



Convention on the Conservation of Migratory Species of Wild Animals

Secretariat provided by the United Nations Environment Programme



1st Meeting of the Working Group on the Development of a Review Process under the Convention on Migratory Species

Bonn, Germany 19-20 September 2016

UNEP/CMS/Rev.Proc.1/Doc.01

BEST PRACTICES AND LESSONS LEARNT FROM OTHER REVIEW PROCESSES

(prepared by the Chair of the Working Group on the Development of a Review Process under the Convention on Migratory Species)

Summary

This document sets out the identified best practices and lessons learned based on the experience of several review processes of other multilateral environmental agreements presented during the first meeting of the Working Group.

The CMS Conference of Parties (COP) by Resolution 11.7 launched an intersessional process to explore possibilities for strengthening implementation of the Convention through the development of a review process. As requested by the COP through the same resolution, the CMS Standing Committee at its 44th Meeting in established a Working Group on the Development of a Review Process under the Convention on Migratory and adopted its Terms of Reference.

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(prepared by the Chair of the Working Group on the Development of a Review Process under the Convention on Migratory Species)

The Working Group on the Development of a Review Process for the Convention on Migratory Species (CMS) at its first meeting, held from 19-20 September 2016 in Bonn, Germany, discussed the experiences shared by a number of other agreements that currently have an implementation review mechanism in place. It identified the following best practices as foundational elements for a review process:

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;
 - 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?

- Establish 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;
- 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 consequences following a review to maximise transparency and predictability for Parties;
- 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 come back into compliance, 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.