25 November 2016, Monaco) to review under Agenda item 5, and according to Article 6, paragraph 1d, of the ACCOBAMS Follow up Procedure, the legal and technical issues of implementation and follow up:

- of existing obligations and commitments related to seismic and military activities producing underwater noise,
- relating to interactions between humans and dolphins addressed by Resolution 3.13 (Dolphin interaction programme).

I. CONSIDERATION OF SUBMISSIONS BY THE FOLLOW UP COMMITTEE

I-1. Consideration of submission by OceanCare on the assessment and control by Greece of military activities around South-East Crete and adoption of the relevant recommendation

ACCOBAMS FOLLOW UP COMMITTEE CONSIDERATIONS AND RECOMMENDATIONS on the Submission by OceanCare on the Assessment and Control by Greece of Military Activities around South-East Crete

The ACCOBAMS Follow up Committee,

Composed of Mr. Victor Escobar Parades (Chairperson), Mr. Tilen Genov, Mr. Drasko Holcer, Mrs. Imane Tai; Meeting in Monaco on 5 and 6 March 2018;

Having considered the submission and information presented by the ACCOBAMS Partner OceanCare on 10 February 2016, as well as and the written reply and supporting information sent by the Party concerned, Ministry of Environment and Energy, on 7 April 2016;

Having considered the views presented by the representative of OceanCare on 5 March 2018 during the consideration of the submission;

Noting that the Party concerned did not participate in the consideration of the submission by the Committee on 5 March 2018;

Having elaborated and discussed the subject of the submission;

Adopts by consensus the following considerations and recommendations to be transmitted to the Meeting of the Parties and to the Party concerned, under Art. 6, paras. 3 and 4, of the ACCOBAMS Follow up Procedure (hereinafter AFuP), as well as to the Partner concerned.

The submission is divided in two parts, namely:

“1. Greek authorities did not assess and control military maneuvers and especially active sonar around south east Crete, in a manner consistent with ACCOBAMS Resolution 4.17, that may have resulted in the atypical mass stranding of Cuvier’s beaked whales (*Ziphius cavirostris*) in 2014;

2. The ACCOBAMS Secretariat has not received or communicated a response from the Greek authorities within six months, and has subsequently failed to bring the matter to the attention of the Follow up Procedure Committee. (Resolution 5.4, Article 8(2))”

The first part of the submission is admissible, as none of cases of inadmissibility listed in Art. 9, para. 3, AFuP occurs.

As shown in the relevant documents, it has been confirmed that the ACCOBAMS Secretariat did receive and communicate within six months the response by the authorities of the Party concerned and brought the matter to the attention of the Committee. Consequently, the second part of the submission is not founded. In addition, it should be noted that the second part of the submission is not admissible, in so far as it relates to an alleged behaviour by the ACCOBAMS Secretariat, given that submissions can be made by ACCOBAMS Partners only if they “have reservations about a Party’s follow up with its obligations under the Agreement” (Art. 9, para. 1, AFuP).

Coming to the merit, OceanCare alleges that the Greek authorities did not assess and control military maneuvers and especially the use of active sonar around South-East Crete, in a manner consistent with Resolution 4.17 (Guidelines to address the anthropogenic noise on cetaceans in the ACCOBAMS area), and that this likely caused the atypical mass stranding of Cuvier’s beaked whales in 2014.

On this question the Party concerned stated:

- in the letter from the Greek authorities to the ACCOBAMS Secretariat, dated 7 April 2016, that after the military exercise of 2014 there “has not been information of mass stranding of marine mammals in the area of south Crete”, and

- in the letter from the Greek authorities to the ACCOBAMS Secretariat, dated 21 May 2014, that, from 31 March to 10 April 2014, Greek Military Navy participated in a transnational military exercise performed by the military Navies of Israel, the United States and Greece, which took place in the marine area of Israel (Haifa) up to South–East Crete. The letter reports that, from 1 to 10 April, in total, 5 to 10 Cuvier’s beaked whales were stranded in an area of 70 km. It also points out that “during the exercise, the sonar device of the Greek unit started from the lowest possible power and increased gradually with a step of 5 db. The maximum sonar device power can come up to 225 db and the frequency of emission is in the area of medium frequencies. Greek Navy has edited and follows a specific order, which is in line with the Resolutions of ACCOBAMS. Till now there has been no incident of marine mammal stranding linked with an exercise of the Greek Military Navy. Further on, a presentation to inform the Greek Navy on the new developments of MOP 5, as regards addressing the impact of anthropogenic noise on cetaceans, is planned.”

The Committee is not in a position to determine with total precision what were the reasons for the atypical mass stranding of beaked whales which occurred in the first ten days of April 2014 around South-East Crete. Nor it is possible to determine whether this could be the result of the use of sonar by Greece or by another State non-Party to ACCOBAMS. However, given this situation, the Committee finds that it is likely that the mass stranding brought to its attention was the result of the military exercises taking place from 31 March to 10 April 2014, in which Greece was also involved.

In this regard, the Committee notes that the use of sonar is a well-known source of anthropogenic underwater noise and that it can be detrimental to the maintenance of a favourable conservation status for cetaceans, as it is required by Art. II, para. 1, ACCOBAMS. To address this concern, the ACCOBAMS Parties adopted Resolution 4.17, which includes a set of “Guidelines to address the impact of anthropogenic noise on cetaceans in the ACCOBAMS area”. Some of the Guidelines specifically address military sonar and civil high power sonar and are consequently applicable also to military activities.

The Committee acknowledges the reported efforts and commitments by the Greek Navy to be in line with the ACCOBAMS Resolutions addressing the impact of anthropogenic noise on cetaceans (see the above mentioned letter of 21 May 2014). These last developments are a matter of appreciation by the Committee.

It would be helpful, as a way to address the issues raised by the submission, if the Party concerned were to provide information to the ACCOBAMS Secretariat about how the Guidelines annexed to the Resolution 4.17 have been implemented after 2014 till now. This will, in particular, enable the Scientific Committee to assess whether there are difficulties in implementing the Guidelines annexed to the Resolution 4.17 and if any other actions are needed.

All this considered, the Committee,
 finds that the second part of the submission is not admissible and not founded;
 finds that the first part of the submission is admissible;
 finds that it is likely that the atypical mass stranding of beaked whales brought to its attention by this submission was the result of the military exercises taking place from 31 March to 10 April 2014, in which Greece was also involved;

invites Greece to pursue all efforts to be in line with the ACCOBAMS Resolutions addressing the impact of anthropogenic noise on cetaceans, such as Resolution 4.17, and commends Greece for what is being done in this direction;

invites Greece to provide information to the ACCOBAMS Secretariat about how the Guidelines annexed to the Resolution 4.17 have been implemented after 2014 till now;

invites the Secretariat to share the received information from Greece with the Scientific Committee;

invites the Secretariat to transmit these considerations and recommendations to the Meeting of the Parties, as well as to the Party and the Partner concerned.

Monaco, 6 March 2018.

I-2. Consideration of submission by OceanCare on the assessment and control by Spain of petroleum exploration activities around the Balearic Islands and adoption of the relevant recommendation

ACCOBAMS FOLLOW UP COMMITTEE CONSIDERATIONS AND RECOMMENDATIONS On the Submission by OceanCare concerning Spanish Assessment and Control of Petroleum Exploration Activities (Specifically Seismic Surveys) around the Balearic Islands

The ACCOBAMS Follow up Committee,

Composed of Mr. Victor Escobar Parades (Chairperson), Mr. Tilen Genov, Mr. Drasko Holcer, Mrs. Imane Tai; Meeting in Monaco on 5 and 6 March 2018;

Having considered the submission and information presented by the ACCOBAMS Partner OceanCare on 10 February 2016, as well as and the written reply and supporting information sent by the Party concerned, Ministry of Agriculture, Food and Environment, on 12 April 2016;

Having considered the views presented by the representative of OceanCare on 5 March 2018 during the oral consideration of the submission;

Noting that the Party concerned did not participate in the consideration of the submission by the Committee on 5 March 2018;

Having elaborated and discussed the subject of the submission;

Adopts by consensus the following considerations and recommendations to be transmitted to the Meeting of the Parties and to the Party concerned, under Art. 6, paras. 3 and 4, of the ACCOBAMS Follow up Procedure (hereinafter AFuP), as well as to the Partner concerned.

The submission is divided in two parts, namely:

“1. Spanish authorities did not assess and control petroleum exploration activities (specifically seismic surveys) around the Balearic Islands in 2013, in a manner consistent with ACCOBAMS Resolution 4.17, and have risked species vulnerable to loud implosive noise pollution—sperm whales (*Physeter macrocephalus*) in important habitat;

2. The ACCOBAMS Secretariat has not received or communicated a response from the Spanish authorities within six months, and has subsequently failed to bring the matter to the attention of the Follow up Procedure Committee. (Resolution 5.4, Article 8(2))”

The first part of the submission is admissible, as none of cases of inadmissibility listed in Art. 9, para. 3, AFuP occurs.

As shown in the relevant documents, it has been confirmed that the ACCOBAMS Secretariat did receive and communicate within six months the response by the authorities of the Party concerned and brought the matter to the attention of the Committee. Consequently, the second part of the submission is not founded. In addition,

it should be noted that the second part of the submission is not admissible, in so far as it relates to an alleged behaviour by the ACCOBAMS Secretariat, given that submissions can be made by ACCOBAMS Partners only if they “have reservations about a Party’s follow up with its obligations under the Agreement” (Art. 9, para. 1, AFuP).

Coming to the merit, OceanCare alleges that in 2013 the Spanish authorities did not assess and control petroleum exploration activities (specifically seismic surveys) around the Balearic Islands, in a manner consistent with Resolution 4.17, with the consequent risk for species vulnerable to noise pollution, such as sperm whales.

In its letter, the Party concerned confirms that unidentified noise was recorded, adding that all the inquiries it has made were not able to identify the sources and excluding that any authorizations to produce noise were ever issued in that period by the Spanish authorities.

In this regard, the Committee notes that offshore exploration and exploitation is a well-known source of anthropogenic underwater noise and that it can be detrimental to the maintenance of a favourable conservation status for cetaceans, as it is required by Art. II, para. 1, ACCOBAMS. To address this concern, the ACCOBAMS Parties adopted Resolution 4.17, which includes a set of “Guidelines to address the impact of anthropogenic noise on cetaceans in the ACCOBAMS area”. Some of the Guidelines specifically address seismic surveys and airgun uses.

However, in this specific case there was no evidence at all that the authorities of the State concerned either authorized noise producing activities from July 2012 to July 2013 or were negligent in controlling what was taking place in the waters or seabed subject to the Spanish jurisdiction.

The fact that underwater noise can be detected at long distance from the place where it is produced leads the Committee to conclude that, in this specific case, the noise could have originated from activities beyond the control of the Spanish authorities.

The Committee further remarks that, at present, no ACCOBAMS Resolution specifically relates to cases where a source of noise of distant origin affects cetaceans found in the waters subject to the jurisdiction of an ACCOBAMS Party and calls for Parties to co-operate to address the situation. The Meeting of the Parties could consider the possibility to elaborate such a Resolution and to encourage the reporting of data in the noise register.

All this considered, the Committee,
 finds that the second part of the submission is not admissible and not founded;
 finds that the first part of the submission is admissible;
 finds there is no evidence that the authorities of the State concerned either authorized noise producing activities from July 2012 to July 2013 or were negligent in controlling what was taking place in the waters or seabed subject to the Spanish jurisdiction;
 recommends for consideration by the Meeting of the Parties the elaboration of a Resolution calling for the development of a co-operation mechanism among Parties to identify the source of long distance underwater noise in order to address its transboundary effects;
invites the Secretariat to transmit these considerations and recommendations to the Meeting of the Parties, as well as to the Party and the Partner concerned.

Monaco, 6 March 2018

I-3. Consideration of submission by OceanCare on the assessment and control by Portugal of petroleum exploration activities in the Algarve and Alentejo basins and adoption of the relevant recommendation

**ACCOBAMS FOLLOW UP COMMITTEE CONSIDERATIONS AND RECOMMENDATIONS
On the Submission by OceanCare on the Assessment and Control by Portugal of Petroleum
Exploration Activities in the Algarve and Alentejo Basins**

The ACCOBAMS Follow up Committee,

Composed of Mr. Victor Escobar Parades (Chairperson), Mr. Tilen Genov, Mr. Drasko Holcer, Mrs. Imane Tai; Meeting in Monaco on 5 and 6 March 2018;

Having considered the submission and information presented by the ACCOBAMS Partner OceanCare on 25 July 2016;

Having considered the views presented by the representative of OceanCare on 5 March 2018 during the consideration of the submission;

Noting that the Party concerned did not participate in the consideration of the submission by the Committee on 5 March 2018;

Having elaborated and discussed the subject of the submission;

Adopts by consensus the following considerations and recommendations to be transmitted to the Meeting of the Parties and to the Party concerned, under Art. 6, paras. 3 and 4, of the ACCOBAMS Follow up Procedure (hereinafter AFuP), as well as to the Partner concerned.

The Committee finds that the submission is admissible, as none of cases of inadmissibility listed in Art. 9, para. 3, AFuP occurs.

The submission alleges that the Portuguese authorities did not assess and control petroleum exploration activities (specifically seismic surveys), in a manner consistent with ACCOBAMS Resolution 4.17.

The Committee regrets that no written or oral information on the subject of the submission has been provided to it by the Party concerned, preventing the Committee from gathering all the relevant views on the present submission. The information on whether or not environmental impact assessments and public consultations are required under the domestic legislation, and have in fact been carried out in the case of the offshore concessions granted by Portugal in the Algarve and Alentejo Basin, should be easily available to the Party concerned.

The Committee notes that the submission includes exploration concessions located in an area falling under the scope of the ACCOBAMS Area and in an area falling under its subsequent extension, which is not yet in force, and consequently limits its considerations only to the former one.

The Committee is mandated to limit its action to cases where there are “reservations about a Party’s follow up with its obligations under the Agreement” and cannot elaborate, as the submission does, on whether there are other obligations, such as those arising from European Union instruments, under which the Party concerned is bound to carry out Environmental Impact Assessments and public consultations for the activities in question.

The Committee finds it appropriate to recall that ACCOBAMS Parties are bound, *inter alia*, to require impact assessment for allowing or prohibiting activities that may affect cetaceans or their habitat, such as offshore exploration and exploitation (see ACCOBAMS Annex 2, para. 1, c) and that, to address the concern of underwater

noise, the ACCOBAMS Parties adopted a number of Resolutions, including Resolution 4.17, which sets “Guidelines to address the impact of anthropogenic noise on cetaceans in the ACCOBAMS area”. Moreover, under Art. II, para. 4, the Parties are bound to apply the precautionary principle in implementing the conservation, research and management measures prescribed in Annex 2 to the Agreement.

All this considered, the Committee,
 finds that the submission is admissible;
 regrets that the Party concerned has not provided information on the issue raised in the submission and invites Portugal to ensure co-operation to address the submission;
 recalls that ACCOBAMS Parties are bound, *inter alia*, to apply the precautionary principle (Art. II, para. 4. ACCOBAMS), to require impact assessment for allowing or prohibiting activities that may affect cetaceans or their habitat, such as offshore exploration and exploitation (see ACCOBAMS Annex 2, para. 1, c) and that, to address the concern of underwater noise, the ACCOBAMS Parties adopted Resolution 4.17, which includes a set of “Guidelines to address the impact of anthropogenic noise on cetaceans in the ACCOBAMS area”;
invites the Secretariat to transmit these considerations and recommendations to the Meeting of the Parties, as well as to the Party and the Partner concerned;
 invites the Meeting of the Parties to consider the next steps, if need be.

Monaco, 6 March 2018

I-4. Consideration of submission by OceanCare on the failure by Albania, Algeria, Croatia, Cyprus, Egypt, France, Greece, Italy, Lebanon, Libya, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Syria, Tunisia to implement the ACCOBAMS Conservation Plan for Mediterranean common dolphins and adoption of the relevant recommendation

ACCOBAMS FOLLOW UP COMMITTEE CONSIDERATIONS AND RECOMMENDATIONS

On the Submission by OceanCare on the Failure by Albania, Algeria, Croatia, Cyprus, Egypt, France, Greece, Italy, Lebanon, Libya, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Syria and Tunisia to Implement the ACCOBAMS Conservation Plan for the Mediterranean Common Dolphins

The ACCOBAMS Follow up Committee,

Composed of Mr. Victor Escobar Parades (Chairperson), Mr. Tilen Genov, Mr. Drasko Holcer, Mrs. Imane Tai;
 Meeting in Monaco on 5 and 6 March 2018;

Having considered the submission and information presented by the ACCOBAMS Partner OceanCare on 1st December 2016, as well as the written replies and supporting information sent by Morocco on 20 March 2017 and by Spain on 2 March 2018;

Having considered the views presented by the representative of OceanCare on 5 March 2018 during the consideration of the submission;

Noting that the eighteen Parties concerned did not participate in the oral consideration of the submission by the Committee on 5 March 2018;

Having elaborated and discussed the subject of the submission;

Adopts by consensus the following considerations and recommendations to be transmitted to the Meeting of the Parties and to the Parties concerned, under Art. 6, paras. 3 and 4, of the ACCOBAMS Follow up Procedure (hereinafter AFuP), as well as to the Partner concerned.

The Committee finds that the submission is admissible, as none of cases of inadmissibility listed in Art. 9, para. 3, AFuP occurs.

The Committee regrets that no written or oral information on the subject of the submission has been provided to it by sixteen among the eighteen Parties concerned, preventing the Committee from gathering all the relevant views on the present submission.

The submission alleges that eighteen Parties, being all Parties bordering the Mediterranean Sea, have not sufficiently implemented the agreed actions contained in the Conservation Plan for Mediterranean common dolphins, as referred to in Resolution 2.20, subsequently replaced by Resolution 4.13.

The Committee recalls that, under Resolution 4.13, the implementation of the Conservation Plan for short-beaked common dolphins in the Mediterranean Sea (Mop2, doc. 49), is a high priority in the region and, accordingly, this Resolution urges Parties and invites range States to take a number of actions, based on international co-ordination and adequate funding.

The Committee also notes that the only two Parties that have provided information on the present submission have referred only to general legislation and measures for the protection of cetaceans, without mentioning any specific measure of implementation of the Conservation Plan for Mediterranean common dolphins.

The Committee emphasizes that, although the distribution of common dolphins can be uneven in the waters falling under the jurisdiction of Parties and in the Mediterranean basin, the Plan sets forth obligations falling on every Mediterranean Party.

All this considered, the Committee,
 finds that the submission is admissible;
 regrets that sixteen Parties concerned have not provided information on the issue raised in the submission and invites them to ensure co-operation to address the submission;
 recalls that ACCOBAMS Parties are bound, *inter alia*, to apply Resolution 4.13, which stresses that the implementation of the Conservation Plan for short-beaked common dolphins in the Mediterranean Sea, is a high priority in the region;
 invites all the Parties concerned to provide information to the ACCOBAMS Secretariat on specific measures taken for the implementation of the Conservation Plan for short-beaked common dolphins in the Mediterranean Sea, or any other measures considered relevant for their protection;
 invites the Secretariat to share the information received from Parties with the Scientific Committee;
invites the Secretariat to transmit these considerations and recommendations to the Meeting of the Parties, as well as to the Parties and the Partner concerned;
 invites the Meeting of the Parties to consider the next steps, including giving priority to the review and updating of the Conservation Plan for short-beaked common dolphins in the Mediterranean Sea.

Monaco, 6 March 2018

Four official letters co-signed by the President of the ACCOBAMS Follow up Committee and by the Executive Secretary, sent to relevant ACCOBAMS Focal Points listing the considerations and recommendations of the ACCOBAMS Follow up Committee regarding the submission by OceanCare ([Annex 1](#), [Annex 2](#), [Annex 3](#) and [Annex 4](#) of the report).

II. REVIEW GENERAL ISSUES OF IMPLEMENTATION AND FOLLOW UP UNDER THE AGREEMENT AS REQUESTED BY MOP6

During the Sixth Meeting of the Parties to ACCOBAMS (Monaco, 22-25 November 2016), Parties took note of the report of the ACCOBAMS Follow up Committee and approved the six recommendations it contained, especially Recommendation 4 stating that priority is given to consideration of specific submissions and then to general issues of implementation and follow up. Recommendations 2 and 3 requested to review, under Article 6, paragraph 1,d, of the ACCOBAMS Follow up Procedure, the legal and technical issues of implementation and follow up:

- of existing obligations and commitments related to seismic and military activities producing underwater noise,
- relating to interactions between humans and dolphins addressed by Resolution 3.13 (Dolphin interaction programme).

II-1. Existing obligations and commitments related to seismic activities producing underwater noise

Members of the Follow up Committee were invited to review the legal and technical issues of implementation and follow up of existing obligations and commitments related to seismic activities producing underwater noise.

When referring to impact assessment, the Committee recommends to use the best available impact assessment tools, such as Environmental Impacts Assessment under the EU instruments, the ESPOO procedure or any other tools as appropriate. The Committee also recommends to share information about practices used by the Parties.

The Committee considers that seismic activities fall under the category of “industrial activities” and therefore, Parties have to collect, analyze and report data on direct and indirect interactions between humans and cetaceans in relation to such activities. In that context, the noise register that is being developed under Resolution 6.17 is relevant. In addition, the Parties should implement the relevant ACCOBAMS Guidelines.

The Committee recommends to take special care when managing seismic activities in specially protected areas or in their vicinity and exchange information on the actions taken by Parties. The impact that such activities may have in the cetacean acoustic habitat is also an issue that should be addressed.
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The Committee recommends that all these elements (from Conservation Plan, “ <i>Research and monitoring</i> ”) shall be taken into consideration in connection with seismic activities
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The Committee recommends Parties to provide data in MEDACES and in the noise register with the technical assistance of the Secretariat, as need be.
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The Committee considers that seismic activities can determine “exceptionally unfavourable or endangering conditions” leading to emergency situations and, therefore, emergency responses should be considered.

The Committee recommends to exchange information on codes of conduct already implemented, data collected during those events, in particular when a link with seismic activities is suspected

II-2.Existing obligations and commitments related military activities producing underwater noise

Participants were then invited to discuss ACCOBAMS Parties obligations and commitments related to **military activities**

The Committee **understands** that military activities are in principle within the scope of application of ACCOBAMS, as there is no provision in the Agreement that excludes its application to such activities. Military activities are consequently not allowed if they result in the “taking” of cetaceans, as defined under article 1, para I of the Bonn Convention, meaning “taking, hunting, fishing, capturing, harassing, deliberate killing, or attempting to engage in any such conducts”.

The Committee **is fully aware** of Article 236 of the United Nations Convention on the Law of the Sea, which states: “The provisions of this Convention regarding the protection and preservation of the marine environment do not apply to any warship, naval auxiliary, other vessels or aircraft owned or operated by a State and used, for the time being, only on government non-commercial service. However, each State shall ensure, by the adoption of appropriate measures not impairing operations or operational capabilities of such vessels or aircraft owned or operated by it, that such vessels or aircraft act in a manner consistent, so far as is reasonable and practicable, with the said Convention”. In this regard, the Committee notes that the second sentence of Article 236 obliges the UNCLOS Parties to operate State vessels and aircraft in the manner consistent with UNCLOS, so far as reasonable and practicable and without impairing operations or operational capabilities. Moreover, Article 237 of the UNCLOS does not prejudice agreements, such as ACCOBAMS, which may be concluded in furtherance of the general principles of UNCLOS. Such principles include the general principle of preservation and protection of the environment.

When referring to impact assessment, the Committee **recommends** to use the best available impact assessment tool. It is also recommended to share information about practices used by the Parties in connection with impact assessment related to different military activities

The Committee **encourages** Parties to provide information on military activities relevant to human- cetacean interactions, in particular those producing underwater noise, and report them to the noise register

The Committee **recommends** to take special care when assessing the impact of military activities in specially protected areas or in their vicinity, and exchange information on the actions taken by Parties to minimize the impact. An issue that should be addressed is the impact that such activities may have in the cetacean acoustic habitat

The Committee **considers** that military activities can determine “exceptionally unfavourable or endangering conditions” leading to emergency situations and, therefore, emergency responses should be considered.

II-3.Interactions between humans and dolphins addressed by Resolution 3.13 (Dolphin interaction programme)

Participants were invited to discuss ACCOBAMS Parties obligations and commitments related to **interactions between humans and dolphins**.

The Follow up Committee Members **recommended** the Parties to consider requesting the Committee to further review, under Article 6, paragraph 1, d, of the ACCOBAMS Follow up Procedure, the legal and technical issues of implementation and follow up relating to interactions between humans and dolphins addressed by Resolution 3.13 (Dolphin interaction programme), based on the relevant documents prepared by ACCOBAMS bodies, such as the Document of Scovazzi and Tani (“Taking of cetaceans, dolphinarium and quasi-dolphinarium: a legal analysis relating to ACCOBAMS Parties”) and any other identified documents compiled and summarised by the ACCOBAMS Permanent Secretariat.

The Follow up Committee Members **invited** Parties to inform the ACCOBAMS Permanent Secretariat of any future initiatives related to the creation of quasi dolphinarium and dolphin refuges and inform the Scientific Committee through the appropriate channels.

II-4.The ACCOBAMS National report

The Committee **recommended** that all National Reports should be updated before the Follow up Committee and should be made available to the Committee.

II-5.Late response by the Party concerned by a submission

The Follow up Committee members **recommended** that the consideration of a late document should be decided by the Committee at the beginning of its Meeting, on a case by case basis, taking into consideration that the Procedure shall be carried out in a simple, flexible, expeditious, fair, transparent, cost-effective and non-confrontational way.

Annex 1 – Letter signed by the President of the ACCOBAMS Follow up Committee and by the Executive Secretary, sent to the ACCOBAMS Focal Point in Greece listing the considerations and recommendations of the ACCOBAMS Follow up Committee regarding the submission by OceanCare on the assessment and control by Greece of military activities around South-East Crete

Annex 2- Letter signed by the President of the ACCOBAMS Follow up Committee and by the Executive Secretary, sent to the ACCOBAMS Focal Point in Spain listing the considerations and recommendations of the ACCOBAMS Follow up Committee on Spanish Assessment and Control of Petroleum Exploration Activities (Specifically Seismic Surveys) around the Balearic Islands

Annex 3 – Letter signed by the President of the ACCOBAMS Follow up Committee and by the Executive Secretary, sent to the ACCOBAMS Focal Point in Portugal listing the considerations and recommendations of the ACCOBAMS Follow up Committee on the Assessment and Control by Portugal of Petroleum Exploration Activities in the Algarve and Alentejo Basins; letter sent to the ACCOBAMS Focal Point in Portugal

Annex 4 - Letter signed by the President of the ACCOBAMS Follow up Committee and by the Executive Secretary, sent to the ACCOBAMS Focal Points in Albania, Algeria, Croatia, Cyprus, Egypt, France, Greece, Italy, Lebanon, Libya, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Syria and Tunisia, on the failure by Mediterranean Parties to implement the ACCOBAMS Conservation Plan for Mediterranean common dolphins