



## **Position Statement on Ocean Noise to the Sixth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea**

*Prepared by the North American Ocean Noise Coalition, the European Coalition for Silent Oceans and the Latin American Ocean Noise Coalition*

**United Nations Headquarters, New York**

### **Problem Statement**

Anthropogenic underwater noise is a recognized, but largely unregulated, form of pollution that can deafen, disturb, injure and kill marine life. Many species of fish and marine mammals are known to be highly sensitive to sound and often rely upon sound to navigate, find food, locate mates, avoid predators, and communicate with one another.

As we continue to industrialize our seas, the problem of ocean noise pollution worsens. A combination of noise sources, including shipping, oil and gas exploration and production, dredging, construction, and military activities, has resulted in dramatic increases in noise levels throughout the oceans<sup>1</sup>. Over the last ten years, a growing body of evidence has shown that some forms of ocean noise can kill, injure and deafen whales and other marine mammals as well as fish<sup>2</sup>. In particular, a dismaying sequence of marine mammal strandings and mortalities has been linked to exposure to military sonar. There is also evidence that some affected animals do not strand but die at sea. Intense noise also has been shown to have adverse effects on a variety of commercially harvested species of fish, including habitat abandonment, reduced reproductive performance and increased susceptibility to disease<sup>3</sup>. In one study fish catch rates decreased 45-70% during air gun use.<sup>4</sup> This threatens world food security.

Like other forms of pollution that require multilateral regulation, ocean noise pollution is transboundary. Powerful sources of ocean noise, such as some military sonars and shipping, can propagate over hundreds of kilometers. In response to this growing problem, several major

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<sup>1</sup> See, for example, Andrew, R. K., Howe, B. M. and Mercer, J. A. 2002. Ocean ambient sound: Comparing the 1960s with the 1990s for a receiver off the California coast. *Acoustic Research Letters Online* 3(2): 65-70; International Whaling Commission, 2004 Report of the Scientific Committee Annex K, at § 6.4

<sup>2</sup> See, for example, Engel, M.H., Marcondes, M.C.C., Martins, C.C.A., Luna, F.O., Lima, R.P. and Campos, A. Are seismic surveys responsible for cetaceans strandings? An unusual mortality of adult humpback whales in Abrolhos Bank, northeastern coast of Brazil. Paper SC/56/E28 presented to IWC Scientific Committee, Sorrento, Italy, 2004 (unpublished); Frantzis, A. 1998. Does Acoustic testing strand whales? *Nature* 392: 29; Jepson, P. D., M.Arbelo, Deaville, R., Patterson, I. A. P., Castro, P., Baker, J. R., Degollada, E., Ross, H. M., P.Herráez, A. M. Pocknell, Rodríguez, F., E.Howie, F., Espinosa, A., Reid, R. J., Jaber, J. R., V.Martin, Cunningham, A. A. and Fernández, A. 2003. Gas bubble lesions in stranded cetaceans. *Nature* 425: 575-576.

<sup>3</sup> See, for example, McCauley, R., J. Fewtrell, and A.N. Popper. 2003. High intensity anthropogenic sound damages fish ears. *Journal of the Acoustical Society of America* 113: 638-42; Bart, A. N., Clark, J., Young, J. and Zohar, Y. 2001. Underwater ambient noise measurements in aquaculture systems: a survey. *Aquacultural Engineering* 25: 99-110.

<sup>4</sup> Engås, A., S. Løkkeborg, E. Ona, and A. V. Soldal. 1996. Effects of seismic shooting on local abundance and catch rates of cod (*Gadus morhua*) and haddock (*Melanogrammus aeglefinus*). *Canadian Journal of Fisheries and Aquatic Sciences* 53:2238-2249.

intergovernmental bodies have recognized ocean noise as a threat to the marine environment during the past year and have called for a precautionary approach to managing noise producing activities in the world's oceans. This growing international consensus has been embodied recently in the following conclusions and resolutions:

- In August 2003, the Parties of the Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas (ASCOBANS) passed Resolution 5 requesting parties to take steps to reduce the impact of noise on cetaceans from seismic surveys, military activities, shipping vessels, acoustic harassment devices and other acoustic disturbances.
- In June 2004, the International Whaling Commission's (IWC) Scientific Committee concluded that compelling evidence implicates ocean noise as a potential threat to marine mammals and their populations at regional and ocean-scale levels. Its report calls for multinational cooperation to monitor ocean noise and develop basin-scale and regional noise budgets.
- In October 2004, the European Parliament overwhelmingly adopted a resolution calling on its twenty-five member states to pursue moratoriums and restrictions on the use of high-intensity active sonars in naval operations (including within the framework of NATO), develop alternative technologies, and immediately restrict the use of high-intensity active sonars in waters under their jurisdiction. The resolution also calls upon Member States to set up a Multinational Task Force to develop international agreements regulating noise levels in the world's oceans.
- In November 2004, the 16 member states of the Agreement on the Conservation of Cetaceans in the Black Sea, Mediterranean Sea and contiguous Atlantic area (ACCOBAMS) adopted Resolution 2.16, recognizing manmade ocean noise as a pollutant that can have adverse impacts on marine life ranging from disturbance, to injury and death. It called on member nations to avoid any use of man-made noise in habitats of vulnerable species and in areas where marine mammals or endangered species may be concentrated, to intensify national and international research on the issue, to develop alternative technologies and to require the use of best available control technologies.
- In November 2004, the World Conservation Union (IUCN) adopted a resolution recognizing noise as a form of pollution and calling on member governments to apply the precautionary principle in assessing the impacts of noise generated by commercial, military and industrial activities. The resolution also entreated governments to avoid the use of powerful noise sources in habitats of vulnerable species, and in areas where marine mammals or endangered species may be concentrated, and to work through the UN "to develop mechanisms for the control of undersea noise."

Clearly, the international community is calling for multilateral efforts to address ocean noise as a dangerous pollutant in the marine environment. We believe that it is incumbent upon relevant UN bodies, especially Parties to the UN Convention on the Law of the Sea (UNCLOS), to build upon this momentum and take a leadership role in exploring options for regulating ocean noise as a pollutant in the world's oceans.

### **Mitigating the Impacts of Ocean Noise**

Given the rapid rise in ocean noise pollution and its potential for pervasive impacts on marine life, we believe that a precautionary approach to underwater noise is necessary. Humans cannot continue to generate harmful, transboundary underwater noise without precautionary

management of noise sources. It is a priority to address sensitive areas and species. Precautionary management of the marine environment should include monitoring of noise levels and effects, as well as the development of a global strategy for reduction in anthropogenic noise in the marine environment. There are many ways to prevent or reduce the harmful impacts of ocean noise on the marine environment, including the use of operational measures, geographical and seasonal restrictions, and best available control technologies. Consideration of such mitigation measures should be included in compulsory and transparent Environmental Impact Assessments for noise-producing activities and adopted wherever practicable. In cases where the co-occurrence of harmful noise producing activities and sensitive species and habitats is likely, and where options for eliminating or adequately reducing the impacts are not practicable, such activities should be prohibited.

### **A Call to Action**

Because ocean noise is a form of transboundary pollution that increasingly threatens whales, dolphins, fish and many other species, nations must act together to protect marine environments from this growing and dangerous threat.

There can be no doubt that the Law of the Sea already demands such action. UNCLOS is the most far-reaching treaty governing the global marine environment and has been partially adopted into common law. The agreement defines the term “pollution” as “the introduction by man, directly or indirectly, of substances or energy into the marine environment..., which results or is likely to result in such deleterious effects as harm to living resources...” Art. 1(1)(4) (emphasis added). This definition provides a solid basis for regulating harmful, human-generated noise as a form of pollution under UNCLOS.

We consequently call upon the United Nations and its Member States to:

***Acknowledge*** the need for international and regional regulation of underwater noise pollution.

***Urge*** relevant UN bodies, including the UNEP Governing Council and Regional Seas Programmes, UNCLOS, UNICPOLOS and UN-Oceans, to take the lead in organizing a Multinational Task Force to develop international agreements regulating noise levels in the world’s oceans.

***Include*** within the mandate for the above bodies active consideration of all measures necessary to prevent, reduce, control, and eliminate pollution of the marine environment from intense noise sources, with the goal of developing effective mitigation procedures and alternative technologies for reducing the hazards of intense ocean noise.

***Apply*** the Precautionary Principle with regard to the marine environment to significantly reduce, mitigate or cease activities resulting in the production of intense underwater noise until effective guidelines are developed.