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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

32nd meeting
Strasbourg, 27-30 November 2012

Other complaint

**THREAT TO THE BOTTLENOSE DOLPHIN
(*TURSIOPS TRUNCATUS*) IN UKRAINE**

REPORT BY THE GOVERNMENT

*Document prepared by
the Ministry of Ecology and Natural Resources of Ukraine*

CONSERVATION STATUS OF BOTTLENOSE DOLPHIN IN UKRAINE AND LEGAL MEASURES THAT ENFORCE ITS PROTECTION

The Black Sea (*Tursiops truncatus*) is listed in the Red Data Book of Ukraine. The species is also listed in Appendix II to the Bern Convention, Appendix II to CITES and Appendix II to CMS and Appendix to ACCOBAMS. Ukraine is a Party to all mentioned international treaties.

According to Article 19 of the Law of Ukraine “On the Red Data Book of Ukraine” taking the Red Data Book objects, to which Bottlenose dolphin belongs as well, from the wild with commercial purposes is prohibited.

To enforce protection of the Bottlenose dolphin the Ministry of Environmental Protection of Ukraine issued the Order No. 165 of 31.03.2008, registered in the Ministry of Justice of Ukraine on 25.04.2008 No. 377/15068 which established a three-year ban for taking alive *Delphinus delphis*, *Tursiops truncatus* and *Phocoena phocoena* from the wild for any purposes. On 20.09.2011 the Ministry by its Order No. 328 registered in the Ministry of Justice of Ukraine on 04.10.2011 No. 1142/19880 has prolonged the ban for the next triennium. Thus, since 2008 no permits have been issued for taking alive dolphins from the wild.

In February 2006 the Parliament of Ukraine has adopted the Law of Ukraine “On Protection of Animals against Cruel Treatment” which provides general principles for treatment of both pets and wild animals and marine mammals among them. According to Article 29 of the Law the Ministry of Ecology and Natural Resources of Ukraine has elaborated and issued the Order No. 429 of 30.09.2010 “On Adoption of Order for keeping and breeding of wild animals in captivity or semi-captive conditions” which set detailed rules for keeping in captivity specific groups of animals including marine mammals.

Currently the Ministry is working for finalizing draft rules and norms for keeping dolphins in captivity to be adopted by relevant order of the Ministry in near future. This legal act will establish detailed set of rules for treatment of dolphins in captivity according to recognized standards in both Europe and World wide.

With regards to dolphinariums currently available in Ukraine, the State Ecological Inspection of Ukraine in cooperation with other relevant authorities such as the Veterinary Inspection, the Public Prosecutor's Office regularly checks facilities that keep dolphins in captivity if they are in line with relevant legal requirements.

According to the report of the State Ecological Inspection of Ukraine the documents of origin are available for almost all dolphins currently kept in dolphinariums. For suspected animals enforcement authorities takes relevant actions to clarify the source of their origin according to legislation.

With regards to dolphins by-catch it should be noted that according to paragraph 34 of the Regime of Special Commercial Fishery in the Black Sea Basin, adopted by the Order No. 51 of 24.01.2011 of State Committee for Fishery of Ukraine the users of aquatic living resources have to immediately inform fish protection authorities, State Ecological Inspection for Protection of Environment of Northwest Black Sea and State Azov-Black Sea Ecological Inspection on cases of by-catch of fish and other aquatic living resources species of which are listed in the Red Data Book of Ukraine. Such objects should be released into the wild regardless of their state.

According to paragraph 35 of the same legal act in case of dolphin by-catch an issue of providing help for them is considered by the State Ecological Inspection mentioned in paragraph 34. In such a case the relevant vessel should change their area of activity. Aid to dolphins is provided *in situ* and then they return into the wild.

Equipment of fishermen nets with scaring devices to keep bottlenose dolphins away from them, from legal point of view, is not a requirement of the Bern Convention or other international treaties to which Ukraine is a Party. Hence, this fact can not be treated as a violation of the Bern Convention itself. In addition, the complainant has not provided any documentation in support of his alleged level of dolphin mortality because of fishery or poaching.

However, scaring devices can be considered as possible method for preventing dolphin by-catch and Ukraine is ready to collaborate on that matter.

With regards to dolphin poaching, there are both criminal and administrative responsibilities for illegal taking Red Data Book listed animal species including dolphins from the wild.

Moreover, the Ministry has recently submitted to the Cabinet of Ministers of Ukraine a draft legal act that substantially increases the penalties for illegal taking of animals listed in the Red Data Book of Ukraine, including dolphins. For instance, a fee for illegal taking Bottlenose dolphin from the wild increased from 2550 UAH up to 100,000 UAH.

Again, the complainant has not provided any documentation that supports his statement concerning targeted alleged dolphin poaching for dolphinariums.

Thus, taking above mentioned into account one can come to a conclusion that Ukraine takes adequate measures to enforce dolphin protection according to requirements of both international and national legislation.