



# The legal frameworks of whale watching activities in the Indian Ocean

*Evaluating the most effective tools to mitigate whale-watching  
abuse for the “whale route” project*

# The South West Indian Ocean



## Vanilla Islands

- Reunion Island
- Mauritius/Rodrigues
- Madagascar
- Seychelles
- Comoros
- Mayotte

## Threats

- Entanglement
  - Collision
  - Harassment
- intensive whale-watching*

## Whale route project

Cooperation between States to protect humpback whales during their migration



# Framing whale-watching activities: why ?

2017

© CEDTM



Collision  
risk



2018

© Globice

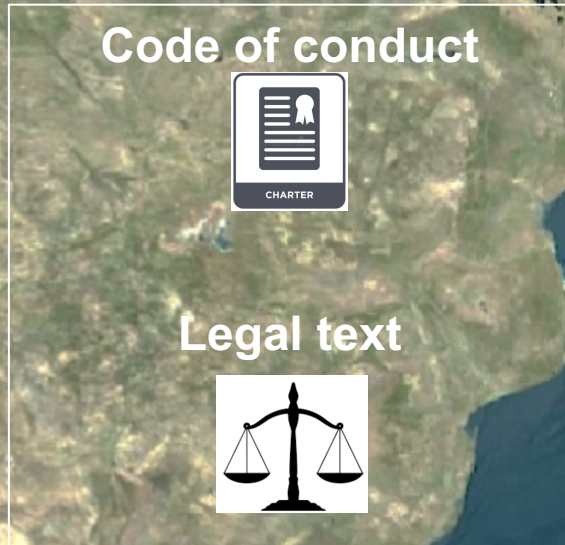
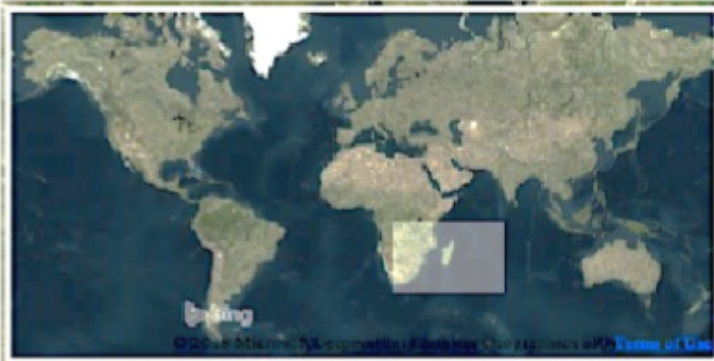
# Framing whale-watching activities: why ?



- Increasing industry
- Various whale-watchers
- Recreational/Commercial



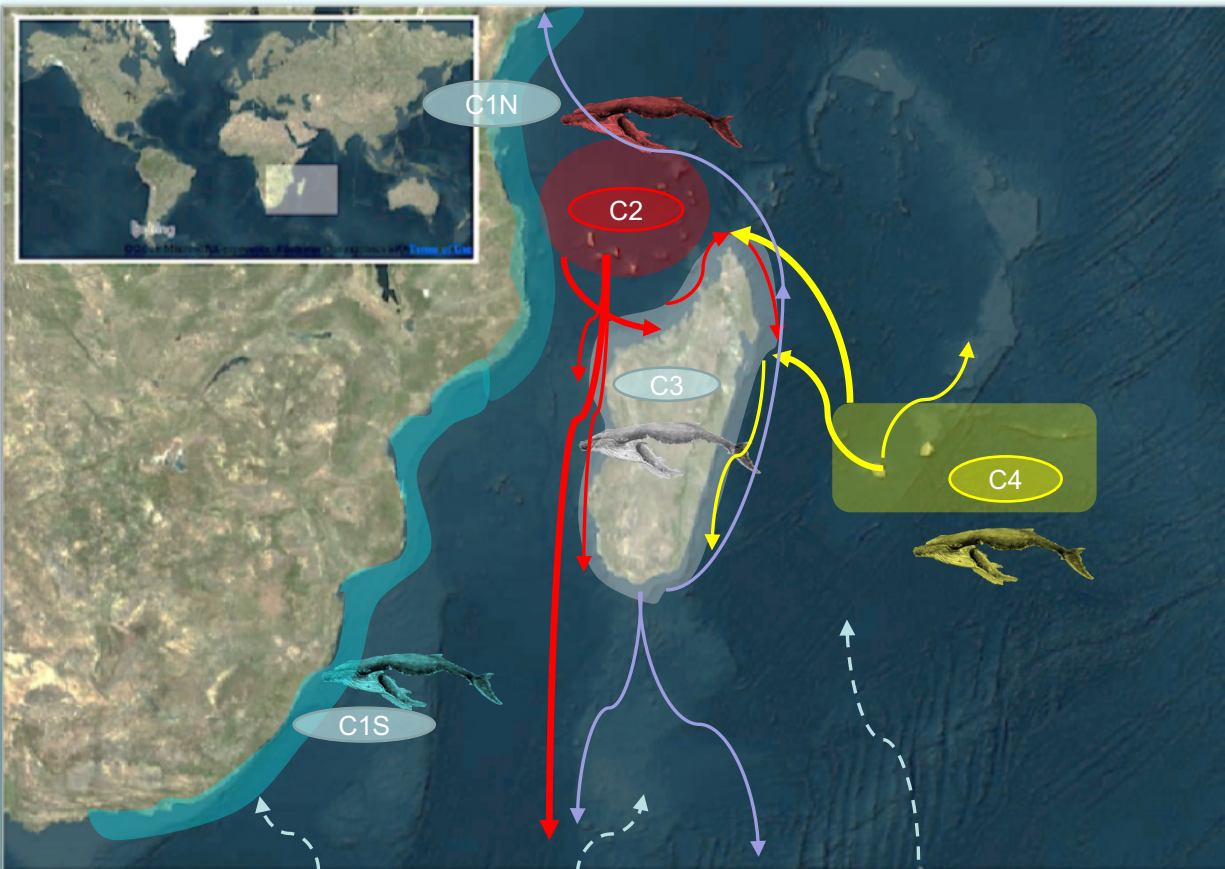
# Legal frameworks of WW activities in the WIO



# What approach is better to protect whales during WW activities?

- Same whales, different regulations

Fragmentation of the legal frameworks – need more cooperation



Top down approach (regional to local): regional agreement?

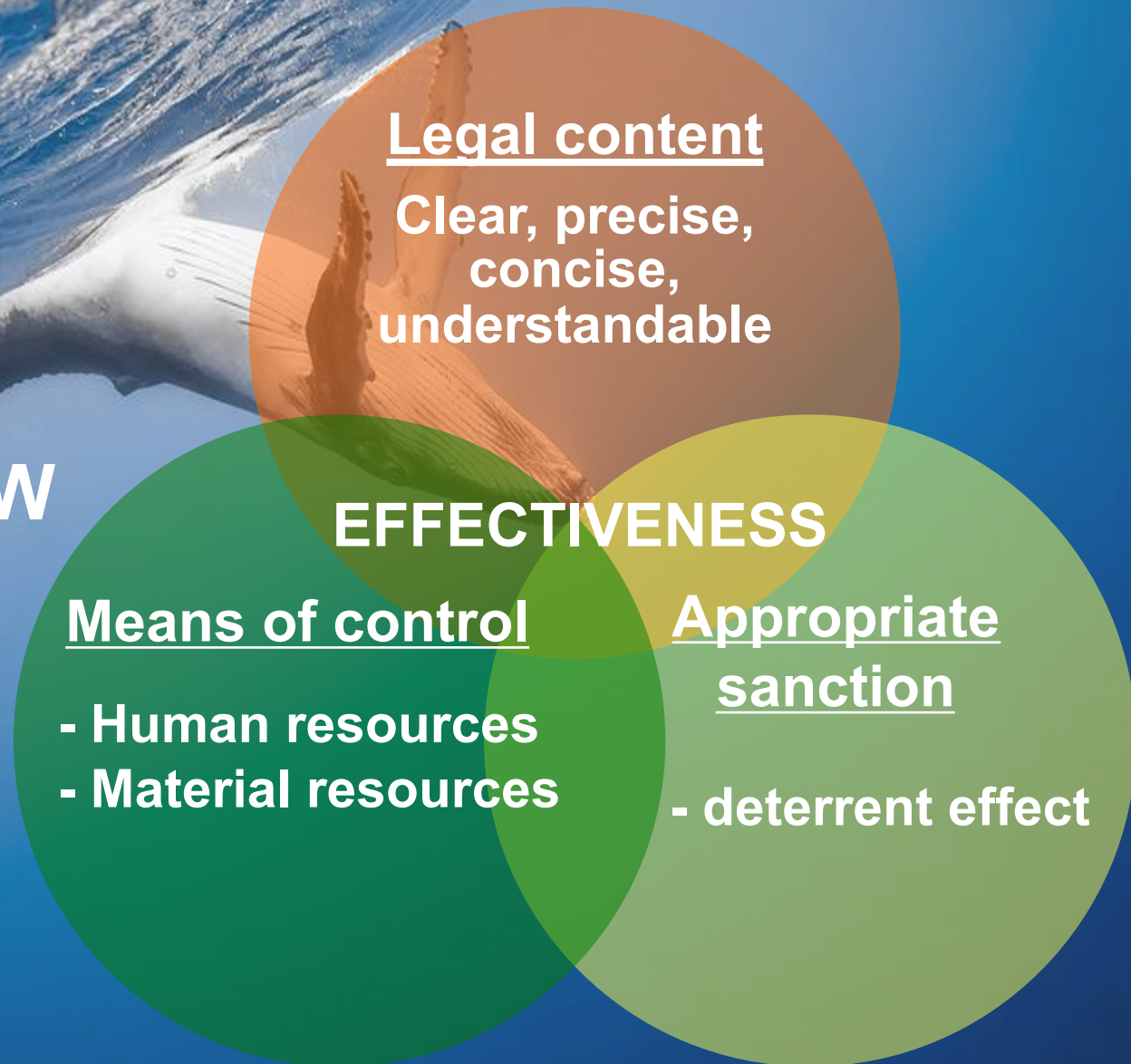
- Specific context
- Different priorities

Bottom Up approach : MoU? (from local to regional)

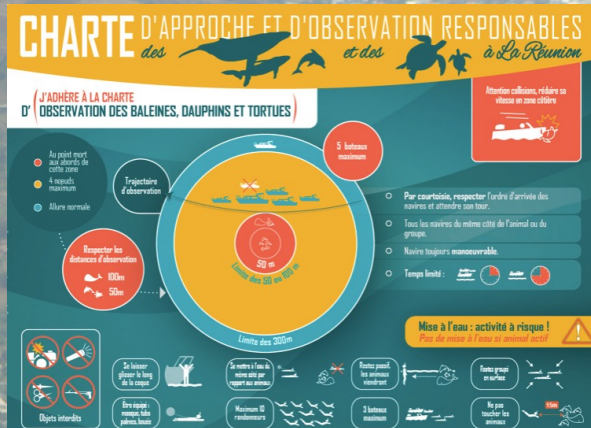
- Harmonization taking into account specific context
- State leadership

# Legal criteria for a better protection

**HARD LAW**



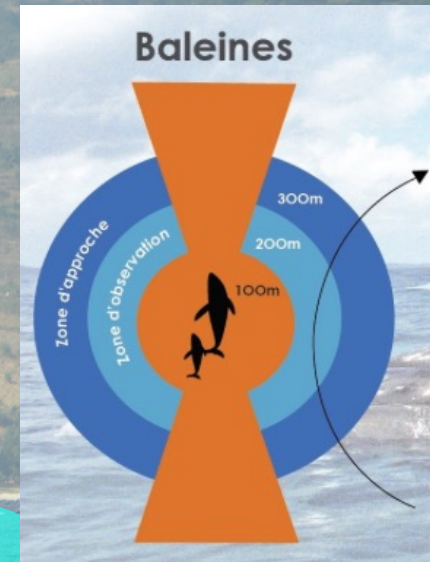
# Legal criteria for a better protection



## Legal content

- Clear
- Schema form
- Flexible

*More understandable = better compliance*



## SOFT LAW

- ❖ Simplified law
- ❖ Stricter than law

## EFFECTIVENESS

### Implementation

- Communication/promotion of the Code
- Monitoring / raising awareness

### Incentive

Ethical certification  
(Registered trademark)

« High Quality Whale Watching »

# Same content, different objectives

***Case study : control but no sanction when offences***

❖ Non legally binding tools  
(*Soft law- Code of conduct*)

- Written by NGO (scientists, experts)

Objective : the protection of whales by raising awareness

❖ Legally binding tools  
(*Hard law – Departmental decree*):

- Enacted by a representative of the State
- Controlled and enforced by maritime officers

Objective : to insure safety of people by deterrent sanction

**Develop greater awareness of whale protection among patrol officers**

# How to protect whales from intensive WW: hard law or soft law?



Implemented without means  
of control



Low level compliance



Implemented by raising  
awareness



High level compliance

- Both hard and soft laws have benefits

**WHEN KEY CONDITIONS EXIST**

# Conclusion

❖ No one size fits all approach

➤ hard and soft law = complementary

❖ Regional Level

➤ Hard law would not be effective:

- hard to bring together all the key conditions
- hard to address specific legal contexts

➤ Soft law can be more effective:

- Easier to implement and design
- Same objective (protection of whales)
- Raising awareness is more effective