

Review of existing migratory bird instruments and initiatives in the Americas

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March 2014

Executive Summary

Effective conservation of migratory birds requires action beyond any one set of political borders, a fact recognized in the development of multiple bilateral, trilateral and multilateral agreements for the conservation of migratory species, and in numerous calls to action. In recent years, there has been increasing recognition of the need for an overarching framework for the conservation of migratory birds in the Americas. In response to this, during 11-14 March 2014, a CMS/WHMSI Americas flyways experts meeting is being held to advance the development of an overarching framework or agreement, building upon the WHMSI Flyways Action Plan for the Americas.

This report reviews the existing migratory bird instruments and initiatives in the Americas to provide recommendations for the development of an overarching framework, and builds upon earlier CMS global reviews of existing instruments for migratory bird conservation, current knowledge and gaps of bird flyways, and policy options for migratory bird conservation.

As part of the review process, a directory of migratory bird conservation instruments and initiatives was developed, including multi- and single-species action plans. Discussions were also held with government and NGO representatives working in migratory bird conservation in the Americas to determine the needs and potential benefits of an overarching framework.

Why do we need an overarching agreement?

- To facilitate the mainstreaming of migratory species conservation within the broader environment and sustainable development agenda.
- As a mechanism to engage governments in supporting national, regional and inter-regional conservation efforts for shared migrants.
- To better link the work of governments with the work of NGOs. Currently, there are lots of bilateral agreements, and an overarching framework could help garner political support for more widespread engagement and cohesion.
- Garner greater political and donor support for the implementation of migratory species action plans.
- An overarching agreement can help build efficiencies and reduce redundancies given the many instruments, plans and processes that already exist.
- Mechanism to help “roll-up” individual (species or geographic) conservation action plans and business strategies into larger conceptual models of change to magnify the outcomes and help direct funding.
- To define overarching measurable conservation goals and objectives that can be implemented through the array of existing initiatives.
- To help facilitate well-connected flyway conservation activities at different levels (site, national, regional).

- As a mechanism for high-level focus on key sites or issues that are affecting the integrity of entire flyways.
- As a mechanism for sharing experiences and lessons learned between flyways.

What an overarching framework should do:

- Build on and bring together existing initiatives, facilitating greater coordination and collaboration between them.
- Capitalize on existing knowledge and experience working with other flyways/migratory bird conservation in the Americas.
- Facilitate action that helps strengthen existing flyways/migratory bird initiatives (and which avoids duplication of effort).
- Advance full lifecycle conservation of migratory species at the flyway level.
- Communicate (and market) the importance of working at a flyways level.

Overview of migratory bird initiatives

There are at least 36 migratory bird focused/flyways-based initiatives and instruments for the conservation of migratory birds in the Americas, ranging from multilateral treaties to voluntary multi-sector partnerships focused on single species.

Of the 36 reviewed:

- 5 Multi-lateral binding treaties
- 3 Bi-lateral binding treaties
- 8 Multi-lateral multi-species voluntary initiatives/partnerships
- 11 Multi-lateral single species voluntary initiatives/partnerships
- 9 Geographically focused conservation business plans (8 still in development)

Among other multi-lateral initiatives for migratory birds, there are at least 11 focused on the monitoring of bird populations, 6 focused primarily on migration research, and 3 whose primary function is to provide information on migratory species. There are also at least 30 single species action plans for priority migrants (only two of which are for austral migrants). In addition to single species action plans, a number of countries have plans for taxonomic groups of species (e.g. shorebirds: Brazil, Canada, Colombia, Mexico, USA) or for groups of migrants within specific biomes (e.g. Brazil, and the Bird Conservation Regions in North America).

Geographic coverage

- Coverage is greatest in North America (Canada, USA, Mexico) with all three countries and all migratory species “covered” by a mix of binding and voluntary instruments and initiatives. The two exceptions appear to be those species breeding in St. Pierre et Miquelon (France) and Greenland (Denmark) and which (in the case of Greenland) migrate to the Americas.

- Geographic coverage of binding instruments is weak outside of North America, and there are significant gaps in voluntary initiatives as well. Geographic coverage is weak in the oceans (coastal and pelagic flyways, both Atlantic and Pacific), though most of the major Regional Fisheries Management Organizations do provide some level of protection for some groups of seabirds (primarily mitigation measures to avoid bycatch in long-line fisheries).

Taxonomic coverage

- Coverage is greatest (on paper) for waterfowl, shorebirds and other migratory waterbirds (though waterfowl and to a lesser extent shorebirds are less well covered outside of North America).
- Nearctic-breeding landbirds that migrate to the Neotropics are not well covered outside of North America.
- Austral and intra-tropical migrants are poorly represented, other than a few of the most threatened species listed on CMS Appendices (and only then, austral, as opposed to intra-tropical migrants).
- Coastal and pelagic species are poorly covered, other than those listed under ACAP and considered by RFMO mitigation measures.

Other legally-binding conservation instruments

In addition to the legally-binding instruments developed specifically for the conservation of migratory birds, there are a number of legally binding instruments that are not flyways/migratory birds focused, but which are of key importance to migratory bird conservation. These include global environmental treaties, such as the Convention on Biological Diversity (CBD), the Ramsar Convention, CITES and the UNESCO World Heritage Convention; a Pan-American treaty, the Western Hemisphere Convention; and regional treaties, such as the Cartagena Convention (and its Specially Protected Areas and Wildlife, SPAW, Protocol). These instruments have many synergies with migratory bird conservation initiatives, perhaps best attested to by the memoranda of cooperation and joint work programs developed between CMS and the CBD, Ramsar and CITES.

Other regional instruments

Among other regional instruments of relevance to migratory bird conservation are free-trade agreements, some of which include specific environmental cooperation agreements/mechanisms; and the international organizations dedicated to the sustainable management of fishery resources (Regional Fisheries Management Organizations, RFMOs).

Free trade agreements with significant environmental commitments include the North American Free Trade Agreement (NAFTA), which created the Commission for Environmental Cooperation (CEC); the Central American Integration System (or SICA,

Sistema de la Integración Centroamericana), which created the Central American Commission for Environment and Development (CCAD, Comisión Centroamericana de Ambiente y Desarrollo) and the Central America Free Trade Agreement (CAFTA-DR), which includes an environmental cooperation agreement. Other free-trade type agreements have either not included provision for environmental cooperation (e.g. the Pacific Alliance), or have not implemented the environmental provisions (e.g. Mercosur).

In the case of the major RFMOs of relevance to Western Hemisphere migratory bird species, most of them, and certainly all of the tuna-focused ones and CCAMLR (Convention on Conservation of Antarctic Marine Living Resources), have mitigation measures in place to reduce seabird bycatch, and are increasingly monitoring and enforcing compliance of the measures adopted. Bycatch from gillnet (and other non-longline) fisheries still remains a significant gap, however.

Other regional initiatives

Within the Americas many regional initiatives have been developed to advance biodiversity conservation and its integration with development. These include (illustrative examples are provided):

- Protocols under legally-binding instruments (e.g. the SPAW Protocol).
- Regional initiatives under legally-binding agreements (e.g. four regional initiatives of the Ramsar Convention).
- Intergovernmental fora (e.g. Arctic Council,
- Civil society fora (e.g. Patagonian Sea Forum)
- Regional conservation plans (e.g. Mesoamerican Biological Corridor, Caribbean Biological Corridor)
- Voluntary multi-sectoral partnerships (e.g. the North American Joint Ventures, the Pine-Oak Alliance, and the Southern Cone Grasslands Alliance).

These initiatives provide valuable platforms for highlighting the needs and promoting and implementing actions for migratory species within the regions they cover.

Recommendations

Policy Instruments

- Outside of North America, the only active binding policy instruments specifically for migratory birds are those of the CMS family of agreements.
- There are, however, additional biodiversity-related policy instruments of relevance to migratory bird conservation, ranging from the global Convention on Biological Diversity (CBD), to regional agreements (SPAW Protocol of the Cartagena Convention) and habitat-specific agreements (Ramsar Convention).

Actions:

- Development of new policy instruments and expansion of existing instruments for the conservation of migratory species in Latin America and the Caribbean (for all migrants).
- Strengthen the integration of migratory bird conservation needs in biodiversity-related policy instruments that are not migratory bird focused.

Taxonomic and Geographic Gaps

- Austral and intra-tropical migrants receive very poor coverage in both formal agreements and voluntary initiatives.
- Coastal species (besides shorebirds) and pelagic species (besides those included in ACAP) are also poorly covered.
- Nearctic-breeding migrants are poorly covered outside of North America.

Actions:

- Development of formal instruments and voluntary agreements for austral migrants, intra-tropical migrants, Nearctic-breeding migrants outside of North America, and coastal and pelagic species.
- Raise awareness of the plight of these migrants, and in particular austral migrants, among governments and the donor community.
- Promote networks such as Inter-American Biodiversity Information Network (IABIN) and other actions and activities that facilitate sharing information about the conservation and sustainable use of migratory species.

Mainstreaming of Migratory Bird Conservation

Instruments for the conservation of migratory bird species – whether intergovernmental or not – are likely to struggle for sufficient attention, capacity and resources unless they are explicitly linked to wider national development priorities. In other words, priority must be given to mainstreaming of species conservation within the broader environment and sustainable development agenda.

Actions:

- Inclusion of migratory bird conservation provisions in future trade promotion agreements and bilateral investment treaties.
- Greater collaboration with environmental bodies and mechanisms established by existing free trade agreements.
- Strengthen/build upon synergies with broader biodiversity-related conventions, and key institutions in other sectors (e.g. Food and Agriculture Organization, Regional Fisheries Management Organizations).
- Work close with the member states of the Organization of American States to promote the conservation of migratory species through the Inter-American Program for Sustainable Development.

Building an Overarching Framework

Experiences from existing instruments and initiatives in the Americas, and from others outside of the Americas suggest that the key ingredients of success for an overarching framework include:

- The opportunity for all parties/partners/signatories/stakeholders to meet together on a regular basis.
- Clear mechanism for high-level government engagement, with clear decision-making processes at a policy level.
- Clear mechanisms for participation by other sectors (NGO, industry).
- Clear mechanisms for ensuring decisions are based on the best available science.
- Clear mechanisms for capitalizing on synergies with other relevant instruments and initiatives.
- Clear conservation goals and objectives that are measurable/verifiable.
- Flexibility to support work at different scales, from local to national to regional, and rolling this up to meet overarching goals.
- Minimal (administrative) “barriers” to the development of new (multi-national) initiatives under the framework agreement.
- An action plan for reaching those goals and objectives.
- An implementation monitoring and evaluation plan.

Implementation

Regional multi-sectorial partnerships or alliances appear to be one of the most effective ways to advance migratory bird conservation at scale. An overarching agreement should:

- Help facilitate well inter-connected flyway conservation activities at the site, national and regional level, but place emphasis on regional-level activities that generate globally relevant outcomes.
- Provide a mechanism for a high-level focus on key sites or issues that are affecting or have the potential to affect the integrity of entire flyways (such as the loss of key sites).

- Provide a mechanism for sharing experiences and lessons-learned between initiatives, and help to build capacity for migratory bird conservation.
- Help raise the profile and build support for migratory bird conservation through effective communication.

Towards an Overarching Agreement

Of the existing multilateral agreements and initiatives in the Americas, CMS is the clear best candidate under which an overarching “Americas flyways” framework agreement can be developed. Advantages offered by CMS include:

- It is the global convention specializing in the conservation of migratory species, their habitats and migration routes.
- As an intergovernmental treaty, it provides a high-level mechanism to engage governments in supporting national, regional and inter-regional conservation efforts for shared migrants, and to raise the profile for flyways within and between governments.
- It provides a clear decision-making mechanism at a policy level, and has an administrative structure to review and promote enforcement.
- CMS is very open to working with NGOs (e.g. through formal agreements, as coordinators of CMS agreements, as observers in meetings, and as scientific councilors for parties to the convention) and as such provides a mechanism to better link the work of governments with the work of NGOs.
- There is a clear mechanism for ensuring decisions are based on the best available science (Scientific Council and working groups), and a clear process for agreeing and listing priority species on appendices.
- CMS acts as a framework Convention. Agreements under CMS (which can be signed by countries that are not party to the Convention) may range from legally binding treaties (called Agreements) to less formal instruments, such as Memoranda of Understanding, and can be adapted to the requirements of particular regions.
- CMS is recognized as CBD's lead partner on matters relating to the conservation and sustainable use of migratory species, and has MoUs and Joint work plans with the other biodiversity conventions, capitalizing on the synergies between them.
- CMS has an MoU with WHMSI and is part of the WHMSI Steering Committee.
- CMS is home to valuable expertise and experience with multilateral migratory bird agreements elsewhere (e.g. AEWAs).
- CMS has code of conduct for working with the private sector, and scope to engage in formal agreements (such as a MoU, Contract, Agreement or Terms of Reference).
- ACAP (a CMS agreement) has been working to reduce seabird mortality in longline, trawl and other fisheries where seabird bycatch occurs with relevant RFMOs and other fishery organizations.
- CMS COP 11 in Ecuador in Nov 2014 provides an immediate opportunity to engage governments in the development of an overarching agreement for the Americas.

- The draft CMS global programme of work on migratory birds provides a good starting point for developing an overarching Americas agreement.