



**CONVENTION ON
MIGRATORY
SPECIES**

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UNEP/CMS/Resolution 12.8

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IMPLEMENTATION OF ARTICLES IV AND V OF THE CONVENTION

Adopted by the Conference of the Parties at its 12th Meeting (Manila, October 2017)

Recalling Resolutions 2.6, 2.7, 3.5, and 11.12 relating to the implementation of agreements under Articles IV and V,

Recalling that Article IV of the Convention provides for the conclusion of agreements for migratory species and for AGREEMENTS for species listed in Appendix II of the Convention, in particular for those in an unfavourable conservation status,

Noting that colloquially, and in this Resolution, the term “Agreements” is used to refer in a generic sense to AGREEMENTS, agreements and Memoranda of Understanding as the context may require,

Recognizing the importance attached to the implementation of the full scope of conservation measures envisaged by the Convention,

Convinced of the desirability of concluding AGREEMENTS in accordance with Article IV, paragraph 3, and Article V of the Convention in those cases where the conservation status of specific migratory species would benefit from such AGREEMENTS,

Recognizing that such agreements shall be open to all Range States,

Recognizing that, based on experience since the second meeting of the Conference of the Parties, further guidance and clarification with respect to agreements concluded pursuant to Article IV, paragraph 4, is desirable,

Taking into account the need for efficient administrative arrangements for Agreements under Article IV of the Convention,

Recognizing that the development and servicing of Agreements are subject to the availability of resources, *welcoming* the Secretariat’s sustained efforts pursuant to Resolutions 7.7, 8.5, 9.2 and 10.16 to foster partnerships with governments and relevant organizations to support the operation of Agreements under the Convention, and *further welcoming* with gratitude the generous support of this kind provided to date by numerous governments and organizations, including the financial and in-kind contributions noted in document UNEP/CMS/COP11/Doc.14.4,

Recalling that paragraph 41 of the CMS Strategic Plan 2006-2014 recommended a number of measures for ensuring that Agreements use similar systems for planning and reporting their work, in order to ensure that they are strategically aligned with the Convention,

Further recalling that in Resolution 10.16 the Parties decided on a number of considerations which must be addressed when making proposals for new Agreements, including provision for a proposal to be considered as no longer under development after a period in which no clear expression of interest or offer to lead has materialized, and instructed the Secretariat to develop for consideration and adoption at COP11 a policy approach to the development, resourcing and servicing of Agreements in the context of Resolution 10.9 on Future Structure and Strategies of the CMS and the CMS Family,

Further recalling Resolution 10.9 in which the Parties *inter alia* adopted a list of activities for implementation in 2012-2014, including an assessment of CMS Memoranda of Understanding and their viability (activity 16.3), creation of criteria against which to assess proposals for new Agreements (activity 12.3) and development of a policy where implementation monitoring must be a part of any future MoUs (activity 12.5),

Taking note of the report provided by the Secretariat in document UNEP/CMS/COP11/Doc.22.3 on an assessment of the CMS MoUs and their viability, and

Taking note also of the report provided by the Secretariat in document UNEP/CMS/COP11/Doc.22.2 on a policy approach to developing, resourcing and servicing CMS Agreements, and *thanking* the Government of Germany for its generous financial support for this work,

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

Interpretation

1. *Understands* that Article I, paragraph 1 (j) refers to AGREEMENT(S) concluded in accordance with the basic principles governing such instruments as included in Article IV, paragraph 3, and Article V;
2. *Agrees* to apply *mutatis mutandis* the principles of Article IV, paragraph 5, Article VII, paragraph 5(d), and Article IX, paragraphs 4(b) and (h), to instruments concluded under Article IV, paragraph 4, of the Convention;
3. *Recommends* to Parties to implement where appropriate the corrected Article IV, paragraph 4, within the spirit of the convention through the use of instruments, other than AGREEMENTS in accordance with Article V;
4. *Suggests* that such instruments whenever appropriate and feasible may take the shape of, for example, resolutions adopted by the Conference of the Parties on proposals submitted by the Party Range States or administrative agreements or memoranda of understanding. Article V, paragraph 2, of the Convention should apply also to such instruments.

Development of Agreements

5. *Stresses* the desirability of concluding AGREEMENTS in accordance with Article V of the Convention whenever such AGREEMENTS are needed because of the nature of the obligations to be undertaken by the Parties;
6. *Agrees* that while it should generally be the goal for agreements concluded under Article IV, paragraph 4, to cover the whole of a range of the migratory species and be open to accession by all Range States, this is not necessary if this would adversely affect the conclusion or implementation of such an agreement under the Convention;

7. *Recognizes* that while in some cases such agreements may be established as a first step towards conclusion of AGREEMENTS under Article IV, paragraph 3, in other cases this may not be appropriate;
8. *Instructs* the Secretariat and the Scientific Council, *urges* Parties, and *invites* other relevant stakeholders to apply the criteria annexed to this Resolution in developing and evaluating proposals for future Agreements;
9. *Urges* all Range States of existing Agreements under the Convention that have not yet done so to sign, ratify or accede as appropriate to those Agreements and to take an active part in their implementation;
10. *Invites* Parties, other governments and interested organizations to provide voluntary financial and other support where possible for the effective operation of Agreements under the Convention;
11. *Requests* the Secretariat to continue its efforts to seek partnerships with governments and relevant organizations to support and enhance the effective operation of Agreements under the Convention;

Administration of Agreements

12. *Determines*

- a) That the arrangements shall have regard to the most efficient, economical and appropriate administration and co-ordination and, therefore, that the parties to the agreement may agree that the administration should be undertaken by a party to it, or other national or international organization or by the Secretariat of the Convention. In making these arrangements parties to the agreement shall consider the need for the flexibility to make appropriate changes at a later date to further the objectives of the Convention;
- b) That all Range States that are parties to an agreement should be prepared to contribute a share of such costs of administering that agreement as may arise and as shall be agreed by the parties to the agreement;
- c) That the financial contributions from the parties to an agreement may be paid direct to the party or other organization administering the agreement or through the Trust Fund for the Convention, as the parties to the agreement shall decide;
- d) That the party or other organization undertaking the administration of an agreement shall keep the Secretariat of the Convention fully informed on the conduct of the agreement and make regular reports to the meetings of the Parties to the Convention;
- e) That before it is determined that the administration of an agreement shall be undertaken by the Secretariat to the Convention the consent of the Standing Committee to the Convention shall be sought;

13. *Repeals*

- a) Resolution 2.6, *Implementation of Articles IV and V of the Convention*;
- b) Resolution 2.7, *Administration of Agreements*;
- c) Resolution 3.5, *Implementation of Article IV, Paragraph 4, of the Convention concerning Agreements*; and
- d) Resolution 11.12, *Criteria for Assessing Proposals for New Agreements*.

Annex to the Resolution 12.8**CRITERIA FOR ASSESSING PROPOSALS FOR NEW AGREEMENTS**

The core of the suggested approach to developing Agreements is a method for systematically assessing the opportunities, risks, appropriateness and relative priority of any new proposal to develop an Agreement. This involves testing such proposals against a set of criteria. A standard pro-forma could be designed, perhaps in the style of a questionnaire, to capture the information needed for scrutiny of each proposal by the Scientific Council, Standing Committee and COP. Together with information on how the proposal meets the criteria, this would add details of lead individuals, budget estimates and other associated details.

The criteria below are a summary of those proposed in the report “Developing, resourcing and servicing CMS Agreements - a policy approach” (UNEP/CMS/COP11/Doc.22.2)¹ Further advice on issues to address in relation to each criterion is given in that report.

The criteria can be applied with some flexibility, given the diversity of forms that CMS Agreements can take and the variety of situations they address. In principle, however, the more objective and transparent the substantiation of the different issues that can be provided in support of a proposal, the more likely it is to succeed.

Some criteria might function as an absolute standard for judging whether a given proposal is deserving on its own merits (e.g. criterion (iii) on clear purpose, and criterion (ix) on prospects for leadership); while other criteria might be used in a more relative way to compare two or more proposals that are competing for priority. In all cases the information compiled should, as far as possible, provide a balanced assessment of the benefits and risks associated with each issue, rather than being seen solely as a tool for persuasion.

(i) Conservation priority

Proposals should specify the severity of conservation need, for example in relation to the degree of species endangerment or unfavourable conservation status as defined under the Convention, and the urgency with which a particular kind of international cooperation is required. Links to migration issues and confidence in the underlying science may also need to be described.

(ii) Serving a specific existing COP mandate

Proposals should specify how they respond to any specifically relevant objectives expressed in CMS strategies and other decisions of the Parties.

(iii) Clear and specific defined purpose

Proposals should specify intended conservation outcomes, and should in particular make clear the way in which the target species is/are intended to benefit from international cooperation. The more specific, realistic and measurable the purpose is the better. Proposals should also have regard (as appropriate) to CMS Article V.

(iv) Absence of better remedies outside the CMS system

Proposals should compare the option of a CMS Agreement with alternative options outside the Convention’s mechanisms, and explain why a CMS Agreement is the best method of meeting the defined conservation need.

(v) Absence of better remedies inside the CMS system

Proposals should compare the option of a CMS Agreement with alternative options available under the Convention (such as “concerted actions”, international species action plans and other cooperation initiatives), and explain why a CMS Agreement is the best method of meeting the defined conservation need.

¹ Many of the questions addressed by these criteria are also valid questions to ask of Agreements that are already in existence, for example when assessing their continuing viability.

(vi) If a CMS instrument is best, extending an existing one is not feasible

Proposals should demonstrate compelling reasons why a solution cannot be found by taxonomically or geographically extending an existing Agreement, taking into account the risk of loss of efficiency of the existing Agreement.

(vii) Prospects for funding

Proposals should demonstrate that there are meaningful prospects for funding, in particular from geographically concerned countries. The proposal does not necessarily need to demonstrate that full funding is in place before the proposal can be approved, but it should provide an assessment (and assurances) about likely funding. It will be helpful to include an indicative budget, estimate the minimum levels of funding required to launch the Agreement, and describe the degree to which the funding plan is considered to be sustainable.

(viii) Synergies and cost effectiveness

Proposals should specify any opportunities for the proposed Agreement to link with other initiatives in such a way that the value of both/all of them is enhanced (for example through economies of scale, new possibilities arising from a combination of efforts that would not arise otherwise, etc.). Opportunities may also include catalytic effects and associated (secondary) benefits. Proposals should specify the resources they require, but should also relate these to the scale of impact expected, so that cost-effectiveness can be judged.

(ix) Prospects for leadership in developing the Agreement

Proposals should demonstrate that there are meaningful prospects for leadership of the development process, for example by a country government or other body making firm offers to lead the negotiation process, host meetings and coordinate fundraising.

(x) Prospects for coordination of the Agreement's implementation

Proposals should demonstrate that there are meaningful prospects for coordination of the Agreement's implementation on an on-going basis after its adoption (for example the hosting of a secretariat, organization of meetings and management of projects).

(xi) Feasibility in other respects

Proposals should address all other significant issues of practical feasibility for launching and operating the Agreement (for example political stability or diplomatic barriers to cooperation).

(xii) Likelihood of success

In addition to evaluating the likelihood that a proposed Agreement will be implementable (criteria (vii), (x) and (xi) above), proposals should evaluate the likelihood that its implementation will lead to the intended outcome. Risk factors to consider include: uncertainty about the ecological effects; lack of a "legacy mechanism" by which results can be sustained; and activities by others that may undermine or negate the results of the Agreement.

(xiii) Magnitude of likely impact

In order to prioritize proposals that may be equal in other respects, proposals should provide information on the number of species, number of countries or extent of area that will benefit; the scope for catalytic and "multiplier" effects; and any other aspects of the overall scale of impact.

(xiv) Provision for monitoring and evaluation

Proposals should specify the way(s) in which achievement of the purposes defined under criterion (iii) above is to be measured and reported on. Good practice in this regard involves creating a simple and easy-to-operate evaluation framework including at least the following minimum ingredients:

- *A statement or description of how monitoring, evaluation and reporting will operate in relation to the Agreement concerned;*
- *A definition of at least some key objectives that can be measured, along with a definition of the main measures that will be used for assessing progress towards the achievement of each objective;*
- *A distinction between (a) progress in implementing activities² and (b) progress in achieving (ecological) outcomes³; with at least one regularly-monitorable measure being defined for each of these;*
- *An ability to demonstrate some causal logic that enables outcomes to be attributed to Agreement-related activities (the results of this relationship then become a measure of the Agreement's effectiveness);*
- *Methods for gathering and analysing information that are sufficiently complete, consistent, transparent and trustworthy for the purpose;*
- *A commitment to generating information periodically and in a timely manner both for the Agreement's own governance processes and for relevant syntheses at a CMS-wide level; and*
- *An effort to relate monitoring and evaluation findings to strategic goals and targets adopted by the CMS (e.g. in the [Strategic Plan for Migratory Species]), as well as to the Agreement's own objectives.*

² For example institutions maintained; programmes delivered; trends in growth of participation.

³ For example trends in conservation status of target species, including threats.