

CIRCULAR COMMUNICATION TO COMMISSIONERS  
AND CONTRACTING GOVERNMENTS  
IWC.CCG.594

**Request for information in relation to ship strikes**

**1. Purpose of the Circular**

I am writing to request information from Contracting Governments on:

1. national and regional legislation, rules and action plans to reduce the impact of ship strikes; and
2. training material for crew and maritime and marine officials in relation to avoiding ship strikes on cetaceans.

This information is being sought at the request of Alexandre de Lichtervelde, Chair of the Ship Strikes Working Group (SSWG) and Belgian's Commissioner to IWC, as a follow-up to discussions at last year's Annual Meeting. The background to this request is provided below. Information will also be sought from relevant intergovernmental organisations, regional organisations and industry associations under a separate cover.

**2. Background**

At IWC/57 in Ulsan, a Ship Strikes Working Group (SSWG) was established under the Conservation Committee. When the SSWG reported to the Conservation Committee at IWC/58 in St. Kitts and Nevis last year, it made a number of recommendations for follow-up work, including:

RECOMMENDATION 3: As appropriate, adopt national and regional legislation, rules and action plans to reduce the impact of ship strikes, with priority for high-risk areas.

RECOMMENDATION 4: Identify and circulate information on training material for crew and maritime and marine officials.

Following IWC/58, the SSWG developed a work plan to begin to address the recommendations. Annex 1 describes the initial work planned for Recommendations 3 and 4.

**3. Submission of information**

Some information has already been collected on (1) legislation, rules and action plans to reduce the impact of ship strikes and (2) training material for crew and maritime and marine officials in relation to avoiding ship strikes on cetaceans. This was summarised in the SSWG's first progress report to the Conservation Committee (IWC/58/CC3). The relevant parts of that report are extracted in Annex 2.

If you have any further information on either of these topics, it would be helpful if this could be provided to the Secretariat by **12 March 2007**.

Dr. Nicky Grandy  
Secretary to the Commission

cc: Members of the Ship Strikes Working Group  
National Contact Points for Ship Strikes

**Annex 1**

**SSWG Work Plan with respect to Recommendations 3 and 4 in the first progress report to the Conservation Committee (IWC/58/CC3)**

<b>SSWG Recommendation (IWC/58/CC3)</b>	<b>Comment</b>	<b>Further action</b>
<p><b>RECOMMENDATION 3: As appropriate, adopt national and regional legislation, rules and action plans to reduce the impact of ship strikes, with priority for high-risk areas.</b></p> <p><i>Addressees: Members of the Commission, regional organisations, international governmental and industry organisations</i></p>	<p>Following IWC/57 in Ulsan, Alexandre de Lichtervelde, SSWG Chair, wrote to SSWG members and national ship strike contact points, requesting legislation relevant to ship strikes. This provided the information included in the section of the first SSWG progress report titled ‘<i>Global overview of existing ship strike mitigation legislation, programmes, measures, resolutions and recommendations</i>’.</p> <p>The compilation of present legislation, rules and action plans (LRAPs) is valuable and should be continued. The existing LRAPs should be reviewed for content and consistency with current knowledge which could ultimately result in a ‘best practice’ guide. It will require co-operation with relevant other bodies including industry. The question of ‘high risk areas’ requires input from <i>inter alia</i> the Scientific Committee.</p>	<p><u>Further action</u></p> <ul style="list-style-type: none"> <li>• Secretariat to write to all Contracting Governments and relevant intergovernmental organisations and others to request submission of LRAPs (while recognising that some legislation has already been collected). The information will be collated by the Secretariat and made available to the SSWG prior to IWC/59.</li> <li>• The SSWG reviews the information provided and makes recommendations to the Conservation Committee at IWC/59 on how to take the work forward. If sufficient information is made available, it should be reviewed for content and consistency with current knowledge. If funds are available, such a review might best be done at least initially by a consultant engaged for this purpose. A consultant could develop a paper, including recommendations for ‘best practice’. Alternatively, a multidisciplinary group of volunteers could be established to undertake this work.</li> </ul>
<p><b>RECOMMENDATION 4: Identify and circulate information on training material for crew and maritime and marine officials.</b></p> <p><i>Addressees: Members of the Commission and of the Ship Strikes Working Group, IMO, regional organisations, industry organisations</i></p>	<p>While the identification and collection of information on training material needs to be done, it would be useful to develop guidance on best practice rather than simply to circulate training material.</p>	<ul style="list-style-type: none"> <li>• The Secretariat to write to all Contracting Governments and relevant intergovernmental organisations and others to request submission of any such material.</li> <li>• Information received will be collated by the Secretariat and made available to the SSWG prior to IWC/59.</li> <li>• The SSWG reviews the information and makes recommendations to the Conservation Committee at IWC/59 on how to proceed. As with Recommendation 3 above, if sufficient information is provided and if funds are available, a review might best be done by a consultant engaged for this purpose (it could be the same consultant as for Recommendation 3). A consultant could develop a paper, including recommendations for guidance on ‘best practice’. Alternatively, a multidisciplinary group of volunteers could be established to undertake this work.</li> </ul>

## Annex 2

### Extract from Document IWC/58/CC3: Ship Strikes Working Group – First Progress Report to the Conservation Committee

## **2. GLOBAL OVERVIEW OF EXISTING SHIP STRIKE MITIGATION LEGISLATION, PROGRAMMES, MEASURES, RESOLUTIONS AND RECOMMENDATIONS<sup>1</sup>**

### **2.1 Nations with binding legislation in territorial or EEZ waters**

Below, an account is provided on legislation directly related to ship strikes mitigation. In addition, should be noted that the Scientific Committee has developed guidelines for good whale-watching practice and as part of an on-going process, its Whale-watching Working Group reviews whale-watching guidelines and assesses the impacts of whale-watching on cetaceans, including the risk to cetaceans from whale-watching vessel collisions<sup>2</sup>.

#### **Australia**

Australia's *Environment Protection and Biodiversity Conservation Act 1999* imposes obligations relating to ship strikes in waters declared as the Australian Whale Sanctuary. The Sanctuary encompasses Australia's Exclusive Economic Zone (EEZ), and includes the waters around Australia's external territories. Within the Sanctuary, the Act makes it an offence to recklessly kill, injure, take, trade, keep, move or interfere with a cetacean. The Act also applies to Australians and Australian corporations, vessels and aircraft outside the Sanctuary. In the areas of application, if a cetacean is killed or injured a report must be made to the Secretary of the Department of the Environment and Heritage about the incident within seven days. The Australian Government Department of the Environment and Heritage also has a protected species reporting telephone hotline.

Part 8 of Australia's *Environment Protection and Biodiversity Conservation Regulations 2000* sets out how people must interact with cetaceans in and beyond the Sanctuary. The Regulations impose restrictions on vessels while around cetaceans, including minimum approach distances, operation of vessels, and vessels prohibited to approach cetaceans.

Australian States and Territories have in place legislation protecting cetaceans in waters under their jurisdiction. Some individual states and territories also have telephone reporting hotlines for information about cetaceans.

#### **Belgium**

The Royal Decree of 21 December 2001 on the protection of species in marine areas under Belgian jurisdiction foresees in its article 3 §2 that ships encountering cetaceans should avoid the collision and in general not change direction suddenly<sup>3</sup> so as to reduce any perturbation. The Royal Decree is applicable not only in waters under Belgian jurisdiction but also (article 2) wherever the ships under Belgian flag navigate, which therefore also covers their activities outside Belgian waters.

#### **Canada**

In December 2002 the International Maritime Organisation approved the Government of Canada's proposed changes to the shipping lanes in the Bay of Fundy to protect the endangered North Atlantic right whale. This action was part of Canada's Right Whale Recovery Plan. Amendments have been made to navigational charts and vessel traffic control procedures. Notification procedures have been set up. The new shipping lanes are based on considerable scientific whale research and were reviewed by several marine industry stakeholders and experts to ensure safety would be maintained.

A new Right Whale Recovery Plan is in the final stages of development and will be available by the end of 2006 with implementation in 2007. The new plan reflects the 2002 Species At Risk Area legislation.

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<sup>1</sup> Countries and organisations are ranked in alphabetical order. Non-IWC member countries are covered when information is available.

<sup>2</sup> The IWC guidelines and a review of worldwide whale-watching guidelines and regulations (2004) is available on IWC's website (<http://www.iwcoffice.org/conservation/whalewatching.htm>).

<sup>3</sup> Except to avoid collision.

## USA

As the USA is the only other nation having implemented legislation directly related to ship strikes, more detailed information is provided below. As is the case with Canada, the focus is on one particular species: the North Atlantic right whale, whose mortality due to collisions was estimated to 40 % in 2002 (Laist).

### ***Proposed U.S. Regulations***

The National Oceanic and Atmospheric Administration (NOAA) has prepared proposed regulations, currently in clearance, to regulate ships along the U.S. east coast. The proposed regulations focus primarily on limiting ship speed where relatively high right whale and ship densities overlap near a number of U.S. east coast ports, at calving/nursery areas in waters off Georgia and Florida, and in New England waters. The proposed regulations are expected to be published for public comment by summer 2006, with final regulations expected by mid 2007.

### ***Mandatory Ship Reporting systems (MSR)<sup>4</sup>***

The United States sought and received endorsement from the International Maritime Organization (IMO) to establish two Mandatory Ship Reporting systems – one in waters off New England and another in calving/nursery areas in waters off Georgia and Florida. The systems, operational since July 1999, require that all ships of 300 gross tons and greater report to a shore-based station via satellite communication systems. Upon receipt of the report, an automated message is sent to the reporting ship providing (a) information about the vulnerability of right whales to ship strikes, (b) information about where the mariner can obtain guidance on reducing ship strikes, and (c) recent right whale sighting locations. The incoming reports are gathered and used to quantify ship traffic patterns.

### ***Realigning the Traffic Separation Scheme (TSS) servicing Boston***

On 28 March 2006 the United States have submitted to the IMO a proposal to reconfigure the Boston Traffic Separation Scheme (TSS). The proposed realignment involves only a 12 degree shift in the northern leg of the TSS and is expected to provide a significant reduction in ship strike risk to right whales and all baleen whales occurring in the area, with minimal concurrent impact to mariners using the TSS. If adopted by the IMO, the TSS shift accomplished through domestic regulations issued by the U.S. Coast Guard is expected to occur some time in 2007.

### ***Recommended Routes***

The United States is considering establishing recommended shipping routes in key right whale aggregation areas: within Cape Cod Bay and the calving/nursery areas in waters off Georgia and Florida. If approved, these routes will likely be introduced by late 2007 or early 2008.

### ***Endangered Species Act and the Marine Mammal Protection Act.***

NOAA's National Marine Fisheries Service (NMFS) has responsibility to protect endangered marine mammals, and does so under the Endangered Species Act (ESA) and the Marine Mammal Protection Act. Under the ESA, the NMFS issued regulations prohibiting vessel approach within 500 yards of a right whale, and is planning to issue regulations to reduce ship collisions with right whales.

### ***Collision Reporting***

In addition to ship strikes reduction regulations that effect maritime industries, most U.S. federal agencies (e.g., U.S. Navy, U.S. Coast Guard) require their vessel operators to report ship strikes involving their ships.

## **2.2 Nations with recommended mitigation measures, dedicated national programmes or conservation measures<sup>5</sup>**

### **France**

It should be noted that France is one of the three co-founders of the Pelagos Sanctuary for Mediterranean Marine Mammals, whose limits in the Ligurian Sea cover both national - France, Monaco, Italy - and international waters. The international marine mammal sanctuary is a Specially Protected Area of Mediterranean Importance (SPAMI) extending over 87,500 km<sup>2</sup> of sea surface in a portion of the northwestern Mediterranean Sea comprised between southeastern France, Monaco, northwestern Italy and northern Sardinia, and encompassing Corsica and the Tuscan Archipelago. It was set up, amongst others, specifically to address increasing mortality of large whales from entanglements and collisions with vessels.

### **Italy**

No legislation is in place, but a Mediterranean Marine Mammal Tissue Bank has been put in place. Italy is a co-founder of the Pelagos Sanctuary for Mediterranean marine mammals.

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<sup>4</sup> See Appendix 2: landmark resolutions.

<sup>5</sup> Including marine mammal sanctuaries. For a comprehensive overview of these sanctuaries, see E. Hoyt's handbook on Marine Protected Areas for Whales, Dolphins and Porpoises. Earthscan, 2005.

## **Mexico**

There is no Mexican legislation on ship strikes.

## **Monaco**

Monaco is a co-founder of the Pelagos Sanctuary for Mediterranean marine mammals.

## **New Zealand**

The country has developed a Marine Mammal Action Plan for 2005-2010, in which the threat of collisions is considered. Its focus is on effective reporting and recording of incidents and ensuring sensible navigation of recreational boats and commercial shipping operators in areas where boat strike is likely.

## **Spain**

A programme to mitigate the impact of collisions in the Gibraltar Strait is starting in 2006. It will comprise a network to inform in real-time about the presence of fin and sperm whales and an educational programme for the crew of ferries and fast ferries (Spanish report to the IWC Ship strikes working group, November 2005).

## **USA**

Together with other federal and state agencies, the National Oceanic and Atmospheric Administration (NOAA) supports or conducts extensive aircraft surveys for right whales. Right whale sighting locations are passed to mariners via e-mail, notices to mariners, posted on websites, and through other maritime broadcast media. The NOAA and the U.S. Coast Guard issue warnings and ship speed advisories to mariners regarding right whale aggregations.

## **2.3 Intergovernmental organisations and Programmes<sup>6</sup>**

### **ACCOBAMS**

In 2003 the Scientific Committee of the Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic “recognized the potential threat of ship collisions to the conservation of some cetacean populations in the ACCOBAMS area, especially of large whales” (*Recommendation 2:8 on ship collisions*). As a follow-up, the organization convened a large whale ship strikes workshop on 14-15 November 2005 together with a separate fin whale workshop (*Recommendation 2:5 on a fin whale workshop*). Among the recommendations of the ship strikes workshop, four types of measures can be highlighted: education and training courses for vessel crew; independent observers on ferries; education of enforcement officials; information of ship owners and shipping companies on “high-use” areas by species and season. The creation of an international database of ship strikes was also advocated.

### **ASCOBANS**

The Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas has been addressing the issue of ship strikes on a regular basis since the year 1999. Its Advisory Committee requested Parties to report annually on the development of high-speed ferries, i.e. ferries capable of travelling at speeds in excess of 30 knots.

In 2003, during ASCOBANS’s 4<sup>th</sup> Meeting of Parties, Resolution 5 on Effects of noise and of vessels was adopted: *The Meeting of the Parties to ASCOBANS Invites Parties and Range States to [...]: (3) conduct further research into the effects on small cetaceans of: (a) vessels, particularly high-speed ferries [...].*

### **CMS**

During its 8<sup>th</sup> Conference of Parties in 2005, the UNEP Convention on the Conservation Of Migratory Species of Wild Animals adopted Resolution 8.22 on Adverse human-induced impacts on cetaceans, which includes a request to the CMS secretariat and Scientific Council to cooperate with the IWC on ship strikes and to review the extent to which CMS and CMS-related agreements are addressing them.

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<sup>6</sup> See the list of acronyms in Appendix 3.

## **EUROPEAN UNION**

The EU 1992 Habitats Directive constitutes a general framework for nature monitoring and conservation. Its Annex IV strictly protects all cetacean species. Article 12 § 4 of the directive stipulates: "Member States shall establish a system to monitor the incidental capture and killing of the animal species listed in Annex IV(a). In the light of the information gathered, Member States shall take further research or conservation measures as required to ensure that incidental capture and killing does not have a significant negative impact on the species concerned".

## **IAATO**

The International Association of Antarctica Tour Operators has issued a whale collision reporting form to be used in Antarctica waters by expedition leaders.

## **IMO**

The International Maritime Organisation via its Maritime Safety Committee holds a precursor role on the matter. In 1998 it adopted Resolution MSC.85 on mandatory ship reporting systems, which aimed at diminishing the impact of maritime traffic on (North Atlantic right) whales off the northeastern and southeastern coasts of the United States. The resolution is appended to this report.

## **IWC**

Resolution 2000:8 of the International Whaling Commission on the western North Atlantic right whales noted that this highly endangered population numbers less than 300 and is declining, and identifies entanglement in fishing gear and collisions with shipping as the two main causes of deaths of these right whales. It called for continued work to help ships avoid right whales and for co-operation with the International Maritime Organisation (IMO).

Resolution 1999:7 on small populations of highly endangered whales identified ship strikes as a threat for some populations.

Resolution 1998:2 on total catches over time specified, for the first time, that incidental catches, along with collisions with ships and other sources of human-induced mortality, should be considered on a par with deliberate catches, and should be counted towards total allowable removals.

## **SPREP**

The Secretariat of the Pacific Regional Environmental Programme will be the administrative agency for a Memorandum of Understanding (MOU) for the Conservation of Cetaceans and their habitats in the Pacific Islands region, which will open for signature in 2006. The MOU will contain an Action Plan that will address threat reduction and habitat protection, including migratory corridors. This will include maintaining a database on vessel strikes and investigation of potential approaches to mitigation.

## **UNEP**

The United Nations Environment Programme (UNEP) in 1984 adopted a Global Plan of Action for the Conservation, Management and Utilization of Marine Mammals. This programme is currently being revised and reevaluated. Its regional action plans were conducted under the umbrella of UNEP's Regional Seas Programme. The most relevant action plans cover the Mediterranean, the Southeast Pacific and the Wider Caribbean. In the Mediterranean, an Action Plan for the Conservation of Cetaceans in the Mediterranean Sea was adopted in 1991. The Southeast Pacific marine mammals action plan in its last version adopted in 1991 by the 5<sup>th</sup> Intergovernmental meeting in Santiago de Chile does not address ship strikes. A new action plan for the Conservation of marine mammals in the Wider Caribbean is currently being drafted and should be considered at an intergovernmental meeting in September 2006 in Martinique. Its draft version includes various measures regarding ship strikes (research, high-risk area identification, monitoring of strikes, impact minimization, education, area-based management and technical improvements to vessels and propeller design).

## **2.4 Other organisations**

### **IUCN**

The Conservation Action Plan for the World's Cetaceans 2002-2010 (Reeves *et al.*, 2003) adopted by the World Conservation Union notes that the significance of ship strikes as a risk factor for cetaceans has been increasing, with the increase in the volume and speed of shipping. Ship strikes have been definitively identified as a factor endangering the small remaining population of North Atlantic right whales. Substantial numbers of fin and sperm whales have been observed killed by ship strikes in the Mediterranean and around the Canary Islands. Vessel collisions also cause deaths of the endangered Hector's dolphin in New Zealand waters. IUCN states that no global assessment of the problem has yet been conducted.

## **4. RESPONSES TO THE PROBLEM**

### **4.1 Technical mitigation measures**

#### *iv- Training*

Training of crew in avoidance procedures is critical in order to reduce the number of collisions. However, regarding large vessels, Clyne and Leaper (2004) assess that “there is limited ability for them to take effective avoidance action”. In the cruise sector, the cruise company Holland America Line/Windstar Cruises, in collaboration with the US National Oceanic & Atmospheric Administration and the National Park Service, have designed an interactive CD to be used for training purposes (“Avoiding Whale Strikes”, Holland America Line, 2005) that is now required for certification for all its captains and crew. Efforts are underway to distribute the CD to the entire cruise industry.

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