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Virtual meeting, 17–19 March 2021

**RECOMMENDATIONS FOR A REGIONAL CERTIFICATION FOR A
SUSTAINABLE COMMERCIAL MARINE MAMMAL OBSERVATION
ACTIVITY IN THE WIDER CARIBBEAN REGION**

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ACRONYMS

ACCOBAMS	Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic area
CARI'MAM	Caribbean Marine Mammals Preservation Network
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
HQWW	High Quality Whale Watching label
IWC	International Whaling Commission
MPA	Marine Protected Area
NGO	Non-Governmental Organization
RAC	Regional Activity Center
SPAW	Specially Protected Areas and Wildlife
STAC	Scientific and Technical
UNEP	United Nations Environment Programme
UNWTO	United Nation specialized agency, World Tourism Organization
WCR	Wider Caribbean Region
WIPO	World Intellectual Property Organization

RECOMMENDATIONS FOR A REGIONAL CERTIFICATION FOR A SUSTAINABLE COMMERCIAL MARINE MAMMAL OBSERVATION ACTIVITY IN THE WIDER CARIBBEAN REGION

The SPAW STAC Species working group under the chair of SPAW RAC, has developed a toolkit to support the implementation of marine mammal watching guidelines in the Wider Caribbean Region (WCR). This document covers suggestions for an array of possible options, including education and outreach, capacity building, networking, and certification schemes for commercial marine mammal watching operators. As planned through the SPAW workplan and the CARI'MAM project, SPAW RAC has conducted additional work on the potential specifications and regulatory instruments that could be suitable for the development, in the long term, of a regional sustainable marine mammal watching certification. This work is presented in the present document.

1. INTRODUCTION

1.1. Commercial marine mammal observation definition

1. The activity of observing marine mammals is defined as *"a visit aboard a boat, from the air or the ground, or in the water in order to observe, interact with, or hear marine mammals. It is understood that this activity has a lucrative/commercial aspect"* (UNEP, 2011).

1.2. Marine mammals in the Wider Caribbean Region

2. Caribbean biodiversity is outstanding both for its species richness and for its high level of endemism. The Caribbean region contains the largest concentration of marine species of the Atlantic Ocean and is recognized as a global hotspot for marine biodiversity. The great biodiversity of regional marine fauna and particularly marine mammals is of ecological, cultural and economic importance for the Wider Caribbean Region (WCR) (UNEP, 2008). At least 32 species of marine mammals are found in the region and use this habitat for the fulfillment of basic ecological needs such as feeding, reproduction, or nursing (UNEP, 2008).

3. The conservation of this group of highly mobile species depends first and foremost on political commitments and on the capacity of the countries of the region to establish conservation priorities and deploy communication and management tools, as well as common strategies for the preservation of marine mammals (UNEP, 2008).

1.3. Interest to develop an environment-friendly and economically sustainable marine mammal observation activity

4. At the regional scale, commercial observation of marine mammals began between the early and mid-1980s and is currently a powerful and constantly growing tourism business. An International Fund for Animal Welfare (IFAW) study shows that in Central America and the Caribbean the direct and indirect turnover generated by the economy of this activity went from US\$1.7 million in 1991 to US\$53.7 million in 2009 (O'Connor et al., 2009). As a result of this continuous growth, the impact of this activity on marine mammal populations has become of major concern.

5. The unregulated development and conduct of the marine mammal observation industry can have deleterious impacts on marine mammals and the ecosystems they inhabit. When these disturbances are repeated over time, the result can be declining population health, habitat displacement (e.g., changes in migratory corridors), and declining reproduction. They can also have repercussions at the economic (loss of employment in certain sectors) and social levels (pressure on local services, conflicts between users) (UNEP, 2011). In order to reduce these impacts, it is recommended that countries work to develop a quality, responsible and sustainable marine mammal observation activity (UNEP, 2011). Responsible marine mammal observation businesses can bring many benefits to operators, tour operators, communities, and even the whales or dolphins themselves (IWC(a), 2020). In addition to socio-economic development, the well-managed marine mammal observation activity enables to:

(i) raise awareness on major environmental issues: marine mammal observation tour operators have the potential to inspire people, providing them the opportunity to connect with nature and some of the most intelligent and graceful animals on the planet. (IWC (a), 2020).

(ii) gather scientific data on species and the marine environment in general: operators may engage in collaborations with researchers, e.g. by offering to serve as platforms of opportunity for the collection of data or collecting themselves sightings or other data in a framework of citizen science programs (IWC(b), 2020).

(iii) promote the preservation of marine mammals in the wild and their habitat: as marine mammal commercial operators generate incomes and employments, the activity can be recognized for its social and economic contribution to the communities.

(iv) report and seek help for injured or entangled marine mammals: marine mammal commercial operators are the most likely to observe any injured or entangled whales or dolphins, or other marine threats, and be able to raise the alarm to initiate an appropriate response (IWC(a), 2020).

1.4. Purpose of the present document

6. The aim of the present SPAW RAC study was to: **define the eligibility criteria** that operators will have to commit to to be allowed to use the certification (the specification of the certification) and **identify the regulatory instruments** that could be proposed to manage and supervise the certification.

In order to do so, the SPAW RAC conducted:

- i) a review of the national regulations on marine mammals watching (SPAW RAC, 2019) and a current status of national legislation on marine mammals protection (SPAW RAC, 2020a) in countries of the WCR countries ;
- ii) an assessment of the various rules enforced around the world for marine mammal approach, in order to define the best practices for the regional certification, in collaboration with CARI'MAM stakeholders and SPAW experts (Annex I) ;
- iii) a review of regulatory instruments to supervise the certification (SPAW RAC, 2020b). A literature review of similar projects conducted around the world was also conducted and ACCOBAMS secretariat was consulted.

2. METHOD

1.5. 2.1 Review of the national frameworks that govern the marine mammal observation commercial activity in WCR countries

7. In the framework of the SPAW workplan and the on-going CARI'MAM project, the SPAW RAC developed and disseminated a survey to the SPAW focal points of the WCR in January 2020 (SPAW RAC, 2020a) in order to assess the current legislation and threats concerning marine mammals in their countries. Simultaneously, in order to census the national measures governing marine mammals observation activities in the WCR, the SPAW RAC developed an [online questionnaire](#)¹. Nineteen organizations (governments, NGOs, marine mammal watching operators, marine protected area (MPA) managers) from nine Caribbean countries (including seven SPAW Contracting Parties) responded to the survey (SPAW RAC, 2019).

2.2 Assessment of the various rules enforced around the world for marine mammal approach

8. In order to define the **eligibility criteria** that operators will have to commit to, an assessment of the various rules enforced around the world for marine mammal approach was performed in order to identify the **best practices**.

9. First at all, a list of the most relevant recommendations was made, based on UNEP (2011) guidelines and other resources, such as: the IWC blue book, the Agoa sanctuary whale-watching charter and the ACCOBAMS “High Quality Whale Watching” label (Mayotte version). This list was then presented to marine mammal stakeholders during CARI'MAM “Whale-Watching” workshop in November 2019 ([CARI'MAM Meeting III](#))² in the Dominican Republic (40 participants from 15 territories). The participants were invited to decide whether or not each recommendation should be kept, and, if necessary, they completed the table by adding comments and/or new recommendations. **Most of the recommendations from UNEP (2011) were retained.** Most of the not kept or discussed recommendations were those considered difficult to apply in the local context or not precise enough. For better implementation and acceptance, these recommendations need to be discussed with more marine mammal watching operators.

10. This exercise enabled the participants to identify the essential recommendations (in green in the table in appendix 1), those recommendations that needed to be reworked or clarified (in yellow in the table in appendix 1), and those recommendations which should be excluded from a potential regional code of conduct (in red in the table) (appendix 1).

The list was then submitted to SPAW species working group experts for review and a final list of best practices was drafted. These recommendations are presented in paragraph 3.2 of the present document.

1 https://docs.google.com/forms/d/1WmT8Lb66XgyHRA-wN6f5re7JV_cA_68kv4ZQmFpte4w/prefill

2 https://car-spaw-rac.org/IMG/pdf/cr_global_cari_mam_v3_en.pdf

2.3 Legal study of potential instruments to regulate a marine mammal watching certification

11. The SPAW RAC has also implemented a mission for legal assistance to identify the regulatory instruments that could be proposed to manage and supervise the certification. The legal assistance mission was divided into two parts:

- PART 1: this chapter aims to improve the understanding of legal mechanisms relating to the implementation and enforcement of public international law as well as environmental law processes and instruments. This legal study benchmarks some existing programs and initiatives implemented to regulate wildlife watching.
- PART 2: legal engineering to design effective frameworks and/or legal processes for the implementation of potential instruments for the regulation of a marine mammal watching certification

3. RESULTS

3.1 Review of the national frameworks that govern the marine mammal observation commercial activity in WCR countries

12. Data collected indicate that marine mammal watching rules (legislation or voluntary guidelines) have been developed in less than half (N=6) of SPAW Parties. They also suggested that limited resources to implement valorize and control the rules results in poor compliance with and enforcement of the guidelines. Furthermore, few WCR countries' stakeholders are aware of UNEP guidelines.

13. A deeper look at the results regarding approach rules showed they are similar for most of the guidelines used in the various territories. The primary species under observation is the humpback whale, followed by the sperm whales and the common bottlenose dolphin and then the pantropical spotted dolphin. At least 3 countries support some kind of on-board research.

14. To conclude, there is a significant need to achieve broader implementation of the UNEP guidelines throughout the WCR. In addition, one may add that, as limited resources result in poor compliance, autoregulated tools, that do not need to be monitored by police services may be of interest. Finally, as most marine mammal watchers focus on the same species and as many approach rules are similar for most guidelines, it should be easier to implement a regional certification project.

3.2 Best marine mammal watching practices identified for the regional certification specification

15. The best marine mammal watching practices presented bellow are based on UNEP (2011) guidelines and were drafted by SPAW RAC, in collaboration with CARI'MAM members and SPAW species working group experts. This list aims at setting the bases for the eligibility criteria that operators will have to commit to obtain the regional certification. As resources and marine mammal watching activities characteristics are different among the WCR countries, the proposed list of criteria should show some flexibility. For example, 3 lists characterized each by a different level of complexity could be defined or a "minimum" list could be defined, common to all countries, with the most important criteria to be implemented. To start with, various scenarios could be drafted with the different stakeholders and tested in the field, in several territories.

3.2.1 Rules of approach

16. General rules of approach:

- Mothers with calves and resting animals must not be approached.
- Mother and calf pairs must not be separated.
- Boats must not chase, leapfrog, overtake, or block the path of a marine mammal, in order to maintain its freedom of movement and to avoid stress.
- Do not disperse or separate a group of marine mammals.
- At the slightest sign of disturbance (jumps, dispersal of the group, tail slapping near the boat, etc.) or alert, operators must immediately stop the observation activity and leave the area.
- If a marine mammal approaches the boat, the operator must slow down gradually and then turn the engine to neutral.
- When entering an area frequented by manatees, boat operators must reduce their speed to a maximum of 5 knots.
- Any collision with a marine mammal must be reported to the local authorities immediately.
- In shallow waters, the operators must not get between a marine mammal and the open sea.
- Sudden speed and direction changes are prohibited.
- When several boats wish to approach the same group of marine mammals, they must be some coordination between operators by radio contact.
- If dolphins approach a vessel to bow-ride or wake-ride, maintain a steady speed and avoid changes in course.
- Sonar systems which emit sound should be prohibited.
- Operators are advised to minimize noise pollution. They should not make any loud noise and they should, where possible, apply the International Maritime Organization Guidelines for the Reduction of Underwater Noise from Commercial Shipping to Address Adverse Impacts on Marine Life.
- Watching marine mammals for more than 30 minutes, or 3 dive sequences with sperm whales, is discouraged.

17. The following activities should be prohibited:

- marine mammal observation at night,
- swimming with marine mammals,
- touch a marine mammal,
- feeding marine mammals,
- aerial reconnaissance,
- marine mammal observation from airplanes and helicopters,
- fishing activity during the observation of marine mammals,
- marine mammal observation from individual motorized watercraft.

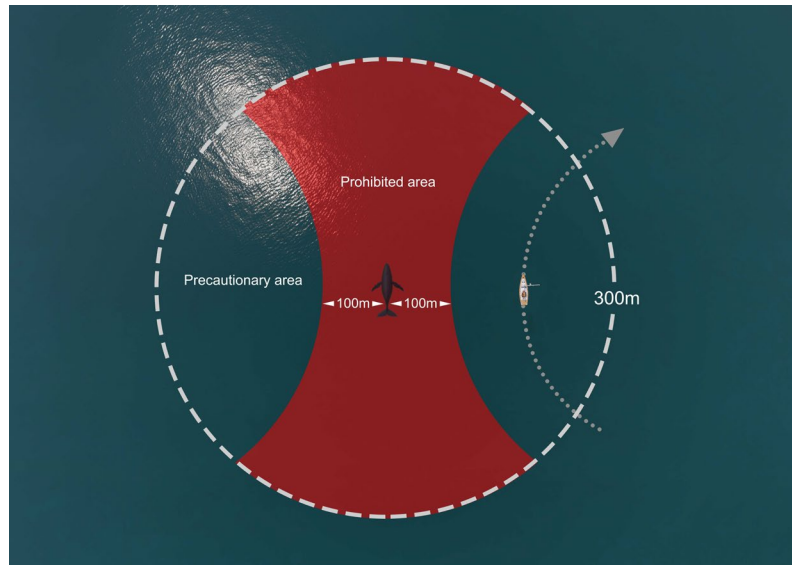


Figure 1: Good practice of whale approaching

18. A first so-called precautionary short zone is defined:

- This zone should be 300 m around whale, 150 m for dolphins and 50 m around manatees.
- The number of vessels in the vigilance zone should be limited to a maximum of three and time spent in the zone should not exceed 10 min if there are vessels waiting outside the zone.
- When approaching the Vigilance Zone, operators must slow down in order to observe the maximum speed of 5 knots in the zone.
- The approach must be made from the side of the marine mammal(s) and the vessel route should be parallel to the animal's travel direction.
- The departure from the area must be done slowly and gradually, the operator must be vigilant and observe his environment in order to avoid any collision with the animals.

19. A second so-called Prohibited Zone is defined:

- This zone should be 100 m for cetaceans and 30 m around manatees.
- Vessels are prohibited in this zone.

Specific **derogations** to the rules must be allowed, in particular for scientists.

3.2.2 Eco-commitments

20. Certified operators should deliver **high quality educational information** to their passengers at least on marine mammal species and conservation and on the characteristics of the Caribbean region environment. **Educational**

material should be available on the boats.

21. Operators are encouraged to **participate in scientific data acquisition programs**, for example through the use of the OBSenMER application already available in English and French, and soon in Spanish.

22. Operators must operate in accordance with all international regulations regarding the discharge of waste into the sea and commit to use of **sustainable and reusable materials**.

3.2.3 Training

23. A high quality commercial marine mammal observation activity requires many skills. The literature review, the participants of the CARI'MAM meeting III and SPAW experts are all of the opinion that the training of marine mammal *commercial* operators and crew is essential. The proposed training may build on training already implemented by regional partners such as the Agoa sanctuary or Souffleurs d'écume in France for the High-Quality Whale Watching label (HQWW, from ACCOBAMS).

24. The training should be designed at the Caribbean scale in the framework of the development of the regional sustainable marine mammal watching certification. It will be delivered by instructors certified by a regional or a national organization in charge of the certification. Certified operators will have to place certified guides who have taken the training on each trip.

25. The objectives of training would be:

- to know how to limit disturbance when approaching cetaceans at sea. In particular, to perfectly understand the certification approach rules and be able to implement them in the field.;
- to limit the impact of the activity on cetaceans and contribute to their preservation;
- to bring added value to marine mammal watching trips providing quality information regarding marine mammals and marine ecology to customers.

26. During training, the following aspects should be addressed:

- marine ecology: physico-chemical and biological aspects of the regional and local environment, presentation of information on species likely to be seen apart from marine mammals (fish, turtles, birds);
- cetology: classification, physiology and adaptation, species observed in the territory, identification of species, ecology and conservation;
- anthropogenic threats and mitigation measures;
- marine mammals commercial observation activity challenges;
- the added values of high-quality marine mammal watching;
- contribution to research and conservation on cetaceans;
- role of marine protected areas to protect cetaceans;
- field sessions demonstrating the approaching methods should be proposed.

3.3 Potential instruments to regulate the regional marine mammal watching certification

27. A total of six instruments that could be used to regulate the certification were analyzed in the legal study. They are divided into three categories: direct legal instruments (license and permit), contractual legal instruments (code of conduct and multilevel ecotourism label) and accompanying instruments (capacity building, operator rating system and diploma of excellence). Legal instruments favor effectiveness and legal security. They respect the principles and mechanisms of public international law. They lack flexibility on the form (container) but leave space to States for maneuverer because they are subject to an obligation of result and not of means (content). Contractual instruments favor flexibility both in form and in substance, but they do not guarantee respect for the mechanisms of public international law. They lack effectiveness and also raise issues of governance. The accompanying instruments do not have direct legal scope but make it possible in the long term to meet the objectives set and to comply with the requirements of public international law.

28. Each instrument was analyzed with regard to the challenges of legal security, technical feasibility, cost, governance and benefits for the community. In view of this analysis, the legal consultancy recommended the implementation of the following tools:

1. License and permit
2. Code of Conduct
3. Capacity building program

29. These instruments are presented bellow. They may be developed independently but the legal study suggested a combination of these tools would enhance their respective performances.

3.3.1 License and permit authorization scheme

30. During the Regional Workshop held in 2011, UNEP has recommended several tools that should be implemented. One of these is "*national licensing and permit*". This tool enables to regulate number, size and the type of vessels, standard of operation but also set up specific requirements for sites and species and delegate operators training. The purpose of the authorization scheme is to subject operators to the obligation to obtain a license or permit. The authorization procedure is implemented by the States, which consequently requires the existence of this obligation in the national legislation of the Parties.

31. A regional training center can be established and local centers can also be approved in each country or territory. Approval of local training centers can be nongovernmental organization (NGO), universities, state bodies and be issued by committee experts.

32. The authorization can be issued in the form of a license or permit with limited validity (2 or 5 years for example). Limiting the validity makes it possible to train the operators and increase their skills over time.

33. It is also possible to consider an intermediate legal regime, so that the Parties may be invited to set up at least a declaration system with an obligation of training.

34. The fact that it is a "hard law" instrument, resulting in the transposition of the commitments made under the SPAW protocol into national legislation, guarantees its legality and legal effectiveness. It therefore offers a high level of legal security. This instrument is therefore in conformity with the mechanisms of public international law and with the objectives of the SPAW protocol and more generally of the Cartagena Convention.

The nature of this instrument does not require the establishment of regional governance.

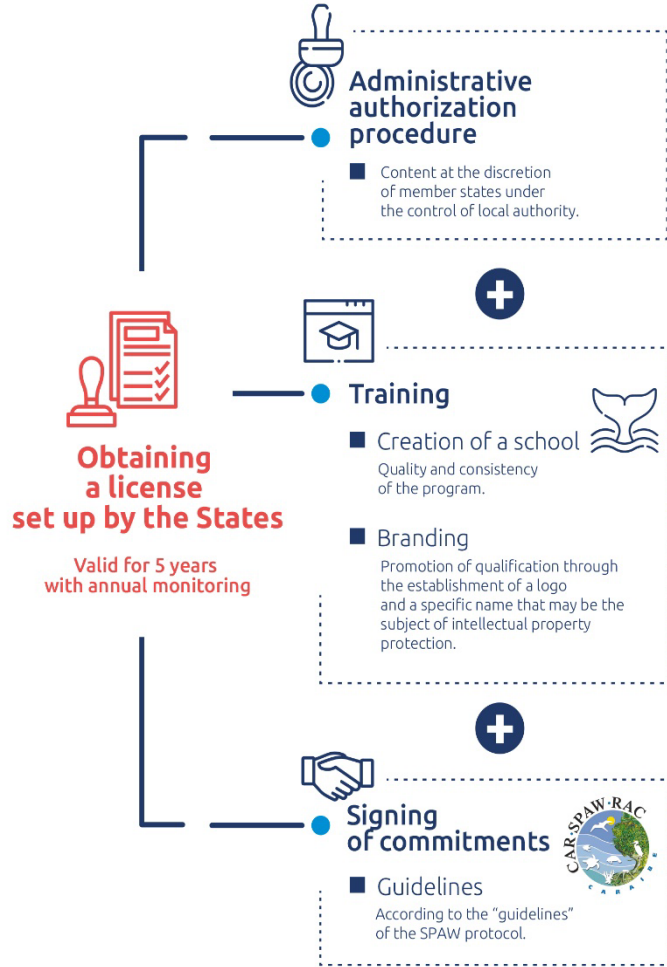


Obligation to obtain

a license or permit to carry out commercial cetacean watching activities.

Requires the existence of an obligation

in the national legislation of the Parties.



+	-
Some parties already require permit for marine mammals watching or to operate vessels for commercial purpose for the observation of marine mammals	Some countries lack resources to control permits and licenses.
Legal significance = award for the operators	Does not allow to manage the operators that fly the flag of another country in territorial waters.
Comply with international law and mechanism and conventions (SPAW, CITES...)	Delays legislating could be long in some countries.
Control and develop a high quality responsible marine mammal tourism industry	
Simplicity of governance	
Low to moderate cost for operators	

3.3.2 Regional code of conduct

35. A code of conduct, or charter, is a convention based on shared values, which sets the duties of each. It is a guideline aiming at providing a benchmark to help professionals, particularly in tourism, in their approach to reducing impacts, whether environmental or socio-cultural.

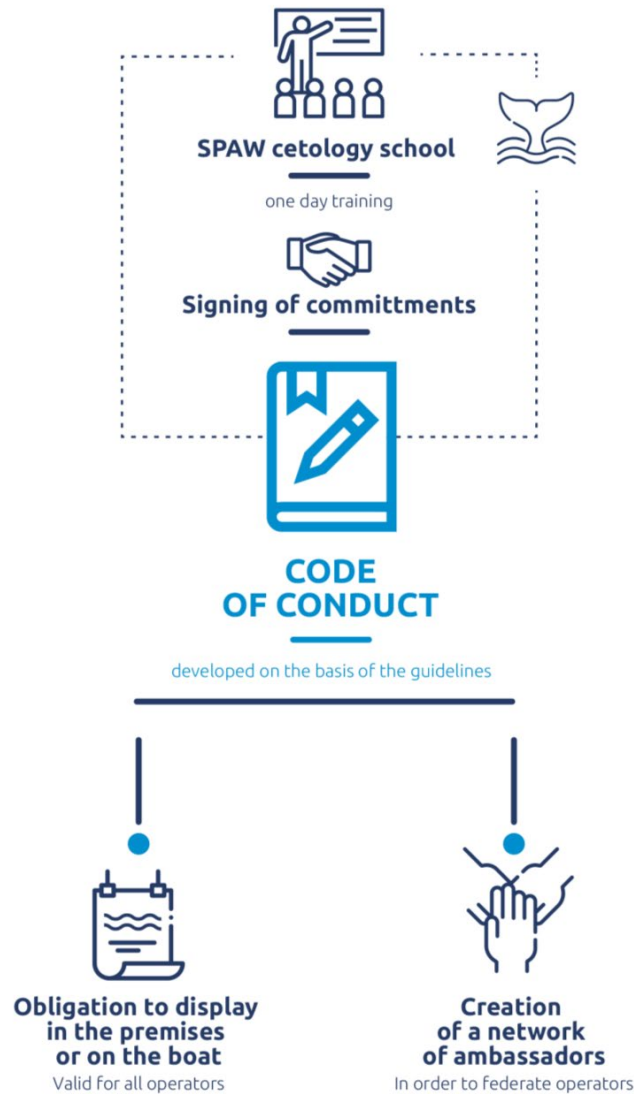
36. A charter or a code of good conduct is a private source of law. None of the commitments it contains can have any legal value. Of course, the code of conduct or the charter cannot be in contradiction with the laws and regulations in force. In other words, it is a set of recommendations based on affirmations of principles and agreed commitments. The signing of a code of good conduct is a voluntary commitment that values virtuous operators. This tool is not subject to control by a third party. It is therefore one of the less restrictive tools.

37. This code of conduct, under the aegis of the SPAW protocol, could be implemented locally by NGOs responsible for supporting operators in signing their commitments.

38. The implementation of a code of good conduct specific to marine mammal watching would make it possible to create and animate a network of ambassadors, accessible whatever the level of entry into the process insofar as the criterion of he accesses would be to have integrated into the guidelines in one's daily practice. Local authorities responsible for tourism activities, training organizations or associative structures can be involved in the creation and animation of this network.

39. Nevertheless, given its characteristics, in particular the absence of control by an independent third-party, it would be difficult to differentiate sincere operators and those only on the lookout for a marketing opportunity (green washing). In addition, some operators could seek to take advantage of the reputation and / or the legitimacy of a code of good conduct carried by the SPAW protocol, for example creating a similar logo.

+	-
Low cost for operators	Difficulties in terms of control (absence of control by an independent third-party body)
Flexibility	In competition with existing private code of conduct
	Regional coordination is necessary to harmonize and promote



3.3.3 Regional capacity building program

40. Capacity building is a mechanism that allows to provide advice, information and appropriate assistance and any other support to the person concerned. A capacity building program can be set up on the three main axes: operators, public and States.

41. The heart of the capacity building program could be a WCR School of Cetology created on behalf of SPAW Protocol. It could develop training centers at the local level to facilitate access to training. These local training centers piloted by the SPAW School of Cetology could be the heart of a network of actors. The content of the program could be developed by SPAW experts and lead to the recognition of qualifications through the issuance of a certification around several levels (see section 3.2.3 above). This type of program goes beyond awareness raising and aims to make operators real actors of the conservation of cetaceans.

42. The WCR School of Cetology created on behalf of SPAW Protocol could also develop programmes for students that cannot attend specific courses but also anybody who wants to develop skills in cetology and also produce educational tools intended for schools and high schools or NGOs which educate local communities to conservation issues.

43. A National legislation capacity building program could also be developed to provide guidance materials and model laws. Technical assistance, training sessions and workshops could be organized for the Parties.

44. It is the most flexible tool in form and substance. It adapts to local circumstances, in particular to the state of the law regarding the protection of cetaceans of each country or territory and to the economic conditions of local communities. It does not disadvantage States with very successful national legislation and comes to the support of those which lack institutional means or skills to transpose their commitments.

+	-
Flexibility and adaptability	No short-term operational impact
Technically easy to implement	Operators are not involved in the process
No issue about governance	Lack of effectiveness/ no control

3.3.4 Logo, name and trademark

45. Once they obtain the permit, sign the code of conduct, or attend the capacity building program, depending on the selected regulatory instruments, operators could be granted a right to use a specific logo and name protected through trademark registration. The use of these distinctive signs would allow operators to distinguish themselves from their competitors. This seems essential in the case of code of conduct and capacity building but it is not if the selected regulatory tool is the permit.

46. A trademark is a work, symbol or picture or the combination used to distinguish the goods of a person or organization from the goods of others in the marketplace. A registered trademark gives a proprietor exclusive rights to use the mark for the designated services of the mark. It is possible to authorize another person or organization to use the trademark. Indeed, trademark licensing consists in a trademark owner (Licensor) granting permission to another (Licensee) to use that trademark on mutually agreed terms and conditions. If a third party uses the trademark without the Licensor permission, it is possible to defend it by an infringement action. All SPAW Protocol member countries have civil or criminal regulations for trademark infringement or unfair competition.

Counterfeiting is defined as the reproduction, imitation or total or partial use of an intellectual property right without the authorization of its owner.

47. At the national/regional level, trademark protection can be obtained through registration, by filing an application for registration with the national/regional trademark office and paying the required fees. At the international level, there are two options, either file a trademark application with the trademark office of each country or use the World Intellectual Property Organization (hereafter WIPO) Madrid System provided. All member states of the SPAW protocol are also member states of the WIPO and have committed to several of its treaties and international standards. However, not all member states of the SPAW protocol have ratified all the WIPO's Madrid System.

3.4 Governance and financial portage

48. The governance and financial scheme will depend on the legal tool choice chosen but some guidance can be proposed. In any case the certification process could be developed by the SPAW RAC in collaboration with CARI'MAM members, SPAW species working group experts and SPAW parties. Afterwards, the SPAW RAC, or another regional organization, overseen by SPAW RAC, will be in charge of the monitoring and periodic improvement of the certification, as well as its dissemination in the WCR (communication and capacity building). This work will rely on the advice of a regional technical committee representative of the actors (Marine mammal commercial operators, managers, scientists).

The certification could be implemented at various scales, such as countries, islands or MPAs.

49. In each volunteer territory, (an)other organization(s) will be in charge of implementing the certification (country and/or island):

- communication on the certification,
- supervision of trainings,
- monitoring and assessment of certified operators.

50. These organization(s) could be named by parties. Depending on the context/available resources for each territory, such organizations could be local or regional NGOs, local associations, MPAs, local government services...

51. The costs of managing the certification (training, folder assembly, etc.) could be partially covered by the operators benefiting from the certification. Other possibilities, based on other coastal certification schemes (UNEP, UNWTO) include grants from government agencies and ministries (such as environment, transport, tourism) given that the industry may respond to or be complimentary to government policies and programmes (including at the local level). Sponsorships from the private sector (such as business, travel and leisure or commercial associations, individual companies, financing institutions and banks) may provide incentive programmes, operate in areas and with products compatible with the objectives of the scheme

4. HIGHLIGHTS

In the framework of the SPAW workplan implemented through the CARI'MAM project, SPAW RAC has worked on the potential content and framework that could be suitable for the development, in the long term, of a regional sustainable marine mammal watching certification. This work builds upon UNEP (2011) guidelines, a review of the national regulations on marine mammal, a review of marine mammal watching best practices, and a review of marine mammal watching regulatory instruments.

The certification specifications include rules of approach, a list of activities and vessels that should be prohibited, a list of “eco-commitments” (e.g., contribute to science and education), and propositions for the content of the training the operators will have to attend to. A regional baseline could be defined, with the most important rules, and then local adaptation could be made that will depend on each territory characteristics.

As for the supervision of the certification, several instruments were analyzed with regard to the challenges of legal security, technical feasibility, cost, governance and benefits for the community. In view of this analysis, three tools were recommended: license and permit, code of conduct, and capacity building programs. These instruments may be developed independently but the legal study suggested a combination would enhance their respective performances.

According to the legal study, the authorization scheme would be the most effective solution although it depends on each national legislation agenda. If parties cannot engage in the authorization scheme, SPAW RAC proposes another option could be a combination of a code of conduct that includes a capacity building programme, protected by a trademark.

In any case, the choice of the legal solution by the STAC members will influence the effectiveness and the governance of the certification and in the end the chance to develop a sustainable marine mammal watching activity in the Wider Caribbean region.

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Annex I: Recommendations from CARI'MAM workshop 3 (Dominican Republic 2019)

	High Quality Label (Mayotte, Fr)	AGOA	UNEP workshop 2011	Carlson C guideline for IWC	informations from CARI'MAM III meeting		
					FOR	AGAINST	comments
Preventives rules							
Special exemption (scientist...)	reg	reg	X	X	6		
Operator training (biology, navigation, best practice...)	X	X	X	X	6		
National measures to regulate (permit...)	X	X	X	X	6		
Periods during the day when the animals are not subject to marine mammals (MM) watching	X	X	X	X	6		
Environmental impact assessment before the implementation of tourism operator/operation	X		X	X	5	1	
Aerial scouting is forbidden	X	X	X		3	2	
Dedicated observer(s) in addition to the captain of vessel			X	X	5	1	
Site specific and species specific requirements			X	X	3	1	
Do not watch cetaceans inside 5 miles coastal strip close seasons			X		2	1	
Machinery							
The use of aircraft and helicopters for WW is not recommended except in the case of permitted scientific research		X	X	X	5		
Submersible or semi-submersible machines are forbidden in the caution area		X			4	4	
The following machines are not used for WW : jet skis and similars ceratts, parasail, remotely operated craft, wing in ground effect craft, hovercraft, windsurfers, kite surfers			X		5	3	
General rules							
Do not chase, leap-frog, block the direction of travel of marine mammals (MM) or access to the open sea	X	X	X	X	4		
Rules for approaching marine mammals	X	X	X	X	8		
Specially regulated areas	X	X	X	X	3		
Swimming with MM is forbidden or not recommended	X	X	X	X	5	1	
No throwing litter into the water	X	X	X	X	5		
Stop WW at any sign of the animal becoming disturbed or alarmed	X	X	X	X	5		
No dispersing or separating a group of marine mammals	X	X	X	X	5	1	
If MM approach the watercraft, slow down gradually, put engine on idle or drop sails	X	X	X	X	4		
Operators must contribute to research programmes	X	X	X		8		
Fishing is forbidden during WW activity	X	X			1	2	
No touching marine mammals	X	X	X		5	1	
No feeding marine mammals	X	X	X		7		
Standards must be applied for swim-with activities			X		5		
Monitoring the effectiveness of management provisions			X		4		
Do not make any loud or noises under that are transmittable under water		X	X		5		
Any collisions or accidents with MM should be document and reported to relevant authorities		X	X		4		
If dolphins approach vessels maintain a steady speed and avoid changes in course	X	X	X		6		
Caution zone							
Define a caution zone	X	X	X	X	4		
Sonar systems that emit noise not be permitted	X	X	X	X	3	2	
Limit the number of vessel	X	X	X	X	3		
Caution zone 300 m	X	X	X	X			
Caution zone 150 m (dauphins)			X			3	
Caution zone 50 m (lamantins)			X		1	1	
Max speed of 5 knots	X	X	X	X	4		
Speed not exceeding the speed of the lowest animal	X		X		1	2	
Trajectory of the vessel going gradually parallel to the MM	X	X	X	X	4		
Do not make sudden or repeated changes in direction or speed	X	X	X	X	2	1	
When departing look around for avoid collisions and leave slowly	X	X	X	X	2		
Limit observation duration	X	X	X	X	6		
Observation duration of max 10 min if + than 1 boat outside of caution zone		X			3		
Observation duration of max 15 min if + than 1 boat outside of caution zone	X				1	3	
Observation duration of max 20 min if + than 1 boat outside of caution zone		X			1	2	
Observation duration of max 30 min if + than 1 boat outside of caution zone	X		X	X	1	2	
Max 1 vessel into the caution zone	X			X	1	2	
Max 2 vessels into the caution zone		X			1	2	
No more than 3 watercrafts			X		3	1	
Coordinate movements between vessel by radio contact	X	X	X	X	2	1	
No placing of vessels in a position where it will drift into MM			X	X		3	
Putting the vessel on the side of the coast to allow the MM to leave		X			2	1	
No WW activity during the night		X			3	3	
No approach zone							
No approach zone	X	X	X	X	3		
No approach 100 m	X	X	X	X	2	2	
No approach 50 m (small cetaceans)		X		X	1		
50 m for all MM and appropriate mother-calf pairs			X		2		
50-250 m for whale			X		1		Discuss the distance
30-100 m for dolphins			X		1		Discuss the distance
30 m for manatees			X				
No approach for aircraft 150 m				X			
Aircraft may not approach within 500 m of MM			X				
Particular measures					1		
Isolated mother, calves and resting animals must be left.				X	3	1	
More restrictions on length of encounter and distances for groups with calves/mothers	X		X	X	3		
Do not going in the caution zone if a large cetacean jump, calves is alone and during breastfeeding		X				2	
Watching for more than 30 min or 3 dive sequences with sperm whales is discouraged			X	X	1		
Do not stay with sperm with a social group of sperm whale more than 15 min				X		4	
In known manatee habitat speed should not exceed 5 knots			X		3	1	
Within 50 m of manatee, engines should be shut off						4	
When sperms whale abruptly changes its orientation or starts to make short dives vessel should leave the watching zone				X	2	1	
Sanction and remedies							
Fines or loss of label for rules breaks					4		
Observer assesment every 2 years					2		
Regular evaluation of the respect of the rules and if necessary sanctions for non-compliance	X	X	X	X	7		
Awarness							
Providing information about MM biology and marine ecosystem functions to customers	X	X	X	X	5		
Raising awareness with customers to the probability of not seeing MM	X	X	X		4		
Providing information about human activities perturbation for MM	X				5		
Discovering the ecosystem is the first aim of the proposed commercial service	X	X		X	4		
Respect environment (no chemical, no plastic)					3		