



**CONVENTION ON
MIGRATORY
SPECIES**

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Agenda Item 22

OPTIONS OF A REVIEW PROCESS FOR THE CONVENTION ON MIGRATORY SPECIES

(Prepared by the Working Group on the development of a review process for the Convention on Migratory Species)

Summary:

As requested by Resolution 11.07, this document contains a report of the Working Group on the development of a review process for the Convention on Migratory Species to COP12 regarding options for a review process for CMS.

The Working Group found that, there are a number of fundamental elements that should be part of any best practice review mechanism. There are also two elements that require further discussion and decision – who should be allowed to submit the initial information for a review and which body should be used to review any cases brought forward.

The establishment of a Review Mechanism through the draft Resolution contained in this document will contribute towards the implementation of all targets of the Strategic Plan for Migratory Species 2015 – 2023.

Rev. 1 of the document corrects the numbering of Articles referred to in the draft resolution.

OPTIONS OF A REVIEW PROCESS FOR THE CONVENTION ON MIGRATORY SPECIES

Background

1. The Conference of the Parties of the Convention on Migratory Species at its 11th meeting (COP11, Quito, November 2014) adopted Resolution 11.07 on *Enhancing the effectiveness of the convention through a process to review implementation*. In particular, through Resolution 11.07, the COP:
 1. Launches *an intersessional process to explore possibilities for strengthening implementation of the Convention through the development of a review process*;
 2. Instructs *the Secretariat to propose terms of reference for a working group to be considered for adoption by the Standing Committee at its 44th Meeting*;
 3. Instructs *the Standing Committee at its 45th Meeting to review any progress, if a working group is established, and report to the 12th Meeting of Conference of the Parties*;
 4. Instructs *the Secretariat to support the process*;
 5. Requests *UNEP, Parties and other donors to provide financial assistance to support the development of the review process; and*
 6. Requests *the Secretariat, where possible, to reduce costs by convening potential meetings of the Working Group in the most cost-effective way*.
2. In accordance with paragraph 2 of the Resolution 11.07, the Secretariat developed terms of reference for a working group and submitted the draft to the Standing Committee at its 44th meeting (StC44, Bonn, October 2015). The Standing Committee considered and adopted the Terms of reference, contained in document [UNEP/CMS/StC44/16.1/Rev.1](#), as follows:

TERMS OF REFERENCE:
WORKING GROUP ON THE DEVELOPMENT OF A REVIEW PROCESS UNDER THE
CONVENTION ON MIGRATORY SPECIES

Background

- 1) By its Resolution 11.7 (below), the Conference of Parties to the Convention on Migratory Species (CMS) decided to launch “an intersessional process to explore possibilities for strengthening implementation of the Convention through the development of a review process” (paragraph 1). Furthermore, it instructed the Secretariat “to propose terms of reference for a working group to be considered for adoption by the Standing Committee at its 44th Meeting” (paragraph 2).

Objective

- 2) To compare existing review mechanisms that strengthen implementation of other Multilateral Environmental Agreements (MEAs), including the agreements established under Article IV(3) of CMS; define the most appropriate, cost-efficient and effective options of a review process for CMS; and prepare a report with recommendations for consideration to the 12th Meeting of the Conference of Parties to CMS.

Members of Working Group

- 3) The Working Group will consist of one member of the Standing Committee from each

region (or one alternate), in order to ensure a cost-effective process, while remaining open to participation by other interested Governments. It will elect a Chair and Vice-Chair, one from a developing and the other from a developed country, at its first meeting. The Executive Secretary of CMS will participate as an advisor to the Group.

Terms of Reference for the Working Group

- Discuss a comparative analysis of best practices of existing review mechanisms of MEAs, including the CMS Family agreements, taking into account their advantages, disadvantages and the cost involved;
 - Discuss an assessment of the feasibility for an existing body within CMS to exercise the functions of a review process (e.g. Standing Committee);
 - Prepare options for a CMS review process, including: determination of what parts of the instrument and its resolutions be part of the review process; cost analyses; and financial and institutional implications for CMS.
- 4) All options will be considered under the principles of cost-efficiency and effectiveness as well as practicality and practicability for the Convention. The option of retaining the status quo ('zero option') will also be considered.

Working Arrangements

- 5) The Working Group will determine the structure of its work at its first meeting. Where at all possible, the Working Group will utilize existing meetings to conduct its work in order to reduce costs. The Secretariat will make available all expertise as required, including that of external consultants and experts if needed.

Budgetary Implications

- 6) The Executive Secretary is requested to seek extra-budgetary resources, if required, in order to facilitate the participation of the developing countries that are represented on the Standing Committee in the meetings of the Working Group and for outsourcing some of the work.

Timeline

Activity	Timing
Adoption of Terms of Reference for and establishment of Working Group	44 th Meeting of the CMS Standing Committee (14-15 October 2015)
Determination of structure of work and consideration of existing review mechanisms; Discussion of options for review mechanism and recommendations to CMS Conference of Parties	First Meeting of Working Group – stand-alone (June 2016)
Submission of review of progress	Second Meeting of Working Group back-to-back with 45 th Meeting of the CMS Standing Committee (2016)
Continuation of discussion started at First Meeting if required	If required - Third Meeting of Working Group (First half of 2017)
Submission of Report	12 th Meeting of the CMS Conference of Parties (October/November 2017)

3. The Secretariat invited nominations from Standing Committee members for each region to be represented on the Working Group, in accordance with paragraph 3) of the Terms of reference. The following Standing Committee members were nominated by their regions

to the Working Group:

- Africa: Uganda
 - Asia: Mongolia
 - Europe: France
 - South & Central America and the Caribbean: Argentina
 - Oceania: Australia
4. In accordance with paragraph 3) of the Terms of reference, the Working Group remained open to participation by other interested Governments. The following Governments participated in the Working Group on that basis:
- Norway
 - Switzerland
5. The Secretariat convened two meetings of the Working Group with the financial support of Switzerland. The first meeting was held from 19-20 September 2016 in Bonn, Germany. In accordance with the Terms of reference, the Working Group elected Australia as Chair and Uganda as Vice-Chair (para. 3) and determined the structure of its work (para. 5)). The second meeting was held from 7-8 November 2016 in Bonn, Germany, back-to-back with the 45th meeting of the Standing Committee. As further financial resources were available from Switzerland, additional members of the Standing Committee were able to participate in the second meeting of the Working Group:
- Africa: South Africa
 - Asia: Kyrgyzstan
 - Europe: Ukraine
 - South & Central America and the Caribbean: Bolivia and Costa Rica
 - Oceania: The Philippines
6. Documents relating to the meetings can be found here: [First meeting](#); [Second meeting](#).

Best practices identified from established review mechanisms

7. At its first meeting, the Working Group discussed and compared the features and methodologies of existing review mechanisms of multilateral environmental agreements (MEAs), taking into account their advantages, disadvantages and the costs involved, in accordance with its Terms of reference. The review mechanisms of the following MEAs were presented at the meeting:
- AEWA (CMS, African-Eurasian Waterbird Agreement)
 - ACCOBAMS (CMS, Agreement on the Conservation of Cetaceans in the Black Sea Mediterranean Sea and Contiguous Atlantic Area)
 - CBD (Convention on Biological Diversity - Cartagena and Nagoya Protocols)
 - Bern Convention
 - Ramsar Convention
 - CITES (Convention on International Trade in Endangered Species of Wild Fauna and Flora)
 - Aarhus Convention
 - UNFCCC (United Nations Framework Convention on Climate Change)
8. Presentations on the review mechanisms of the respective MEAs can be found [here](#).
9. Following a comprehensive discussion, the Working Group compiled and agreed on a list of best practices, found in the mechanisms presented at the meeting and structured them according to the following key questions ([UNEP/CMS/Rev.Proc.1/Doc.01](#)):

What are the benefits of a review process?

- An effective review process:
 - allows for the identification of specific challenges faced by Parties with regard to the implementation of a Convention and of targeted actions to help resolve them;
 - provides an early warning to all Parties on non-implementation of collective commitments;
 - allows for the identification and addressing of systemic challenges and thus priorities for strategic actions;
 - ensures transparency among Parties on the implementation of commitments; and
 - increases the credibility of a Convention.
- There are additional incentives of having a review process that can materialize even if the whole process is not fully followed through to the final outcome.

What should be the scope of a review process?

- Linking a review process to legally-binding Convention obligations draws attention to the most crucial issues and establishes clear and targeted cases for review;
- In the case of CMS, a review process should enhance the conservation of migratory species in a cost-efficient manner.

What are proven valuable triggers for a review process?

- Other instruments have implemented various ways to trigger a review, including providing Parties, the COP and its subsidiary bodies, its Secretariat and/or Third Parties formally with the ability to trigger review;
- National reports form an important component when obtaining information for review as well as other sources on a case by case basis, as required;
- Establishing a dual system that is based both on the review of national reports and can also deal with cases of non-implementation that are raised intersessionally.

Who could run a review process?

- Mandating a subsidiary body with responsibility for operating a review process rather than the governing body, shields the governing body from potentially being inundated with cases and distracted from its regular business;
- There are good examples of review processes that use existing Convention bodies to review cases and make recommendations, including AEWA, using both its Technical and Standing Committees; and CITES, using both its Scientific Committees and Standing Committee;
- The CMS Scientific Council could provide necessary technical expertise both from its councillors and COP-appointed councillors;
- Exploring synergies, when appropriate, with other review processes as, for example, the joint field missions conducted by the Ramsar Convention together with AEWA and/or the Bern Convention. This can allow for sharing of resources across instruments, perhaps leading to a reduction in associated costs.

What are proven valuable modes of implementation of a review process?

- Establishing a positive, problem-solving approach rather than a punitive, adversarial approach in order to create a constructive environment and not deter Parties from identifying their challenges;
- There are a range of options for establishing a review process that can be cost effective and can include the use of voluntary contributions to support the process;

- Establishing minimum thresholds for admitting cases for review in the form of a checklist and/or information sheet as well as a filtering system through technical experts allows for distinction between credible and nuisance cases;
- Building rules of cost-efficiency into the process, such as handling matters by electronic means, and holding meetings to discuss cases electronically (or at least back-to-back with pre-existing gatherings);
- Establishing a list of possible actions following a review to maximise transparency and predictability for Parties;
- The Secretariat can liaise with Party under review as a first step to attempt to resolve a matter, in order to facilitate a non-adversarial approach and allowing for early resolution;
- Handling implementation reviews face-to-face within a small body that is representative of the Party membership of a Convention allows for issues to be raised at a semi-public level and therefore increases trust among Parties;
- Involving other Partners in the review process, where appropriate, as well as in assisting Parties to fulfil their Convention obligations, in order to save on costs and make maximum use of external expertise;
- Allowing third party comments and information on any matter within a specific timeframe can ensure that the review committee has access to a maximum of information when a case is under review;
- Provide for in-country fact-finding/advisory missions, on a case-by-case basis, when needed. This would also enhance liaison among national authorities, where issues are cross-cutting.

Fundamental elements of a review mechanism

10. The Working Group decided to use the best practices identified from other existing review mechanisms as a basis to identify fundamental elements for a possible review mechanism for CMS. The Group discussed in-depth the essential building blocks of a possible review process and agreed ([UNEP/CMS/Rev.Proc.2/Doc.03/Rev.1](#)) that, if established, any review mechanism for CMS should have the following elements:

FUNDAMENTAL ELEMENTS OF ANY IMPLEMENTATION REVIEW MECHANISM

General principles	<ul style="list-style-type: none"> a) A supportive and facilitative approach is taken towards implementation matters, with the aim of ensuring long-term compliance. b) Implementation matters are handled in a time-efficient manner. Implementation measures are applied in a fair, consistent, transparent and consultative manner. c) Findings, reports and communications in implementation matters are treated in an open and transparent manner. d) Reviews are done in a synergistic and cooperative manner with other relevant processes, if needed and if time allows. e) The principles of flexibility and adaptability are incorporated to enable the review process to remain efficient over time. f) Reviews are guided by the principle of cost-effectiveness. 	
Scope of review	All legally binding obligations, including that of reporting, as set out in Annex I.	
Basis for review	Triennial review of National Reports and information submitted when a matter of non-implementation arises.	
Initial information can be submitted by	<ul style="list-style-type: none"> [Self-reporting by Party] [Party-on-Party reporting] [Secretariat] [Review Body] [Third Party] 	Note that these options are not mutually exclusive and more than one can be chosen.

Filtering/screening of information submitted	The Secretariat with the assistance of the Scientific Council / Sessional Committee, if needed, according to set criteria and thresholds.
Bodies of review	[The Standing Committee with the support of the Scientific Council/Sessional Committee, if needed.] [A Subcommittee of the Standing Committee with the support of the Scientific Council/Sessional Committee, if needed.] [A separately established independent Implementation Committee with the support of the Scientific Council/Sessional Committee, if needed.]
Sources of information to be drawn upon after commencement of the review process	National Reports and any type of information that the review body deems relevant and reliable.
Basic mechanics of review	See flowchart below.
Measures to achieve implementation	Following identification of non-implementation, and when a Party has not taken remedial measures, any of the following measures may be recommended by the review body: a) provide further advice, information and appropriate facilitation of assistance and other capacity-building support to the Party concerned; b) request special reporting from the Party concerned; c) issue a written caution, requesting a response and offering assistance; d) alert other relevant Parties that a Party requires assistance with regard to a particular implementation issue; e) issue a warning to the Party concerned; f) request an implementation action plan (developed in consultation between the review body and the Party concerned) to be submitted to the review body by the Party concerned identifying challenges and appropriate steps, a timetable for when those steps should be completed and means to assess satisfactory completion; g) provide in-country assistance, technical assessment or a verification mission, upon consultation and agreement with the Party concerned.
Cost analyses and institutional implications	Note that currently the synthesis of national reports prepared for each meeting of the Conference of Parties is covered by voluntary contributions. Depending on the choice of review body and the volume of cases, costs may vary. There would be limited financial ramifications associated with using either the Standing Committee or a Subcommittee of the Standing Committee as the review body. However, depending on the workload of the review body, additional funds may be required for meetings. Approximate costs of a one-day meeting (assuming that the meeting would be conducted in English only): - Standing Committee (back-to-back with regular Standing Committee meeting): Euro 3,500 - Subcommittee of Standing Committee (5 members, one from each region, back-to-back with regular Standing Committee meeting and Subcommittee members are the same as Standing Committee members): Euro 1,800 - Independent Implementation Committee (5 members): Euro 8,500

11. The Working Group agreed that the scope of review should encompass all legally binding obligations, as well as that of reporting. These relate to Appendix I listed species, informing the Secretariat about being a Range State of a listed species, payment of budgetary contributions and national reporting. The relevant Articles and paragraphs from the Convention text, which the Group agreed to be covered by a review mechanism are:

Article III

4. Parties that are Range States of a migratory species listed in Appendix I **shall** endeavour:
 - a) to conserve and, where feasible and appropriate, restore those habitats of the species which are of importance in removing the species from danger of extinction;
 - b) to prevent, remove, compensate for or minimize, as appropriate, the adverse effects of activities or obstacles that seriously impede or prevent the migration of the species; and
 - c) to the extent feasible and appropriate, to prevent, reduce or control factors that are endangering or are likely to further endanger the species, including strictly controlling the introduction of, or controlling or eliminating, already introduced exotic species.
5. Parties that are Range States of a migratory species listed in Appendix I **shall** prohibit the taking of animals belonging to such species. Exceptions may be made to this prohibition only if:
 - a) the taking is for scientific purposes;
 - b) the taking is for the purpose of enhancing the propagation or survival of the affected species;
 - c) the taking is to accommodate the needs of traditional subsistence users of such species; or
 - d) extraordinary circumstances so require; provided that such exceptions are precise as to content and limited in space and time. Such taking should not operate to the disadvantage of the species.
7. The Parties **shall** as soon as possible inform the Secretariat of any exceptions made pursuant to paragraph 5 of this Article.

Article VI

2. The Parties **shall** keep the Secretariat informed in regard to which of the migratory species listed in Appendices I and II they consider themselves to be Range States, including provision of information on their flag vessels engaged outside national jurisdictional limits in taking the migratory species concerned and, where possible, future plans in respect of such taking.

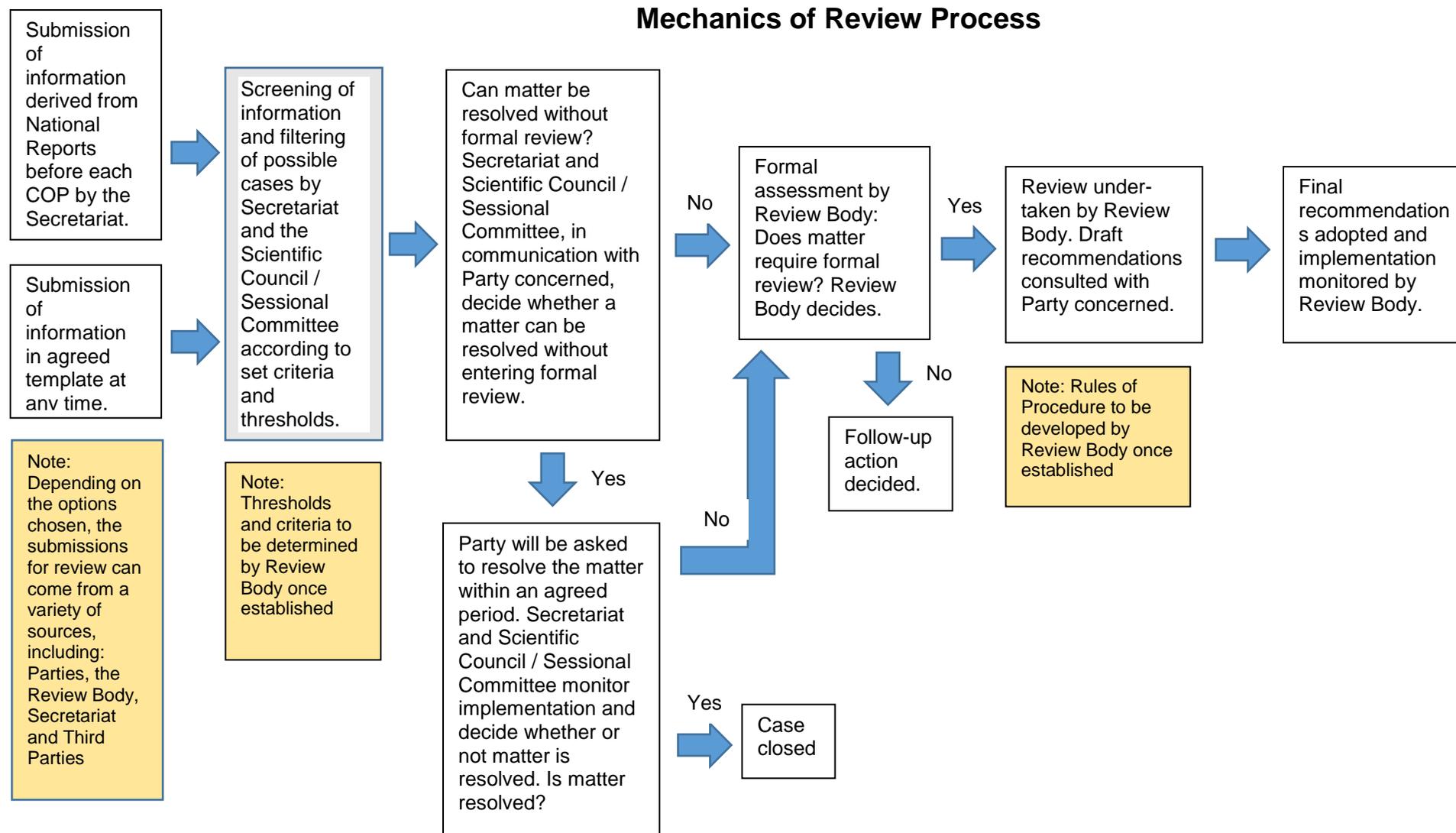
Article VII

4. [...] Each Party **shall** contribute to the budget according to a scale agreed by the COP.

Article VI

3. The Parties which are Range States for migratory species listed in Appendix I or Appendix II **should** inform the Conference of the Parties through the Secretariat, at least six months prior to each ordinary meeting of the Conference, on measures that they are taking to implement the provisions of this Convention for these species.

Mechanics of Review Process



12. The Working Group also discussed what type of information should be considered both at the initial stage, before a case was taken up by the review body, and once the review body had started its work. Given that Parties are required under Article VI of the Convention to submit National Reports to each meeting of the COP, the Group deemed National Reports a crucial source of information. In addition, the Group agreed that any credible information submitted when a matter of non-implementation arises should also be considered, provided the case fulfills set criteria and thresholds.

Variable elements of a review mechanism

13. While the fundamental elements constitute the preferred option of a review mechanism for CMS proposed by the Working Group, with regards to the submission of initial information and the bodies of review, the Working Group discussed several options, shown in square brackets in the table above. While these options are not mutually exclusive, they present distinct differences in effectiveness and cost efficiency.

14. Concerning submission of information, the standard procedures provided in all MEAs are Self-reporting by Parties and Party-on-Party reporting. Presentations by the representatives of MEAs have shown, however, that this procedure is not fully being used by Parties, perhaps because Parties feel embarrassed to report themselves and, for political reasons, are unwilling to report other Parties. As a consequence, all MEAs that were present at the meeting and had originally only provided for self-reporting and Party-on-Party reporting, have changed or are in the process of changing their procedures to also allow, at least, their technical committee or secretariat to submit information to the review body, for the review body to decide on whether or not a case should be reviewed (e.g. CBD - Cartagena and Nagoya Protocols, Rotterdam and Stockholm Conventions).

15. In addition to the secretariat or technical committee submitting information on non-implementation to the review body, a small number of MEAs provide that the secretariat, a technical body or review body can receive information on non-implementation from any source and, based on established criteria and standards, decide whether or not to forward the case to the review body to assess non-implementation (e.g. AEWA, ACCOBAMS, Aarhus Convention, Bern Convention, Ramsar Convention).

16. The Working Group discussed in great depth the advantages and disadvantages for each of the options for submitting information to instigate a review. It came to the conclusion that self-reporting and Party-on-Party reporting, if not used, would make the establishment of a review mechanism obsolete, but was considered a necessary element for any review mechanism. With regard to options of the CMS Secretariat, the Scientific Council / Sessional Committee or the Standing Committee submitting information, this was considered helpful, as was the submission of information by Third Parties, provided that clear criteria and thresholds be established to filter cases. In this regard, the Implementation Review Process of AEWA was cited as a positive example, having limited review of implementation to four cases through the requirement for anyone submitting a case to fill in an Information Sheet, which is screened by the Technical Committee on its merits, while the Bern Convention was quoted as an example where an overload of cases submitted for review due to the absence of a filtering system, was hampering the normal business of the Standing Committee as review body.

17. Concerning the format of a review body, the Working Group discussed the merits of establishing a separate review body vis-à-vis assigning the duty of reviewing to the Standing Committee or a Subcommittee of the Standing Committee. The Working Group recognised the establishment of separate review body, perhaps even consisting of independent experts (e.g. Aarhus Convention and UNFCCC), as advantageous with regards to the objectivity and technical review of cases. At the same time, the Group acknowledged the disadvantage of a separate review body, due to increased costs for meetings and payment of per diems.

18. Unlike for an independent review body, a Subcommittee of the Standing Committee (one member from each region) could take on the functions of a review at a low cost when meeting back-to-back with the Standing Committee. A disadvantage of that arrangement would, however, be the small number of reviewers involved, decreasing the legitimacy of the process. At slightly higher costs than a Subcommittee yet also greater legitimacy, the Standing Committee in its full size, could act as a review body.

Zero option

19. In accordance with the Terms of reference, the Working Group also discussed the 'Zero option', meaning that no review mechanism would be established for CMS. While the majority of representatives and experts of other MEAs felt that an absence of a review mechanism in CMS could be disadvantageous for the Convention, and is in contrast to what has become standard practice in most MEAs, the Working Group agreed to maintain the Zero option in its report to COP12:

ZERO OPTION

General principles	Status quo is maintained.
Scope of review	Zero
Basis for review	
Initial information can be submitted by	
Filtering/screening of information submitted	
Bodies of review	
Sources of information to be drawn upon after commencement of the review process	
Basic mechanics of review	
Measures to achieve implementation	No financial ramifications.

Conclusion

20. While maintaining the 'Zero option' in this report, in light of the examples of other review mechanisms, the Working Group considered the establishment of a review mechanism for CMS as highly advantageous to progress and facilitate implementation of some of the key Convention obligations.

21. As outlined above, there are two variable elements that require specific decision, if a review mechanism is to be established for CMS:

- who can submit the initial information regarding a potential review; and
- which body should be used to review such cases.

Recommended actions

22. The Conference of the Parties is recommended to:

- a) Consider the report and recommendations submitted by the Working Group;
- b) If following the general recommendation of the Working Group to establish a review mechanism,
 - a. identify which variables should be included;
 - b. adopt the draft Resolution contained in Annex 1 of this document;
 - c. adopt the draft Decisions contained in Annex 2 of this document.

ANNEX 1

DRAFT RESOLUTION

ESTABLISHMENT OF A REVIEW MECHANISM

Recognizing that both compliance with the Convention's obligations and the effectiveness of implementation measures are critical to the conservation and management of migratory species;

Recalling that the United Nations Environment Programme, in its *Guidelines on Compliance with and Enforcement of Multilateral Environmental Agreements* (2002), has identified “[s]trengthening of compliance with multilateral environmental agreements ... as a key issue”;

Noting that most major multilateral environmental agreements have established a process for facilitating implementation and providing support to those Parties experiencing difficulties with implementation;

Aware that two agreements within the CMS Family, the Agreement on the Conservation of African-Eurasian Migratory Waterbirds (AEWA) and the Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area (ACCOBAMS), already have processes for reviewing the effectiveness of implementation measures (AEWA Resolution 4.6, *Establishment of an Implementation Review Process* (2008), ACCOBAMS Resolution 5.4, *ACCOBAMS Follow-up Procedure* (2013));

Recalling Article VII, paragraph 5, of the Convention, which provides that “the Conference of the Parties shall review the implementation of this Convention” and may, in particular, “make recommendations to the Parties for improving the effectiveness of this Convention”;

Recalling Resolution 10.9, Activity 16, of the Future Structure and Strategies for CMS, which establishes a medium-term priority (by COP12–2017) to “improve mechanisms to measure implementation of CMS and its Family ... and identification of gaps and propose measures to close these gaps”;

Recalling Article IX, paragraph 4, of the Convention, which directs the Secretariat “to invite the attention of the Conference of the Parties to any matter pertaining to the objectives of this Convention”;

Recalling Resolution 11.7, which launched an intersessional process, establishing a Working Group to explore possibilities for strengthening implementation of the Convention through the development of a review process; and

Recognizing the options for a review mechanism submitted to the Conference of Parties by the Working Group;

*The Conference of the Parties to the
Convention on the Conservation of Migratory Species of Wild Animals*

1. *Decides* to establish a review mechanism with the following features:

A. General principles

- a) A supportive and facilitative approach is taken towards implementation matters, with the aim of ensuring long-term compliance.

- b) Implementation matters are handled in a time-efficient manner. Implementation measures are applied in a fair, consistent, transparent and consultative manner.
- c) Findings, reports and communications in implementation matters are treated in an open and transparent manner.
- d) Reviews are done in a synergistic and cooperative manner with other relevant processes, if needed and if time allows.
- e) The principles of flexibility and adaptability are incorporated to enable the review process to remain efficient over time.
- f) Reviews are guided by the principle of cost-effectiveness.

B. Scope of review

All legally binding obligations from the Convention, including that of reporting, as follows:

Article III

4. *Parties that are Range States of a migratory species listed in Appendix I shall endeavour:*
 - a) *to conserve and, where feasible and appropriate, restore those habitats of the species which are of importance in removing the species from danger of extinction;*
 - b) *to prevent, remove, compensate for or minimize, as appropriate, the adverse effects of activities or obstacles that seriously impede or prevent the migration of the species; and*
 - c) *to the extent feasible and appropriate, to prevent, reduce or control factors that are endangering or are likely to further endanger the species, including strictly controlling the introduction of, or controlling or eliminating, already introduced exotic species.*
5. *Parties that are Range States of a migratory species listed in Appendix I shall prohibit the taking of animals belonging to such species. Exceptions may be made to this prohibition only if:*
 - a) *the taking is for scientific purposes;*
 - b) *the taking is for the purpose of enhancing the propagation or survival of the affected species;*
 - c) *the taking is to accommodate the needs of traditional subsistence users of such species; or*
 - d) *extraordinary circumstances so require; provided that such exceptions are precise as to content and limited in space and time. Such taking should not operate to the disadvantage of the species.*
7. *The Parties shall as soon as possible inform the Secretariat of any exceptions made pursuant to paragraph 5 of this Article.*

Article VI

2. *The Parties shall keep the Secretariat informed in regard to which of the migratory*

species listed in Appendices I and II they consider themselves to be Range States, including provision of information on their flag vessels engaged outside national jurisdictional limits in taking the migratory species concerned and, where possible, future plans in respect of such taking.

Article VII

4. [...] Each Party **shall** contribute to the budget according to a scale agreed by the COP.

Article VI

3. *The Parties which are Range States for migratory species listed in Appendix I or Appendix II **should** inform the Conference of the Parties through the Secretariat, at least six months prior to each ordinary meeting of the Conference, on measures that they are taking to implement the provisions of this Convention for these species.*

C. Basis for review

Triennial review of National Reports by the Secretariat and information submitted when a matter of non-implementation arises.

D. Initial information can be submitted by:

- a) [Self-reporting by Party]
- b) [Party-on-Party reporting]
- c) [Secretariat]
- d) [Review Body]
- e) [Third Party]

E. Filtering/screening of information submitted

The Secretariat will filter/screen the information received with the assistance of the Scientific Council / Sessional Committee, if needed, according to set criteria and thresholds.

F. Bodies of review

- a) [The Standing Committee with the support of the Scientific Council/Sessional Committee, if needed.]
- b) [A Subcommittee of the Standing Committee with the support of the Scientific Council/Sessional Committee, if needed.]
- c) [A separately established independent Implementation Committee with the support of the Scientific Council/Sessional Committee, if needed.]

G. Sources of information to be drawn upon after commencement of the review process

National Reports and any type of information that the review body deems relevant and reliable.

H. Measures to achieve implementation

Following identification of non-implementation, and when a Party has not taken remedial

measures, any of the following measures may be recommended by the review body:

- a) provide further advice, information and appropriate facilitation of assistance and other capacity-building support to the Party concerned;
 - b) request special reporting from the Party concerned;
 - c) issue a written caution, requesting a response and offering assistance;
 - d) alert other relevant Parties that a Party requires assistance with regard to a particular implementation issue;
 - e) issue a warning to the Party concerned;
 - f) request an implementation action plan (developed in consultation between the review body and the Party concerned) to be submitted to the review body by the Party concerned identifying challenges and appropriate steps, a timetable for when those steps should be completed and means to assess satisfactory completion;
 - g) provide in-country assistance, technical assessment or a verification mission, upon consultation and agreement with the Party concerned.
2. *Urges* Parties to cooperate fully with any recommendations made by the Review Body;
 3. *Encourages* the CMS Family Agreements and other multilateral environmental agreements, in particular, the Bern Convention, Ramsar Convention, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the World Heritage Convention to cooperate in the review by CMS of any matter relating to shared species and their habitats;
 4. *Encourages* Parties, intergovernmental and non-governmental organizations to provide financial and technical support for any assessments and in-country missions undertaken as part of a review.

ANNEX 2

DRAFT DECISIONS

ESTABLISHMENT OF A REVIEW MECHANISM***Directed to the Secretariat***

12.AA The Secretariat shall,

- a) Develop a template for submitting initial information to the [Secretariat / Scientific Council / Sessional Committee],
- b) Develop criteria and thresholds for filtering and screening initial information submitted to the [Secretariat / Scientific Council / Sessional Committee],
- c) Submit the draft template and criteria and thresholds for review and approval by the [Scientific Council / Sessional Committee at its 3rd meeting],
- d) Report to the Standing Committee at its 48th meeting on the progress in implementing this decision.

Directed to the Scientific Council / Sessional Committee

12.BB The Scientific Council / Sessional Committee at its 3rd meeting, shall review the template, criteria and thresholds for filtering and screening initial information, as developed by the Secretariat.

Directed to the Standing Committee

12.CC The Standing Committee shall

- a) consider the report on the implementation of the Decisions by the Secretariat at its 48th meeting,
- b) keep under review the effectiveness of the established mechanism and report to the 13th meeting of the Conference of the Parties on its implementation.

Directed to Parties, intergovernmental and non-governmental organizations

12.DD Parties, intergovernmental and non-governmental organizations are encouraged to provide financial and technical support for any assessments and in-country missions undertaken as part of a review.

Directed to the Parties

12.EE Parties are requested to review the implementation and effectiveness of the review mechanism at the 13th meeting of the Conference of the Parties.