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Agenda Item 23.2.3

LIVE CAPTURES OF CETACEANS FROM THE WILD FOR COMMERCIAL PURPOSES

Summary:

This document contains the draft resolution on Live Captures of Cetaceans from the Wild for Commercial Purposes (Annex 2), proposed by the Principality of Monaco for adoption.

It also contains a background document providing details on the impacts of captures on cetacean populations and opportunities for collaboration with other intergovernmental organizations, prepared by the Scientific Council's Aquatic Mammals Working Group (Annex 1).

LIVE CAPTURES OF CETACEANS FROM THE WILD FOR COMMERCIAL PURPOSES

(Prepared by the UNEP/CMS Secretariat)

1. Resolution 10.15 Global Programme of Work for Cetaceans (2012-2024) instructed the CMS Scientific Council's Aquatic Mammals Working Group (AMWG) to work intersessionally, and encouraged participation of external experts, including species focal points, the scientific or advisory bodies of all CMS aquatic mammal agreements, relevant IUCN specialist groups, FAO/COFI, CITES, IWC and CMS partner organizations.
2. The Scientific Council Workspace is used as a means to facilitate this intersessional work and to give the external experts, most of whom are unable to attend the meetings of the Scientific Council, the opportunity to provide inputs to the Council's deliberations.
3. While discussing input of the AMWG for the 18th Meeting of the Scientific Council (ScC18) held on 1-3 July 2014, Bonn, Germany, a background paper and draft resolution on live captures of cetaceans from the wild for commercial purposes was prepared by members of the AMWG and uploaded for discussion. At its in-session meeting during ScC18, the AMWG considered the topic and collated comments on the draft resolution. The revised draft resolution was endorsed by the plenary of the Scientific Council as being suitable for submission to COP11, subject to the post-session commenting period.
4. The resulting draft resolution was later submitted by the Principality of Monaco in slightly amended form.
5. Following the feedback received during ScC18, the background paper of the AMWG has been revised and is attached as Annex 1. It provides details on the impacts of captures on cetacean populations and opportunities for collaboration with other intergovernmental organizations.
6. The draft resolution as submitted by the Principality of Monaco is annexed to this document as Annex 2.

Action requested:

The Conference of the Parties is requested to:

- Adopt the draft Resolution contained in Annex 2.

ANNEX 1

**BACKGROUND DOCUMENT SUPPORTING THE DRAFT RESOLUTION ON
LIVE CAPTURES OF CETACEANS FROM THE WILD
FOR COMMERCIAL PURPOSES**

(Submitted by the Aquatic Mammals Working Group of the Scientific Council)

Introduction

Captures from the wild of small cetaceans, including belugas (*Delphinapterus leucas*), botos (*Inia geoffrensis*), common bottlenose dolphins (*Tursiops truncatus*), false killer whales (*Pseudorca crassidens*), Indo-Pacific bottlenose dolphins (*Tursiops aduncus*), Indo-Pacific humpback dolphins (*Sousa chinensis*), Irrawaddy dolphins (*Orcaella brevirostris*), killer whales (*Orcinus orca*), Pacific white-sided dolphins (*Lagenorhynchus obliquidens*), Risso's dolphins (*Grampus griseus*) and short-finned pilot whales (*Globicephala macrorhynchus*), continue in several countries for public display in national and international marine parks, aquaria and travelling shows.

Human activities can alter key features of animal populations, such as their socio-ecology and their population biology. Cetaceans rely on well-organized groupings for, *inter alia*, foraging, defence against predators and transmission of specialized behaviour between generations.¹ The removal of individual cetaceans that are crucial to social cohesion in cetacean populations may have long-term implications for population viability². Management based on the assumption that all individuals play similar social roles in their population can have unanticipated consequences on the dynamics of wildlife populations³.

Live capture operations typically target young female dolphins whose temperament makes them easier to handle in aquaria. The bias on taking young females is another cause for conservation concern.

The impact of captures on cetacean populations

The IUCN Cetacean Specialist Group recommends that dolphins should not be captured or removed from a wild population unless that specific population has been assessed and it has been determined that a certain amount of culling can be allowed without reducing the population's long-term viability or compromising its role in the ecosystem⁴. After evaluating ten methods for assessing the sustainability of removals of small cetaceans, the Group found that anthropogenic mortality rates (all causes) in excess of two per cent are unsustainable

¹ Whitehead, H., Rendell, L., Osborne, R.W. and Würsig, B. 2004. *Culture and conservation of non-humans with reference to whales and dolphins: Review and new directions* in Biological Conservation, 120: 431-441.

² See: Lusseau, D. and Newman, M.E.J. 2004. *Identifying the role that animals play in their social networks* in Proceedings of the Royal Society and Williams, R. and Lusseau, D. 2006. *A killer whale social network is vulnerable to targeted removals* in Biology Letters, The Royal Society.

³ Williams, R. and Lusseau, D. 2006. *A killer whale social network is vulnerable to targeted removals* in Biology Letters, The Royal Society.

⁴ Reeves, R.R., Smith B.D., Crespo, E.A. and Notarbartolo di Sciarra, G. (compilers). 2003. *Dolphins, Whales and Porpoises: 2002-2010 Conservation Action Plan for the World's Cetaceans*. IUCN/SSC Cetacean Specialist Group. IUCN. Gland. Switzerland and Cambridge, UK. P.17.

while rates higher than one per cent are considered problematic by seven of the ten methods reviewed and should trigger immediate research on the stock's status⁵.

Concerns regarding the sustainability of the dolphin drive hunts or drive fisheries in Japan have been expressed for decades by the International Whaling Commission (IWC) and other scientific bodies.⁶ Since 2000, a total of 1,451 dolphins have been captured in Japanese waters for the aquarium industry⁷. In 2014, the IWC's Scientific Committee agreed that the issue of total removals in the drive fisheries (including live removals) needs to be more critically examined and incorporated into population assessments. It also noted the lack of current data on either stock identity or stock size for the bottlenose dolphins (*Tursiops truncatus*) in the waters off Taiji, where the hunts take place⁸.

In 2013, the IWC Scientific Committee agreed that the current management scheme for live-capture of belugas (*Delphinapterus leucas*) in the Sea of Okhotsk was very likely to lead to unsustainable levels of removals, placing at least the Sakhalin-Amur summer aggregation in Sakhalinsky Bay at high risk of depletion. Concerns were then raised by the Scientific Committee that the Russian domestic quota for the region where live capture operations are concentrated is likely to be at least six to eight times higher than is sustainable⁹. In 2014, the Scientific Committee expressed strong concern that the removal of 81 live belugas, with an additional 12 confirmed and over 30 suspected deaths in summer of 2013, is unsustainable for this local summer aggregation¹⁰.

Six killer whales (*Orcinus orca*) were captured alive in different areas of the Russian Far East from 2002-2011 and seven more were reported captured alive in the western Sea of Okhotsk in 2012-2013.¹¹ In 2014, the IWC Scientific Committee discussed its concern about these captures and particularly the uncertainty of ecotype identification, also noting evidence that resident and transient killer whales belong to reproductively isolated populations¹² and recommending that transient and resident killer whales be managed as distinct units. The Committee reiterated its long-standing recommendation that no small cetacean removals (live capture or directed harvest) should be authorized until a full and complete assessment has been made of their sustainability¹³.

⁵ Reeves, R. and Horokou, J. 2008. *Non-detriment finding for Tursiops aduncus in the Solomon Islands*. NDF Workshop Case Studies, WG 5 – Mammals, Case Study 2, *Tursiops aduncus*.

⁶ See: International Whaling Commission. 1992. *Report of the Sub-Committee on Small Cetaceans*, IWC/44/4 Annex G; Kishiro, T. and Kasuya, T. 1993. *Review of Japanese Dolphin Drive Fisheries and Their Status*. Report of the International Whaling Commission 43; The IUCN Red List of Threatened Species. 2012. *Tursiops truncatus*: “acute conservation problems are known or suspected in Japan”; Wells, R. 2012 *Letter to Japanese Government Regarding Dolphin and Small Whale Hunts*. Presidential Letters, The Society for Marine Mammalogy; Marsh, H. 2013. *Additional Letter to Japanese Government Regarding Dolphin and Small Whale Hunts*. Presidential Letters, The Society for Marine Mammalogy.

⁷ Japan Fisheries Agency Fisheries Reports. 2000 – 2013. Available at: <http://www.jfa.maff.go.jp/e/>.

⁸ Report of the Scientific Committee. Bled, Slovenia, 12-24 May 2014. Available at: <http://iwc.int/scientific-committee-reports>.

⁹ Report of the Scientific Committee Annual Meeting 2013, Held on Jeju Island, Republic of Korea from 3-15 June 2013. International Whaling Commission, Cambridge, UK. Available at: <http://iwc.int/scientific-committee-reports>.

¹⁰ Report of the Scientific Committee. Bled, Slovenia, 12-24 May 2014. Available at: <http://iwc.int/scientific-committee-reports>.

¹¹ Report of the Scientific Committee. Bled, Slovenia, 12-24 May 2014. Available at: <http://iwc.int/scientific-committee-reports>.

¹² Filotova, O. A., Shpak, O.V., Ivkovich, T.V., Borisova, E.A., Burdin, A.M. and Hoyt, E. 2014. *Killer whale status and live-captures in the waters of the Russian Far East*. SC/65b/SM07.

¹³ Report of the Scientific Committee. Bled, Slovenia, 12-24 May 2014. Available at: <http://iwc.int/scientific-committee-reports>.

Calculations focusing on two bottlenose dolphin (*Tursiops aduncus*) populations subject to live-capture in the Solomon Islands determined a removal rate of less than one dolphin every five years and less than two dolphins every five years respectively. Based on these calculations, the export quota authorized by the Solomon Islands Government (50 dolphins per year) and the effective number of dolphins exported since 2003 (average 12 dolphins per year) were found to be unsustainable if concentrated on one or few local populations, as has been the case so far.¹⁴ At the CITES Standing Committee meeting in 2014, it was agreed that if the Solomon Islands wished to resume exports of specimens of *Tursiops aduncus* using permits issued under Article IV of the CITES Convention, it should first provide the Secretariat with details of the basis for its non-detriment finding (NDF).

There are no reliable estimates for the cetacean populations targeted by live captures and, therefore, in all cases where captures continue, there is a poorly understood impact on the viability of the wild populations targeted.¹⁵ In one example, the live capture of bottlenose dolphins in Cuban waters, a 2006 paper concluded: "*no sufficient evidence is found for independent scientists to evaluate the sustainability of the current harvest of Cuban T. truncatus. Therefore, we strongly recommend that international trade ceases until supporting evidence of no detriment can be authenticated. Continued field research on stock structure, life history and anthropogenic threats is also greatly encouraged*".¹⁶ In 2006, at its annual meeting, the IWC's Scientific Committee noted "*Some 238 dolphins were exported from Cuba to other parts of Latin America, Europe, Canada and Israel between 1986 and 2004. The annual rate of reported capture and export has increased from <10 in the 1990s to around 24 in the past three years. The animals may be taken from a coastal stock and there are no data to assess the sustainability of these takes.*"¹⁷

The impact of captures on individual cetacean health and welfare

Capture and transport are undoubtedly stressful and dangerous for cetaceans. All capture and transport methods are potentially lethal¹⁸ and even those considered most humane involve a stressful chase by small boats, herding together and encirclement by nets. Mortality rates of

¹⁴ Oremus, M., Leqata, J., Hurutarau, J., Tabei, S., Donoghue, M. and Baker, C.S. 2013. *Population status of Indo-Pacific bottlenose dolphins, Tursiops aduncus, in the Solomon Islands and assessment of live-capture sustainability*. South Pacific Whale Research Consortium.

¹⁵ See footnote 6 and Van Waerebeek, K., Sequeira, M., Williamson, C., Sanino, G.P., Gallego, P. and Carmo, P. 2006. *Live-captures of common bottlenose dolphins Tursiops truncatus and unassessed bycatch in Cuban waters: evidence of sustainability found wanting* in Latin American Journal of Aquatic Mammals, 5(1): 39-48; *Report of the Scientific Committee Annual Meeting 2013*, Held on Jeju Island, Republic of Korea from 3-15 June 2013. International Whaling Commission, Cambridge, UK: <http://iwc.int/scientific-committee-reports> (The Committee raised concerns that the Russian domestic quota for the region where live capture operations are concentrated is likely to be at least six to eight times higher than is sustainable); *Report of the Scientific Committee Annual Meeting 2004*, Held in Sorrento, Italy from 29 June to 10 July 2004. International Whaling Commission, Cambridge UK: <http://iwc.int/scientific-committee-reports> (The Committee recommended, in response to the live captures of resident killer whales in Southeast Kamchatka that any live captures should be proceeded by a full assessment of status).

¹⁶ Van Waerebeek, K., Sequeira, M., Williamson, C., Sanino, G.P., Gallego, P. and Carmo, P. 2006. *Live-captures of common bottlenose dolphins Tursiops truncatus and unassessed bycatch in Cuban waters: evidence of sustainability found wanting* in Latin American Journal of Aquatic Mammals, 5(1): 39-48.

¹⁷ Report of the Scientific Committee. St Kitts and Nevis, 2006. Available at: <http://iwc.int/scientific-committee-reports>.

¹⁸ See: Curry, B. 1999. *Stress in mammals: The potential influence of fishery induced stress on dolphins in the eastern tropical Pacific Ocean*. NOAA Technical Memorandum 260; Romero, L.M. and Butler, L.K. 2007. *Endocrinology of stress* in International Journal of Comparative Psychology 20: 89-95; Fair, P. and Becker, P.R. 2000. *Review of stress in marine mammals* in Journal of Aquatic Ecosystem Stress and Recovery 7: 335-354.

captured bottlenose dolphins (*Tursiops truncatus*) have been found to increase by six times immediately after capture¹⁹. A similar increase in mortality has been demonstrated following transport between facilities²⁰.

Even individuals not selected by the capture team that are released from the nets may suffer or die as a result of capture or hunt myopathy²¹. Heart lesions and suppressed immune systems have been found in dolphins encircled by speed boats and trapped in nets in tuna fisheries.²² In 2014, the IWC Scientific Committee noted that stress experienced during long processing time of animals captured in Japanese drive fisheries (up to five days) will increase the likelihood of post-capture mortality²³.

International cooperation regarding captures

ACCOBAMS, the CMS Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area, has passed a number of resolutions raising concerns about live captures and their negative impact on conservation²⁴.

CMS Resolution 9.9 on marine migratory species notes concern that migratory marine species face multiple, cumulative and often synergistic threats with possible effects over vast areas, such as by-catch, over-fishing, pollution, habitat destruction or degradation, marine noise impacts, deliberate hunts as well as climate change.

CITES lists the following two species of small cetacean, which have been subject to live captures for commercial purposes in Appendix I, prohibiting international trade for primarily commercial purposes: *Orcaella brevirostris*, *Sousa chinensis*. It also lists the Black Sea bottlenose dolphin (*Tursiops truncatus ponticus*) in Appendix II, but with a quota set at zero for the export of live dolphins wild-captured in the Black Sea, for primarily commercial purposes. The increased protection status for both *Orcaella brevirostris* (in 2004) and *Tursiops truncatus ponticus* (in 2002) delivered through CITES reflected specific concern about unsustainable live captures from the wild for commercial purposes. The population of Indo-Pacific bottlenose dolphins (*Tursiops aduncus*) in the Solomon Islands has recently been subject to a Review of Significant Trade by the CITES Animals Committee in response to concerns about the sustainability of live captures.

¹⁹ Small, R.J. and DeMaster, D.P. 1995. *Acclimation to captivity: A quantitative estimate based on survival of bottlenose dolphins and California sea lions* in Marine Mammal Science 11: 510-519.

²⁰ Small, R.J. and DeMaster, D.P. 1995. *Acclimation to captivity: A quantitative estimate based on survival of bottlenose dolphins and California sea lions* in Marine Mammal Science 11: 510-519.

²¹ Curry, B. 1999. *Stress in mammals: The potential influence of fishery induced stress on dolphins in the eastern tropical Pacific Ocean*. NOAA Technical Memorandum 260; Romero, L.M. and Butler, L.K. 2007. *Endocrinology of stress* in International Journal of Comparative Psychology 20: 89-95; Fair, P. and Becker, P.R. 2000. *Review of stress in marine mammals* in Journal of Aquatic Ecosystem Stress and Recovery 7: 335-354.

²² Forney, K.A., St. Aubin, D.J. and Chivers, S.J. 2002. *Chase encirclement stress studies on dolphins involved in eastern tropical Pacific Ocean purse-seine operations during 2001*. Southwest Fisheries Science Center Administrative Report LJ-02-32, La Jolla, California.

²³ Report of the Scientific Committee. Bled, Slovenia, 12-24 May 2014. Available at: <http://iwc.int/scientific-committee-reports>.

²⁴ Resolution 5.14 on “Live removals of bottlenose dolphins in the Black Sea (*Tursiops truncatus*)”; Resolution 3.13 on “Dolphin Interaction Programmes”; Resolution 2.17 on “The release of cetaceans into the wild”; Resolution 1.12 on the “Conservation of the Black Sea *Tursiops truncatus*: Bottlenose dolphin”.

Coordination with other inter-governmental bodies

CITES

CITES Article XV requires the CITES Secretariat, in the case of amendments proposed to Appendices I and II for marine species, to consult inter-governmental bodies having a function in relation to those species especially with a view to obtaining scientific data these bodies may be able to provide and to ensuring co-ordination with any conservation measures enforced by such bodies. The IWC is consulted by the CITES Secretariat under Article XV with regard to amendments proposed to marine species listings and CMS is another such body in respect of marine species.

CITES Parties decided in 2013 (Decision 16.11) that its Standing Committee shall, with support of the Secretariat, explore further options to strengthen cooperation, collaboration and synergies between CITES and the other biodiversity-related conventions at all relevant levels, including through their respective programmes of work and Secretariats.

International Whaling Commission

Parties to the 1946 International Convention for the Regulation of Whaling, which established the International Whaling Commission, do not agree on whether the Commission's mandate extends to the regulation of small cetacean hunting. However, since 1975, the IWC Scientific Committee has considered the status of small cetaceans affected by hunting and other threats, including captures for captivity. The Scientific Committee's sub-committee on small cetaceans meets annually to review data reported on direct and accidental takes of small cetaceans, review threats to small cetacean species, undertake status assessments of priority species and make recommendations to the Commission on both management and conservation issues. In recent years, the IWC Conservation Committee has begun developing Conservation Management Plans for threatened species which may, in future, include small cetacean species.

DRAFT RESOLUTION

**LIVE CAPTURES OF CETACEANS FROM THE WILD
FOR COMMERCIAL PURPOSES**

(Submitted by the Principality of Monaco)

Noting the continuing activities targeting wild small cetacean populations for live capture, including several species listed on CMS Appendices I and II, for public display in commercial aquaria and travelling shows;

Noting that the IUCN's Species Survival Commission's Cetacean Specialist Group recognizes that live capture can be a serious threat to local cetacean populations when unmanaged and undertaken without a rigorous programme of research and monitoring, because the removal of live cetaceans from the wild, for captive display and/or research, is equivalent to incidental or deliberate killing, since the animals brought into captivity or killed during capture operations are no longer available to help maintain their populations;

Noting the regularly repeated advice from the Small Cetaceans Subcommittee of the International Whaling Commission that populations should not be subject to removals where such removals have not been shown to be sustainable;

Recalling that Article III (5) of CMS requires that Parties that are Range States of a migratory species listed in Appendix I shall in principle prohibit the taking of animals belonging to such species;

Also recalling that CMS Resolution 10.15 on a Global Programme of Work for Cetaceans requests the CMS Secretariat and Scientific Council to continue and increase efforts to collaborate with other relevant international fora;

Further recalling that Resolution 9.9 on Migratory Marine Species expresses concern that migratory marine species face multiple, cumulative and often synergistic threats with possible effects over vast areas, such as by-catch, over-fishing, pollution, habitat destruction or degradation, marine noise impacts and deliberate hunts as well as climate change;

Noting that Resolution 8.22 on human-induced impacts on cetaceans does not sufficiently address the issue of live capture for commercial purposes;

Reiterating its urgent call in Resolution 10.15 on Parties to promote the integration of cetacean conservation into all relevant sectors by coordinating their national positions among various conventions, agreements and other international fora;

Aware that all regional cetacean-related instruments concluded under CMS contain provisions relevant to the issue of live captures, namely that:

- the Whale and Dolphin Action Plan (2013-2017) of the CMS Memorandum of Understanding for the Conservation of Cetaceans and their Habitats in the Pacific Islands Region includes "direct take" as one of five major hazards to

whale and dolphin populations in the Pacific Islands region and includes minimizing its impact as an objective of the Plan;

- the Small Cetacean Action Plan of the CMS Memorandum of Understanding Concerning the Conservation of the Manatee and Small Cetaceans of Western Africa and Macaronesia calls on Signatories to ensure that any live capture activities in the region do not affect the viability of local populations and comply with international regulations and agreements;
- Article 4 of the ASCOBANS Agreement requires Parties to “endeavour to establish the prohibition under national law, of the intentional taking and killing of small cetaceans where such regulations are not already in force”;
- Article II of the ACCOBAMS Agreement requires Parties to “prohibit and take all necessary measures to eliminate, where this is not already done, any deliberate taking of Cetaceans”;

Also aware that:

- The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) includes all cetacean species in its Appendices I or II, where imports of specimens of Appendix I species to be used for primarily commercial purposes are prohibited;
- the Bern Convention on the Conservation of European Wildlife and Natural Habitats prohibits “all forms of deliberate capture and keeping” of species included in its Appendix II, including the bottlenose dolphin (*Tursiops truncatus*) and the killer whale (*Orcinus orca*);
- European Union Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora lists all cetaceans in its Annex IV as species of Community Interest in need of strict protection and prohibits all deliberate capture or killing in Community waters and the sale or exchange of cetaceans by Member States;
- Article 11 (1) (b) of the Specially Protected Areas and Wildlife Protocol of the Wider Caribbean Region prohibits “the taking, possession or killing (including, to the extent possible, the incidental taking, possession or killing) or commercial trade” in cetaceans or their parts or products; and

Acknowledging that a number of countries including Argentina, Australia, Brazil, Chile, China, Costa Rica, India, Lao People’s Democratic Republic, Malaysia, Member States of the EU, Mexico, Monaco, Nicaragua, Peru, Philippines, Singapore, Thailand and Uruguay, have directly banned live captures of wild cetaceans in their national waters;

*The Conference of the Parties to the
Convention on the Conservation of Migratory Species of Wild Animals*

1. *Invites* Parties that have not already done so to develop and implement national legislation prohibiting the live capture of cetaceans from the wild;

2. *Also urges* Parties to prohibit imports and international transit of live cetaceans for commercial purposes that have been captured in the wild;
3. *Requests* the Secretariat and the Scientific Council to seek to enhance cooperation and collaboration with CITES and the IWC on small cetacean species targeted by live captures from the wild; and
4. *Calls on* Parties to support and, where appropriate and possible, contribute to cooperation and collaboration with CITES and IWC on small cetacean species targeted by live captures from the wild.