

Allegato 3 – Risoluzione 8.17 relativa al Protocollo d’Intesa tra l’Accordo Pelagos e l’“Iniziativa Pelagos”

Le Parti dell’Accordo Pelagos relativo alla creazione nel Mediterraneo di un Santuario per i mammiferi marini, in appresso denominato “Accordo Pelagos”:

Richiamando l’articolo 4 dell’Accordo Pelagos, che prevede che “Le Parti si impegnano a prendere nel Santuario le misure appropriate [...] per garantire uno stato di conservazione favorevole dei mammiferi marini proteggendoli, insieme al loro habitat, dagli impatti negativi diretti o indiretti delle attività umane.”;

Richiamando inoltre l’articolo 10 dell’Accordo Pelagos, che prevede che “Le Parti si concertano in vista di armonizzare per quanto possibile le misure stabilite in applicazione degli articoli [dall’articolo 1 al 9 dell’Accordo Pelagos]”;

Richiamando l’articolo 12, paragrafo 2 dell’Accordo Pelagos, che prevede che “[...] le Parti incoraggino e favoriscano:

- a) i programmi di ricerca, nazionali e internazionali miranti a realizzare l’applicazione scientifica delle disposizioni [dell’Accordo Pelagos];*
- b) le campagne di sensibilizzazione presso gli operatori e gli utilizzatori del mare, nonché le organizzazioni non governative [...]”;*

Considerato l’articolo 15, paragrafo 2 del Regolamento interno della Riunione delle Parti dell’Accordo Pelagos, che prevede che: “il bilancio è costituito da “[...] - i contributi volontari di cui l’accettazione è approvata dalla Riunione delle Parti o dai punti focali nazionali”;

Considerato il Protocollo d’Intesa per la creazione dell’“Iniziativa Pelagos”, firmato il sei aprile duemila ventuno,

Considerato lo scambio di lettere tra le Parti dell’Accordo Pelagos e gli organismi membri dell’“Iniziativa Pelagos” nel corso dell’anno duemila ventuno;

Considerata la risoluzione 8.1 dell’Accordo Pelagos relativa al Piano di gestione (2022-2027), adottata in occasione della VIII Riunione delle Parti dell’Accordo Pelagos, tenutasi dal quindici al sedici dicembre duemila ventuno a Roma (Italia) e tramite videoconferenza;

Considerata la risoluzione 8.2 dell’Accordo Pelagos relativa alla proposta di programma di lavoro e di bilancio preventivo per il biennio 2022-2023, adottata in occasione della VIII Riunione delle Parti dell’Accordo Pelagos, tenutasi dal quindici al sedici dicembre duemila ventuno a Roma (Italia) e tramite videoconferenza;

Considerata la risoluzione 8.5 per la creazione di un “Fondo Volontario Pelagos”, adottata in occasione della VIII Riunione delle Parti dell’Accordo Pelagos, tenutasi dal quindici al sedici dicembre duemila ventuno a Roma (Italia) e tramite videoconferenza;

Considerata la risoluzione 8.16 relativa alla proposta di collaborazione tra l’Accordo Pelagos e

l'“Iniziativa Pelagos”, adottata in occasione delle IX Riunione dei *National Focal Point*, tenutasi il nove maggio duemila ventidue tramite videoconferenza;

Considerati gli scambi di lettere intercorsi tra il Presidente della Riunione delle Parti dell'Accordo Pelagos e gli organismi fondatori dell'“Iniziativa Pelagos” per la conclusione di un Protocollo d'Intesa che ne stabilisse le caratteristiche della collaborazione;

Considerati gli scambi successivi intercorsi tra le Parti dell'Accordo Pelagos e gli organismi fondatori dell'“Iniziativa Pelagos” relativamente alle modifiche alla bozza di Protocollo d'Intesa;

1. *approvano* le modifiche al Protocollo d'Intesa così come riportato in allegato 1.

Allegato 1 - Protocollo d'Intesa tra l'Accordo Pelagos e l'“Iniziativa Pelagos”



MEMORANDUM OF UNDERSTANDING

related to the collaboration between the Pelagos Agreement and the Pelagos Initiative, concerning the implementation of the Pelagos Agreement Management and Action Plan (2022-2027) and its related biannual Work Programmes

This Agreement is established between:

The Pelagos Agreement,

Hereinafter referred to as “The Pelagos Agreement”,

Represented by Mrs Costanza Favilli, Executive Secretary delegated by the Chair of the Meeting of the Parties of the Pelagos Agreement

and

The Pelagos Initiative:

Hereinafter referred to as “The Pelagos Initiative”,

Represented by:

Mr. Olivier Wenden, Vice-President and Chief Executive Officer of the Prince Albert II of Monaco Foundation

Mrs. Purificació Canals, President of MedPAN – Mediterranean Protected Areas Network

Mr. Marco Lambertini, Director General of the WWF – World Wide Fund for Nature International

Mr. Antonio Troya, Director of the IUCN-Med – International Union for the Conservation of Nature and Natural Resources

The “Pelagos Agreement” and the “Pelagos Initiative”, being referred to as “the Parties”,

Whereas:

Recalling the Pelagos Agreement on the Creation of a Sanctuary for marine mammals in the Mediterranean Sea, signed by France, Italy and the Principality of Monaco on November 25th 1999 in Rome and entered into force on February 21st 2002;

Recalling Pelagos Resolution 8.1 of the Pelagos Agreement on the adoption of the Management and Action Plan 2022-2027 (8th Conference of the Parties of the Pelagos Agreement, 15-16 December 2021);

Recalling Resolution 8.2 of the Pelagos Agreement on the adoption of Work Plan and related provisional budget 2022-2023 (8th Conference of the Parties of the Pelagos Agreement, 15-16 December 2021);

Recalling Resolution 8.5 of the Pelagos Agreement concerning the creation of a “Pelagos Voluntary Fund” (8th Conference of the Parties of the Pelagos Agreement, 15-16 December 2021);

Recalling the Memorandum of Understanding (MoU) for the creation of the Pelagos Initiative, which entered into force on April 6th 2021, between The Prince Albert II of Monaco Foundation, MedPAN, WWF and IUCN and in particular its article 2.4 on calls for proposals;

Considering the intensity of human activities potentially affecting the conservation of marine mammals within the Pelagos Sanctuary and their IUCN Red List status;

Considering the common purpose of the Pelagos Agreement and the Pelagos Initiative to contribute to the conservation of marine mammals in the Pelagos Sanctuary;

Recalling the exchanges of notes between the Pelagos Agreement and the Pelagos Initiative in 2021 and 2022 to discuss possible collaborations and synergies, with the purpose of avoiding duplications, and in particular letters dated 17th May 2022 and 14th June 2022 confirming their common will to formalize the collaboration through a Memorandum of Understanding;

The Preambular paragraphs are an integral part of the MoU.

It is hereby agreed as follows:

Article 1

Purpose of the MoU

The purpose of this MoU is to establish a collaboration framework to achieve the common objective of the Parties to strengthen the conservation of marine mammals and their habitats in the Pelagos Sanctuary, to create synergies and to avoid duplication of efforts in the Pelagos Sanctuary.

Article 2

Collaboration areas

In order to implement the MoU, Parties will:

1. facilitate the development and implementation of activities in accordance with, but not limited to, the priorities identified by the Pelagos Agreement Management and Action Plan (2022-2027) as articulated in its biennial Work Programmes (see Annexes 1 and 2) enhancing the participatory approach with relevant stakeholders;
2. ensure alignment between projects from the Calls for proposals of the Pelagos Initiative and the Management Plan of the Pelagos Agreement to avoid duplication and foster synergies between the Parties' activities;
3. finance through the Calls for proposals of the Pelagos Initiative, the implementation of specific activities of the Pelagos Agreement's biennial Work Programmes;
4. prioritize channeling part of the funds raised by the Pelagos Initiative, by undersigning a donation agreement with the Permanent Secretariat to support the implementation of specific activities of the biennial Work Programmes of the Pelagos Agreement that will be selected by the Parties of this MoU prior to their adoption by the Conference of the Parties (CoP).

In particular, the "Pelagos Initiative" Calls:

- will indicate the specific activities of the Pelagos Agreement biennial Work Programmes that selected projects must implement ; these actions will be selected each time by all Parties to this MoU;
- will be sent, prior to their publication, to the Pelagos Agreement Secretariat for discussion.

Regarding the evaluation of the project proposals of the Pelagos Initiative Calls related to the specific activities of the Pelagos Agreement biennial Work Programmes indicated in the Calls, the Coordinating Committee of the Pelagos Initiative will include, as voting members, either the Chair of the Technical and Scientific Committee or the Executive Secretary of the Pelagos Agreement.

Article 3

Duration

The MoU shall enter into force on the date of the last signature by the Parties until the end of 2027, when the current Pelagos Agreement Management and Action Plan will expire, unless amended or terminated in accordance with conditions set out in Article 10.

Article 4

Coordination mechanism

Parties shall hold meetings on matters of common interest, as deemed necessary to select specific activities to be financed.

Article 5

Publicity

The Parties agree to cooperate in good faith and to update regularly each other on the progress of their activities related to the protection of marine mammals in the Mediterranean Sea, their projects and their outputs in order to facilitate the communication and avoid duplication. The Parties facilitate, where appropriate, the use of communication material produced by one or another.

Each Party will name the other Party in any public communications related to activities implemented in the context of this MoU.

Each Party will submit to the other, for prior approval, press releases and all communication materials connected to this MoU or featuring the logo and/or mention the name of the other Party will not use other Party's name or logo without prior approval.

Each Party may revoke, after sending a written notice, the right to use its name and logo in case of non-compliance with the above-mentioned obligations or in any case of violation vis-à-vis its image or reputation, or for the Foundation any case of violation vis-à-vis the image or reputation of HSH Prince Albert II of Monaco.

Article 6
INTUITU PERSONAE

The Parties agree to conclude the MoU on an *intuitu personae* basis.

The MoU, in addition to the rights and obligations which result from it, cannot be delegated or assigned to a third party without the prior written consent of the other Parties.

Each Party shall inform the others within a period of two (2) months after effecting any material modification of its corporate or entity structure, governance or management, to the extent that such change would affect the rights of the other party or the liability of the modifying party under this MoU. A Party whose rights under this MoU are materially affected or altered by such modification may terminate this MoU with written notice to the other Party, subject to continued enforcement of rights and obligations which are not affected by such change.

Article 7
Ethics and Compliance

Each Party commits to the highest standards of professionalism, integrity, and ethics in its workplace and in its activities.

The Parties will comply with their own respective policies and Ethical Charter.

The Parties will take all the necessary precautions in order to prevent any risks of harm and shall not cause, itself or its staff, any damage to the reputation and/or image of the other Party arising out from or in connection with the MoU.

In addition, the Parties agree to take care to prevent any risk of harm and avoid any damage to the reputation and/or image of HSH Prince Albert II of Monaco directly or indirectly caused by it or by their staff.

Article 8
Confidentiality

Each Party to the MoU recognizes and acknowledges that they may have access to certain confidential and proprietary information of the other Party.

Information disclosed in connection with this MoU (or work related to it) including, but not limited to, the existence of this MoU will be considered confidential. Any Confidential

Information that is provided for the purpose of collaboration related to this MoU shall be clearly labelled and identified as “Confidential Information” or “Proprietary” at the time of disclosure wherever possible.

The Parties commit to respect the “Confidential information” shared between them, whatever the form and the means, as well as the confidentiality of any information not falling within the public domain of which they may become aware. The Parties agree to use reasonable care, but in no event no less than the same degree of care that each Party uses to protect its own confidential and proprietary information of similar importance, to prevent the unauthorized use, disclosure, publication or dissemination of Confidential Information.

If requested by the discloser at any time, the Parties shall destroy, erase or return any confidential Information and confirm in writing.

A Party may disclose confidential Information to the extent such confidential Information is required to be disclosed by law, by any governmental or by a court or other regulatory authority of competent jurisdiction, provided that, to the extent, it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible.

Article 9

Legal Form of Relations

Through the MoU the Parties express in all good faith their joint and reciprocal intentions, although the MoU shall not constitute a binding obligation that is enforceable.

The MoU shall not create in any way a financial, structural, professional/organizational or social obligation. The MoU cannot constitute or be interpreted as constituting an exclusive relationship, an agency, a joint-venture or a new legal entity, a partnership that is enforceable and no Party or their representative has the right or the power to create or assume responsibility or obligation of any type whatsoever in the name of or on behalf of any other. The Parties are independent of each other, and no joint liability, particularly of a financial nature, may be presumed between the Parties. Each Party is responsible for its own actions and its consequences.

Article 10

Costs related to the MoU

Each Party supports its own costs, fees and expenses whatever their nature for the implementation of the MoU.

Article 11

Term and Termination of the MoU

The MoU may be amended at any time with a mutual signed agreement between the Parties.

The MoU may be terminated at any time for any reason by one of the Parties by registered letter with acknowledgement of receipt giving a one-month notice from the date of receipt.

The provisions related to Confidentiality remain in force despite the end of the MoU or its early termination.

Article 12

Settlement of Disputes

The MoU is governed by the Monegasque law.

The Parties shall make every effort to settle amicably any dispute, controversy or claim arising out of this MoU.

Should an amicable settlement fail, the dispute shall be settled by final and compulsory arbitration in accordance with the Permanent Court of Arbitration's optional rules for arbitration involving international organizations and private parties, in force on the date upon which the MoU is signed.

In case of arbitration, the Prince Albert II of Monaco Foundation will be the only counterpart for the Pelagos Initiative.

Article 13

Electronic Signature

The Parties may sign this Memorandum by using an electronic signature.

The Parties agree that the electronic signature expresses their consent to this MoU and is legally as binding as an original signed by all the Parties.

The MoU is entered in Monaco and created in English in 5 (five) copies, 1 (one) of which shall be given to each Party.

For the Pelagos Agreement

Mrs Costanza Favilli

Executive Secretary of the Pelagos Agreement

[Date]

[Signature]

For the Pelagos Initiative

On behalf of the Foundation

Mr. Olivier Wenden

Vice-President and Chief Executive Officer

[Date]

[Signature]

On behalf of the MedPAN

Mrs. Purificació Canals

President

[Date]

[Signature]

On behalf of the WWF – World Wide Fund for Nature

[Date]

[Signature]

On behalf of the IUCN

Mr. Antonio Troya

Director, IUCN-Med

[Date]

[Signature]

ANNEX I

Management and Action Plan of the Pelagos Agreement (2022-2027)

ANNEX II

Biannual Work Programme of the Pelagos Agreement (2022-2023)

(to be updated every 2 years)