

48th Meeting of the Standing Committee

Bonn, Germany, 23 – 24 October 2018

UNEP/CMS/StC48/Inf.9

REVIEW MECHANISM

Summary of the background, main elements and status of COP decisions implementation

I. Background

Recognizing that compliance with the Convention's obligations is critical to the conservation and management of migratory species, the Conference of the Parties established the Review Mechanism at its 12th Meeting.

[Resolution 12.9](#) establishes two processes: the first process is called *Review Mechanism* and the second process is called *National Legislation Programme*. The Review Mechanism is based in a "supportive, non-adversarial and facilitative approach" towards implementation of the Convention, with the aim of ensuring long-term compliance with implementation matters, i.e., Articles III.4, III.5, III.7 and VI. 2. The National Legislation Programme is established to support strengthening the implementation of the Convention through national legislation in relation to Article III, paragraphs 4(a) and (b) and 5. This note only addresses the Review Mechanism.

The Review Mechanism is the result of the [work initiated by COP-11](#) that launched an intersessional process to explore possibilities for strengthening implementation of the Convention through the development of a review process and the work carried out by the *Working Group on the development of a review process for the Convention on Migratory Species*. The Working Group submitted to COP-12 a [detailed document](#) with the elements that should be part of any best practice review mechanism.

II. Scope

The Review Mechanism is established to facilitate compliance with the obligations set out in Articles III.4, III.5, III.7 and VI. 2 of the Convention (Implementation matters).

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;*
 - e). *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.*

III. General principles

The Review Mechanism takes a supportive, non-adversarial and facilitative approach towards implementation matters, with the aim of ensuring long-term compliance with Articles III.4, III.5, III.7, and VI.2. Parties deem it important to assure that implementation matters are handled in a flexible, adaptable, and time and cost-efficient manner, including synergistic cooperation with other relevant processes, and that implementation measures are applied in a fair, consistent, transparent and consultative manner.

The Review Process will be carried out in an open and transparent manner while respecting confidentiality in regard to communications between the Secretariat and individual Parties on specific implementation matters

IV. Initiation of the Review Process

Parties decided to adopt a dual system to trigger the process. The bases for initiating the Review Process are:

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.

V. Handling and screening of implementation matters by the Secretariat

When information on a possible implementation matter is communicated to the Secretariat, the Secretariat provides the Party concerned with the information received on the template and determines the admissibility of the case 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.

The screening of the information will have into account final decisions on compliance by the CMS Family Agreements and other multilateral environmental agreements, information received by the Party concerned and the assistance of the Scientific Council, if needed.

Where the Secretariat has decided that the information is admissible, it shall inform the Party concerned that will have 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.

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

VI. Review Body - Standing Committee

The Standing Committee performs the functions of the review body with the support of the Scientific Council, if needed, and the guidance of the COP.

VII. Procedure for review

The Standing Committee can reject a trivial or ill-founded case. Such matters will be discussed at regular meetings of the Standing Committee or by postal procedure as per the Standing Committee Rules of Procedure.

If the Standing Committee takes the case, the Party concerned will be notified and given the opportunity to provide comments within a reasonable time frame. The Party concerned can participate in discussions with respect to an implementation matter concerning that Party and is given every opportunity to correct them within a reasonable time frame.

VIII. Measures

Given the facilitative, non-adversarial and supportive approach of the Mechanism, following identification of an implementation matter, and when a Party has not addressed the matter within a reasonable time frame, the Standing Committee may take any of the following measures:

- 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 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.

IX. Implementation of Decisions 12.6 to 12.8

As requested by Decision 12.6 a), the Secretariat has developed a draft template for communicating initial information on an implementation matter to the Secretariat, which is a basis for initiating the review process. The draft template has been entirely based on the admissibility criteria of Resolution 12.9. It is called “Case-information Template” and is attached in [Annex 1 of UNEP/CMS/StC48/Doc.15](#).

Decision 12.7 a) requests the Standing Committee to review and decide whether to adopt the draft template at its 48th Meeting. Once the template is adopted by the Standing Committee, it will be made available publicly in a dedicated website. Decision 12.7 b) instructs the Standing Committee to consider the implementation of the review mechanism and report to COP-13, including any recommendations for modification of the procedure or criteria.

Finally, according to Decision 12.8, Parties are requested to review the implementation of the review mechanism at COP-13.

ANNEX

FLOW-CHART

