

## 2<sup>nd</sup> Meeting of the Working Group on the Development of a Review Process under the Convention on Migratory Species

*Bonn, Germany, 7-8 November 2016*

UNEP/CMS/Rev.Proc.2/Doc.03

### MEETING REPORT

#### 1. Welcome and introduction to the meeting agenda

Bradnee Chambers, Executive Secretary of CMS welcomed participants to the 2<sup>nd</sup> meeting of the Working Group, noting the large number of Parties present. The first meeting in September had benefitted from the inputs of several participants with experience of working with review procedures of other conventions.

The CITES Conference of Parties in Johannesburg had helped build momentum for conservation, bringing the wildlife crisis to the attention of the world. The CMS COP in Manila in 2017 should aim to build further on this.

Consideration of a review process was an important element of the intersessional work of the Convention. All other major Multilateral Environment Agreements (MEAs) had such a mechanism, and this feature contributed to their effectiveness.

Australia, the Chair of the Working Group, suggested conducting a *tour de table* as there were several participants present which had not attended the first meeting. The list of participants is attached to this report as Annex 1.

#### 2. Re-cap of 1<sup>st</sup> Meeting of Working Group

The Chair made a presentation highlighting the main achievements of the first meeting of the Working Group at which most CMS Regions had been represented along with eight MEAs. The terms of reference (TOR) and the mandate had been examined along with the expected outputs and their timing. With the presence of representatives from other MEAs, the mechanisms used in other forums were considered, and their advantages and disadvantages assessed. A summary of best practices was contained in Document UNEP/CMS/Rev.Proc.1/Doc.01.

The Working Group set about elaborating some options to present to the COP, with a range of choices concerning the scope of any review mechanism, eligible sources of information, the appropriate body to take charge of the process, how cases would be triggered, possible sanctions and remedies and cost implications. It had been agreed to work up two different options in addition to the status quo (the “Zero Option”).

The Secretariat said that eight other MEAs had been present at the 1<sup>st</sup> meeting, namely: the Agreement on the Conservation of African-Eurasian Migratory Waterbirds (AEWA), the Agreement on the Conservation of Cetaceans of the Mediterranean and Black Seas and Contiguous Atlantic Area (ACCOBAMS), the Convention on Biological Diversity (CBD) and its protocols, the Bern Convention, the Ramsar Convention on Wetlands, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Aarhus Convention and the United Nations Framework Convention on Climate Change (UNFCCC).

There were a range of options considered for an implementation review mechanism, based on the experiences and practices of other MEAs. **The scope** of any review process could cover all of the principal obligations on Parties contained in the Convention (those provisions introduced by the word *shall* rather than *should*), any actions required through Resolutions adopted by the Conference of the Parties, or wider responsibilities akin to the Ramsar Convention's requirement that its Parties report on any change or *likely* change to the ecological character of any wetland in its territory included in the List of Wetlands of International Importance.

Under the processes of other MEAs, potential cases were **initiated** by a Party reporting itself, Parties reporting other Parties, a dedicated compliance committee monitoring implementation, the Secretariat, the COP, a member of the public, or an NGO.

The **information** necessary for determining the merits of a case could be drawn from National Reports, other technical reports and legislation, a pro forma compliance case sheet (AEWA), and fact finding and verification missions.

With regard to the **body** to be assigned responsibility for overseeing the review process, this could be the Conference of the Parties, the Scientific or Technical Committee, the Standing Committee (although in the case of the Bern Convention, the Standing Committee had more of the character of the COP), a specially convened Committee dedicated to overseeing the review process or a committee of independent technical experts. For example, ACCOBAMS had a five-member Committee of which three members were chosen from the Parties and two from accredited partners. The Nagoya Protocol's review committee included representatives of indigenous communities, while the Aarhus Convention used elected independent experts who acted in a personal capacity and who were not national representatives.

The **consequences of non-compliance** ranged from letters sent from the chair of the review body, the provision of GEF funding to help address any identified shortcomings, the offer of support with capacity-building, or requiring the Party to produce and implement an action plan. The penalties could range from formal cautions to loss of voting rights and other benefits and the imposition of trade sanctions.

In some cases, the **costs** of the process were covered by allocations in the core budget, so that the daily subsistence allowances of the members of the committee could be paid when the review body met or was on mission. Voluntary contributions were sought to cover the cost of missions in the cases of ACCOBAMS, AEWA, CITES and the Bern and Ramsar Conventions.

The lessons learned were that self-triggering (Parties reporting themselves) did not result in many cases being referred for investigation, and Parties were reluctant to accuse other governments of failing to meet their obligations. Review processes worked better when funds were allocated from the core budget rather than relying on voluntary contributions. In-country missions helped to raise attention to issues at the national level and facilitated dialogue, and joint missions meant that the financial burdens were shared (AEWA and the Ramsar, Bern and World Heritage Conventions had positive experiences of cooperation). Lastly, review mechanisms seemed to lead to improvements of implementation on the ground.

The Secretariat referred to document UNEP/CMS/Rev.Proc.2.Doc.01, a summary of best practices, which had been prepared after the first meeting of the Working Group. This also addressed the question of establishing thresholds, meaning that trivial cases would not be pursued.

### 3. Possible CMS obligations for review

The Chair asked the Executive Secretary to introduce document UNEP/CMS/Rev.Proc.2.Doc 02. The Executive Secretary said that there were many models in existence and it would be for the Parties to choose the most appropriate one or combination for CMS. The Annex to the document set out all the obligations of the Convention, those provisions where the word *shall* was used as opposed to *should*. These were:

- Article III, paragraphs 4, 5 and 7 (which relate to Appendix I species)
- Article VI, requiring Parties to inform the Secretariat of the species for which they considered themselves to be a Range State (this also covered their flag vessels operating at sea). With the effects of climate change, the range of some species was changing as the animals varied their behaviour to adapt.
- Article VII, relating to financial contributions to the Convention's budget

Article VI also contained a provision using the term *should* relating to reporting, and this was an essential part of any review mechanism.

The Chair recalled that the first meeting had reached consensus that any review process under CMS should be restricted to the commitments imposed on Parties by the Convention text.

The representative of France said that there were parallel provisions under EU law and the Bern Convention, so there was no added value to EU Member States and European countries in having a review process under CMS. CMS should work with the EU and Bern Convention to avoid unnecessary additional work.

The Chair agreed that this was a valid point but commented that many CMS Parties were covered neither by EU law nor the Bern Convention.

The representative of Argentina raised a question concerning how cases would be triggered. He doubted whether members of the public would concern themselves about the obligatory wording of the Convention.

The Chair said that this was why a filtering system would be necessary. The criteria under which cases would be admitted would have to be made clear.

The representative of Mongolia found the summary of the first meeting helpful and agreed with the inclusion of Parties' obligations to Appendix I species under the review mechanism.

The Chair, having heard no views to the contrary, said that the limitation of any review process to just those provisions of the Convention text that were obligatory had been confirmed. She felt that the meeting might be heading towards proposing a very basic process with perhaps some optional extras.

### 4. Fundamental elements of a review mechanism

The Secretariat referred to document UNEP/CMS/Rev.Proc.2/Doc.02 which included a table detailing the fundamental features for a review mechanism, describing different models based on the approaches adopted by other MEAs such as CITES and AEWAs. The Chair suggested taking the elements of the document step by step.

The Secretariat said that while models were based generally on the established practices of the MEA after which they were named, CMS Parties would be at liberty to combine elements from all of them as they saw fit. She briefly described the main elements of the AEWAs and CITES models.

The Chair reiterated that CMS would ultimately decide on its own model and could choose elements of different existing examples.

The **General Principles** were that the review process would be supportive and non-adversarial, would deal with cases in a speedy and transparent way and that the findings would be made public and not be kept confidential.

The representative of Argentina sought clarification on the first point regarding the process being facilitative rather than non-adversarial.

The representative of Uganda was not clear what in practical terms the commitment to speedy resolution entailed. The Chair explained that this would preclude the option of having cases determined by the Conference of Parties, which met once every three years. The language would need to be adjusted, to allow some flexibility and not commit the Convention to deadlines that could not be adhered to.

The representative of the Ramsar Convention suggested adding a further principle with wording to cover the concept of cooperation with other MEAs for the sake of enhancing synergies.

With regard to synergies, the representative of Argentina said that there was a possible problem where MEAs followed different and incompatible procedures, such as referring their cases to their Conference of the Parties which met at regular intervals, rather than an *ad hoc* Committee which could be convened as and when required.

The Chair agreed that it would be undesirable to build in additional delays and an extra tier of administration to facilitate cooperation with other processes.

There were essentially **two types of review**. One was based on the National Reports which in the case of CMS were submitted six months in advance of the COP as set out in the Convention text (Article VI paragraph 3). The other was an *ad hoc* review – based on a system of cases being filed when evidence came to light. These could be submitted at any time.

The Chair asked whether it was agreed that the National Reports could be one source of information for instigating a case. There was general agreement to this proposition.

The representative of Ecuador pointed out that the revision to the template for National Reports would be discussed at the meeting of the Standing Committee, which would follow the current meeting of the working group.

The representative of Switzerland reiterated the point made earlier by France that there were parallels with the Bern Convention. It would therefore be desirable to align the reporting procedures under CMS with those under the Bern Convention in order to reduce the burdens on Parties.

The Chair said that “reporting fatigue” was not confined to Europe but was felt in other regions too.

The representative of France said that Parties tended to try to show themselves in a good light in their reports and any deficiencies in how they were implementing an instrument were not mentioned. The Chair commented that the Secretariat might be in a position to notice omissions and where information that might have been expected to be included was not provided.

The Secretariat said that review of the National Reports would happen every triennium in the run-up to COP, while *ad hoc* reviews could happen as and when a case was raised.

The Chair asked whether the meeting thought that *ad hoc* reviews constituted an essential element of a review process for inclusion in the first, basic option.

The representative of Ecuador asked what indicators would be used for such *ad hoc* reviews and what the process would be for handling complaints raised by members of the public. In

the first instance, reference could be made to information contained in the most recent National Report, although it was pointed out that cases might arise just after the reporting deadline. AEWA used an *ad hoc* system but so far had not found evidence of discrepancies in the National Reports. Under the system used by AEWA, the Secretariat examined possible cases first and then referred them to the Technical Committee which in turn submitted them to the Standing Committee. The case was triggered at once and it was not necessary to wait for the next meeting so there was no delay. Once a case was opened, the Standing Committee considered reports at each of its meetings.

The Secretariat said that the criteria for cases could be based on the obligations contained in Article III paragraphs 4, 5 and 7, Article VI paragraphs 2 and 3 and Article VII (those provisions containing the word “shall”).

The representative of Argentina agreed that sources other than the National Reports should be acceptable and asked whether there would be a qualifying threshold for the seriousness of cases.

The representative of France said that separate processes were needed to deal with administrative issues of non-compliance such as non-payment of contributions and those directly related to the conservation aims of the Convention.

The representative of Norway pointed out a weakness of depending on National Reports as a basis for opening case files was that many Parties did not submit one. The Chair confirmed that this was true and that the response rate was 50 per cent. However, where a report was available and the Secretariat saw shortcomings, it could refer the case to the review body.

The Chair identified the need: to allocate the sources of information – self-reporting by Parties, scrutiny of the National Reports, Parties reporting on other Parties and third parties reporting on a Party across the different models. The initial proposal was for self-reporting and party-on-party to be part of the basic model, while third party reporting, which was not a universal feature, should be included in option 2 or 3.

The representative of Argentina pointed out the diplomatic difficulties where one Party raised a complaint against another, and systems that accepted cases from any sources needed to set a threshold to avoid time being wasted on trivial issues. There should be an easy way of dismissing unfounded accusations.

The representative of Africa asked how Party-on-Party reporting would work, suggesting that the Secretariat would have to act as a conduit. The Chair assumed that before officially referring a case to the Secretariat the countries would have tried to reach a solution bilaterally.

The representative of Switzerland said that it was accepted that self-reporting did not always work, and that Parties were reluctant to complain about each other and placed the Secretariat in an invidious position. Third party reporting had to be considered, subject to the thresholds mentioned. Allowing NGOs to initiate cases could be included in Option 2 and allowing members of the public to do so could be included in Option 3.

The Executive Secretary pointed to the AEWA model, which accepted potential cases initiated from any source, but had a clear procedure for triggering the opening of a file. The representative of AEWA endorsed the comments of the Executive Secretary, agreeing that there was no point in restricting the sources of information. The review body had to assess the evidence presented and base a decision on whether to trigger the opening of a file on this. Under AEWA several potential cases were not pursued when no further information was provided when requested.

The representative of France said that this function was exercised by the Bureau of the Bern Convention. It received many complaints and then decided whether or not to pursue the case.

To summarize, the Chair described the various options and the components: Option 1: self-reporting and Party-on-Party; Option 2: complaints received from NGOs reviewed by a committee, and Option 3: complaints accepted from members of the public, with a rigorous filter mechanism.

### **Information Base:**

The Chair posed the question of what information the Review Mechanism should draw upon once a case had been opened. This would include National Reports and special reports and could, as was the case with the Aarhus process, involve a period during which the public could comment. National Reports seemed to be a basic element and would be part of Option 1.

The Executive Secretary said that some information of a scientific nature might have to be referred to experts for interpretation, which in the case of CMS could be provided by the Scientific Council or its Sessional Committee. It would be left to the discretion of those managing the review process to decide what weight to attach to information provided.

The representative of the Ramsar Convention said that the information used to resolve cases dealt with through Ramsar Advisory Missions was taken from a wide range of sources. This included oral statements taken in interviews with people on the ground. He advised that any relevant information should be considered and arbitrary exclusion of sources was likely to lead to difficulties.

The representative of UNEP agreed that site visits were valuable and identified them as an area where different MEAs might cooperate.

The representative of Argentina agreed that the review body should not confine itself to the National Reports.

With regard to thresholds, the representative of the Philippines noted that in the first instance national level reviews could be used. With the development of social media, stories could “go viral” and attract worldwide attention. If properly verified, such sources could also be used.

The Chair agreed that thresholds were a key element. She agreed with Argentina that it would be inadvisable to restrict sources and an illustrative list of possible sources should be prepared as guidance.

### **Review Body**

The Secretariat said that a committee of some kind should review cases and make recommendations for remedial action.

One option was for the Secretariat to review national reports, and refer any problems that came to light to the Standing Committee, which might seek advice from the Scientific Council or the Sessional Committee. There were many ways of implementing such a system, some with greater cost implications than others. Separate *ad hoc* meetings to discuss cases would involve greater costs than holding meetings back-to-back with regular sessions of the Standing Committee. If the workload was not too great, cases could become part of the regular business of the meeting.

The Chair said that using the Standing Committee would involve minimal additional expense. It might involve extending meetings by one day or cases could be referred to a Sub-Committee.

The representative of France described three steps to handling cases, the first being the Secretariat detecting an instance of non-compliance, the second being an initial technical assessment of the evidence and the third being the decision of the review body whether to trigger a formal case.

The Chair concluded that there was consensus that the Standing Committee would be the basis for a review body and that it could draw on outside expert advice as required. It would be for the Standing Committee to make recommendations on remedial action.

### **Basic Mechanics of the Review:**

It did not appear that there would be significant differences in the procedure irrespective of whether a light, moderate or complicated process was adopted.

The Chair distributed a diagram provided by the representative of the Ramsar Convention depicting a flow chart and the various stages of handling a case from the original submission, through the decision whether to trigger a formal case and culminating in the final verdict.

### **Measures to Achieve Implementation and Compliance:**

Based on the experiences of other mechanisms to help Parties found to be in non-compliance, a list of possible actions was presented. Set out in Document UNEP/CMS/Rev.Proc.2/Doc.02 these were:

- a) provide further advice, information and appropriate facilitation of assistance and other capacity-building support to the Party concerned;
- b) request special reporting from the Party concerned;
- c) issue a written caution, requesting a response and offering assistance;
- d) send a public notification of a compliance matter through the Secretariat to all Parties advising that compliance matters have been brought to the attention of a Party and that, up to that time, there has been no satisfactory response or action;
- e) issue a warning to the Party concerned that it is in non-compliance; and
- f) request a compliance action plan to be submitted to the Standing Committee by the Party concerned identifying appropriate steps, a timetable for when those steps should be completed and means to assess satisfactory completion.

The Chair suggested that the list of remedies available to the review body was a basic element of the process and opened the floor to comments on the suitability of including each of the elements.

The representative of France questioned the appropriateness of d) which seemed tantamount to “naming and shaming” and did not fit well in a facilitative process. The representative of Mongolia agreed. The Chair suggested that the wording could be changed, making it an appeal for assistance. The representative of the Ramsar Convention suggested alternative wording for d) including the addition of “*alerting Parties and especially Range States of the species concerned*”.

The representative of UNEP felt that the list contained a standard range of options and would generally promote collegiality and support.

The representative of Mongolia sought clarification of whether f) would require a full-scale action plan, while the representative of Kyrgyzstan asked what the special reporting mentioned in b) would entail. In response to the question from Kyrgyzstan, the Chair suggested that this would be a broad overview of actions rather than a detailed step-by-step plan.

The Vice-Chair raised the question of how the measures contained in a compliance action plan be agreed and verified. The Executive Secretary said that the action plan would be subject to approval by the Standing Committee and the expectations of the Standing Committee would have to be met.

The Secretariat highlighted some potential differences with CITES where TRAFFIC provided data upon which the CITES Standing Committee recommended which countries should participate in the National Ivory Action Plans process. It took time for data to become available and to decide whether the plans were working.

The Chair said that it was important for the Party in non-compliance and the Standing Committee to reach an understanding of the problem and the best way to proceed and this would require two-way communication. The representative of the Philippines said that the Party should set out the challenges it was facing.

The representative of Uganda asked whether the Standing Committee would be able to initiate assistance without the request of the Party. The representative of the Ramsar Convention said that without the cooperation of the Government of the country concerned, the review process would not work. The representative of AEWA concurred. He added that AEWA had no experience of being approached by a Government initiating a request for assistance. The Secretariat had always made the first approach, suggesting that a mission should be sent.

The Chair asked whether missions should be a basic element or only included in the more complex options. The representative of the Ramsar Convention suggested including this feature in all options, but it should be made clear that missions would not be a compulsory part of all reviews.

#### **Cost analysis:**

The basic option would not involve any allocations in the core budget. The costs of a case would depend on its complexity. With no core budget allocation, the process would depend on voluntary contributions.

The representative of France said that the United Kingdom, Germany and the Netherlands opposed any increase in the core budget funded through assessed contributions.

The Chair said that additional costs would be kept to a minimum by assigning the role of review body to the Standing Committee.

#### **Timing of submission of information**

The Chair concluded that from previous discussions it had been agreed that the review process would not be tied to the three-yearly cycle of the sessions of the Conference of the Parties, and therefore that cases could be submitted and triggered at any time. From what was agreed on other items, it seems that the COP-tied cycle was not suitable, so that cases can be raised at any time.

The representative of the Ramsar Convention raised two points. First, he said that some MEAs operated a system where a certain percentage of National Reports were reviewed in detail each cycle on a rotation basis. With regard to timing, linkage to the COP would add burdens on the Secretariat which would be concentrating on organizing the meeting. However, as the Secretariat was reviewing National Reports, the COP provided an opportunity to raise questions and seek missing information. The Secretariat pointed out that it was already reviewing National Reports in the run-up to the COP. That review could be extended to look for evidence of non-compliance.

The Chair said that under CMS the practice had been that an analysis of the National Reports had been commissioned. The idea of doing a more in-depth examination of a proportion of the reports was worth considering further.

The representative of Switzerland said that as the Secretariat was already reviewing the National Reports, assessment of compliance could be facilitated by including more focused questions.



The representative of AEWA said direct comparisons between the AEWA and CMS reporting systems could not be made. For AEWA it was relatively easy to notice non-compliance. CMS was looking to reshape its reporting template, which might need further adjustment to be suitable for the purposes proposed. The analysis was subcontracted to WCMC. Option 1, based on analysis of National Reports, was insufficient and that self-reporting, party-to-party and third party reporting were also necessary. There were some countries that had never provided a National Report, and sometimes the detail in reports received was deficient. Non-reporting might in itself be sufficient to trigger a response from the Secretariat. "Naming and shaming" did not work. A more appropriate response would be to send an audit team. Even when reports are received, the detail might be insufficient to assess implementation.

The Chair said one consequence of deciding to adopt a review process would be revision of the National Reporting format, which was already being reviewed in the context of the Strategic Plan for Migratory Species.

The representative of Norway asked whether it was known why some Parties did not submit their report. She speculated that it might be because of there being too few staff or the report would make clear that the Party was not complying with the Treaty.

The representative of Switzerland noted that the analysis of National Reports was done through voluntary contributions despite reporting being a basic tool for assessing compliance.

The representative of AEWA said that the Agreement's budget had not been increased sufficiently to keep pace with inflation and the core allocations were sufficient to cover staff costs and basic requirements but little else.

The Executive Secretary added that at CMS, the analysis used to be covered by the core budget, but that changed at COP12. Now a third of the Convention's expenditure came from voluntary contributions, which were needed to cover several basic activities, including the Working Group.

The Chair said that as it appeared that analysis of the National Reports had some financial ramifications, it might not be appropriate to include it in Option 1. The representative of AEWA, however, said that reports were a basic requirement for Parties and the analysis was a basic task for the Secretariat. How Parties chose to fund this work was a secondary consideration.

### **Identification of those elements that should be a feature of any review mechanism for CMS**

The Secretariat circulated drafts of the three options together with the status quo ("zero option") and the Working Group members were asked for their views.

The representative of Mongolia stated a preference for Option 2, but sought confirmation that the Committee would be drawn from the Standing Committee following the model of the Budget and Finance Sub-Committee. She noted the concerns that others, especially some of the major contributors, had on finance.

The representative of Argentina noted that Options 1 and 2 were quite similar. The representative of France agreed that the Standing Committee or a sub-Committee of the Standing Committee should assume the role of review body. He suggested putting initiation of cases by third parties in Option 2. The Chair pointed out that this change would mean Option 3 would differ only in having an independent panel serving as review body.

The representative of Uganda thought that Option 2 would be more expensive and expressed a preference for Option 1 as it would use the existing Standing Committee.

The representative of Switzerland liked both Option 2 and 3, but was aware of the financial issues and the likelihood that the process would be funded through voluntary contributions. Option 1 would also be acceptable if it included allowing cases to be initiated by more entities.

Regarding the costs, the representative of AEWA said that the (sub-)Committee would have to meet for a day, so eligible participants would have to receive additional subsistence allowances. If the entire Standing Committee was to become the review body, its agenda would have to be amended to allow sufficient time to examine cases. He added that with the Standing Committee acting as a filter for cases, there was less reason to restrict the types of entity that could initiate potential cases. He noted that some of the variants being suggested were not fundamentally different and the Working Group might consider a modular approach in constructing the design of the process. The difference in cost between the full Standing Committee or a sub-Committee dealing with the review cases would be marginal; only establishing a totally new body would be expensive.

The Chair suggested that a paper be prepared for the COP setting out options, describing the modular elements of the process with accompanying text to explain the ramifications.

The representative of AEWA said clarity was needed over the role of filters and triggers. While information could be taken from any source, the review body would have to assess its merits and whether to take it into account. He reiterated the shortcomings of self-reporting (Parties were unwilling to cause themselves difficulties), Parties were also reluctant to complain about other Parties for reasons of diplomacy and the impartiality of the Secretariat had to be defended. The MEAs with high workload for their review process allowed third parties to initiate cases.

The representative of AEWA said that it had to be clear what “initiate” meant in this context. Only the review body should be able to trigger a case formally. He recalled that all cases and potential cases dealt with or submitted so far under the AEWA procedure had started with information provided by third parties. He added that NGOs liked the system operated under the Bern Convention but he pointed out that the review of files took up half of the Standing Committee’s time. The process could also be circular and cases remained open for years.

The representative of France asked how many cases had been dealt with by AEWA and whether CMS could expect a sufficient number of cases to warrant the establishment of a separate review body or even a Sub-Committee.

The representative of AEWA said he could not estimate the number of cases that might arise for CMS, but it could be high given the geographic and taxonomic scope. Initially the Standing Committee could review the cases, but if the workload expanded, the establishment of a dedicated Sub-Committee might be the solution. He also suggested rather than presenting three fully formed, discrete options, the Working Group should take a modular approach.

The Executive Secretary said that there seemed to be doubts whether Option 1 was based on actual experience. He agreed that there should be some fundamental principles with a degree of flexibility. Such flexibility would cover assigning responsibility for the review process to the Standing Committee but allowing it to create a Sub-Committee.

The representative of Switzerland said that she was not familiar with the CMS COP processes but was concerned that the suggestion now seemed to be not to present a firm proposal to the Parties. She feared that the COP might simply recover the same ground as the Working Group in time-consuming discussions. The Executive Secretary agreed that the Working Group was the place to do the ground work.

At the close of the first day, the Chair said that broad agreement had been reached on a number of key issues, and the Working Group would proceed to develop a basic model and identify some add-on features that could be included.

## DAY 2

The Secretariat presented a modified flow chart based on the original draft presented by the representative of the Ramsar Convention and which now took account of comments made the previous day. A document was also presented with a single table showing all the core elements together with possible variants in square brackets. Given the possible need for the process to evolve over time, the process would be designed with as much flexibility as possible. The question of triggering cases had been clarified, with the review body responsible for the formal opening of cases, but any source for the original information being accepted.

The entry for the “Zero Option” (the status quo) was mainly blank. The fundamental elements included the variants for the composition of the review body.

The representative of France called for maximum clarity in the proposals to be put before the COP. He doubted whether it would be helpful to present several options in addition to the status quo. He preferred the idea of one core option with some variants in square brackets.

The Executive Secretary made a number of observations concerning the general principles, one of which was cost-effectiveness and another was linkage to existing structures and processes.

The Chair agreed that the cost of the process had to be kept low. With regard to the filtering of cases, it would be for the Secretariat to make the first assessment, followed by referral to the Standing Committee and the Scientific Council.

The representative of the Philippines asked to whom the initial information should be submitted. In response the Chair said that under other mechanisms the Secretariat served as the “mail box”. It was pointed out that the Secretariat would in some circumstances have to refer cases to itself.

The representative of UNEP said that Secretariats were usually the initial filtering body. He also proposed some drafting changes to general principle b) adding the word consultative to show that the process was open.

After several interventions concerning the receipt of initial information, the representative of Mongolia suggested that the Secretariat should be able to submit information as well as receive it, but assigning the role of filter to the Secretariat would complicate the process.

The Secretariat pointed out that it already oversaw the triennial review of National Reports. It would be desirable to have two streams – one cyclical and one that was open, and flexible, allowing cases to be brought at any time.

The Chair said that the basis for review suggested by France was clear, as under it, the Secretariat would take an administrative role and would provide advice on whether the case should be opened, but the decision would ultimately rest with the Review Body.

The representative of Argentina also considered that there was a broad consensus. He suggested that the COP be presented with a wide menu but with clear recommendations from the Working Group of the preferred way ahead.

The Executive Secretary said that it would be quite feasible for the Secretariat to provide estimates for the costs of various models for the review body based on the experience of the Standing Committees. The most expensive option would be a dedicated body separate from the Standing Committee.

### Way forward

The Chair said that this was likely to be the last face-to-face meeting of the Working Group before the COP so future discussion would be conducted electronically. She undertook to

report on progress to the Standing Committee which was starting the following day. The COP document and accompanying draft resolution would be prepared in time to meet the deadline of (24 July 2017 (90 days before the COP)). It was anticipated that a draft COP document would be available for Working Group consideration by 25 May 2017.

If established, the Review Body would need Terms of Reference and to establish criteria and thresholds to determine whether a case should be opened.

The Executive Secretary thanked the Chair for leading the Working Group through the process, both at the meeting and beforehand despite the difficulties caused by the different time zones.

The initial concerns about the members of the Working Group not becoming engaged had proved to be unfounded. Originally it was envisaged to limit membership to one member per region, but the funding provided by the Swiss Government had allowed for more delegates to attend, and the discussions had been lively and fruitful.

The Chair thanked the Working Group members for contributing to a productive meeting, Switzerland for providing the funding and the delegate from Uganda for his support as Vice-Chair.

## 2<sup>nd</sup> Meeting of the Working Group on the Development of a Review Process under the Convention on Migratory Species

*Bonn, Germany, 7-8 November 2016*

**ANNEX 1**

### LIST OF PARTICIPANTS

#### **MEMBERS AND ALTERNATES OF THE CMS STANDING COMMITTEE**

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