



Convention on the Conservation of Migratory Species of Wild Animals

Secretariat provided by the United Nations Environment Programme



UNEP/CMS/StC41/8.1

MEMORANDUM OF UNDERSTANDING

BETWEEN

**THE STANDING COMMITTEE OF THE CONFERENCE OF THE PARTIES TO
THE CONVENTION ON THE CONSERVATION OF MIGRATORY SPECIES OF
WILD ANIMALS**

AND

THE UNITED NATIONS ENVIRONMENT PROGRAMME

**CONCERNING SECRETARIAT SERVICES TO AND SUPPORT OF THE
CONVENTION ON THE CONSERVATION OF MIGRATORY SPECIES OF WILD
ANIMALS**

The Standing Committee of the Conference of the Parties to the Convention on the Conservation of Migratory Species of Wild Animals CMS (the “Standing Committee”), and the Executive Director of the United Nations Environment Programme (the “Executive Director”):

Acknowledging that the Convention on the Conservation of Migratory Species of Wild Animals (“the Convention”) is a framework convention, which provides under paragraph 3 (c) of Article II that the Parties “shall endeavour to conclude Agreements covering the conservation and management of migratory species...”, and that the following stand-alone legally-binding Agreements have been concluded under this provision¹:

- i. Populations of European Bats (EUROBATS)
- ii. Cetaceans of the Mediterranean Sea, Black Sea and Contiguous Atlantic Area (ACCOBAMS)
- iii. Small Cetaceans of the Baltic, North East Atlantic, Irish and North Seas (ASCOBANS)
- iv. Seals in the Wadden Sea (Wadden Sea Agreement)
- v. African-Eurasian Migratory Waterbirds (AEWA)
- vi. Albatrosses and Petrels (Agreement on the Conservation of Albatrosses and Petrels)
- vii. Gorillas and Their Habitats (Gorilla Agreement)

¹As at November 2013

Acknowledging further that EUROBATS and AEWA Secretariats are co-located with, and the ASCOBANS and the Gorilla Agreement Secretariats are provided by the CMS Secretariat in Bonn, Germany and that all are provided or administered by the Executive Director of UNEP;

Recalling paragraph 5(c) of Article VII of the Convention, which provides that the Parties may “make such provision and provide such guidance as may be necessary to enable the Scientific Council and the Secretariat to carry out its duties” and paragraph 2 of Article IX of the Convention, which provides that “the Secretariat is provided by the Executive Director of the United Nations Environment Programme”;

Recalling also that the Governing Council of the United Nations Environment Programme (UNEP), in paragraph IV 2 of its decision 12/14 of 29 May 1984 authorized the Executive Director “to provide secretariat services for the implementation of the Convention in accordance with Article IX”;

Recalling paragraph 19 of Resolution 4.4 of the Conference of Parties to the Convention at its fourth meeting (Nairobi, June 1994), which invited ASCOBANS and other European Agreements under the Convention to consolidate secretariat functions in a special Agreements Unit co-located with the Secretariat to the Convention in Bonn, Germany;

Recognising that the EUROBATS Secretariat is co-located with the Secretariat to the Convention, as provided in paragraph 1 of resolution 1.3 of the EUROBATS Meeting of Parties; and the Parties to the AEWA Agreement also resolved at their first Meeting of Parties to establish permanent secretariat and to co-locate the same with the CMS Secretariat;

Further Recognising that the Secretariat to the Convention serves as the Secretariat to ASCOBANS, as resolved by the Parties to the ASCOBANS Agreement in Resolution No. 2d of their fifth meeting; and that the Parties to the Gorilla Agreement resolved at paragraph 1 of resolution 2.3 that the CMS Secretariat shall perform their secretariat functions until 2014;

Noting that the Conference of the Parties to the Convention, in its Resolution Conf. 1.1 adopted at its first meeting, resolved to establish the Standing Committee with the terms of reference, *inter alia*, to provide, within the policy agreed to by the Conference of the Parties, general policy and general operational direction to the Secretariat concerning the implementation of the Convention;

Conscious of the need to maintain flexibility and adaptability in the management of the Secretariat to the Convention, including the Secretariats to the ASCOBANS Agreement and the Gorilla Agreement as well as support to the Secretariats to AEWA and EUROBATS, and in the provision of services to the Parties to the Convention and its Agreements, taking fully into account the United Nations and UNEP Regulation, Rules, policies and procedures;

Recognizing that the decisions of the Conference of the Parties to the Convention alone guide the implementation of the Convention and its programme of work and direct the management of its Secretariat on all substantive issues;

Further recognizing that the primary objective of the Convention is to conserve and protect terrestrial, aquatic and avian migratory species;

Desiring to further improve the relationship between the Convention and UNEP in the provision of secretariat services and to also recognise and further promote the mutual benefits of appropriate programmatic support; and

HAVE AGREED TO THE FOLLOWING:

Basic principles

1. The Executive Director will provide the Secretariat for the Convention as provided for in Article IX paragraph 2 of the Convention and paragraph IV 2 of decision 12/14 of 29 May 1984 adopted by the Governing Council of the United Nations Environment Programme.
2. The Executive Director, on behalf of UNEP, will also provide to ASCOBANS a Joint Secretariat with the Secretariat to the Convention, as requested in resolutions 3.1 and 5.2d of the Meeting of Parties to the ASCOBANS Agreement; and the Secretariat to the Convention will provide the interim secretariat for the Gorilla Agreement as per paragraph 1 of resolution 2.3 of the Meeting of Parties to the Gorilla Agreement.
3. The Standing Committee acknowledges that, in requesting the Executive Director to provide a secretariat, the relevant Regulations, Rules, Policies and procedures of the United Nations and UNEP apply to the operation of that secretariat.
4. The Executive Director acknowledges that Article IX of the Convention establishes a Secretariat which will carry out certain listed functions for the Conference of the Parties, including any functions entrusted to it by the Parties, and that all action undertaken pursuant to this Memorandum of Understanding (MoU) may not be contrary to applicable international law, including the Convention.
5. The Executive Director will work with the Executive Secretary to determine the Convention's administrative service requirements and to identify the most efficient means by which to ensure that the Convention receives the administrative support that it needs.
6. The Standing Committee, and the Executive Director will take full account of each other's views on any significant action they intend within their respective mandates that may affect the interests of the Parties, the Secretariat, or UNEP, or the efficient and effective administration of the Convention or of the rules and regulations of the United Nations and UNEP.
7. The Executive Director recognises the legal autonomy of the Convention as an Intergovernmental Treaty Body in relation to UNEP as a subsidiary body of the UN General Assembly and the role and function of the Secretariat to serve the Convention and its Parties.
8. The Standing Committee acknowledges that its Chair is expected to keep the members of the Standing Committee and through them as appropriate all of the Parties to the Convention, apprised of his or her interaction with the Executive Director on behalf of the Standing Committee.

Executive Secretary and staff of the Secretariat

9. The Executive Director will arrange for the recruitment of the Executive Secretary of the Secretariat to the Convention, who will be selected and appointed as a UNEP staff member by the Secretary-General of the United Nations in accordance with the United Nations staff Regulations and Rules.
10. The Executive Director will consult with the Standing Committee through its Chair on the recruitment, selection, and appointment of the Executive Secretary and will make every effort to recommend an Executive Secretary who is acceptable to the Standing Committee, while recognizing that the United Nations personnel rules applicable to UNEP will govern the recruitment, selection, and appointment of all Secretariat staff, including the Executive Secretary.
11. The Executive Director may extend or discontinue the contract of the Executive Secretary in accordance with the United Nations rules and regulations. To the extent possible within his powers, the Executive Director will consult with the Standing Committee to the Convention through its Chair, as appropriate, throughout this process.
12. The Executive Director will provide the necessary administrative support to ensure that any vacancies occurring among the senior professional staff of the Secretariat should be filled, in accordance with the United Nations rules and regulations as soon as possible, noting the competencies, knowledge, experience and expertise required for such posts. The Executive Director may delegate, as appropriate, and as permitted by the United Nations Regulations and Rules, appointment decisions for the staff of the Secretariat to the Executive Secretary.
13. The Executive Director will ensure that requests by the Secretariat for Junior Professional Officers (JPOs) are fully included, in the list that UNEP annually shares with donor governments supporting JPOs.

Delegation of authority

14. The Executive Director may delegate the necessary authority to the Executive Secretary on administrative and financial matters to enable the Executive Secretary to manage and represent the Secretariat with the appropriate level of autonomy while maintaining the efficient and effective operation of the Secretariat. Such a delegation may cover, *inter alia*: programme management, financial and physical resources management, human resources management and any other related matters.
The Executive Director is responsible for ensuring that the Executive Secretary exercises any delegated authority in accordance with the rules and regulations of the United Nations and UNEP and the Executive Director's commitments in this MoU.
15. The Standing Committee, through its Chair, will be informed by the Executive Director of this delegation, recognising the applicability of the United Nations and UNEP Regulations and Rules.

Administrative support and programme support costs

16. The Executive Director will allocate an appropriate share of the annual Programme Support Costs (PSC) income attributable to all of the trust funds of the Convention to the

Secretariat upon receipt of an annual costed plan that demonstrates how funds will be used in support of the Convention activities. The Executive Director will allocate an appropriate share of the PSC income attributable to all of the trust funds of the Convention to finance central administrative functions, including those performed by UNON, the UN's Office of Internal Oversight Services (OIOS) and the Board of Auditors.

Financial matters and budgets

17. The financial operations of the Convention shall be recorded in trust funds established in accordance with Article V of the General Procedures Governing the Operations of the Fund of UNEP.
18. The biennial Report of the Board of Auditors of the United Nations on the UNEP Environment Fund and its associated trust funds, including the trust funds of the Convention, will be provided to the Standing Committee, for transmission to all Parties to the Convention. Any matters identified by the Board of Auditors of specific relevance to the trust funds of the Convention will be brought to the attention of the Standing Committee.
19. The Parties to the Convention, including through the Standing Committee, will oversee the development and execution of the Secretariat budget as derived from the trust funds of the Convention and other sources.
20. The Executive Director will comply with, and ensure that the Executive Secretary complies with, the specific Resolutions established at each meeting of the Conference of the Parties, including with respect to matters related to the financing and budgeting of the Secretariat, taking into account the availability of resources and provided that they are in accordance with the Financial Regulations and Rules of the United Nations and UNEP.
21. The draft Secretariat budget will be shared with the Executive Director for review and comments before the proposed budget is submitted for consideration by the Conference of the Parties.
22. The Executive Director, in accordance with Decision UNEP/GC.19/24A of the Governing Council of the UNEP, will provide to the Standing Committee detailed information on administration services provided to the Convention through the Annual Report referred to in paragraph 29, with the understanding that the level of detail will be consistent with the needs of the Parties and within the procedures applicable to UNEP.

Performance evaluation and management review

23. Evaluation of the performance of the staff and other relevant personnel of the Secretariat will be conducted in accordance with the relevant rules and regulations of the United Nations as applied to the UNEP.
24. The performance of all staff of the Secretariat will be managed by the Executive Secretary, and the Executive Director will appraise the performance of the Executive Secretary, in both cases through the United Nations performance appraisal system.

25. In case of appraising the programmatic performance of the Executive Secretary, the Executive Director acknowledges that the substantive work programme of the Secretariat is determined by the Conference of the Parties and the Standing Committee alone. The Executive Director shall consult with the Standing Committee on the performance of the Executive Secretary, and the Standing Committee may, through its Chairman, submit to the Executive Director its comments on the performance of the Executive Secretary on an annual basis or as the Standing Committee deems necessary.
26. The Executive Director will ensure that the Executive Secretary acts in conformity with the provisions of the Convention and the rules and regulations of the United Nations on these and other substantive functions as may be entrusted to the Secretariat by the Standing Committee.
27. The Executive Director will ensure that the Executive Secretary implements the policy guidance of the Conference of the Parties and, between the meetings of the Conference of the Parties, the policy guidance of the Standing Committee in exercising the functions of the Secretariat in accordance with the Convention, including any such functions as may be entrusted to the Secretariat by the Parties.
28. The Executive Director, by his or her own initiative, may, in consultation with the Standing Committee or at its request, commission an independent management review of the Secretariat and its functions, with a view to promoting cost efficiency, transparency and furthering the goals and implementation of the Convention. Such reviews are neither audits nor investigations and will not therefore impinge upon the prerogatives of the Board of Auditors, OIOS and the UN's information disclosure policies. The Executive Secretary will keep the Standing Committee fully informed of any such reviews that are undertaken.

Annual report

29. The Executive Director will submit to each regular meeting of the Conference of the Parties, and to the ordinary meetings of the Standing Committee, a report concerning the provision of and support to the Secretariat, including as appropriate the implementation of this Memorandum of Understanding.

Programmatic relationship

30. The Executive Director understands that UNEP can provide a tool for implementation of certain aspects of the Convention and its Parties' resolutions and decisions subject to the approval of the Governing Council and to the extent consistent with UNEP's mandate.
31. The Executive Director will consult with the Executive Secretary, who will consult with the Standing Committee, through its Chair, on activities which UNEP could undertake in providing programmatic support to the Convention.
32. The Executive Director will consult with, and fully involve the Executive Secretary in, any projects and programmes that relate to the implementation of the Convention and in any joint funding arrangements that include implementing the Convention which are, or are proposed to be, arranged with donors. The Executive Director, directly or through the Executive Secretary, is expected to consult with the Standing Committee, through its

Chairman, regarding projects or programmes that would affect the implementation or relate to the financing of the Convention.

33. The Standing Committee, through its Chairman, will be fully consulted by the Executive Secretary regarding all proposals relating to programmatic support referred to in paragraph 32.

Ongoing consultations in implementation

34. The Standing Committee and the Executive Director will hold consultations on a regular basis, and as needed, on all issues related to the implementation of the present Memorandum of Understanding. These consultations will be conducted through the Chair of the Standing Committee, who will seek the views of the Standing Committee and reflect these during the consultations, or may be conducted as otherwise mutually determined by the Standing Committee and the Executive Director.
35. On specific issues, the Chair may designate the Vice-Chair or Alternate Vice-Chair of the Standing Committee to conduct such consultations, and the Executive Director, in his/her absence, may be represented by a designated senior representative, or consultations may take place as otherwise mutually determined by the Standing Committee and the Executive Director.
36. Any difference of opinion regarding the implementation of the Convention is to be resolved to the satisfaction of the Parties, as they deem appropriate; for differences of opinion regarding implementation or interpretation of this Memorandum of Understanding, the Executive Director will consult with the Standing Committee and make every effort to reach a mutually acceptable outcome.

Final provisions

37. This Memorandum of Understanding does not impose, nor is it intended to impose, any legally binding commitments.
38. This Memorandum of Understanding is entered into without prejudice to the negotiations on administrative arrangements between UNEP and UNEP administered conventions, including any future negotiations between the Convention on the Conservation of Migratory Species of Wild Animals and UNEP.
39. This Memorandum of Understanding becomes operative on the date on which both the Standing Committee, represented by its Chair, and the Executive Director have signed.
40. This Memorandum of Understanding supersedes all previous Agreements, if any, between the Standing Committee and the Executive Director upon its signature.
41. This Memorandum of Understanding may, at the request of either party, be reviewed at any time. Such a request will be made at least four months in advance, and will then be addressed at the next meeting of the Standing Committee. In any event, this Memorandum of Understanding will be reviewed after each meeting of the Conference of the Parties to determine whether any modifications are needed. Any modifications to the Memorandum of Understanding will be mutually determined in writing.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties affix their signatures below.

For United Nations Environment Programme

For the Standing Committee of the
Conference of the Parties to the
Convention on the Conservation of
Migratory Species of Wild Animals

Achim Steiner

Prof. Alfred Oteng Yeboah

Executive Director

Chair

UNEP

CMS Standing Committee

Date: -----

Date: