



CONVENTION ON MIGRATORY SPECIES

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ESTABLISHMENT OF A REVIEW MECHANISM AND A NATIONAL LEGISLATION PROGRAMME

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

Recognizing that compliance with the Convention's obligations is 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 strengthening of compliance with multilateral environmental agreements as a key issue,

Learning from the successes and challenges experienced by multilateral environmental agreements that have established processes 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 for the 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 to facilitate compliance with the obligations set out in Articles III.4, III.5, III.7, and VI.2 of the Convention (“implementation matters”);
2. *Decides* also to establish a National Legislation Programme to support strengthening the implementation of the Convention through national legislation and support Parties, if needed, in developing or improving relevant national legislation.

I. Review Mechanism for Specific Implementation Matters

A. General principles

The Review Mechanism shall operate according to the following general principles:

1. A supportive, non-adversarial and facilitative approach is taken towards implementation matters, with the aim of ensuring long-term compliance with Articles III.4, III.5, III.7, and VI.2.
2. Implementation matters are handled in a time-efficient manner. Implementation measures are applied in a fair, consistent, transparent and consultative manner.
3. Generally, findings and reports on implementation matters are treated in an open and transparent manner. However, communications between the Secretariat and individual Parties on specific implementation matters are generally confidential.
4. Reviews are done in a synergistic and cooperative manner with other relevant processes both within and outside CMS, if needed and if time allows, taking into account the specificity of CMS obligations.
5. The principles of flexibility and adaptability are incorporated to enable the review process to remain efficient over time.
6. The review process is guided by the principle of cost-effectiveness.

B. Bases for the review process

The bases for initiating the review process shall be:

1. The triennial review of National Reports by the Secretariat; or
2. Information submitted to the Secretariat, when an implementation matter arises, by:
 - a) Self-reporting by Party
 - b) Party-on-Party reporting
 - c) The Secretariat
 - d) The Standing Committee
 - e) Any body or agency technically qualified in protection, conservation and management of migratory species, which is either:
 - 1) an international non-governmental agency or body; or
 - 2) an accredited national non-governmental agency or body.

C. Handling and screening of implementation matters by the Secretariat

1. When information on an implementation matter is communicated to the Secretariat, the Secretariat shall:
 - a) Provide the Party concerned with the information received on the template accepted by the Standing Committee and give the Party an opportunity to respond if it so wishes.
 - b) Determine whether the information submitted is admissible based on the following criteria:
 - 1) Is in writing using the template accepted by the Standing Committee;
 - 2) Is not anonymous;
 - 3) Is not trivial or ill-founded;
 - 4) Is supported by sufficient evidence substantiating the submission;
 - 5) Includes details as to which specific implementation matters are concerned;
 - 6) Includes details on efforts taken to address the matter with the Party concerned; and
 - 7) Is based on the requirements of the Convention and this Resolution.
 - c) Screen the information received with the assistance of the Scientific Council, which shall act in accordance with its remit, on scientific and technical matters, if needed. The screening shall also take into account any information received from the Party concerned.
2. The Secretariat may draw upon information from final decisions on compliance by 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 relating to shared species and their habitats when performing its functions under this Resolution.
3. Information and communications between the Secretariat and individual Parties on specific implementation matters shall be treated as confidential, unless the Party concerned waives the confidentiality.
4. Where the Secretariat has decided that the information may be admissible, it shall inform the Party concerned and give the Party concerned the opportunity to provide comments within a reasonable time limit and/or to address the matter within reasonable time limits, if necessary with the assistance of the Secretariat.
5. If an implementation matter has been clearly identified and the Party fails to address the matter within a reasonable time, the matter shall be brought to the attention of the Standing Committee by the Secretariat, in direct contact with the Party concerned. This must be done in writing setting out the details of the relevant Convention obligations, and an assessment of the reasons the Party concerned may be unable to meet those obligations.

D. Review bodies

1. The Standing Committee shall perform the functions of the review body with the support of the Scientific Council, if needed.

2. The Conference of the Parties directs, oversees, and provides general policy guidance on implementation matters and may delegate tasks to the Standing Committee in accordance with the Convention.
3. When the Conference of the Parties decides to carry out itself the tasks delegated to the Standing Committee, it shall follow the same procedures as those described for the Standing Committee.

E. Handling of implementation matters by the Standing Committee

After commencement of the review process, the Standing Committee may draw upon National Reports and any other type of information that the Standing Committee deems relevant and reliable.

F. Procedures for review

1. The Standing Committee shall reject implementation matters which it considers to be trivial or ill-founded. Such matters will be discussed at regular meetings of the Standing Committee or by postal procedure as per the Standing Committee Rules of Procedure.
2. Where the Standing Committee decides that the submission is not trivial or ill-founded, it shall notify the Party concerned, which shall be given the opportunity to provide comments within a reasonable time frame.
3. The Party concerned has the right to participate in discussions with respect to an implementation matter concerning that Party, in accordance with the Rules of Procedure of the relevant body.
4. The Standing Committee shall protect the confidentiality of information and communications it receives from the Party concerned, unless the Party waives the confidentiality.
5. Where implementation matters are identified, the Party concerned is given every opportunity to correct them within a reasonable time frame.
6. Following identification of an implementation matter, and when a Party has not addressed the matter within a reasonable time frame, any of the following measures may be taken by the Standing Committee:
 - a) provide further advice, information and appropriate facilitation of assistance and other capacity-building support to the Party concerned;
 - b) request further information or special reporting from the Party concerned;
 - c) provide in-country assistance, technical assessment or a verification mission, upon consultation and agreement with the Party concerned;
 - d) issue a written caution, requesting a response and offering assistance;
 - e) alert other relevant Parties that a Party requires assistance with regard to a particular implementation matter;
 - f) issue a warning to the Party concerned;
 - g) request an implementation action plan (developed in consultation between the Standing Committee and the Party concerned) to be submitted to the Standing Committee by the Party concerned identifying challenges and appropriate steps, a time frame for when those steps should be completed and means to assess satisfactory completion.

7. The Standing Committee shall report to the Conference of the Parties on any actions taken pursuant to this Resolution, including the status of current reviews.
8. The Standing Committee shall make any recommendations for modification of this Resolution, as necessary and appropriate.

II. National Legislation Programme

1. As a general principle, the National Legislation Programme is a supportive, non-adversarial and facilitative activity, with the aim of ensuring long-term compliance with Article III, paragraphs 4(a) and (b) and 5.
2. Parties are encouraged to submit information to the Secretariat regarding their legislation and other domestic measures relating to implementation of Article III, paragraphs 4(a) and (b) and 5.
3. The Secretariat shall identify those Parties that have not implemented Article III, paragraph 5.
4. The Secretariat shall inform Parties about the findings and recommended actions.
5. Within six months of having received the finding and recommended actions from the Secretariat, Parties are requested to indicate the procedures, actions and reasonable time frames that are envisaged in response.
6. Parties are requested to take appropriate measures to implement Article III, paragraph 5 in accordance with their indicated procedures and time frames.
7. The Secretariat, in cooperation with relevant partners, shall support Parties, as necessary and subject to available resources, through the provision of, *inter alia*, guidance materials, model laws, technical assistance and capacity-building workshops in relation to Article III paragraphs 4(a) and (b) and 5.
8. Parties will not be subject to further review for non-implementation of Article III, paragraph 5 with regard to the procedures, actions and reasonable time frames established in accordance with Section II, paragraph 4 of this Resolution.
9. The Secretariat shall seek voluntary contributions to enable it to implement the functions set out in Section II of this Resolution.
10. The Secretariat is encouraged to collaborate closely with the CITES National Legislation Project, taking into account the specificity of CMS.

III. Reporting and Cooperation

1. *Urges* Parties to cooperate fully with any measures taken by the Standing Committee or the Conference of the Parties;
2. *Requests* the Conference of the Parties to review the Review Mechanism, as appropriate.
3. *Encourages* Parties, non-Parties, intergovernmental and non-governmental organizations to provide voluntary financial contributions and technical support for any assessments and in-country missions in respect of implementation matters, and in accordance with the procedures outlined in this Resolution.