



**CONVENTION ON  
MIGRATORY  
SPECIES**

UNEP/CMS/COP13/Doc.26.4.11

19 December 2019

Original: English

13<sup>th</sup> MEETING OF THE CONFERENCE OF THE PARTIES  
Gandhinagar, India, 17 - 22 February 2020  
Agenda Item 26.4.

**INFRASTRUCTURE DEVELOPMENT AND MIGRATORY SPECIES**

*(Prepared by the Secretariat)*

Summary:

This document reports on progress to implement Resolution 7.2 (Rev.COP12) *Impact Assessment and Migratory Species* and proposes the adoption of Decisions as contained in the Annex.

## INFRASTRUCTURE DEVELOPMENT AND MIGRATORY SPECIES

### Background

1. At the 12<sup>th</sup> Meeting of the Conference of the Parties to the Convention of Migratory Species of Wild Animals (CMS COP12, Manila, 2017), Parties amended Resolution 7.2 (Rev.COP12) *Impact Assessment and Migratory Species*. The operative paragraphs of the Resolution state that:
  1. *Emphasizes the importance of good quality environmental impact assessment (EIA) and strategic environmental assessment (SEA) as tools for implementing Article II (2) of the Convention on avoiding endangerment of migratory species and Article III (4) of the Convention on protection of Appendix I species, and as important elements to include in AGREEMENTS concluded under Article IV (3) of the Convention in respect of Appendix II species, and in agreements concluded under Article IV (4) of the Convention in respect of Appendix II and other species;*
  2. *Urges Parties to include in EIA and SEA, wherever relevant, as complete a consideration as possible of effects involving impediments to migration, in furtherance of Article III (4) (b) of the Convention, of transboundary effects on migratory species, and of impacts on migratory patterns or on migratory ranges;*
  3. *Further urges Parties to make use, as appropriate, of the “Impact Assessment: Voluntary Guidelines on Biodiversity-inclusive Impact Assessment” endorsed by Decision VIII/8 of CBD COP 8.;*
  4. *Further requests the Secretariat to pursue its contacts with secretariats of other multilateral environmental agreements in evaluating with them the potential implications of the decisions of their Conferences of the Parties on the conservation of migratory species; and*
  5. *Encourages Parties to establish contact with relevant national contact points from within the networks of the International Association for Impact Assessment with a view to identifying sources of expertise and advice for assisting with migratory species-related impact assessment as part of impact assessment procedures in general.*

### Activities to implement Resolution 7.2 (Rev.COP12)

#### *Guidelines developed under CMS*

2. Since the adoption of Resolution 7.2 in 2002, the CMS Secretariat has assisted Parties in implementing the Resolution in various ways. Under the *Multistakeholder Task Force on Reconciling Selected Energy Sector Developments with Migratory Species Conservation* (Energy Task Force), established by Resolution 11.27 (Rev.COP12), the implementation of guidelines such as the *Guidelines on How to Avoid or Mitigate Impact of Electricity Power Grids on Migratory Birds in the African-Eurasian Region* have been promoted. The Task Force has an open-ended membership and is composed of governments, the secretariats of multilateral environmental agreements, the energy industry, academic institutions, non-governmental organizations (NGOs) and other interested stakeholders<sup>1</sup>.
3. Parties adopted Resolution 12.14 Adverse Impacts of Anthropogenic Noise on Cetaceans and Other Migratory Species and endorsed the CMS Family Guidelines on Environmental Impact Assessments for Marine Noise-generating Activities. The Guidelines address EIAs for military and civil high-powered sonar, vessel traffic, seismic surveys, construction works, offshore platforms, playback and sound exposure experiments, acoustic deterrent devices (pingers) and other noise-generating activities. Additional technical support information has also been prepared<sup>2,3</sup>.

<sup>1</sup> For further discussion, see UNEP/CMS/COP13/Doc.26.4.2.1

<sup>2</sup> [https://www.cms.int/sites/default/files/basic\\_page\\_documents/CMS-Guidelines-EIA-Marine\\_Noise\\_TechnicalSupportInformation\\_FINAL20170918.pdf](https://www.cms.int/sites/default/files/basic_page_documents/CMS-Guidelines-EIA-Marine_Noise_TechnicalSupportInformation_FINAL20170918.pdf)

<sup>3</sup> For further discussion see UNEP/CMS/COP12/Doc.26.2.2

4. For linear infrastructure development, including roads, fences, canals, railways and pipelines, the Guidelines for Addressing the Impact of Linear Infrastructure on Large Migratory Mammals in Central Asia and the Central Asian Mammals Migration and Linear Infrastructure Atlas have been developed under the Central Asian Mammals Initiative (CAMI). While the guidelines set out general principles to address the impact of linear infrastructure, the intended geographical scope is confined to the Central Asian region. For Saiga Antelopes, the report Saiga Crossing Options was developed to provide guidance on mitigation options for a border fence within the range of the species between Kazakhstan and Uzbekistan.
5. So far, much of the work under CMS has concentrated on providing technical guidance on projects that mainly affect avian or aquatic species. The guidelines, atlas and reports prepared under CAMI on linear infrastructure development have been the only guidance material produced under CMS regarding development projects that affect terrestrial migratory species. For other regions and CMS-listed terrestrial species that are not included in CAMI, no guidance materials on this issue have been produced under CMS.

#### *National measures*

6. A recent global assessment on EIA legislation<sup>4</sup> showed that most countries have made conducting EIAs a legal requirement and an increasing number of countries have also made SEAs a legal requirement. However, the level of consideration of migratory species in national EIA and SEA processes has not been well examined. Under CAMI, an analysis of the national legislation of the eight Central Asian countries<sup>5</sup> was conducted. It showed that there are few direct references to linear infrastructure, migratory species or transboundary impacts, which affect multiple countries, in their national legislation. Only the legislation in Kazakhstan explicitly required consideration of migratory species during the construction of linear infrastructure. Half of the countries required the assessment of transboundary impacts. Additional guidance on national legislation such as through the National Legislation Programme<sup>6</sup> may be useful in addressing these gaps in national legislation.
7. The national reports submitted by Parties to COP13 do not provide sufficient details on specific steps that Parties have taken so far to implement Resolution 7.2 (Rev.COP12) paragraph 2. Further analysis is needed to identify the challenges that Parties face in identifying, preventing and mitigating the impact of linear infrastructure development on migratory species and their habitats as part of EIA and SEA processes. Based on the analysis, areas for capacity development could be identified.

#### *Cooperation with other Multilateral Environmental Agreements*

8. In accordance with Resolution 7.2 (Rev.COP12) paragraph 4, the Secretariat closely followed the developments under the Convention on Biological Diversity (CBD). In 2017, the CBD Secretariat conducted an independent study on the application of biodiversity-inclusive impact assessments, in particular the application of the Voluntary Guidelines on Biodiversity-Inclusive Impact Assessment, which is also referred to in CMS Resolution 7.2 (Rev.COP12) paragraph 3. It concluded that more attention should be paid to impact assessments in the consideration of the sectoral and cross-sectoral mainstreaming of biodiversity<sup>7</sup>.
9. Subsequently, CBD Parties adopted Decision 14/3 *Mainstreaming of biodiversity in the energy and mining, infrastructure, manufacturing and processing sector* (CBD COP14, Sharm El-Sheikh, 2018). The Decision included provisions related to the use of SEAs and EIAs<sup>8</sup>. For the mainstreaming of biodiversity in the infrastructure sector, the implementation of actions

<sup>4</sup>UN Environment (2018). Assessing Environmental Impacts- A Global Review of Legislation, Nairobi, Kenya.

<sup>5</sup> Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan, Mongolia, China, and the Russian Federation

<sup>6</sup> CMS Resolution 12.9

<sup>7</sup> CBD/SBSTTA/21/INF/13

<sup>8</sup> CBD/COP/DEC/14/3 paragraph 13(c)

identified in EIAs and associated environmental management plans has been identified as one of the key challenges<sup>9</sup>.

### Lender rules and standards

10. Financial institutions play a crucial role in catalysing the uptake of good practices of environmental and social impact assessments. For example, under the International Finance Cooperation's (IFC) Performance Standard 6 on biodiversity conservation and sustainable management of living natural resources, critical habitats are determined based on five criteria including one specific to migratory or congregatory species<sup>10,11</sup>. IFC clients will not implement any projects in areas of critical habitats, unless exceptional conditions are met<sup>12</sup>. Similarly, under the World Bank's Environmental and Social Policies on Natural Habitats (OP 4.04), sites that are critical for rare, vulnerable, migratory or endangered species are considered to be critical natural habitats<sup>13</sup>. The Bank does not support projects that involve the significant conversion or degradation of critical natural habitats<sup>14,15</sup>. Multilateral banks that have not yet had a stringent standard could adopt these existing performance standards.
11. The Equator Principles is a voluntary risk management framework adopted by 99 private financial institutions. These institutions cover 70 per cent of international project finance debt in emerging markets<sup>16</sup>. Building on the IFC standards, the Equator Principles define habitats that supporting globally significant concentrations of migratory and/or congregatory species as a critical habitat<sup>17</sup>.
12. Other lenders could follow standards and norms for environmental assessments set by the host countries. However, existing national legislation and regulations may not be as stringent as those set by lenders, such as IFC's Performance Standards, to address the environmental risks of a project.
13. Multilateral Development Banks are mandated to develop national systems and capacities on the management of environmental and social risks and thus they play key roles in assisting Governments in strengthening safeguards to address the impacts on migratory species. Other financial institutions can also catalyse the uptake of the safeguards as is being done under the Equator Principle. Therefore, cooperation with financial institutions is crucial for addressing the impact of infrastructure on migratory species.

<sup>9</sup> CBD/SBI/2/4/Add.5 paragraph 43

<sup>10</sup> Critical habitats are areas with high biodiversity value, including (i) habitat of significant importance to Critically Endangered and/or Endangered species; (ii) habitat of significant importance to endemic and/or restricted-range species; (iii) habitat supporting globally significant concentrations of migratory species and/or congregatory species; (iv) highly threatened and/or unique ecosystems; and/or (v) areas associated with key evolutionary processes. For further discussion, see IFC(2012) Performance Standard 6 Biodiversity Conservation and Sustainable Natural Resource Management. Paragraph 16..

<sup>11</sup>For migratory species, the following thresholds are used to assess critical habitats: a) areas known to sustain, on a cyclical or otherwise regular basis,  $\geq$  one per cent of the global population of a migratory or congregatory species at any point of the species' lifecycle; and b) areas that predictably support  $\geq$ 10 per cent of the global population of a species during periods of environmental stress. For further details, see IFC(2012) International Finance Corporation's Guidance Note 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources. Paragraph G78.

<sup>12</sup> For further details, see paragraph 17 of IFC (2012) Performance Standard 6 Biodiversity Conservation and Sustainable Management of Living Natural Resources

<sup>13</sup> World Bank (2001) Operational Manual OP 4.04

<sup>14</sup> World Bank (2001) OP4.04 Natural Habitats. Paragraph 4

<sup>15</sup> It should be noted that the borrowers are responsible for complying with the safeguard framework with the assistance of the lenders. See: WWF and IISD (2017) Infrastructure at odds with biodiversity?

<sup>16</sup> UN Environment (2018). Assessing Environmental Impacts- A Global Review of Legislation, Nairobi, Kenya.

<sup>17</sup> Critical Habitats are areas with high biodiversity value, including (i) habitat of significant importance to Critically Endangered and/or Endangered species; (ii) habitat of significant importance to endemic and/or restricted-range species; (iii) habitat supporting globally significant concentrations of migratory species and/or congregatory species; (iv) highly threatened and/or unique ecosystems; and/or (v) areas associated with key evolutionary processes. For further details, see <https://equator-principles.com/about/352/>

## Discussion and Analysis

### *Addressing the impact of linear infrastructure on migratory species*

14. Globally, at least 25 million kilometres of new roads are projected to be developed by 2050. This will be a 60 per cent increase from 2010<sup>18</sup>. Similarly, an additional 335,000 kilometres of rail track are projected over the next 40 years to accommodate the increasing demand for passenger and freight travel<sup>19</sup>.
15. While linear infrastructure provides multiple socio-economic benefits, it has numerous impacts on migratory species such as habitat fragmentation, barriers to movements, collisions, disturbance and pollution. Roads, railroads and fences not only create barriers for the movement of animals. They also constitute a direct threat as animals often die in attempting to cross such barriers either by collision with vehicles or trains or getting entangled in barbed wire fences. The loss of habitat connectivity leads to genetic isolation leaving smaller and isolated populations more vulnerable and prone to local extinction. Linear infrastructure development also has indirect impacts such as increased poaching due to improved access to the animals, human settlements and disturbance.
16. Given the rapid increase in linear infrastructure development across the world, the need for taking measures to conserve CMS-listed species is especially urgent.
17. To prevent and mitigate the impact of linear infrastructure on migratory species, considerations need to be made throughout the infrastructure development cycle from planning to decommissioning, with environmental and social considerations and safeguards being applied at an early stage. Planning tools such as SEAs could be used to address policies and plans at the national, landscape or sector levels before individual projects are implemented.
18. Information on migratory species and their habitats need to be available to ensure that the considerations of migratory species are taken into account during the planning phases. However, the lack of available, accessible and appropriate data<sup>20</sup> including those on migratory species such as routes and migratory patterns, seems to be a major challenge with EIA and SEA processes.
19. While it is generally not included in national EIA legislation<sup>21</sup>, the mitigation hierarchy<sup>22</sup> needs to be applied to prioritize efforts to avoid impacts over minimization, rehabilitation or offsets. A range of guidance documents<sup>23</sup> and standards<sup>24</sup> on linear infrastructure development is already available to help Parties avoid and mitigate the impact of linear infrastructure. Yet, specific guidance materials on addressing the impacts on migratory species has been limited. Furthermore, information on species-specific measures for the avoidance and mitigation of negative impacts of linear infrastructure seem to be rather scarce<sup>25</sup>.
20. Additional analysis with the participation of experts and relevant stakeholders involved in linear infrastructure development is needed to further identify priority areas for intervention under the framework of CMS. Different stakeholders may face different challenges in considering the conservation of migratory species at different stages of infrastructure development such as

<sup>18</sup> Laurance, W. F., Clements, G. R., Sloan, S., O'Connell, C. S., Mueller, N. D., Goosem, M., ... & Van Der Ree, R. (2014). A global strategy for road building. *Nature*, 513(7517), 229.

<sup>19</sup> CBD/SBSTTA/21/5

<sup>20</sup> UN Environment (2018). *Assessing Environmental Impacts- A Global Review of Legislation*, Nairobi, Kenya.

<sup>21</sup> UN Environment (2018). *Assessing Environmental Impacts- A Global Review of Legislation*, Nairobi, Kenya.

<sup>22</sup> The mitigation hierarchy is the sequence of actions to anticipate and avoid impacts on biodiversity and ecosystem services; and where avoidance is not possible, minimize; and, when impacts occur, rehabilitate or restore; and where significant residual impacts remain, offset (The Cross-Sector Biodiversity Initiative 2013)

<sup>23</sup> WII (2016) *Eco-Friendly Measures to Mitigate Impacts of Linear Infrastructure on Wildlife*. Part IV provides a useful overview of available guidance documents

<sup>24</sup> Such as Greenroads® rating system and SuRe® Standard. See Appendix 15 of the World Bank (2019) *Reducing Environmental Risks from Belt and Road Initiative Investments in Transportation Infrastructure*

<sup>25</sup> Under the programme of work for the CAMI (2021-2026) 3.5, information on mitigation solutions for specific cases, species, landscape and type of barrier will be compiled. For further details, see UNEP/CMS/COP13/Doc.26.3.5

planning, designing, financing and construction. Therefore, a multi-stakeholder approach would be useful in identifying challenges and opportunities to better address the impact of linear infrastructure on migratory species.

*Additional types of infrastructure that may impact migratory species*

21. In addition to linear infrastructure, there are other types of infrastructure development that are not currently being examined under workstreams of CMS. These include infrastructure associated with rapidly expanding urban areas, telecommunications, and coastal development.
22. For instance, while *CMS Family Guidelines* have been prepared on noise-generating activities in the marine environment, other threats to aquatic species related to infrastructure development are not yet addressed through any guidance document. These include the impacts of coastal development on turtle nesting beaches including beachfront construction of homes, hotels, restaurants, and roads, as well as alterations to the habitats of many species through beach renourishment, seawall construction, or nearshore dredging and oil platform construction.
23. Therefore, the Secretariat could undertake additional analysis and provide guidance on addressing such threats, in collaboration with the Scientific Council as well as other entities and experts.

Recommended actions

24. The Conference of the Parties is recommended to:
  - a). adopt the draft Decisions contained in the Annex of this document; and
  - b). consider whether to add Decisions on the development of guidance on infrastructure-related impacts on beaches and nearshore habitats of CMS-listed species to the draft Decisions contained in Documents 26.2.6 *Marine Turtles* or 26.2.10 *Global Programme of Work for Cetaceans*.

## DRAFT DECISIONS

## INFRASTRUCTURE DEVELOPMENT AND MIGRATORY SPECIES

**Directed to Parties**

- 13.AA Parties are requested to report on measures taken to implement Resolution 7.2 (Rev.COP12), paragraph 2 and share information on challenges, lessons learnt and needs for further capacity development.

**Directed to the Scientific Council**

- 13.BB The Scientific Council is requested to establish a multi-stakeholder Working Group on linear infrastructure composed of stakeholders with experience and knowledge on the impact of linear infrastructure development on migratory species and options for mitigation. The Working Group shall:
- a) review available information relevant to linear infrastructure development and potential impacts on migratory species, the compilation of responses received under Decision 13.AA as compiled by the Secretariat in accordance with Decision 13.DD (a), and other relevant information;
  - b) identify areas where further assistance is needed to enhance the implementation of Resolution 7.2 (Rev.COP12) paragraph 2, which urges *Parties to include in EIA and SEA, wherever relevant, as complete a consideration as possible of effects involving impediments to migration, in furtherance of Article III (4) (b) of the Convention, of transboundary effects on migratory species, and of impacts on migratory patterns or on migratory ranges;*
  - c) develop a workplan and identify priority tasks for the Working Group based on the existing information, such as standards, guidelines, best practices related to addressing the impact of linear infrastructure development as well as the review of the compilation under paragraph (a);
  - d) provide recommendations on the future direction of work under the Convention to support Parties in addressing the impact of linear infrastructure on migratory species.
- 13.CC The Scientific Council is further requested to:
- a) identify the types of infrastructure that have not been addressed under CMS and are of particular relevance to the conservation of CMS-listed species, provide advice on possible actions that could be taken to address such infrastructure, and report the findings to the 14th Meeting of the Conference of the Parties;
  - b) consider the outputs of the Working Group on linear infrastructure and make recommendations to the 14th Meeting of the Conference of the Parties.

***Directed to the Secretariat***

13.DD The Secretariat shall:

- a) prepare a questionnaire for circulation to Parties and compile the submissions in response to Decision 13.AA;
- b) compile existing standards, guidelines, and best practices related to addressing the impact of linear infrastructure development and make them available online;
- c) subject to the availability of funds, convene at least one meeting to assist the Working Group in implementing Decision 13.BB;
- d) liaise with the United Nations Environment Programme, the Convention on Biological Diversity, the International Association for Impact Assessment, the World Bank and other relevant international and regional organisations, multilateral environmental agreements, the private sector, development banks, financial institutions, donors, non-governmental organizations and academic institutions, as appropriate, to support the operation of the Working Group and to assist Parties in addressing the impacts of linear and other infrastructure on migratory species such as through joint capacity development activities.

***Directed to Parties, intergovernmental and non-governmental organizations and other relevant stakeholders***

13.EE Parties, intergovernmental and non-governmental organizations as well as other relevant stakeholders are encouraged to support the Scientific Council in implementing Decision 13.BB by providing technical inputs as well as financial resources.