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WESTERN AFRICAN TALKS ON CETACEANS AND THEIR HABITATS

DISCUSSIONS D'AFRIQUE OCCIDENTALE SUR LES CETACES ET LEURS HABITATS

DRAFT

**MEMORANDUM OF UNDERSTANDING CONCERNING THE
CONSERVATION OF THE MANATEE AND SMALL CETACEANS OF
WESTERN AFRICA AND MACARONESIA**

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MEMORANDUM OF UNDERSTANDING CONCERNING THE CONSERVATION OF THE MANATEE AND SMALL CETACEANS OF WESTERN AFRICA AND MACARONESIA

Among the States of Western Africa and Macaronesia:

The undersigned,

Acknowledging the role of the Convention on the Conservation of Migratory Species of Wild Animals (CMS) in the conservation and management of aquatic mammals;

Aware of international responsibilities to conserve the West African manatee and small cetaceans of the African Eastern Atlantic Basin and Macaronesia, in particular, pursuant to the Convention on Biological Diversity (CBD), for which CMS is the lead partner in the global conservation of migratory species over their entire range;

Recognising the need of aquatic mammal conservation at the global level as reflected, *inter alia*, in the United Nations Convention on the Law of the Sea (UNCLOS), the International Whaling Commission (IWC) and the Convention on International Trade in Endangered Species (CITES);

Further recognising instruments, policies and strategies important to the region, in particular, the key regional role of the Convention for the Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region (Abidjan Convention), as well as the CMS Memoranda of Understanding Concerning Conservation Measures for Marine Turtles of the Atlantic Coast of Africa and Concerning Conservation Measures for the Eastern Atlantic Populations of the Mediterranean Monk Seal;

Aware of the region's exceptional richness of marine and aquatic biodiversity and that in addition to the West African manatee more than thirty species of small cetaceans inhabit the region;

Knowing that manatees and small cetaceans are an integral part of the region's marine and aquatic environments and connect the region's ecosystems and cultures, and that this underlines the urgent need to ensure their conservation for the benefit of present and future generations;

Conscious that manatees occur over vast areas, making their survival dependent on their conservation over the entire range of their coastal and inland water habitats;

Conscious too that small cetaceans migrate and disperse over vast distances, making their survival dependent on their conservation over a wide area and in a wide range of marine habitats;

Emphasising that knowledge of the biology, ecology, migration, population abundance, and the conservation status of manatees and small cetaceans is insufficient and that international cooperation will facilitate research and monitoring of these species in order to develop and implement conservation measures;

Concerned that the existence of the manatees frequenting coastal and inland waters of the region's Western African Range States is threatened by habitat destruction due to pollution, overexploitation and construction, as well as by-catch and hunting;

Equally concerned that the conservation status of small cetacean populations frequenting the marine and coastal waters of the region's Range States, can be affected by factors such as directed take and by-catch, degradation, disturbance or destruction of their habitats, chemical and acoustic pollution, decline in food availability, use and abandonment of fishing gear, ship-strikes and climate change. This applies particularly to populations that have been severely depleted;

Aware that many activities in the region, such as oil and gas exploration, extraction and other mining activities, fishing and tourism, are socially and economically important, but emphasising that they should be conducted in an ecologically sustainable manner to minimise the threats posed to manatees and small cetaceans;

Emphasising further that the particular vulnerability of manatee and small cetacean populations warrants the implementation of conservation measures where they do not already exist;

Acknowledging that although the Range States have endeavoured individually to ensure conservation of manatees and small cetaceans, coordinated and concerted actions across the migratory range are still required to conserve these migratory species to improve their conservation status;

Noting that CMS calls for international cooperative action to conserve migratory species, and that CMS Article IV encourages CMS Contracting Parties to conclude Agreements, including non-legally binding agreements in respect of any population of migratory species;

Recalling that Resolutions 7.7 and 8.5, as well as Recommendation 7.3, of the CMS Conference of the Parties endorse CMS Contracting Parties in the region to consider establishing a Memorandum of Understanding on manatees and small cetaceans and the need to undertake collaborative actions, notably through action plans;

Also recalling the recommendations for the conservation of small cetaceans and manatees formulated at the workshop on "The Conservation and Management of Small Cetaceans of the Coast of Africa", held in Conakry, Guinea, in May 2000;

Encouraged by the work of existing cetacean-related instruments negotiated under the auspices of CMS such as the Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area (ACCOBAMS), the Agreement on the Conservation of Small Cetaceans of the Baltic, North East Atlantic, Irish and North Seas (ASCOBANS) and the Memorandum of Understanding Concerning the Conservation of Cetaceans and their Habitats in the Pacific Islands Region;

Recognising that the scientific bodies of existing CMS instruments and the CMS Scientific Council have scientific and technical expertise that can be shared with the region to support the implementation of this Memorandum of Understanding;

Noting that the region's coastal communities, and those communities living along inland waters, value manatees and small cetaceans as part of their cultural heritage, and

recognise that the species are significant components of the region's biodiversity because of their unique ecological, economic, scientific, educational and tourism values;

Acknowledging the shared responsibility of the Range States, including all government agencies concerned with the environment, fisheries, development and extractive industries, intergovernmental organisations, the non-governmental sector, the private sector, including oil and mining companies, the fish and aquaculture industries, and tour operators, to work with local communities to achieve and maintain a favourable conservation status for the region's manatees, small cetaceans and their habitats;

Confirming that the Signatories have the primary responsibility to implement this Memorandum of Understanding;

DECIDE to work closely together in the region and to foster cooperation, build capacity and ensure coordinated region-wide actions to achieve and maintain a favourable conservation status for all manatees and small cetaceans and their habitats and to safeguard the associated values of these species for the people of the region. To these ends, in the spirit of mutual understanding and cooperation, the Signatories record their understanding that their governments will individually or collectively:

1. Take steps as Range States for the respective species to conserve manatees and small cetaceans and fully protect those species listed in CMS Appendix I that occur in the region.
2. Consider, as appropriate, ratifying or acceding to those biodiversity-related international instruments that complement the intent of this Memorandum of Understanding, including in particular CMS, so as to enhance the legal protection of the region's manatees and small cetaceans.
3. Enact, review or update and enforce, as appropriate, legislation to conserve the region's manatees and small cetaceans.
4. Implement, subject to the availability of necessary resources and where they are a Range State for the respective species, the provisions of the Action Plans attached as annexes to this Memorandum of Understanding as a basis to conserve all populations of manatees and small cetaceans in the region. The Action Plans address:
 - a) (List of themes as in final Action Plans)
5. Facilitate the rapid exchange of scientific, technical and legal information necessary to coordinate conservation measures, and cooperate with recognised experts and collaborating organisations to facilitate the work conducted in relation to the Action Plans.
6. Assess the implementation of this Memorandum of Understanding, including the Action Plans, at regular meetings to be attended by representatives of each of the signatories, and persons or organisations technically qualified in manatee and small cetacean conservation. Where appropriate, such meetings may be held as a component of other events, such as meetings of the Conference of Parties to CMS.

7. Designate a competent authority to serve as a focal point for communication between the Signatories and for implementing activities under this Memorandum of Understanding, and communicate the complete contact details of this authority (and any changes thereto) to the Secretariat.
8. Provide to the Secretariat a regular report on their implementation of this Memorandum of Understanding, the periodicity and format of which will be determined at the first Meeting of the Signatories. The Secretariat will transmit to each of the Signatories, non-signatories and any collaborating organisations all of the reports received, together with an overview report that it will compile on the basis of the information at its disposal.
9. Agree at each Meeting of the Signatories:
 - a) A budget to meet the expenses required for the operation of the secretariat and activities carried out under this Memorandum of Understanding and to assist the signatories to carry out their responsibilities under this Memorandum of Understanding;
 - b) Arrangements for the provision of funds to meet the requirements of the budget.

Further Understandings

10. This Memorandum of Understanding is an agreement under Article IV, paragraph 4, of CMS and is not legally binding.
11. The Action Plans are part of this Memorandum of Understanding.
12. Each Signatory, as appropriate, will implement the Memorandum of Understanding in the region with respect to:
 - a) Its nationals and vessels; and
 - b) Marine areas, inland waters and terrestrial areas under its jurisdiction.
13. This Memorandum of Understanding is open for signature by the Range States and will take effect with seven signatures. It will become effective for each subsequent Signatory on the date of signature.
14. This Memorandum of Understanding will remain open for signature indefinitely, and will remain in effect indefinitely subject to the right of any Signatory to terminate its participation by providing one year's written notice to all other Signatories.
15. This Memorandum of Understanding may be amended by a consensus at a Meeting of the Signatories. The Action Plans may be amended by a two-thirds majority of the respective Range States at a Meeting of the Signatories. When appropriate, the Signatories will consider amending this Memorandum of Understanding to make it legally binding and to include other species.
16. Nothing in this Memorandum of Understanding precludes signatories from implementing stronger measures than those specified in the Action Plans, in accordance with international law.

17. The original texts of this Memorandum of Understanding in the English and French languages will be deposited with the CMS Secretariat, which will act as the depositary. In the event of any discrepancies, the English version will be considered definitive. Official translations of the text into Arabic, Portuguese and Spanish will be provided.
18. The CMS Secretariat will act as the Secretariat to this Memorandum of Understanding. It may use the services of any reliable organisation to support the coordination of this Memorandum of Understanding. The Signatories will consider at their first meeting what further mechanisms are required to provide technical advice and secretariat services to support the implementation of this Memorandum of Understanding.