





**Convention on the
Conservation of Migratory
Species of Wild Animals**

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**DRAFT REGIONAL AGREEMENT ON THE SMALL CETACEANS AND
DUGONGS OF SOUTHEAST ASIA (ASCDOSEA)**

(Prepared by the Secretariat)

1. The 10th Meeting of the CMS Scientific Council (Edinburgh, 2-4 May 2001) approved the sponsorship by CMS of the Second International Conference on the Marine Mammals of Southeast Asia.
2. The conference was convened in Dumaguete (Philippines) from 22-26 July 2002, and was organized and hosted by the Marine Laboratory of Silliman University (SUML) in collaboration with the Southwest Fisheries Science Center of the U.S. National Oceanic and Atmospheric Administration (NOAA). The conference included in its programme a three-day workshop aimed *inter alia* at exploring the potential for developing formal regional cooperation, including the review of a draft CMS Regional Agreement.
3. The attached "Draft Regional Agreement on the Small Cetaceans and Dugongs of Southeast Asia" constitutes the outcome of the workshop in this regard. It is submitted to the 11th Meeting of the Council at the request of Dr. William Perrin, who coordinated the organization of the conference, as a support to the deliberations of the Council concerning the further development of the initiative.

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DRAFT REGIONAL AGREEMENT ON THE SMALL CETACEANS AND DUGONGS OF SOUTHEAST ASIA (ASCDOSEA)

[Range states: Australia, Brunei, Cambodia, China (including Hong Kong, Macau and Taiwan), East Timor, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, Vietnam. States with waters adjacent to Agreement area: Myanmar, Japan, Papua New Guinea.]

Preamble

Recognizing -

That a large proportion of global human population growth during at least the next two decades is expected to come from Asia;

That recorded and forecast regional population growth rates in Southeast Asia are relatively high;

That food security is a high-priority regional concern in Southeast Asia;

That seafood is a primary source of protein for more than 50% of Southeast Asians;

That no other environmental factor approaches fishing in its impact on marine resources;

That as a food source for humans, the seas of Southeast Asia are rapidly approaching exhaustion;

That regional fisheries can remain (or become) viable only if there are extensive and immediate changes in fishery management, so that emphasis is given to the rebuilding of fish populations within functional food webs rather than the traditional emphasis that focuses on the health of one or two commercially harvested fish species;

That high-order predators such as whales, dolphins, and sharks play a major role in the maintenance of population dynamics, balance, and functionality of food webs and

That the often illegal, unreported, and unregulated catch of these and other large marine animals continues in Southeast Asian countries, thereby jeopardizing the integrity and viability of the marine food chain,

The Parties agree to undertake, to the maximum extent of their economic, technical and scientific capacities, the following measures for the conservation of small cetaceans and dugongs, giving priority to conserving those species or populations identified by a Scientific Committee constituted under the Agreement as having the least favorable conservation status, and to undertaking research in areas or for species for which there is a paucity of data.

[Small cetaceans are defined to include all members of the cetacean suborder Odontoceti (toothed whales) with the exception of the sperm whale *Physeter macrocephalus*.]

1. Enforcement of existing national legislation and adoption of new measures

Parties to this Agreement shall adopt the necessary legislative, regulatory or administrative measures to give full protection to small cetaceans and dugongs (i.e. allow no deliberate or purposeful killing or capture) in waters under their sovereignty and/or jurisdiction and outside these waters in respect to any vessel under their flag or registered within their territory engaged in activities which may affect the conservation of small cetaceans or dugongs.

To this end, Parties shall:

- a) For commercial fisheries to obtain license to operate in EEZ waters, require proof of a credible strategy to minimize adverse effects of such fisheries operations on the conservation status of small cetaceans and dugongs. In particular, the potential impacts of driftnets on populations of small cetaceans and dugongs shall be carefully and fully considered before allowing them to be used in fisheries.
- b) Introduce or amend regulations with a view to preventing fishing gear from being discarded or left adrift at sea or in continental waters.
- c) Require the immediate release of small cetaceans and dugongs caught alive in fishing gear in conditions that assist their survival.
- d) Require under existing measures, or adopt new measures requiring, national port-based and boat-based fisheries observer programs to actively seek new data on small-cetacean and dugong bycatches, and require fishermen to report any by-caught small cetaceans or dugongs.
- e) Require impact assessments to be carried out in order to provide a basis for either allowing or prohibiting the continuation of the future development of activities that may affect small cetaceans and dugongs or their habitat in the Agreement area, including commercial fisheries, offshore exploration and exploitation, nautical sports, tourism or cetacean/dugong-watching, as well as establishing the conditions under which such activities may be conducted.
- f) Regulate the discharge from land and at sea and in continental waters of, and adopt within the framework of other appropriate legal instruments stricter standards for, pollutants believed to have adverse effects on cetaceans, dugongs and aquatic life in general; and
- g) Identify and publicize a national institution with a view to furthering implementation of the Agreement.

2. Assessment and management of human-cetacean interactions

Parties shall, in co-operation with relevant international organizations, collect and analyze data and report on direct and indirect interactions between humans and small cetaceans and dugongs in relation to *inter alia* fishing, industrial and tourism activities, and land-based and maritime pollution. When necessary, Parties shall take appropriate remedial measures and shall develop guidelines and/or codes of conduct to regulate or manage such activities.

3. Habitat protection

Parties shall endeavor to establish and manage specially protected areas for small cetaceans and dugongs corresponding to the areas which serve as important habitats or migratory passages of these aquatic mammals and/or which provide important food resources for them. Such protected areas should, where possible, be established within the framework of appropriate national or international legal instruments and in collaboration with and cooperation of local communities.

4. Research and monitoring

Parties shall undertake coordinated, concerted research on small cetaceans and dugongs and facilitate the development of new techniques to enhance their conservation. Parties shall, in particular:

- a) ensure the elaboration of a national program to systematically collect the valuable scientific information that can be gleaned from such opportunistic events as strandings, bycatches and collisions with ships, due to the relative low-cost investment involved;
- b) monitor the status and trends of species covered by the Agreement, especially those in poorly known areas, or species for which few data are available, in order to facilitate the elaboration of conservation measures;
- c) co-operate regionally to determine the distribution, migration routes and the breeding and feeding areas of the species covered by the Agreement in order to define areas where human activities may need to be regulated as a consequence; in particular to facilitate, collaborate with, and grant permission to research vessels from neighboring countries to enter, if necessary, territorial waters to study these aspects;
- d) evaluate the feeding and migratory requirements of the species covered by the Agreement and adapt fishing regulations and techniques accordingly;
- e) develop or facilitate the set-up of a dedicated research program on dead, stranded, wounded or sick animals to determine the causes and dynamics of small cetacean and dugong mortality and morbidity and identify those related to interactions with human activities to permit their assessment as potential threats;
- f) recognizing that bycatch in fisheries is a major threat to small cetaceans and dugongs globally, co-operate regionally to establish and conduct monitoring of bycatch, stock assessment of small-cetacean and dugong populations, assessment of population impact of bycatch, and, where necessary, programs to mitigate unsustainable bycatch, using as a blueprint for the initial stages the "Regional Action Plan for Addressing Bycatch of Small Cetaceans and Dugongs in Fisheries in Southeast Asia." The Action Plan should be updated regularly to reflect progress and meet evolving conservation needs.

5. Capacity building, collection and dissemination of information, training and education

Taking into account the differing needs and the developmental stages of the Range States, Parties shall give priority to capacity building in order to develop the necessary expertise for the implementation of the Agreement. Parties shall co-operate to develop common tools for the collection and dissemination of information about small cetaceans and dugongs and to organize training courses and education programs. Such actions shall be conducted at the sub-regional and Agreement level and supported by the Agreement secretariat and follow the activities outlined in the "Regional Action Plan for Building Capacity in Small Cetacean and Dugong Research and Conservation in Southeast Asia." The Action Plan should be updated regularly to reflect progress and meet evolving education and conservation needs.

6. Response to emergency situations

Parties shall, in co-operation with each other, and whenever possible and necessary, develop and implement emergency measures for the species covered by the Agreement when exceptionally unfavorable or endangering conditions arise. In particular, Parties shall:

- a) prepare, in collaboration with competent bodies, emergency plans to be implemented in case of threats to small cetaceans or dugongs in the Agreement area, such as major pollution events, large and possibly unsustainable bycatches, illegal directed fisheries, mass strandings or epizootics; and

b) evaluate capacities necessary for rescue or euthanizing operations and determining the cause of injury for wounded or sick small cetaceans and dugongs; and

c) prepare a code of conduct governing the function of centers or laboratories involved in this work. In the event of an emergency situation requiring the adoption of immediate measures to avoid deterioration of the conservation status of one or more small-cetacean or dugong populations, a Party may request the relevant Co-ordination Unit to advise the other Parties concerned, with a view to establishing a mechanism to give rapid protection to the population identified as being subject to a particularly adverse threat.