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Review of the current organization and activities of CMS and the CMS family
First step of the Inter-Sessional Future Shape Process

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1. GLOSSARY

AC	Advisory Committee
ACAP	Agreement on the Conservation of Albatrosses and Petrels 2001
ACCOBAMS	Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area 1996
AEWA	Agreement on the Conservation of African-Eurasian Migratory Waterbirds 1995
AfESG	IUCN/SSC African Elephant Specialist Group
APB	Bird Conservation Belarus
ASCOBANS	Agreement on the Conservation of Small Cetaceans of the Baltic, North-East Atlantic, Irish and North Seas 1992
BLG	Biodiversity Liaison Group
BLI	BirdLife International
BSC	Black Sea Commission
CBD	Convention on Biological Diversity 1992
CIESM	The Mediterranean Science Commission
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora 1973
CMS	Convention on the Conservation of Migratory Species of Wild Animals 1979 (also known as the "Bonn Convention")
CMS Family	subsidiary instruments created under the aegis of CMS
COP	Conference of the Parties
CSAB	Chair of the Scientific Advisory Body
EC	European Union
EcoQO	Ecological Quality Objectives
EU	European Union
EUROBATS	Agreement on the Conservation of Populations of European Bats 1991
GBIF	Global Biodiversity Information Facility
GEF	Global Environmental Facility
GFCM	General Fisheries Council for the Mediterranean
GNF	Global Nature Fund
GRASP	Great Ape Survival Partnership
GROMS	Global Register of Migratory Species
HELCOM	Baltic Marine Environment Protection Commission
ICF	International Crane Foundation
IFAW	International Fund for Animal Welfare
IGO	International Government Organization
IOSEA	Memorandum of Understanding on the Conservation and Management of Marine Turtles and their Habitats of the Indian Ocean and South-East Asia 2001
IOTC	Indian Ocean Tuna Commission
ITTO	International Tropical Timber Organization
IUCN	International Union for the Conservation of Nature
IWC	International Whaling Commission
MEA	Multilateral Environment Agreement
MOC	Memorandum of Cooperation
MOP	Meeting of the Parties
MOS	Meeting of the Signatories
MOU	Memorandum of Understanding
MPA	Marine Protected Area
MSFD	Marine Strategy Framework Directive
NAMMCO	North Atlantic Marine Mammal Commission
NGO	Non-Governmental Organization
ORF	Online Reporting Facility
OSPAR	Convention for the Protection of the Marine Environment of the North-East Atlantic 1992

Parties	Countries that acceded to legally binding instruments
Signatory States	Countries that signed non legally binding instruments
PSC	Project Support Costs
PSSA	Particularly Sensitive Sea Area
RAC/SPA	Regional Activities Centre for Specially Protected Areas
Ramsar	The Convention on Wetlands of International Importance
RFMO	Regional Fishery Management Organization
RSPB	Royal Society for Protection of Birds
SAC	Special Area of Conservation
SAR	Stock Assessment Review
SINEPAD	The New Partnership for Africa's Development
SONAR	System of Online National Reporting
SPF	South Pacific Forum
SPREP	South Pacific Regional Environment Programme
SSC	Species Survival Commission
TC	Technical Committee
TRAFFIC	Wildlife Trade Monitoring Network
UNEP	United Nations Environment Programme
UNEP/GEO	UNEP Global Environmental Outlook
UNEP-WCMC	UNEP World Conservation Monitoring Centre
URTOMA	Regional unit of the Marine Turtles of the Atlantic coast of Africa
WAAM	Western African Aquatic Mammals
WAFCET	West African Cetacean Conservation and Research Projects
WCPFC	Western and Central Pacific Fisheries Commission
WDCS	Whale and Dolphin Conservation Society
WSSD	World Summit on Sustainable Development

1. Introduction

1.1 Background

1. Resolution 9.13 of the Ninth Meeting of the COP to the CMS[1] launched an inter-sessional process to explore the possibilities of strengthening the CMS and related agreements. The overall aim of this exercise is to enhance the contribution made by these agreements to the conservation of migratory species. An addendum to Resolution 9.13 established a working group to take forward the process, set out the terms of reference for this group[2] and the phases of the work programme. The first step is an assessment of the organization and activities of CMS and the CMS Family, underlining the advantages and drawbacks of the present system with particular reference to factors identified in paragraph 3 of Resolution 9.13, which include institutional, legal, organizational and budgetary issues. This document presents the first report and is drafted to assist the inter-sessional working group.

1.2 Methodology

2. This report is based on documentary analysis of key documentation including the relevant agreements and MOUs forming part of the CMS Family. Associated web-based information was also reviewed. In addition, data was provided by the CMS Secretariat, including questionnaire returns in respect of the CMS Family instruments completed by Secretariat staff, containing both factual information and the subjective opinion of the respondent[3], and Agreement fact sheets collected by the CMS Secretariat from other Secretariats or Co-ordinating Units and forwarded to the authors of this report (hereafter 'the researchers') for review. As necessary, the researchers returned to the CMS Secretariat as and when there seemed to be missing or incomplete information. All necessary questionnaires were provided and together with the other sources referenced above formed the basis of the analysis. Although much of the information in the questionnaires replicated that available in other documentary sources, regard was given to opinions expressed in the questionnaires as representing the view 'on the ground' concerning the operation of the CMS Family.

3. For each Agreement or MOU, the available documentation was entered into a table. These tables are included as Annex 1 to this report and form the basis of the synthesis of the data in order to produce the research findings. The tables draw upon the entire range of information sources available to the researchers (as outlined above). They contain information of specific criteria, namely: the coverage of the agreement; its legal status; the available institutional support and linkages; the administrative and financial capacity; and the steps taken to secure favourable conservation status. Alongside each of these factors, a middle column in the table allows explanation to be added which reviews the criteria outlined above. This information offers practical descriptions as to how the relevant criteria is met by explaining issues such as the legal status of the agreement, its secretariat and scientific capacity, financial provision and the like. The tables allow room for comment on the workings of the agreement drawing out potential strengths and weaknesses for each agreement.

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1 UNEP/CMS/Resolution 9.13 *Intersessional Process Regarding the Future Shape of CMS* adopted by the Conference of the Parties at the Ninth Meeting, Rome, December, 2008.

2 UNEP/CMS/Res.9.13/Addendum *Terms of Reference for the Intersessional Working Group* adopted by the Conference of the Parties at the Ninth Meeting, Rome, December, 2008.

3 The questionnaires included questions which required a factual response and others which required assessment.

4. The compilation of this data in the form of tables allowed the researchers to quickly read across the tables and draw out both positive and negative features of the current CMS system without the need for elaborate coding. In this way the collated data could be synthesised paying particular regard to those features of the CMS system which formed part of Resolution 9.13[4], but also adding in other facets that became apparent on a read across of the data.

5. In terms of the place of this report in future stages of the inter-sessional process, the report is intended to form the basis of discussion at the 36th Standing Committee Meeting. After review by the Standing Committee and the wider circulation of the report, the next step of the process, scheduled for 2010, is the generation of proposals for organizational and strategic change. Following further consideration by the CMS Standing Committee these proposals will result in a detailed consideration of 3 options to be discussed by 2011 to allow for the appraisal of reform of the organization and the functioning of CMS and its Family. That being the case, this report is written in such a manner as to support the first stage of this work programme. As such it attempts to highlight factors at a sufficiently early stage in the build up to a revision of the CMS Strategic Plan[5] due for revision at COP 10 in late 2011. The language (English) of this report was agreed in advance and its preparation was governed by CMS[6] and UN[7] standards.

6. The report next provides an overview of the current organization and activities offering a structural account of CMS and CMS Family. Thereafter an operational analysis is provided which focuses on advantages and drawbacks of current arrangements. The final part of the paper offers a summary conclusion.

2. Overview of the current organization and activities of CMS and the CMS Family

2.1 Overview of current organization and activities

7. The conservation of migratory species presents distinct regulatory challenges given that a vast range of species may be considered broadly migratory in nature, in that a range of migratory behaviour and tendencies is exhibited. Thus migratory species are defined in the CMS to mean:

"...the entire population or any geographically separate part of the population of any species or lower taxon of wild animals, a significant proportion of whose members cyclically and predictably cross one or more national jurisdictional boundaries"[8]

8. In view of the predictable and cyclical movement of migratory species across national jurisdictions, any regulatory initiatives adopted in relation to such species must necessarily be multilateral in nature. Isolated domestic responses offer solutions of limited practical value in the wider context of the regulation of migratory wildlife, since they may be heavily undermined by a lack of concerted action in other states along the migratory route in question. The optimal solution for the conservation of migratory species is clearly through the form of an overarching and flexible

4 See Point 3 of Resolution 9.13 (supra).
5 As agreed at CoP 8 – see UNEP/CMS Resolution 8.2 *The 2006-2011 strategic plan* adopted at Nairobi November, 2005.
6 Standard Terms and Conditions for Research and Development Projects, CMS.
7 General Conditions of Contracts for Services of Consultants or Individual Contractors, UN.
8 Art 1 (a) of the Convention of Migratory Species and Wild Animals, 1979.

international framework, providing a political impetus to regulate such species generally as well as generating specific conservation measures and policies in respect of individual species.

9. The CMS was created to fulfil this function, with the elaboration of a distinct instrument to address migratory species mandated at the UN Conference on the Human Environment in 1972.[9] This initiative was sponsored by the Federal Republic of Germany and in June 1979 the Convention on the Conservation of Migratory Species of Wild Animals was opened for signature in Bonn. The CMS entered into force on 1 November 1983 following ratification by the requisite fifteen Parties and from 1 January 2010 has a total of 113 Parties. Of those Parties the majority are based in Europe and Africa (over 70%) with fewer Parties in Asia (12.5%), Latin America (11%), the Caribbean (11%) and Oceania (5%). There are no CMS Parties in North America.

10. The CMS provides a pioneering structure for the regulation of migratory species, comprising a series of general commitments binding upon the Parties to address the conservation needs of such species, while providing a platform for the development of individual regional and species-specific instruments to generate further policies, conservation plans and protection measures. The operational requirements of the CMS are predicated upon the degree of individual threat to the species in question.

11. Species considered endangered under CMS are listed on Appendix I to the Convention. In relation to endangered species Parties undertake: 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; to prevent, remove, compensate for or minimise, as appropriate, the adverse effects of activities or obstacles that seriously impede or prevent the migration of the species; and 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[10].

12. Species which are listed in Appendix II to the Convention are defined under CMS as migratory species that have an unfavourable conservation status[11] and that require international agreements for their conservation and management, as well as those which have a conservation status which would significantly benefit from the international cooperation that could be achieved by an international agreement[12].

13. Under Article IV (3), Parties that are Range States of migratory species listed in Appendix II shall endeavour to conclude Agreements where these would benefit the species and should give priority to those species in an unfavourable conservation status. Guidelines for the conclusion of such Agreements are advanced under Article V of the CMS. The main objective of an Article IV(3) Agreements is established in Article V(1), and is stated as being "to restore the migratory species concerned to a favourable conservation status or to maintain it in such a status".

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9 At this juncture the conclusion of "a broad based convention" to address the particular needs of migratory species was recommended: Recommendation 32 of the Stockholm Action Plan, reproduced at (1972) 11 *International Legal Materials* 1416.

10 Article III(4) CMS.

11 For meaning of favourable conservation status see CMS Article I(1)(c).

12 Article IV(1) CMS.

14. Article IV(4) states that "Parties are encouraged to take action with a view to concluding agreements for any population or any geographically separate part of the population of any species or lower taxon of wild animals, members of which periodically cross one or more national jurisdictional boundaries". The overwhelming majority of the subsidiary instruments concluded under the auspices of CMS have been founded on the basis of Article IV(4).

2.2 Agreement structure

15. Two types of instrument have been borne out of CMS:

(i) legally binding Agreements totalling seven, namely AEWA (in force 1 November 1999) , ACAP (in force 1 February 2004), EUROBATS (in force 16 January 1994), the Gorilla Agreement (in force 1 June 2008), ASCOBANS (in force 19 March 1994), ACCOBAMS (in force 1 June 2001), and the Wadden Sea Seals Agreement (in force 1 October 1991);

(ii) and non-legally binding agreements in the form of 17 MOUs[13], action plans and cooperative action.

16. Some of these instruments were established under the aegis of Article IV(3), namely AEWA, ACAP, EUROBATS and the Gorilla Agreement; and others under Article IV(4), namely ASCOBANS, ACCOBAMS, the Wadden Sea Seals Agreement, 17 MOUs (with a further five in draft form or being proposed)[14], and all related Action Plans. Of these AEWA, ASCOBANS, EUROBATS and the Gorilla Agreement are integrated within the UNEP system, whilst ACAP, Wadden Sea Seals and ACCOBAMS operate independently. Most MOUs depend on the CMS Secretariat for Secretariat support but are serviced in different ways. There are a number of instruments where coordination is carried out by Parties such as the Monk Seal MOU, Andean Flamingos, Ruddy Headed Goose and Grassland Birds MOU and others by NGOs, such as the Pacific Cetaceans MOU.

17. The Agreements and initiatives operate in different languages, for example: ACCOBAMS has five official languages (Arabic, French, English, Spanish and Russian) but works in English and French; the Wadden Sea Seals Agreement works in four (Danish, English, Dutch and German); ASCOBANS in one (English) but also provides translations of some documents in others; AEWA in two (French and English); ACAP in three (French, English and Spanish); EUROBATS in three (French, English and German); and the Gorilla Agreement in two (French and English).

2.3 Institutional structure

18. For CMS, a regular, normally triennial, meeting of the COP is convened in which policies towards migratory species are debated and advanced. The COP is supported by a Secretariat, the administrative heart of the Treaty, as well as by a Scientific Council, charged with providing expert technical advice, and a Standing Committee, established to provide policy and administrative guidance between regular meetings of the COP.

[13] From March 2010 when the MOU on Sharks comes into force there will be 18 MOUs.
[14] From March 2010 when the MOU on Sharks comes into force there will be 18 MOUs and 4 in draft form or being proposed.

2.3.1 CMS

2.3.1.1 The Conference of the Parties

19. Under Article VII(1) the operative decision-making mechanism of the CMS is the COP. The meeting of the COP itself is convened by the Secretariat and such meetings are to be held "at intervals of not more than three years", which may be amended by a vote, while there is also a procedure for extraordinary meetings. To date, nine COPs have been convened.

20. The COP is charged with amongst other activities[15], reviewing the implementation of the Convention, and has particular responsibility for: reviewing and assessing the conservation status of migratory species; reviewing the progress made towards the conservation of migratory species, especially those listed in Appendices I and II; providing guidance to the Scientific Council and Secretariat; receiving and assessing reports from the CMS institutions, as well as by any Party or agreement and adopting amendments to the Appendices. In addition, the COP is also responsible for establishing and reviewing CMS's total budget and designating the date and venue of the next meeting, although in practice the location of the COP depends on Party sponsorship. Save for budgetary matters, decisions made at a COP generally require the assent of a two-thirds majority of the Parties present and voting. Observers may attend the COP and must be "technically qualified in protection, conservation or management of migratory species".

2.3.1.2 The Secretariat

21. Article IX(1) of the Convention establishes a Secretariat, and this institution was duly founded when CMS entered into force. Under Article IX(2), the Secretariat is provided by the Executive Director of the UNEP, to be supported "to the extent and in the manner he considers appropriate" by other suitable agencies and organizations technically qualified in the protection, conservation and management of wild animals. The CMS Secretariat, which has since 1 January 2007 acted as the ASCOBANS Secretariat[16] and is also responsible for the 2008 Gorilla Agreement, operates under the administrative auspices of UNEP. It is based in Bonn where it is housed with a host of other UN Agencies including the Secretariats of AEWA and EUROBATS in premises provided by the German Government (the former parliamentary offices known as "Langer Eugen"). A joint Agreements Unit was recommended in CMS Resolution 4.4, the unit was established in July 2000 and since January 2001 the Secretariats of all co-located binding Agreements have been serviced jointly by the CMS Administration and Fund Management Unit. ACAP, ACCOBAMS and the Wadden Sea Seals Agreement have Secretariats outside the UNEP system, located respectively in Hobart, Monaco and Wilhelmshaven.

22. The functions of the CMS Secretariat include the requirements[17]: to arrange for and service meetings of the COP, Standing Committee and the Scientific Council; to maintain and promote liaison between the Parties, institutions established under Agreements and other relevant international organizations concerned with migratory

[15] See Article VII CMS.

[16] In December 2006 ASCOBANS' MOP5 decided that the CMS Secretariat should adopt for a three year period the responsibility for the ASCOBANS Secretariat. In September 2009 MOP6 decided to prolong these arrangements for another three years. The status of ASCOBANS' Secretariat will be reviewed in light of the results of the Future Shape process.

[17] See Article IX(4) CMS.

species; to obtain reports and other information "from any appropriate source" that will further the objectives and implementation of the Convention; to "invite the attention of the Conference of the Parties to any matter pertaining to the objectives of this Convention"; to prepare reports on its work for each COP, and to "perform any other function entrusted to it under this Convention or by the Conference of the Parties". As part of this latter remit, the Secretariat has played an instrumental role in convening meetings and *ad hoc* talks that have led directly to the conclusion of subsidiary instruments.

23. The CMS envisages an ambitious role for the Secretariat and a key role is to develop synergies with other pertinent bodies and conventions. The Secretariat has developed a significant inter-agency liaison role in conjunction with the other Secretariats of the leading wildlife treaties, and plays an active part in the BLG with related conventions, which aims to foster closer links with these bodies as well as attempting to mitigate the potential duplication or conflict of work within these organizations. A series of MOCs have also been signed with a number of other conventions and bodies.

24. A development of particular operational significance has been the growing practice towards "doubling-up" of administrative responsibilities of Secretariat personnel within the various subsidiary agreements. This has occurred in two recent instances, first in 2007 with the merger of ASCOBANS' Secretariat with that of CMS in order to improve efficiency and effectiveness of the Agreement by integrating a very small unit into a much bigger organization. The second time in 2008 when the CMS Secretariat took responsibility for the new Gorilla Agreement's Secretariat. Having specialist officers and administrators within the CMS Secretariat balancing their central responsibilities with part-time stewardship of key subsidiary instruments may spread the limited funds of the CMS further but also stretches staffing and other resources.

2.3.1.3 The Scientific Council

25. The Scientific Council was established by the First COP in 1985 as provided for by Article VIII, to which any party may appoint a "qualified expert". To date 80 experts have been appointed by Parties. The Council's autonomy is ensured as country members are appointed in their individual capacity as scientists not as representatives of their national Governments. In addition to these members, experts may also be selected and appointed by the COP. Where such experts are appointed, they are distinguished from those appointed by the Parties with the title "Appointed Councillor" and, the number of such experts, the criteria for their selection and the terms of their tenure are specifically established by the COP. To date there are 8 Appointed Councillors (confirmed at COP9), who have a specific remit, such as a species group, geographic region or specific threat (also see below 4.2.5).

26. Under the Rules of Procedure[18], the Chairperson may invite any person or representative of any Party, non-Party State or organization to attend, as an observer, meetings of the Council without the right to vote. Currently the Scientific Council has several permanent observers from representatives of organizations with which CMS has established a partnership agreement as well as those organizations identified by CMS/Res.6.8; the Chair can also invite any other representatives for ad hoc

[18] Adopted by the Scientific Council on 8 April 1997 and approved by the Conference of the Parties on 15 April 1997.

purposes. Resolution 7.12 also established that the advisory bodies to CMS Agreements can participate as observers in the meetings of the Scientific Council.

27. The COP determines the precise functions of the Scientific Council – hence the CMS agenda is largely dictated by the scientific priorities of the Parties – although the parent Convention itself also specifies a broad series of duties that this body should undertake. These functions are listed in Article VII(5) and include: providing scientific advice to the COP and the Secretariat and, "if approved by the Conference of the Parties", to an Agreement, a body set up under the CMS or to a Party; recommending, coordinating and evaluating research and on migratory species; making recommendations to the COP as to migratory species to be included on either Appendix I or II; making recommendations to the COP on specific conservation and management measures to be included in Agreements; and recommending to the COP solutions to problems relating to the scientific aspects of the implementation of the CMS, with particular regard to habitats of migratory species.

28. In general, the Scientific Council meets twice between COP sessions to offer scientific advice and identify research and conservation priorities. COP9 decided that an extraordinary meeting of the Scientific Council would be convened in 2009. Unfortunately, in the budget for 2009-2011 approved by COP9, resources channelled to the organization of Scientific Council meetings did not allow holding an additional regular session of the full membership. However, in order to meet the request made by the Conference, it was decided to convene a meeting of a reduced number of members of the Council in June 2009. The meeting mainly aimed to review some outstanding issues; prepare the next meeting of the Council and discuss its intersessional work.

29. In addition to these general arrangements specialist Working Groups are convened periodically, often on an ad hoc basis, to assist in brokering new subsidiary instruments, and latterly on a more permanent basis to provide continuity of work and specialist advice. The Council´s Work Programme is maintained inter-sessionally by nine Working Groups – five on taxonomic groups and four on threats (climate change, by-catch, animal disease and sustainable use of migratory species).

30. The CMS Scientific Council adopted, in 2005 by the 13th meeting of the Scientific Council, its first Strategy Implementation Plan for the period 2006-2011. It is aligned with the CMS Strategic Plan 2006-2011 and it basically outlines the contribution that the CMS Scientific Council is intended to make to the implementation of the CMS Strategic Plan, The Plan identifies for each activity a deadline which is related to meetings of the Council and/or the COP that are supposed to review their progress. This is however a tentative timetable because the implementation of these activities relies on the availability of funds.

2.3.1.4 The Standing Committee

31. Although no provision for this institution was initially made in the text of the CMS, the Standing Committee was subsequently established at the first COP, held in 1985.[19] The functions and purpose of the Standing Committee are to act on behalf of the COP in developing policies and providing administrative guidance between the regular meetings of the Parties to the Convention.[20] The Standing Committee, the structure of

[19] UNEP/CMS/COP1/Resolution 1.1.
[20] *Ibid.*

which was revamped at COP9 to take account of the Convention's growth, has a membership consisting of representatives drawn from Africa, Asia, Central and South America and the Caribbean, Europe and Oceania, as well as the Depository and, where appropriate, the host of the next and previous COP.

2.3.2 CMS Family

32. The institutional structure of the various CMS subsidiary agreements broadly mirrors that of the parent Convention, with the provision of a management forum, in which operative decisions are made, and a technical forum, in which scientific and specialist advice is received with a view towards advancing the implementation of the instrument in question. There is no specific template for a subsidiary body within the CMS Family, although a consistent theme is the provision of a regular management meeting of the cohort of states and entities[21] participating within the instrument, mirroring the COP to the CMS, most commonly in the form of a Meeting of the Parties, in the case of a legally-binding instrument, and "regular meetings" (also known as "Meetings of Signatories"), in the case of a non-binding instrument.[22] ACCOBAMS has a Bureau which provides general policy guidance and operational and financial direction to the Agreement Secretariat and the Co-ordination units concerning the implementation and promotion of the Agreement between sessions of the MOP. In addition, each year in preparation for the MOP, an Extended Bureau meets in order to assist the Bureau in reviewing the resolutions and other relevant documents to be submitted to the MOP. This Extended Bureau is composed of the members of the Bureau and three socio-economic experts. ACCOBAMS also has sub regional co-ordination units tasked with facilitating the implementation of its Conservation Plan[23], namely UNEP's RAC/SPA is designated for the Mediterranean Sea and contiguous Atlantic Area, and the BSC for the Black Sea.

33. Technical capacity remains variable. Some Agreements have specifically adopted a Scientific Committee,[24] along similar lines to the parent Convention, while others share these functions alongside administrative review of the implementation of the Agreement within an Advisory Committee.[25] Both EUROBATS and AEWA have established a Standing Committee for administration in addition to the Advisory/Technical Committee responsible for scientific issues. MOUs generally receive scientific advice from the parent Convention but have increasingly "adopted" distinct technical committees from pre-existing bodies[26] or through NGO assistance,[27] although some MOUs have established their own scientific/technical advisory bodies, e.g. IOSEA and West African Turtle MOUs.

34. There is no policy on the physical location of Agreements and other instruments as CMS relies on hosting offers from Parties, e.g. AEWA, EUROBATS, ASCOBANS

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21 The Pacific Islands MOU, for instance, is open to signature by "the States and Territories of the Pacific Islands Region": Para 12 of the Pacific Islands MOU. It was determined at an early stage in the negotiations that the MOU that territories as well as states should be eligible to participate: *Report of the Second Workshop on the Convention on Migratory Species and Marine Mammal Conservation in the South Pacific* (Bonn: CMS, 2004), at 23.

22 The only exception to this arrangement is the Slender-Billed Curlew MOU, where such an arrangement is conducted by correspondence or personal contact with central CMS staff.

23 Article III 7.c) and Annex II of the ACCOBAMS Agreement.

24 ACCOBAMS (Article VIII, establishing a Scientific Committee); AEWA (Article VII, establishing a Technical Committee); the Gorilla Agreement (Article VI, establishing a Technical Committee).

25 ACAP (Article IX); ASCOBANS (Paragraph 6).

26 Mediterranean Monk Seal MOU (paragraph 4, nominating the Atlantic Seal Working Group); West African Elephants MOU (paragraph 4, nominating the IUCN African Elephant Specialist Group).

27 Birdlife International performs such a role in relation to the Great Bustard MOU and Aquatic Warbler MOUs; see relevant questionnaires.

and the Gorilla Agreement are co-located in the Bonn Tower as guests of the German Government, whilst the Secretariats of ACAP, the Wadden Sea Seals Agreement and ACCOBAMS are hosted by the Government of Australia, Germany (in Wilhelmshaven) and Monaco respectively. The African Marine Turtle MOU's Coordination Unit is based in Dakar (Senegal) and was born of an Agreement between SINEPAD and CMS. The IOSEA MOU is located with UNEP's Regional Office for Asia.

2.4 Staffing complement

35. Except for ACAP, the Wadden Sea Seals Agreement and ACCOBAMS, secretariat staff is employed through UNEP and is managed in accordance with UN rules and regulations. The functions of the CMS and its subsidiary instruments are discharged by staff drawn from a considerable range of sources. Key personnel within the CMS Secretariat are employed directly by UNEP/CMS, as are the majority of key personnel within some of the Agreements. Secretariat functions for the MOUs are generally provided by the parent Convention. Additional support – and in some cases, such as ACCOBAMS, full coordination – in the form of finance and personnel can be donated by individual Parties. AEWA has two consultants fully funded by voluntary contributions of some Parties and has benefited from the services of a Junior Professional Officer between 2005 and 2008.

36. By and large CMS's Secretariat provides co-ordination support to MOUs. However, in some instances, coordination and personnel may be provided by governments, NGOs and intergovernmental organizations. For example, for the Monk Seal MOU the Government of Spain is coordinating the implementation of the Action Plan; for the Pacific Islands Cetaceans MOU the CMS Secretariat is seeking to establish a coordination mechanism with SPREP; and the Marine Turtles MOU has a coordination unit based in Senegal through cooperation with SINEPAD. Support has also been provided by leading NGOs, such as ICF's contribution to the Siberian Crane MOU, WDCS's contribution to the Pacific Island Cetaceans MOU, AfESG's contribution to the West African Elephant MOU and BirdLife International and its partners' assistance with the Aquatic Warbler and Great Bustard MOUs.

37. Whilst in recent years there have been fewer secondments to the Secretariat from Parties, there have been some from NGOs assigned to the Secretariat for specific tasks (in addition to the NGO staff helping to administer MOUs mentioned above). Finally, staffing complements are supplemented by an internship programme which supplies volunteer personnel – often postgraduate students - and short term consultants have been employed in recent years for ad hoc tasks.

38. The CMS Secretariat currently has a mandate for 20 permanent full-time (1 of these is currently vacant, 2 P2 posts are due to start in January 2010) and 2 part-time posts. Since the ASCOBANS merger (which has been extended until 2012) the CMS Executive Secretary and the Scientific and Technical Officer (counted among the 20 permanent posts) are required to dedicate respectively 3% and 15% of their time to ASCOBANS, (although in reality they spend much more time on ASCOBANS work) while the ASCOBANS Coordinator (not included above) works 25% of her time as CMS Marine Mammals Officer. . Further, 2 permanent CMS members of staff also dedicate some of their CMS time to the new Gorilla Agreement.

39. The project-related post for Sahelo-Saharan Antelopes has been frozen. The staffing in the Administration and Fund Management Unit is paid by UNEP through the 13% PSC.

40. CMS affiliated offices have also been established in Bangkok, Thailand (since 2003) and Abu Dhabi, UAE (since 2009). The Office in Abu Dhabi has been recently established for a period of three years with funding provided by the government of the UAE. The Bonn-based Agreements benefit from the same administrative services as CMS, while the non-UNEP managed Agreements have their own administrative arrangements.

41. The Abu Dhabi Project Office has 6 staff members (P5, 2 x P4, P2, G6 and G5) who are fully sponsored by a voluntary contribution from the UAE for the period 2009-2012.

Table 1: Staff Information for all CMS Family Instruments,[28] (i.e. fixed posts agreed by COP/MOP).

Description	CMS	AEWA	ASCOBANS	EUROBATS	ACCOBAMS[29]
Staffing Level					
2004	D1 (100%) P5 (100%) P4 (4 x 100%) P3 (100%) G6 (2 x 100%) G5 (100%) G4 (4 x 100%) G3 (100%)	P4 (100%) GS5 (100%) P2 (100%)[30]	P3 (100%) GS4 (100%)	P4 (100%) GS5 (100%) GS4 (50%)	
2005	As above	As above	P3 (100%) GS4 (100%)	As above	Admin. Asst (100%)
2006	D1 (100%) P5 (1 x 100% + 1 X 18%P4 (4 x 100%) P3 (100%) G7 (100%) G6 (2 x 100%) G5 (4 x 100%) G4 (3 x 100%) G3 (100%)	As above	P3 (100%) GS5 (100%)	As above	As above
2007	As above	P4 (100%) GS5 (100%) GS4 (2 x 50%) P2	D1 (3%), P4 (15%), P2 (75%)[31] GS5 (100%)	As above	As above
2008	As above	P4 (100%) P2 (2 x 100%) GS5 (100%) GS4 (2 x 50%)	D1 (3%), P4 (15%), P2 (75%) GS5 (50%)[32]	As above	As above

[28] There is currently one staff member employed in ACAP's Secretariat, the Executive Secretary. A number of contractors are employed on a temporary basis. The Gorilla Agreement has no fully dedicated staff and is currently serviced by the CMS Secretariat. The Common Wadden Sea Secretariat supports both the Wadden Sea Seals Agreement and the Trilateral Sea Cooperation. Six permanent members of staff are charged with operating the wider Wadden Sea cooperation project with one of these staff members responsible for administering the Agreement.

[29] The staffing arrangements differ from the other agreements. The Executive Secretary and the secretary are directly employed by the Department of External Relations of the Monaco Government, and the administrative assistant employed by the Agreement is paid for by the Trust Fund which was created in 2005. During the previous triennium this job was covered by the Italian voluntary contribution from 2003.

[30] Associate Technical Officer appointed with effect from 1 July 2004.

[31] The P2 position was included in the budget for 2007 and 2008 as a consultancy, but with its own budget line.

[32] The GS5 position was included in the budget for 2008 as a consultancy, but with its own budget line.

Description	CMS	AEWA	ASCOBANS	EUROBATS	ACCOBAMS[29]
2009	D1 (100%) P5 (1 x 100% +1 x 18 %) P4 (5 x 100%) P2 (1 x 25%) G7 (100%) G6 (2 x 100%) G5 (4 x 100%) G4 (3x100%)[33] G3 (100%)	P4 (100%) P3 (100%) P2 (2 x 100%) GS5 (100%) GS4 (2 x 50%)	D1 (3%), P4 (15%), P2 (75%) GS5 (50%)	As above	As above
2010	D1 (100%) P5 (1 x 100% + 18 %) P4 (5 x 100%) P2 (1 x 25% + 2 x 100%) G7 (100%) G6 (2 x 100%) G5 (4 x 100%) G4 (3x100%)[34] G3 (100%)	As above	As above	As above	As above

2.5 Financial overview

2.5.1 CMS

42. CMS's work is funded by Party contributions, the levels of which are decided at the COP every three years,[35] and voluntary contributions, both monetary and in kind[36], pledged either by States or institutions, including UNEP and NGOs, and the private sector. In reality this means that CMS has two budgets, a core budget, made up of Parties' mandatory contributions as members of CMS, and a voluntary contributions budget, made up by donations. Budgets approved at the COP are triennial, based on Party contributions and destined for use on executive direction and management, agreement development servicing, providing scientific and technical support, information and capacity building, office operational costs and project management. Voluntary contributions are sought for instance for specific conservation projects forming part of CMS's work programme[37]; for organizing meetings and new agreement development[38] and for publishing information material. There is a limit placed on how much a Party is expected to contribute, set at 22% of the total budget[39], but this does not prevent Parties from making voluntary contributions.

43. Income from core funding and voluntary contributions is held in a Trust Fund administered by the Executive Director of the UNEP in Nairobi, subject to approval of the Governing Council of UNEP and the consent of the Secretary-General of the United Nations. Overhead charges for administering the Trust Fund takes from the income of the Trust Fund an amount equal to 13% of the expenditure for activities financed under the Trust Fund. The 13% charge was set by the UN General Assembly

[33] Includes two part time posts.
[34] Includes two part time staff job-sharing.
[35] Art VII.4 CMS.
[36] Such as Germany's hosting of the CMS offices in Bonn.
[37] UNEP/CMS/Conf.9.5/Addendum/Annex.
[38] E.g. over €75,000 was raised for development of the Gorilla Agreement including the negotiation meeting and the First Meeting of Parties.
[39] Financial Regulations and Terms of Reference for the Administration of the Trust Fund for the CMS.

and therefore does not exclusively apply to UNEP. This charge is known as PSC and for the current core budget amounts to €798,762. PSC currently funds 5 CMS staff positions, namely the Administration and Fund Management Officer, 2 administrative assistants and 2 finance assistants. The value of this overhead charge applied to voluntary contributions may be allocated to specific projects upon application of the CMS Executive Secretary and at the discretion of the Executive Director of UNEP[40]. Funding from the European Union was by special arrangement is subject to a reduced 7% charge.

44. For the period 2006-2008 the core budget for executive direction and management, agreement development servicing, providing scientific and technical support, information and capacity building, administration, finance and project management, including PSC, was €6,364,225 with actual expenditure amounting to €6,140,736, leaving a surplus of €223,489. Of the total €170,000 was spent on conservation grants and projects. At 31 December 2008 there was an estimated reserve balance of €702,338 of which €335,000 (US$500,000) needs to be kept in reserve as per the Trust Fund's term of reference[41]. Voluntary contributions amounted to €2,680,696[42]. The core budget for 2009-2011 is €6,573,922, slightly up on last triennium's core budget to account for inflation. For this period €170,088 has been earmarked for conservation grants and projects[43]. Voluntary contributions have been estimated at €1,283,831 for 2009[44] while those received so far amount to $181,595.

2.5.2 Agreements

45. The implementation of Agreements is funded by Party contributions, agreed at their MOPs, and voluntary contributions which tend to be allocated to the implementation of their Action Plans. For AEWA, ASCOBANS and EUROBATS (all the UNEP-Agreements apart from the new Gorilla Agreement, which will come under this system when funds are paid), the income realised by each Agreement is held in a separate Trust Fund administered by the Executive Director of the UNEP based in Nairobi, subject to approval of the Governing Council of UNEP and the consent of the Secretary-General of the United Nations. This Fund is also subject to the 13% UNEP PSC overhead charge and there is to be a minimum amount kept in the fund as an "operational" reserve of 15% of all monies received or $500,000 whichever is higher[45]. AEWA, ASCOBANS and EUROBATS all benefit from the services of the AFMU in the CMS Secretariat funded through the 13% PSC. ACAP, the Wadden Sea Seals Agreement and ACCOBAMS have their own arrangements outside UNEP.

46. AEWA estimates its core funding from Parties for the period 2009-2012 at just over €3,606.000 and this has been allocated to cover: general management costs; implementation of the African Initiative; costs of Meetings of the Parties; the Technical Committee and the Standing Committee; support costs for the Wings Over Wetlands GEF project; and PSC. Voluntary contributions for 2009-2012 are allocated to high priority conservation projects and estimated at €4,310,950.

47. ACCOBAMS receives core Party funding which is expected to reach €666,000 for the period 2008-2010; 65% of this funding is used to cover administration costs and

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40 UNEP/CMS/Resolution 9.14 Annex V para 5.
41 UNEP/CMS/ Resolution.9.14.
42 Table attached to CMS questionnaire.
43 UNEPCMS/Resolution 9.14.
44 Table attached to CMS questionnaire.
45 UNEP/CMS/Resolution 8.3 paragraph 5.

35% is devoted to conservation activity. The host country, Monaco funds the salaries of the Executive Secretary and the Secretary, office rental and equipment costs.

48. The ASCOBANS' Secretariat merged with CMS's Secretariat in 2007 for a period of 3 years, extended for another 3 in 2009[46], but maintains a separate trust fund[47]. The 2007-2009 core budget of €534,494[48] was initially earmarked to cover personnel, meetings of the Parties and Advisory Committee meeting costs, equipment costs and other miscellaneous costs; however a surplus of €67,000 allowed further funding for conservation activities[49] and projects. Voluntary contributions amounted to €79,000 (US$113,689) for that period. So far for 2009 only €27,100 (US$37,527) has been received in voluntary contributions. For the period 2010-2012 the approved core budget is of €558,168[50] and no voluntary contributions have been yet pledged.

49. The Gorilla Agreement's first triennial budget (2009-11) was estimated €1,083,260 to cover the costs of the: Secretariat; meeting of Parties and Technical Committee; miscellaneous costs; and very modest conservation activities. Assessed contributions from parties over this same period would net only €54,000. However, to date, none of these contributions have been received.

50. The CMS Secretariat acts as Secretariat for the Gorilla Agreement and staff costs for 2009-2011 of €113,123 are to be absorbed by the CMS core budget[51]. UNEP, through GRASP, is also contributing €40,000 over three years in staff costs in support of the Agreement. The shortfall of €970,137 needs to be raised by voluntary contributions[52] . So far, €137,000 from France and €200,000 from Germany have been received. However, these funds are earmarked for conservation projects only.[53]

51. EUROBATS' current core budget, for the period 2007-2010, is €1,276,029 and is destined for personnel, meetings of the Advisory Committee, equipment and miscellaneous costs and has been met by Party contributions. So far voluntary contributions pledged amount to €230,579[54].

52. The ACAP Agreement has its own Secretariat outside the UN system. Total funding for the current triennium, 2007-2009, of Australian $1,986,000 was allocated to Secretariat costs, meetings of Parties' costs, Advisory Committee's meetings costs and conservation costs Australian $462,000[55]. Voluntary contributions amounted to Australian $281,000 for this period. For the next triennium funding is estimated at Australian $1,977,000 and has been fully allocated. The Wadden Sea Seals Agreement is funded by the Trilateral Cooperation Partners who also house its Secretariat[56].

2.5.3 MOUs

[46] ASCOBANS/MOP5/Resolution 2d.
[47] This merger will be reviewed in light of the results of the Future Shape of CMS process.
[48] ACCOBAMS/MOP5/Resolution 2c.
[49] Report of the 16th Advisory Committee Meeting, Bruges, Belgium, 20-24 April 2009.
[50] UNEP/ASCOBANS/MOP6/Res 5.
[51] UNEP/CMS/GOR-MOP1/6.
[52] Estimates for the Gorilla Agreement - UNEP/CMS/GOR-MOP1/6.
[53] UNEP/CMS/GOR-MOP1/6.
[54] EUROBATS questionnaire q 18.
[55] UNEP/AC3/Doc.8/Attachment C.
[56] No further financial information was made available.

53. As stated in all the texts of all CMS MOUs, the implementation and furtherance of activities under MOUs are voluntarily funded, be this directly from Signatories or from other sources. The CMS' Secretariat acts as Secretariat for most MOUs although it services these in different ways. .CMS' current core budget allocates €162,000 (€54,000 per annum) for those MOUs administered and coordinated from Bonn; but this amount is also intended to cover partnership work and the development of new instruments[57].

54. Since 2002, the Secretariat for the Bangkok-based IOSEA Marine Turtle MOU has secured over US$1.4 million in voluntary contributions from Governments, and a further US$0.2 million from other sources, for the operation of the IOSEA programme. The IOSEA MOU's income is deposited in a Trust Fund administered by UNEP which is subject to UNEP's 13% PSC. For the period 2008-2010 IOSEA's indicative budget for personnel, meetings, equipment and miscellaneous costs was US$975,755; whereas actual expenditure was lower, linked to the actual level of voluntary funding received. PSC covers about 75% of the annual cost of a team assistant. The IOSEA Coordinator also serves as a part-time CMS Senior Advisor, a post funded by CMS in exchange for CMS work and advisory services[58].

55. The implementation of some MOU's is better funded than others; compare the Ruddy Headed Goose's funding for only one research project[59] with the Great Bustard's four year funding[60]. Some MOUs benefit from regular funding from signatories implementing their own national activities, e.g. the Siberian Crane MOU is helped by the Mongolian government every year in the form of an estimated US$20,000 given directly to the Onon-Baljinsky National Park[61] . Others receive ad hoc funding such as Senegal who received funding from CMS, RSPB and BirdLife International for research on the Aquatic Warbler[62]. UNEP also provides in kind funding, as with IOSEA which benefits from free office space and administrative support at UNEP's Thailand Regional Office for Asia and the Pacific[63]. The Marine Turtles MOU received funding for its Co-ordination Unit (URTOMA) from CMS and UNEP following an Agreement signed between CMS and SINEPAD in 2005. For the years 2006-2009 CMS agreed to contribute US$75,000 (US$25,000 per year) and UNEP to provide a further US$75,000 for the operation of URTOMA. It was also agreed that conservation projects would be supported by voluntary contributions from various donors but no funds have been raised so far. This funding agreement has been renewed for the period December 2009 to November 2012.

56. Most MOUs do not have a separate Trust Fund managed by the CMS Secretariat and therefore it is difficult to ascertain where and how amounts were spent given that projects are funded directly or through partner organizations. For example the Monk Seals MOU is directly coordinated by one of the Parties, the Spanish Government, which is funding operational costs of €145,000 for the period 2009-2011. Project costs for this MOU are estimated at €1,500,000[64] and these costs again are likely to be

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57 UNEP/CMS/COP9/Resolution 9.14/Annex VIII.
58 MT-IOSEA/SS.5/Doc.10 Agenda Item 11.
59 From the Danish Spatial and Environmental Planning, CMS summary sheet.
60 Austria has funded a coordination unit since 2005 and Hungry has pledged to continue funding until 2009.
61 UNEP/CMS/SC-6/5/Add.1/para 65.
62 Aquatic warbler questionnaire.
63 IOSEA/SS.5/Doc. 10 Agenda Item 11 para 2.
64 Monk Seals' MOU Questionnaire.

met by the Spanish Government and fall outside the CMS/UNEP income and expenditure streams.

57. In the case of the Siberian Crane MOU, the Range States agreed in principle to the concept of establishing an International Trust Fund to sustain MOU-related activities. It has been suggested that the proposed fund, in respect of which no decision has yet been taken, would be set up under the MOU and managed by UNEP[65].

58. The Dugongs and Birds of Prey MOUs are wholly funded by the UAE with a budget allocation of US$3,600,000[66] for the 2009-2011 triennium which is managed by UNEP.

Table 2: Financial Information for all CMS Family Instruments

Assessed Contribution	CMS	AEWA	ASCOBANS	EUROBATS	ACCOBAMS
2004	US$1,636,977	US$408,075	US$184,432	€233,898	€96,424
2005	€1,856,382	US$788,433	US$188,089	€239,107	€142,358
2006	€1,869,715	€481,067	US$197,845	€266,195	€219,642
2007	€1,979,923	€493,293	€93,031	€310,585	€202,564
2008	€2,514,587	€767,454	€150,457	€301,417	€213,141
2009	€1,895,846	€740,403	€190,987	€318,278	€207,879
Voluntary Contributions					
2004	US$136,489	US$110,79	US$48,758	€96,789	€195,364
2005	US$391,222	US$424,970	US$33,818	€37,856	€318,332
2006	US$470,643	US$511,407	US$62,448	€46,787	€212,520
2007	US$1,212,588	US$308,289	US$36,554	€126,267	€189,998
2008	US$697,091	US$1,460,817	US$39,608	€53,057	€539,779
2009	US$181,595	US$102,171	US$37,527	€51,255	€149,000

3. Critical analysis of the current system

3.1 Integration (internal integration, co-location and merger) of the CMS Family

59. The institutional structure of the CMS provides considerable challenges and opportunities with regard to ensuring a unified and integrated whole. The Legal structure of CMS and the CMS Family stems from the actual Convention which acts as a framework convention and allows for the creation of subsidiary instruments[67]. The key challenges are posed by a wide range of regulatory activity, with a host of subsidiary instruments negotiated with different priorities and objectives to address a highly expansive array of species in disparate areas, all of which have considerably different conservation needs. Given that resources are finite and time is pressured, in discharging the objectives and obligations under the Convention, the CMS institutions must necessarily advance initiatives on numerous fronts.

[65] UNEP/CMS/Conf.9.9 Agenda Item 1.
[66] With $1,400,000 going to the Birds of Prey's activities Birds of Prey MOU in Africa and Eurasia questionnaire.
[67] See 2.2 above and Article IV(3) and (4) CMS.

60. On the other hand, the activities and initiatives pursued to date under the auspices of the Convention also demonstrate considerable scope for integration between the parent Convention and the various subsidiaries, as well as between similar instruments. While integration between particular instruments may not always be appropriate, or even especially helpful, an advantage of the current arrangement has been the clustering of instruments, in relation to particular species or in respect of particular regions, which thereby maximises the scope for synergy and collaborative working practices.

3.1.1 Integration between the CMS and the CMS Family

61. Since approximately the Sixth COP in 1999, concerted efforts have been made within the CMS system to improve the integration of its constituent parts. All current CMS subsidiaries including the legally binding Agreements which function as broadly free-standing instruments, maintain a degree of interaction with the parent Convention, to a greater or lesser extent. Questionnaires returned a generally high level of satisfaction with integration with the parent Convention.

62. The CMS Secretariat provides secretariat functions for the Gorilla Agreement and directly or indirectly to 17[68] MOUs. There are clear advantages to this arrangement. In the first instance administrative pressures are eased for emerging or small-scale instruments in the immediate short-term, as these bodies may draw upon the resources and experience of the central CMS institutions. A further advantage is that the parent Convention also has a clear appreciation of the key needs of these instruments and is in a position to act accordingly. The Gorilla Agreement, for instance, reported a highly positive experience, considering this arrangement to be the "optimum solution", not least given the lack of funding and the fact that three to four members of the CMS staff are regularly and routinely involved in gorilla conservation work.

63. Nevertheless, there are also disadvantages to the CMS Secretariat arising from integration on this basis. Chief among these is that the arrangement by which the CMS provides full Secretariat services clearly presupposes that the CMS Secretariat has sufficient resources in terms of personnel, finance and logistics in order to sustain such an arrangement effectively. As observed in the staffing section it is clear that this is not the case, with a small central staff expected to service an increasing number of instruments. Although a number of the returns relating to MOUs did not comment on the long-term viability of these arrangements, certain other MOUs did report an increasing degree of concern over this system. In particular, the Saiga MOU noted with alarm that the lack of an Agreements Officer during 2007-08 clearly impeded progress under this instrument, while lamenting that even with the Agreements Officer's position filled staff levels are too low to service the MOU effectively. The lack of data to confirm this means that it is not possible to state definitively that this remains an institutionalised problem, but it is somewhat difficult to appreciate how the problems articulated with regard to one MOU would not be substantively replicated in others that follow a near identical arrangement.

64. A second major disadvantage of this policy is that the current arrangements appear to maintain instruments at their present level of activity and participation. Given that the resources available to service the subsidiaries are growing ever more restricted, it

[68] From March 2010 when the MOU on Sharks comes into force there will be 18 MOUs.

follows that the potential for developing the necessary outreach programmes and increasing the agreements in scope and participation may be compromised by centralisation if sufficient resources cannot be sourced. Indeed, while the Gorilla Agreement reported a high level of satisfaction with the current arrangements, it further noted that additional staff would give the Agreement a "further boost". Likewise, ASCOBANS, which was subsumed within the CMS Secretariat in 2007 for 3 years initially but now extended to 2012, has also reported a significant degree of difficulty with these arrangements, given that the initial demarcation of central and specific duties of the staff – which received a net reduction in the merger – has proved rather optimistic to discharge the demands of the Agreement in practice[69]. The evaluation of the merger of CMS and ASCOBANS Secretariats took place a year and a half into the merger and therefore presented results of an early stage that encountered start-up difficulties. At MOP6 the Parties of ASCOBANS came to the conclusion that once initial merger difficulties were ironed out, the results of the merger was likely to improve in the coming years. Therefore MOP6 agreed that these arrangements were to be continued for another provisional three year period.

65. Allied to the disadvantages raised in the previous two paragraphs, the lack of time, personnel and budget has an adverse effect upon the various MOUs to develop their own unique identity. If one considerable advantage of a number of the stand-alone Agreements is that they have developed a very clear "personality", the opportunities for the MOUs to elaborate such a profile may be conversely limited.

66. Some instruments have adopted a part-time relationship with the central CMS system, with institutional support forthcoming from both the CMS Secretariat as well as an additional specialist forum. In this respect, the Pacific Islands Cetaceans MOU offers a good example, whereby the Marine Mammal Officer and the CMS Secretariat primarily administer the agreement, external assistance is provided by SPREP and the WDCS. Considerable advantages have been yielded by this individual arrangement, given that continuity with the CMS system is ensured while SPREP has generated a specific Action Plan for marine species generally and whales and dolphins in particular. The use of SPREP facilities would permit the envisaged Pacific Islands Officer to be based in Apia, Samoa, within the geographical area serviced by the MOU, as opposed to Bonn. WDCS funds a part time coordination officer for the Pacific Islands Cetacean MOU which also provides support to the CMS Secretariat, for example by preparing all documentation for the last MOS.

3.1.2 Integration amongst the CMS Family

67. It is clear that synergies between certain agreements are more advanced than in the case of others. The reasons for this disparity appear to be grounded in Secretariat location, species coverage and regional compatibility.

68. As far as the location of Secretariats is concerned, a particular strength of the system was identified as being the co-location of AEWA, EUROBATS, CMS and ASCOBANS Secretariats within the UN Tower in Bonn. AEWA reported that an excellent working relationship had been established with ASCOBANS and EUROBATS, given that the three Secretariats in question are located in the same building, with examples being loaning staff to assist at meetings and mutual assistance on IT issues. This is clearly an operational advantage as, notwithstanding

[69] "Merger of CMS and ASCOBANS Secretariats: Progress", Doc. CMS/StC32/8.

the obviously different nature of the species in question, there is a strong possibility for constant dialogue between key personnel on issues of difficulty and the opportunity to share experiences and examples of good practice.

69. On a species level, a number of subsidiary agreements have developed in recent years that deal with the same broad array of species. A particular example is that of the cetacean agreements, for which four separate instruments, namely ACCOBAMS, ASCOBANS, Pacific Island Cetacean MOU and West African Marine Mammals MOU have been developed since 1991 and which deal, to some degree, with particular species of cetaceans. ASCOBANS and ACCOBAMS have enjoyed a relatively close relationship since the inception of the latter agreement. They encourage coordination and synergies in scientific intersessional work carried out by working groups and in April 2007, held a joint workshop on[70] Selection Criteria for Marine Protected Areas for Cetaceans. Nevertheless, a difficulty created by the attempted synergising of instruments addressing broadly the same subject matter is that they do not follow a standard template, with the ASCOBANS and ACCOBAMS Agreements differing strongly in scope, application, operation, planning cycles and strength of obligation. A document was tabled at ASCOBANS MOP6 setting out the advantages and disadvantages of extending ASCOBANS to include large cetaceans which would provide a closer degree of harmonization between the two Agreements. However, the matter has so far not progressed further.[71] The difficulties inherent in these processes are clear – not only are there significant logistical challenges in the amendment of an agreement on these terms, but there is also political opposition from the ASCOBANS Parties, many of which advocate retaining a small cetacean focus,[72] although a clear potential for synergy was created by the extension of the ASCOBANS geographical scope formally dovetailing it with ACCOBAMS' geographical coverage[73].

70. In practice, it seems that the different scope and operation of the various agreements has conspired against full and meaningful synergies. ACCOBAMS reported that it has an effective relationship solely with ASCOBANS, although it should be observed that the two cetacean-orientated MOUs are of relatively recent vintage and there has been a narrow passage of time – especially in the case of the Western African Aquatic Mammals MOU – within which to form such synergies. It should also be observed that ACCOBAMS offered assistance to the Pacific Islands MOU in developing conservation measures at an early stage in the life of the latter instrument[74].

71. A degree of promise for future synergies within this species sphere is raised by the appointment in 2007 of a part-time (25%) post of Marine Mammals Officer (the rest of the officer's time is spent as ASCOBANS Coordinator). As noted above, this provides scope for integrated policies and a strong lead from the central CMS organization, although, as a disadvantage, the fact that the officer in question is required to spend most of their time on other tasks reduces the time available to perform these central facilitative functions and makes the role less effective. Moreover, "marine mammals" encompasses a considerable array of differing species

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70 Information provided by ASCOBANS 22/10/2010.

71 ASCOBANS MOP6/Doc.5-04 (AC).

72 *Report of the Thirteenth Meeting of the Advisory Committee to ASCOBANS* (Bonn: ASCOBANS, 2006), at page 8.

73 Resolution No. 4: Extension of the ASCOBANS Agreement Area, adopted at the Fourth MOP in 2003.

74 Indeed, representatives of ACCOBAMS have already pledged to "collaborate and share experiences and expertise with the Pacific Islands Region": *Report of the First Meeting of the Signatories to the Memorandum of Understanding for the Conservation of Cetaceans and their Habitats in the Pacific Islands Region* (Bonn: CMS, 2007), at page 3.

with vastly different conservation needs thus some would argue that this post is not as narrowly focussed as it might initially seem.

72. Likewise, the fact that a number of subsidiary instruments address like species is no guarantee of effective synergy. AEWA, for instance, noted that integration with other bird instruments "could be improved", especially in the specific case of the Siberian Crane and Raptors MOU and Central Asian Flyway, although an effective relationship with ACAP was reported. It is nonetheless rather telling that AEWA reported its most effective synergies to be with co-located Agreements addressing bats and cetaceans on IT and administrative issues rather than with those applicable to avian fauna. The Marine Turtles MOU's Co-ordination Unit has asked for further species-based collaboration with IOSEA, a well funded turtle MOU.

73. An alternative approach has been to develop regional, as opposed to species-based synergies, such as locating the IOSEA MOU/Senior CMS Advisor at UNEP´s Bangkok office, the 2008 Birds of Prey and Dugong MOUs in Abu Dhabi (UAE) and the Marine Turtles MOU in Senegal. The IOSEA MOU has succeeded in involving many countries in CMS-related marine turtle work; despite about a quarter of its membership (of 30 Signatory States) not being CMS Parties. The Dugong and Birds of Prey MOUs are both operated out of the recently opened CMS Project Office in Abu Dhabi, UAE. It is too early to make any comment on the functioning of this office which only opened in 2009 save to say that the UAE has undertaken to provide generous, consistent and sustained funding to underwrite these arrangements for three years. The Marine Turtles MOU's Co-ordination Unit has received funding but recently suffered from a lack of resources for its operational activities due to a gap between the expiration of the CMS/SINEPAD Agreement for 2006-2009 and its renewal for the period 2009-2012. It can be argued that, subject to funding, a regional presence may increase appeal of conservation activities to non CMS Parties in the region and offer the potential to develop centres of regional expertise on migratory species.

74. Furthermore, it should also be observed that a disadvantage of the system may lie in an overly generalized approach. The mere fact that species agreements exist within the same broad region does not in itself provide a platform for effective integration. A clear example of this issue was noted by the West African Elephant MOU, which counselled that existing CMS initiatives in the region are marine, as opposed to terrestrially based, and that "[w]hile there are many arguments for consolidation and merger of such agreements in the name of "streamlining", this would almost certainly complicate and undermine the success of the MOU to date". The Signatories of the West African Elephant MOU rejected the idea of extending the MOU to Central African populations.

75. In order to accommodate the working languages of Parties to CMS and subsidiary agreements, the Family works in different languages including Arabic, Russian, Dutch, German, Spanish, French, English, Danish, Chinese and Portuguese; with English being a working language common to all of the agreements.

3.1.3 Scientific and technical integration

76. Integration of scientific and technical information requires ensuring consistency and best practice in the compilation of information, developing information management tools, increasing access to information on migratory species already being collected by Secretariats and possessing the ability to analyse the data collected. For the CMS Family, integration is required not only across the CMS Family but also between biodiversity-related conventions, particularly on current data on various trends which impact on migratory species, for example information on ecosystem status, climate change and sea and land based pollution. Integration has become more essential with the need to meet the 2010 biodiversity targets and biodiversity indicators development by the Convention on Biological Diversity.

77. Although the purpose of the GROMS database (an information system concerning scientific information on migratory species and their populations) was not to integrate information, it resulted in a key mechanism for achieving integration of technical information across the CMS Family. The rationale behind GROMS was to combat the problem of scattered information by summarizing knowledge about migratory species within one information system[75]. Originally funded by the German Ministry of the Environment, it was handed over to CMS in 2005, but could not be maintained due to a lack of funding. However, although it has not been updated since 2005, recently an agreement was signed with the GBIF allowing GROMS to be embedded in the GBIF Data Portal[76]. One of the main advantages of GROMS is that it is a relational database; this allows it to provide expert queries to identify gaps and contradictory data[77]. The evaluation of GROMS highlighted some improvements that are required including the introduction of quality control to ensure the reliability of the data, the establishment of a Scientific Board to ensure the scientific pertinence and reliability of the data in the long term and its integration within the world network of web-based species information systems[78].

78. The CMS Information Management System is also a technical information integration tool specifically built to enable the collection, management, analysis, use and dissemination of the scientific and management information that is necessary for the implementation of the CMS and CMS's family at local, regional and global levels.

3.1.4 Advantages and disadvantages of integration

3.1.4.1 Advantages

Maximising resources

79. The right level of integration, with the parent Convention and amongst the CMS Family, provides an opportunity to ease administrative and technical pressure, to share know how, scientific and technical knowledge, training and for all to benefit from common experiences (see paragraphs 62, 69 and 77).

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75 UNEP/CMS/Conf.8.12.
76 UNEP/CMS/COP 9 Final Report 2008.
77 UNEP/CMS/Conf.8.12.
78 UNEP/CMS/Conf.8.12.

Strong leadership

80. As a framework convention, the parent convention has a clear understanding and appreciation of CMS Family needs and a proven record in assisting emerging instruments (see paragraphs 62 and 72).

Greater focus on outside synergies and work on the ground

81. Where activities which are common to all of the CMS Family, such as administrative, governance and conservation activities, are well integrated, there can be a greater focus on species specific conservation work and synergies with outside organizations (see paragraphs 66, 67 and 69).

Information management sharing

82. Data sharing, trend spotting and the identification of gaps in scientific and technical knowledge, and information, greatly increases conservation efforts and avoids duplication and waste within the CMS Family and externally. It also enables understanding synergies with outside organizations and enables greater cooperation with external partners (see paragraph 77).

3.1.4.2 Disadvantages

Scope of application

83. Centralizing all CMS Family activity poses the danger of taking an over generalized approach to species specific issues (see paragraph 75).

Covering funding gaps

84. Scarce resources may be stretched to cover funding gaps. This may in the short term appear as a viable solution but in the medium and long term will only create greater funding shortages and mask real funding needs within the CMS Family, stifling the ability to plan and meet conservation needs (see paragraph 63).

Level of activity

85. Where activity is too strongly led from above without sufficient resources, there is a danger that instruments will maintain their level of activity rather than increase in scope and participation. As a number of the MOU questionnaires suggest[79], without a sustained injection of funds, there is a sense that such initiatives are merely maintaining the status quo without being able to undertake significant further development (see paragraphs 62 and 63).

[79] See for examples the Saiga MOU and Western African Elephants MOU questionnaires.

3.2 Current capacity of the CMS Family to carry out activities

3.2.1 Financial perspective

3.2.1.1 Agreement implementation

86. It is difficult to assess whether CMS and its Family have the financial capacity to carry out their activities given that both the number of activities and budgets are agreed by the Parties and thus the Parties can ensure that only activities that can be funded are approved, as well as approving activities on the understanding that they be funded from voluntary contributions. For example, the CMS Family proposed to establish a global System of Online National Reporting (known as SONAR) to be introduced in 2008[80] to resolve the reporting burden that was impeding proper implementation of the agreements. However, the Online System did not receive core funding at COP9 as it was not seen as a funding priority and is now dormant[81] pending funding from voluntary contributions. This type of decision-making has the disadvantage that more resources may be required to implement the activities of CMS and its Family than are actually being approved.

87. Work plans or action plans and their implementation are a good baseline for assessing capacity. When looking at CMS's 2006-2008 work plan only two activities have not been implemented due to lack of finances, namely review of the report of hunting on Migratory Species and the rescue and monitoring of Manatees in Senegal[82]. In three out of the 7 Agreement Secretariats the lack of finance is having an impact on the implementation of their work plan. AEWA has an immediate need to raise €600,000 to fund a gap in the Wings over Wetland UNEP-GEF African Eurasian Flyways Project. The ASCOBANS Secretariat viewed the lack of funding as impeding the implementation of work-intensive aspects of the work plan to a satisfactory degree. The new Gorilla Agreement has not received any funding.

88. A further three Agreement Secretariats have requested more finance for staffing levels to better implement their Agreements. Given that staff levels have not broadly increased since 2002 and all the Parties and activities of the Agreements have increased this is a credible appeal. The Wadden Sea Seals Agreement Secretariat view their funding as sufficient to carry out their current Action Plan and believe that additional, ad hoc financing can be raised if needed. No separate budget for the Seal Management Plan exists as funding is part of the Parties' existing trilateral and national budgets.

89. Most MOU's activities, both operational and project work appear underfunded. There is a small allocation (€162,000) as part of the CMS triennial core budget for management of the 17[83] CMS MOU[84] which must also cover the development of new instruments and partnership work. The IOSEA MOU has successfully raised sufficient voluntary contributions to meet basic operational costs, which most other CMS instruments receive as core funding, but this leaves little if any surplus for project activities. Staff levels are insufficient to meet operational requirements. Even

[80] UNEP/CMS/Resolution 8.24.
[81] UNEP/CMS/Inf.9.19.
[82] UNEP/CMS/Conf.9.5/Addendum/Annex.
[83] From March 2010 when the MOU on Sharks comes into force there will be 18 MOUs.
[84] UNEP/CMS/COP9/Resolution 9.14/Annex VIII.

one additional member would enable the Bangkok office to extend CMS's general migratory species work in the region; and to enhance IOSEA's capacity to strengthen institutional partnerships and raise funds in support of project activities[85]. The Andean Flamingos MOU, as other instruments, lacks funding for its Action Plan

90. The Pacific Islands Cetacean MOU's 2008-12 Programme explicitly identified the inability to fund a designated Marine Species Officer to oversee the coordination of its initiatives previously operated under SPREP to be a considerable impediment to the progress of the various Action Plans to date[86]. The lack of a formal coordinator for the Pacific Islands Cetacean MOU has also been identified by the signatories as a key impediment to progress that must be addressed at the earliest opportunity[87] and it has been reported that lack of resources, including accessing sustained funding is one of their greatest conservation challenges[88]. It is clear that not having a coordinator is disadvantageous as it means the lack of a focal point for crucial activities such as fundraising on which the MOUs depend. Thus the Second Meeting of Signatories (MOS) to the Pacific Island Cetacean MOU endorsed a proposal[89] to have a co-located CMS Regional Officer to coordinate the MOU which would be focused on CMS and funded by CMS (mainly through donations) whilst hosted by SPREP. This proposal does not solve the funding problem but provides a road map for resolving this issue.

91. The Dugongs and Birds of Prey MOUs are fully funded through UAE for the first three years. The Siberian Crane MOU lacks finance for implementing most of its core provisions, including securing of safe habitats, monitoring of wild and released birds, and continued development of reintroduction techniques[90]. The Saiga Antelope MOU lacks funding for a coordination unit as well as for an already delayed MOS (due in 2008) and thus progress during this critical phase of development where all range states have signed up to the instrument, including the Russian Federation, has been severely limited. The Bukhara Deer MOU cannot meet a key element of its action plan, namely development network for protection areas, due to lack of funding[91]. Given that the West African Population of the African Elephant MOU's operating costs for the next three years are estimated at $120,000 and it has only received pledges of €10,000 per year from CMS the funding is insufficient to cover its activities[92].

92. CMS, the Agreements and the various initiatives operate in different languages in order to accommodate Parties' working languages. However this has a cost implication in the way of translation services.

3.2.1.2 Party core contributions and voluntary contributions

93. CMS and the CMS Family rely heavily on voluntary contributions to fund their activities including conservation projects, meetings and publications, with 38% of CMS's total budget coming from voluntary contributions. In particular most conservation projects contained in agreement Action Plans are funded voluntarily.

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85 IOSEA questionnaire.
86 Pacific Islands Regional Marine Species Programme 2008-12 (Apia: SPREP, 2007), at page 6.
87 UNEP/CMS/PIC-1/Report pages 7-8.
88 Pacific Islands Regional Marine Species Programme 2008-2012 (Apia.SPREP, 2007).
89 UNEP/CMS/PIC2/Doc 3-02.
90 UNEP/CMS/SC-6/5/Add.1/para 41c).
91 UNEP/CMS/Bukhara Deer/Action Plan and Bukhara Deer questionnaire.
92 UNEP/CMS/WAE1/Doc.8.

The current practice is for Secretariat, management, administrative and general operational costs[93] to be covered by Party core contributions with voluntary contributions being allocated mainly to specific conservation projects, the organization of meetings and publications. Only 2.5% of Party core contributions are currently allocated to conservation work[94]. CMS's Small Grants Programme, which contributes to small-scale conservation and research projects, was previously funded by the core budget's accumulated surplus and is now being funded by voluntary contributions[95].

94. There are few Parties in arrears of their core budget contributions to the CMS Trust Fund. There is a total of €112,471 unpaid pledges for 2008 and prior years. Unpaid pledges for 2009 to date amount to a total of €413,177. In 2008, 39 Parties were in arrears with amounts varying from € 40 to over €26,000.

95. AEWA's voluntary contributions would amount to over 55% of its total income if all materialised, with only 0.25% of project costs coming from Party contributions[96]. A higher percentage of ACCOBAMS Party contributions go towards covering project work but this is due to the host country underwriting of operational costs. ASCOBANS' core budget has currently less than 1% allocated to conservation work and this is seen as seed funding to raise voluntary contributions. Although there is an agreement that any core budget surplus will go towards conservation work[97] and in the last two years there was a surplus of US$90,000, this situation may only be sustainable whilst the CMS Secretariat acts as the ASCOBANS Secretariat. The implementation of the Gorilla Agreement paints a similar picture with contributions from the six Parties totalling €54,000 over three years being insufficient to cover the €450,000 estimated cost of conservation work for the current budget. In this case Party contributions would not necessarily be earmarked to cover conservation projects.

96. EUROBATS' current budget estimates that voluntary contributions will amount to over 17% of its total income with no core budget monies going towards project work. All of the MOUs' activities are voluntarily funded. There are also core activities which are now funded by voluntary contributions, and concerns have been raised about funding all of the Small Grants Programme, destined to fund MOU activities, from voluntary contributions given that MOUs are already heavily dependent on income from this source [98]. As Parties may join an MOU (which are voluntarily funded) and not the legally binding Agreements (which require core budget funding) it could be argued that this is a disadvantage as it creates core budget free-riders who received support from the CMS Secretariat. However, there are also advantages in collaborating with Range Parties, whether they are or are not Parties to binding Agreements, such as initiating a relationship which may develop further, the exchange of scientific support and data and assistance in meeting conservation objectives.

97. The advantage of this system is that Parties and other contributors have been amenable to provide funding for specific work and CMS and Agreement Secretariats, even without a dedicated fundraising staff member, have proven very adept at raising

93 The exception is office expenses which are covered by the host country.
94 UNEPCMS/Resolution 9.14.
95 UNEP/CMS/ScC/Doc.3 Report Activity Planning 2009.
96 UNEP/AEWA/MOP/Resolution 4.8/Appendix I.
97 ASCOBANS/MOP5/Resolution 2c/Annex 1a.
98 UNEP/CMS/ScC/Doc.3 Report Activity Planning 2009.

funds. For example the 2008 Dugongs and Birds of Prey MOUs' activities are fully funded[99] for the next triennium by UAE, demonstrating the high value of attaining a sponsoring State prepared to make a significant and sustained investment in the conservation of migratory species. With the addition of a junior fundraising and partnerships officer, CMS and its Family can build on their strengths.

98. However, voluntary funding by its nature is uncertain and funding may not always be so forthcoming, thus threatening a lack of continuity, e.g. the Marine Turtles Africa MOU has not raised any funding for conservation projects. Given that voluntary contributions tend to be project specific, it also means that there may be difficulties in planning for the future. Voluntary contributors have also shown in the past a definite preference towards supporting specific time limited projects or meetings rather than longer term activities or those of an operational nature[100], which presents a problem at least for MOUs who have no core operational funding.

3.2.1.3 PSC

99. UNEP charges 13% (the percentage level is set by the UN General Assembly) of the total income of the CMS, AEWA, ASCOBANS, EUROBATS and the Gorilla Agreement's Trust Funds as overhead costs, amounting to approximately €2,313,120 for their current core budgetary periods. The advantage of this system is that part of this money is ploughed back into CMS, e.g. PSC monies fund 5 CMS Secretariat staff positions which also support AEWA, ASCOBANS, EUROBATS and the Gorilla Agreement. The disadvantage of this system is that voluntary contributions are also subject to this overhead charge. Given that donors provide monies for a specific purpose, application of PSC to these monies may make potential funders more reluctant, particularly if fundraising efforts are increased as planned.

100. UNEP has the discretion to use PSC monies for CMS activities, on the request of CMS's Executive Secretary. It was suggested by the Parties at COP8 and COP9 that the 13% levied on voluntary contributions received by CMS, totalling €337,075 for the current budget, be put back into conservation projects and used for supporting meetings. CMS's Executive Secretary has in the past requested from UNEP that some of those monies be allocated to conservation projects.

3.2.1.4 Trust Fund

101. A the income from CMS and the CMS Family administered by UNEP is held in a Trust Fund which is managed, released and generally administered by UNEP in Nairobi whilst most activities are carried out in Bonn. Financial transactions are initiated and approved by the CMS and the UNEP-administered Agreements. Although payments are effected via Nairobi, this arrangement has proved to be efficient.

102. Of the MOUs, only IOSEA has its own Trust Fund[101]. The Birds of Prey and Dugong MOUs have a separate income stream (US$3 million for three years) which is deposited into CMS's voluntary contributions Trust Fund[102]. Other MOUs are in the main funded directly through partner governments and organizations, and so CMS

[99] Dugongs questionnaire.
[100] UNEP/CMS/WAE1/Doc.8.
[101] See MT-IOSEA/SS.5/Doc.10 Annex 1.
[102] Information provided by CMS Secretariat.

has no direct control or overview of how monies are spent. However, if the implementing bodies are using CMS funds, they must provide financial reports in accordance with the Letters of Agreement. This has the advantage of reducing administrative costs and reinforcing trust in Parties and partners but the disadvantage of not having a focal point for funds to be raised and of not being able to quantify monies.

3.2.1.5 Advantages and disadvantages of financial arrangements

3.2.1.5.1 Advantages

Core funding and voluntary funding

103. The CMS and its subsidiary Agreements have a core budget dedicated in the main to the running of the organization (rather than conservation activities) which, save for the Gorilla Agreement, allows for continuity, planning and coordination of activities.

104. MOUs do not have a core budget that requires mandated contributions from Signatories, therefore allowing Signatories to join who perhaps may not have the resources to do so otherwise.

105. Voluntary funding is earmarked for e.g. conservation projects, organization of meetings and publications, with Parties choosing what projects they will fund. This has the advantage of allowing Parties to take ownership of initiatives, investing their reputation, time and money in the initiative's success.

Ability to fundraise

106. Even without a dedicated fundraising officer, CMS and its Family have proven extremely adept at raising voluntary contributions from Parties (see paragraph 100).

Small arrears

107. The amount of payments in arrears is small, demonstrating a clear dedication to CMS and CMS Family funding by staff and Parties (see paragraph 97).

UNEP link

108. Part of UNEP's PSC is ploughed back into CMS's operational activities funding 5 administrative officers shared by five Agreement Secretariats (see paragraph 102). UNEP also has the discretion of allocating further PSC monies to CMS and CMS Family activities.

109. Collaboration with UNEP also provides other benefits such as IOSEA's free office space and administrative support at UNEP's Thailand Regional Office for Asia and the Pacific (see paragraph 55).

3.2.1.5.2 Disadvantages

Lack of funding impacting on agreement implementation

110. A number of members of the CMS Family have reported lacking sufficient finance to carry out their action plans (see paragraphs 87, 88, 89 and 90). There are also concerns about staffing levels (see paragraph 88).

Lack of a fundraising policy

111. None of the CMS Family members reported having a fundraising policy or fundraising coordinator and given the reliance on voluntary contributions for conservation activities this is a disadvantage.

UNEP's PSC and staff salaries

112. Voluntary contributions are subject to PSC and this may make potential donors reluctant to give generously when they are donating for a specific project rather than contributing to operational activities (see paragraph 99).

Reliance on voluntary contributions

113. Having to fundraise for most activities mandated by the COP/MOP means that there is uncertainty in the implementation of CMS and its Family instruments, threatening a lack of continuity and long term planning favouring an ad hoc approach. Donors have also been known to prefer funding specific meetings or time limited projects rather than long-term activities which may harm long-term conservation goals (see paragraph 98). Reliance on contributions has also jeopardised planned improvements in data technology (paragraph 86).

3.2.2 Institutional aspects

114. On a central level, broad concerns have been raised over the staffing complement of the CMS for a considerable number of years. Since the Fifth COP in 1997, the Secretariat has consistently observed that seemingly adequate staffing levels are often illusory and reflect neither the administrative demands of the Convention nor the true number of available posts in real terms. At this juncture, the Parties were cautioned that "[a]lthough the staff appeared numerous, several of them were seconded to CMS for a limited period or were part-time, and the appointments of several staff members would expire soon".[103] In real terms, a warning was sounded that the Convention was "understaffed, with all the problems which that entailed" [104].

115. The Secretariat has formally declared staffing levels to be adequate on only one occasion, at the Eighth COP in 2005, at which point the Executive Secretary considered there to be a "full complement of staff" encompassing a "cohesive, flexible, creative team, able to respond rapidly to changing events" because all posts foreseen in the core budget were filled at that time.[105] In hindsight, this observation

[103] Document UNEP/CMS/COP5/Report, at 12.
[104] *Ibid*.
[105] Document UNEP/CMS/COP8/Report/Report 1, at 4.

appears to have been a broad miscalculation, given that a considerably more damning appraisal was delivered at the Ninth COP in December 2008, with the activities of the Secretariat deemed to have been "hampered by understaffing" [106].

116. There are currently 2 vacant posts within the CMS Secretariat and for both the selection process will take place in 2010. Vacancies do hamper staffing levels however, until a suitable appointment is made, consultants or temporary staff or other permanent staff can cover, to some extent, the vacant posts. In other cases, UNEP staff can be deployed to support the Secretariat. An example is CMS´s current Executive Secretary post which was vacant and temporarily being filled by Ms Elizabeth Maruma Mrema of UNEP Nairobi who in December 2009 became CMS's Executive Secretary. The process for appointing staff members has been streamlined by the Human Resources Action Plan agreed between the UNEP Executive Director and the UN Secretary General, which imposes a 120 day limit between the day of advertising a vacancy on the CMS and UNEP websites to the day of appointment and where an appointment is not reached during that time, the whole recruitment process must start again. Further changes are expected with the introduction of a new recruitment system called INSPIRA which is to replace the current Galaxy system.

117. The root cause of these problems has been clearly identified as a lack of on-going structural investment within the administration of the CMS regime: permanent staffing levels have remained unchanged since the last major reappraisal in 2002; although during this time there has been a steady increase in the number of Parties, as well as subsidiary instruments and projects. The personnel level within the CMS is therefore being spread increasingly thinly among a proliferating degree of operational commitments. Operational capacity does not measure badly with reference to other biodiversity-related conventions, whereby CMS and its Family employ markedly fewer staff (35[107] staff with 144 Parties) than the CBD (96 staff with 193 Parties) and WHC (98 staff with 186 Parties) but more staff than CITES (28 staff with 175 Parties), and the Ramsar Convention (23 staff with 159 Parties) [108].

118. The Mediterranean Monk Seal MOU declared that the staffing arrangements were broadly sufficient to cope with organizational demands at the current time, but observed that further development would require additional personnel. The Gorilla Agreement declared that it was pleased with the support received by the Secretariat and, while additional staff might provide a boost to activities, such a position would require sustained and guaranteed investment, with the *status quo* considered the optimal solution for the present.

119. Of particular concern, however, is that seven CMS subsidiaries declared their staffing quotas to be insufficient. These organizations include many of the most high-profile and long-standing instruments established under the CMS, which may have considerable implications for the image and perception of the Convention if operational effectiveness is compromised as a result of insufficient staffing levels

120. AEWA reported perhaps the greatest discrepancy in staffing and noted that a "lack of resources" had compromised its ability to implement pertinent commitments.

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[106] Document UNEP/CMS/COP9/REPORT, at 7.

[107] At February 2010 there were two vacant posts with candidates going through the selection process, namely 1 Associate Programme Officer (Partnerships and Fundraising) P2, and 1 Associate Programme Officer (Technical officer) P2. When these posts are filled the total CMS staff number will be 37.

[108] Information taken from MEAs websites. Ramsar figures includes 4 inters and CITES has four vacant posts in addition to the 28.

Moreover, AEWA considered that the current staffing levels represented the minimum required to administer the Agreement and that it was reaching the limits of its operational capacity. It was considered that three additional posts were required, encompassing two Regional Officers and a Capacity Officer, augmented by four support staff. Even without these additional appointments it was considered that the current levels of support staff needs to be increased from two part-time posts to two full-time posts.

121. Considerable pressures may be observed in ASCOBANS, which was formally restructured on a temporary basis in 2006 at the Fifth MOP to the Agreement, where a core budget increase of 25% was sought (and rejected) to cover the increased salary costs incurred by the Agreement due it having been brought under the umbrella of UNEP[109]. The response of the Parties was to look for greater efficiencies by abolishing the previously full-time post of Executive Secretary with responsibility for the operation of the Agreement and to merge ASCOBANS' Secretariat with the CMS Secretariat.[110] At a minimum, ASCOBANS reports that the current administration post should be increased to full-time and that serious consideration be given to making the Co-ordinator's post a full-time position (at P2 or P3).

122. ACCOBAMS also reported a need to increase staffing levels. At present, the ACCOBAMS Secretariat is largely underwritten by an on-going voluntary commitment by the Principality of Monaco, which provides the Executive Secretary and her assistant, with a further administrative assistant provided by ACCOBAMS. It is considered that "[t]o function", the Permanent Secretariat of ACCOBAMS requires five members of staff, including the Executive Secretary – although no specific positions were noted beyond the need for such persons at a "good administrative and scientific level".

123. The Pacific Islands Cetacean MOU reported a need for additional support in key areas such as the need to appoint a CMS Pacific Islands Regional Officer, located at SPREP, given that the staffing levels have "perhaps limited the degree to which the Secretariat has been able to take a proactive role in ensuring the implementation of the MOU". The need for such an appointment has also been reinforced within the SPREP Marine Programme 2008-12, which explicitly identified the inability to fund a designated Marine Species Officer to oversee the coordination of these initiatives to be a considerable impediment to the progress of the various Action Plans to date[111]. In addition, the West African Elephants MOU declared the loss of its designated Programme Officer, an individual with significant experience in developing the initiative.

124. Three key staffing issues appear to be of particular significance to the CMS and need to be addressed swiftly. Firstly, it is striking that, although there have been a number of attempts at restricting the CMS, a consistent theme appears to be that such endeavours actually leave the Convention's administrative structure with a net loss of personnel, with those remaining then expected to assume a greater range of responsibilities. An early warning to this effect was sounded at the Seventh COP in

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109 Resolution 1: Integration of the ASCOBANS Secretariat into the Agreements Unit of UNEP/CMS, adopted at the Third MOP in 2000. These developments were nonetheless viewed with optimism by the time of the Fourth MOP in 2003, with the Secretariat declaring that it "would now be able to provide even better service to the Agreement than in the past"*: Report of the Fourth Meeting of the Parties to ASCOBANS* (Bonn: ASCOBANS, 2003), at 4.

110 Resolution 2d: Joining the Forces of ASCOBANS and CMS for Improved Management and Operation of the ASCOBANS Secretariat, adopted at the Fifth MOP in 2006.

111 *Pacific Islands Regional Marine Species Programme 2008-12*, at page 6.

2002, whereby it was observed that notwithstanding the integration of the Secretariats of key Agreements, the human resources of the CMS actually decreased[112]. This has also occurred in the individual case of ASCOBANS, where the previous arrangement of two full-time members of staff has been replaced with the equivalent capacity of less than 1.5 members of staff (spread across four separate positions) which are in turn expected to address an increased workload. Some MOUs have also expressed concerns about CMS Secretariat's current staffing levels and whether these are too low to manage current MOU activity[113].

125. Secondly, pressures on staff have been steadily increasing to the point at which they are unsustainable. Although multi-tasking and multiple administrative responsibilities are synonymous with effective governance of a multilateral instrument, in some instances the degree of plurality of roles has expanded to a point where operational efficiency seems barely feasible. Notwithstanding the clear dedication, commitment and professionalism exhibited by the CMS staff to date, workloads in a number of key areas are unsustainable. Many Agreements have reached their operational capacity on current staffing levels yet commitments under these instruments continue to expand, while it is unfeasible for staff to hold significant positions at both central and subsidiary level.

126. Thirdly the expansion of the CMS into new regions and in respect of new species is an undoubted testament to its success over the previous ten years. However, this has placed increasing pressure on the central administration, especially in relation to the provision of Secretariat services to more and more initiatives – just in 2008 six initiatives came into being, namely the Gorilla Agreement, the Birds of Prey MOU, the High Andean Flamingos MOU, Western African Aquatic Mammals MOU, Central Asian Flyways Action Plan and the Central Eurasian Aridland Mammals Concerted Action, which - with the exception of the Birds of Prey MOU supported mainly by the Abu Dhabi project office - are serviced with the same number of staff. It appears clear that there needs to be sustained investment at the Agreements Officer level to provide a series of additional operatives to effectively service the MOUs, Agreements and other initiatives.

3.2.2.1 Advantages and disadvantages of institutional aspects

3.2.2.1.1 Advantages

Attractive package

127. UN salaries and benefits are highly competitive and attract multi-skilled and dedicated staff.

Consultants

128. The use of consultants keeps project and staff costs down and in many cases brings in tested expertise as required whilst building capacity for CMS and its Family. At times consultants have also been used to fill CMS and CMS Family vacancies until these are covered (see paragraph 120).

Interns

[112] UNEP/CMS/COP7/Proceedings: Part I, at page 7.
[113] For examples of this see the Saiga MOU and the Marine Turtles MOU questionnaires.

129. Interns provide a no/low cost resource for the Convention and a way for individuals to gain expertise in conservation. Properly managed, internships in themselves spread enthusiasm for CMS and its Family and for conservation activities in general across the world (see paragraph 166).

Growth of CMS and the CMS Family

130. CMS has 113 Parties and 17 MOUs[114]. This shows the Convention's strength in increasing awareness of the need to protect biodiversity, the important role played in national ecosystems by migratory species and the Convention's ability to enable States to contribute meaningfully to the protection of migratory species (see paragraph 177).

Sharing limited resources

131. Staff and Secretariat sharing have enabled an Agreement that lacks funding (the Gorilla Agreement) to get off the ground. Staff sharing can also contribute to a better understanding of issues across species looking for common themes and shared experiences.

3.2.2.1.2 Disadvantages

Staffing levels

132. There have been concerns over the number of CMS Secretariat staff for a number of years (see paragraphs 116 and 117). Understaffing has been caused by the increased number of activities which the Secretariat undertakes without an equivalent increase in staff numbers (see paragraph 119). The result of understaffing can be that the operational effectiveness of the Convention is compromised (see paragraphs 122, 124, 125, 126, 127 and 128).

Growth rate of the CMS Family

133. The CMS family has grown at a very fast rate in the last two years with 6 instruments coming into being in 2008 and 3 in 2007, compared to a total of 7 for the period 2002 to 2006. Of those created in 2008 only one Agreement (the Gorilla Agreement) attracts core budget contributions, but even in this case core contributions are said not to even cover basic Agreement running costs (see paragraph 49) thus leaving CMS' Secretariat to act as the Gorilla Agreement Secretariat. The remaining 2008 instruments are voluntarily funded and supported by CMS's institutions (see pages 27 and 28). All of this puts further strain on limited resources which can result in decreased activity overall and a false sense of security in the abilities of the instruments as a whole.

134. Key Range States are still not a Party to the CMS, in particular USA, Brazil, Canada, Russian Federation and China (see Annex I Table 35).

Secretariat sharing

[114] From March 2010 when the MOU on Sharks comes into force there will be 18 MOUs.

135. CMS's Secretariat is co-responsible for ASCOBANS (since 2007) and the Gorilla Agreement's Secretariat functions (since its inception in 2008) (see paragraph 21). This puts a strain on CMS Secretariat resources as there have been no corresponding staff increases (see paragraphs 50 and 62).

Staff sharing

136. As three Secretariats share staff and real time spent on activities does not reflect mandated responsibilities (see paragraph 38 and Table 1).

Interns and developing countries

137. As interns are self funded those from less wealthy countries are likely to be at a disadvantage (see paragraph 167).

3.2.3 Reporting and Information Management

138. Assessing the implementation of CMS and the Parties' compliance with agreements is dependent upon sound, consistent, reliable and up-to-date information. The main source of information for the CMS Family is national reports. All CMS Family agreements include provisions for signatories to submit national reports prior to ordinary meetings. Under Article VI(3) of the CMS the Secretariat is charged with the duty to obtain reports and other information, which will further the objectives and implementation of the Convention. Similar requirements are contained in AEWA (Art. VII(e)) and in EUROBATS (Art.VI). The legislative basis for this reporting requirement is however, dependent upon the legal status of the instrument. Whilst the requirement under the Convention and the Agreements is legally binding, there is no binding legal requirement under the MOUs.

139. A number of issues have been identified in relation to the reporting requirements of the CMS Family. Whilst National Reports are of key significance in determining the status of the agreement, due to the increasing number of agreements, there is a mounting reporting burden on individual Parties. This burden may also prove prohibitive for potential signatories.

140. Reporting deadlines are often missed by numerous Parties. Whilst some Parties may report at a later date, there is also often a high percentage of non-compliance. Delays can impact on the assessment of the implementation of the Convention. When countries fail to report, there is a greater likelihood that the synthesis of submitted reports will be unreliable or distorted, thereby failing to provide the COP with a secure basis on which to make its decisions[115]. At COP 9 only 50% of Parties submitted reports by the deadline[116]. At AEWA's MOP4 64% of reports due from Parties were submitted[117]. As only 52% of AEWA Range States are a Party to the Agreement, the available assessment of the status of species covered by the Agreement is only 34% of the geographical scope. Some of the reasons provided for non-submission of reports include lack of finances, lack of national capacities, resources and cooperation as well as changes in personnel.

[115] UNEP/CMS/Info.9.19.
[116] However, 85% of Parties submitted reports to ACAP MOP 3 (11 out of 13).
[117] 50% of African States reported and 74% of Eurasian States.

141. Reporting mechanisms have been said to be "*...outdated, cumbersome and costly for both Parties and the Secretariat*"[118]. There are considerable differences in the scope and focus of the different agreements whilst some have a broad focus others deal with specific taxonomic groups and often there is no or low geographic overlap[119]. Across the CMS Family and across biodiversity-related Conventions in general there is no coordination of reporting periods and this in turn increases the burden on States due to multiple reporting requirements. Another concern is that the formats often change after each Meeting[120]. This is often due to lessons learnt from the practical application of the form by the users.

142. Questions are sometimes duplicated across agreements and as a consequence this can lead to duplication of work. Where each agreement has identified a different national focal point this problem is compounded where national focal points do not communicate with one another. There is therefore a need for improved linkages between national focal points of the various agreements as a means to increase synergy and reduce duplication[121]. It is also difficult for the Secretariats to consolidate individual reports into a single report that summarises the collective position of all Parties[122]. This may be a result of the difficulties in analysing qualitative data as it may be difficult to quantitatively assess the actions to implement the agreement and the effectiveness of actions with qualitative content[123].

143. Reporting to an increasing number of agreements is time-consuming and costly. As highlighted in the online (SONAR) project proposal, reporting requires financial and human resources, diverse expertise, organization and delegation of tasks[124]. Parties did not provide the requisite funding at COP9 as it was not viewed as a priority, so progress will depend on voluntary contributions.

144. To relieve the reporting burden on Parties between conventions and across the CMS Family, the UNEP-WCMC, through the 'Knowledge Management Project', sought to harmonize reporting requirements. Two reports were produced, one on joint reporting for five biodiversity-related agreements (CMS, CBD, CITES, AEWA and IOSEA) in 2008. The other report, produced in 2007, looked at developing a joint reporting framework for CMS, AEWA and IOSEA, which could be expanded to other members of the CMS Family.

145. The 2008 Report[125] highlighted the potential of an online depository to harmonize reporting obligations including national report formats[126]. It further proposed that due to the complexity and variety of information collected by national reports, any proposed harmonized report format would need to consist of two parts. The first part would deal with common or general information, containing information relevant to all Secretariats and a second part dealing with specific information relating to the implementation of particular actions/instruments under agreements[127]. The common

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118 UNEP/CMS/Inf.9.19 on the project proposal for SONAR 2010.

119 AEWA covers 110 ranges states in Africa, Europe and Asia, whilst the High Andean Flamingo MOU covers 4 range states in South America.

120 "*Joint core reporting elements of biodiversity-related conventions and agreement"*' prepared by UNEP Division of Environmental Law and Conventions and UNEP-WCMC.

121 UNEP/CMS/Inf.7.20.

122 ACAP/MoP3/Doc.28.

123 ACAP/AC4/ Report paragraph 7.1.6.

124 UNEP/CMS/Info.9.19.

125 '*Joint core reporting elements of biodiversity-related conventions and agreements*' prepared by UNEP Division of Environmental Law and Conventions and UNEP-WCMC.

126 Ibid.

127 Ibid, page 4.

guidelines recommended in the report could be extended to cover other appropriate biodiversity-related conventions and other CMS Agreements[128]. In the 2007 Report[129], the format proposed contained both a generic section for CMS requirements and a more specific section for AEWA and IOSEA requirements.

146. If a joint reporting framework were expanded to cover the CMS Family, an online system would be more efficient and user-friendly allowing Parties only to complete the sections relevant to their requirements. At CMS COP8, this was recognised in Resolution 8.24, which requested the adaptation of the national report format to facilitate on-line reporting on the implementation of the CMS Strategic Plan 2006-11. Currently, IOSEA offers online reporting and is regarded as one of the most advanced on-line systems of any MEA and possibly even the only such system in operation.

147. The CMS Family proposed to establish a global System of Online National Reporting (SONAR) to be introduced in 2008[130]. However, the current status of this online system is dormant[131] due to a lack of funding from voluntary contributions. At COP9 the hope was expressed that the progress of an online system would be covered by Phase II of the "Knowledge Management" Project, which was then still under consideration by UNEP. A recent meeting in Geneva decided that online reporting and harmonisation would not form part of Phase II. However, this was qualified by the CMS Secretariat stating that a separate or specific sub-project for online reporting system may be required for CMS and other CMS Agreements[132].

148. There are number of advantages to the current system. A number of instruments have provided a mandate for carrying out work on harmonization of reporting[133] and some instruments have introduced guidelines or explanatory notes to improve the quality of information (CMS and IOSEA).

149. Online reporting has some key advantages including: the reduction of the cost of developing information systems for Secretariats through shared costs; reduced overlapping in the questionnaire format of different agreements; reduced burden on national governments; removing or reducing the need for separate reporting mechanisms; and easier collection of information and assembly of reports on line by the Secretariat and other users[134]. The IOSEA online reporting system has shown that a solid reporting foundation is required before the development of an online system. A number of the agreements have recognised this and have made advances to improve the basic format, for example the template for CMS COP9 was significantly simplified compared with previous formats. The IOSEA online reporting facility also has a 'lowest common denominator' system built in for countries that have difficulties working online[135].

150. A significant barrier to streamlining procedures for reporting at the national level appears to be the differences in the reporting cycles of the different agreements. The lack of coherent and integrated reporting cycles was identified by the national pilot projects facilitated by UNEP for the harmonization of national reporting. In relation

128 Ibid, page.5.
129 'Joint reporting for CMS, AEWA and IOSEA' prepared by UNEP DELC and UNEP-WCMC, 2008.
130 UNEP/CMS/Resolution 8.24.
131 UNEP/CMS/Inf. 9.19.
132 UNEP/CMS/Conf. 9.20/Rev.1.
133 UNEP/CMS/COP8/Res. 8.11 and 8.24 and CMS/MOP3/Res. 3.5.
134 UNEP/CMS/Info.9.19.
135 UNEP/CMS/Info.9.19.

to harmonized formats, CMS has expressed concern over losing the ability of the COP to alter the national reporting procedures. IOSEA also raised concerns about repeatedly altering existing templates to which users may be accustomed[136].

151. Online reporting systems will need common formats and a common dataset as well as an analytical tool linked to the on-line format [137], and the harmonization of definitions across common core documents[138]. There is also a need for training at national level and within the CMS and Agreement/MOU Secretariats for data collection, processing, reporting and management.

152. The CMS Secretariat, in endeavouring to assist in shortening time spent on reporting and in order to encourage a higher return of national reports, is sending out electronically a partly pre-filled report format to each Party[139]. Parties are requested to check the information included and amend as appropriate, and to complete those sections where no information has been provided. A sample report is also available on the UNEP/WCMC website. This is a positive measure and one to be encouraged until an on-line reporting system is up and running.

3.2.3.1 Advantages and disadvantages of reporting and information management

3.2.3.1.1 Advantages

Information base

153. CMS and its Family gather unique information relevant to migratory species but which is also used by other MEAs.

CMS on-line resources

154. The CMS Information Management System is a technical information integration tool for the collection, management, use and dissemination of the scientific and management information needed for the implementation of CMS and its Family at local, regional and global levels (see paragraph 78).

155. A number of instruments have provided a mandate for carrying out work on harmonisation or reporting and some have introduced guidelines or explanatory notes to improve the quality of information (see paragraphs 145 and 149). The CMS Secretariat also encourages reporting by sending out electronically partly pre-filled reports to each Party (see paragraph 152).

IOSEA's Online Reporting System

156. IOSEA's on-line reporting systems is regarded as one of the most advanced online systems of any MEA and lessons can be learnt which can be applied to any CMS and CMS Family reporting system (see paragraph 149).

3.2.3.1.2 Disadvantages

[136] MT-IOSEA/SS.4/Doc.8.1.
[137] UNEP/CMS/Inf.9.19.
[138] Joint reporting for CMS, AEWA and IOSEA' prepared by UNEP DELC and UNEP-WCMC, 2008.
[139] UNEP/CMS/Conf.9.10.

Reporting burden

157. Due to the increasing number of CMS family instruments and MEAs, there is an increased reporting burden on individual Parties (see paragraph 142). This is costly and time consuming (see paragraph 143).

Late reporting

158. Reporting deadlines are often missed by numerous Parties and there is also a high percentage of non- compliance (see paragraph 140).

Reporting methods

159. There is no coordination of reporting periods across the CMS Family (or other MEAs), the reporting formats often change after Party meetings and questions are sometimes duplicated across agreements resulting in increased workloads and higher costs (see paragraphs 143, 144 and 145). Different reporting schedules also create difficulties for combining or amalgamating data for data comparison (see paragraph 152).

160. There are also instances where CMS, the CMS Family instruments and other MEAs have different national focal points. This increases workloads and reduces the chances of synergies across CMS, the CMS Family and other MEAs. This also makes it harder for Secretariats to consolidate all of the Parties' positions in one report (see paragraph 144).

161. There is no one joint reporting framework which harmonizes reporting obligations and no funding to implement one, although the CMS Management System goes some way toward achieving this (see paragraphs 78, 147, 148 and 149).

3.2.4 Capacity Building

162. Given the financial and human pressures in the delivery of conservation objectives, the building up of capacity, particularly in the areas covered by the newer agreements becomes a crucial means of marshalling scarce resources. Regional agreements continue to proliferate and the very titles of these (e.g. South American Grassland Birds, Indian Ocean and Pacific Dugongs, C/W/E African Gorillas) indicate their distinct regional nature. At the same time, the growth in CMS Parties[140] largely involves new members from Asia (and Oceania), the Americas and Africa. Continued growth is expected to be outside of Europe and Africa, where there is currently a predominance of Parties, and there is a need to ensure that Parties to or members of regional species agreements also accede to the parent Convention. Moreover, it is not only the capacity of government Parties that matters as partnering with locally based NGOs is proving a most effective channel for promoting conservation.

163. A number of subsidiary instruments have proved adept at harnessing the expertise of local operators to date, which represents an important policy to ensure that local knowledge is used to address localised conservation problems. However, the danger here is one of fragmentation making it crucial that the CMS Secretariat has oversight of and can respond to such developments to ensure the protection of the migratory

[140] From 93 in November 2005 to 113 by January 2010; with a target of 123 Parties by 2011 as per the Strategic Plan.

species within the CMS framework. This task is made much easier by building up local capacity. In this regard, a significant development could prove to be the establishment of Project Offices to assist in the coordination of key subsidiary instruments. Not only may such a policy promote administrative efficiency and the aggregation of resources, but it further provides a clear focal point for local conservation professionals and other operatives to participate in relevant CMS activities.

164. Account must be taken also of two particular objectives. The first is to combat the threat of climate change upon migratory species. The monitoring and understanding of the threats posed by climate change require robust scientific studies and targeted, applied dissemination of the findings. The practical application of techniques of adaption and mitigation may be required. Climate change demands not only a strong, central policy lead but a sharing of skills and knowledge through innovative programmes. In addition, it is increasingly vital that conservation measures are integrated into wider frameworks of sustainable development which itself is not always well understood. However, the integration of species protection into wider polices in areas such as transportation, energy, and waste management may produce significant rewards.

165. The mechanisms for capacity building are increasingly available via information systems and the open sharing of data which becomes accessible as and when it is needed. This and the delivery of training (whether face to face in regional workshops or through distance learning) to increase the conservation capacity within regional frameworks may not only assist in meeting conservation objectives but would strengthen the overall value placed upon being or becoming a Party to the Convention. There is room in this area not merely for scientific studies to produce appropriate guidance documents but also for consideration of social scientific work on knowledge transfer and best practice for capacity building in the wider context of programmes of sustainable development.

166. Clearly considerable good work takes place already but the emphasis here is on the great value that resources deployed for capacity building can deliver. One other important further mechanism for this is the internship programme. There is some evidence that interns remain involved with conservation work. Currently, however, interns from the developing world are in the minority. Internship should be viewed as a significant step in capacity building and might be more directly viewed as such. The internship programme is an illustration that building up individual capacity sits appropriately alongside efforts to improve institutional capacity.

167. In addition to internship programmes to capture the imagination of the next generation of conservation actors, a number of the subsidiary agreements have taken positive steps to compile databases of pertinent experts in the field. The identification of a cohort of key personnel available to participate within the activities of the various CMS agreements represents a further means of developing the operational capacity of these instruments. To date, activities have primarily centred upon the identification of scientific experts; there remains considerable scope to improve such activities to identify persons of potential value to the Convention drawn from other areas of conservation practice, such as those with legal and policy expertise, for instance.

168. There may well be synergies in the capacity building area with other activities within UNEP or conservation related MEAs (see below). Such coordination might achieve

efficiencies and economies of scale. Increasingly there is room for a much wider range of stakeholders to become involved with and to support capacity building activities relieving pressures on the CMS Secretariat. It is important too that there is an iterative dialogue so that needs can be identified and met quickly and efficiently. Over time the CMS has developed to become global in reach, with this welcome expansion comes increased responsibility to ensure the capacity to deliver conservation objectives within all regions now covered by the CMS Family.

3.2.4.1 Advantages and disadvantages of capacity building

3.2.4.1.1 Advantages

Sharing resources

169. A number of subsidiary instruments have used the expertise of groups already established in the area which is not only a good use of scarce resources but which links CMS's interests with those of like minded NGOs e.g. the ICF have been providing coordination functions for the Siberian Crane MOU (see paragraphs 237 and 238 and Annex I Table 35).

Ease of access

170. Information systems and the open sharing of data have the potential of making capacity building tools easier to access.

Adds value to CMS and the CMS Family

171. Increasing conservation knowledge and capacity within regional networks (e.g. with guidance documents, social scientific work, knowledge transfer and best practice) can add value and make it more attractive to join CMS and the CMS Family (see paragraph 216).

Internship programmes and consultants

172. Interns provide valuable resources to CMS and the CMS Family improving institutional capacity at low cost. But this is a two way street as CMS builds the intern's individual capacity whose imagination may be captured and who may then stay within the area of conservation work and spread the CMS and CMS Family conservation ethos (see paragraph 167).

173. Consultants can provide a pool of high level expertise which can be accessed at an ad hoc basis at a lower cost than through permanent employment with the Convention.

3.2.4.1.2 Disadvantages

Growth rate of instruments

174. Regional instruments are on the increase and distinct regional expertise is required which may not be transferable. Also the newer Parties from Asia, the Americas and Africa have, by on large, fewer resources to build capacity (see paragraph 163).

Potential for fragmentation

175. Exploiting and creating further synergies with NGOs, MEAs and other interested groups create the potential to increase capacity building through economies of scale. However, care needs to be taken to ensure that CMS and the CMS Family's conservation policies are not diluted (paragraph 164).

Integration of species protection in wider sustainability

176. There is further scope for the integration of species protection policy into wider national and international policy areas such as waste, housing, transportation and energy.

3.2.5 Scientific resource

3.2.5.1 Scientific capacity

177. Scientific endeavour within the CMS is most obviously directed on a central level through the activities of the Scientific Council. Most CMS Parties (80 of 113 have nominated a national expert) are represented on the Scientific Council, although it may be considered that coverage is slightly more fragmentary in relation to East and West Africa in this respect (18 of 39 African Parties have not nominated their Councillor, including 11 States in West Africa). Nonetheless, as noted below this is rectified in part by the appointment of a particular Councillor for African Fauna. Councillors' terms are dependent on the Party who appointed them so they are either replaced by the Party or retire.

178. A particular strength of the system is the scope for the COP to appoint further experts to the Council. Where such experts are appointed, they are distinguished from those appointed by the Parties with the title "Appointed Councillor" and the criteria for their selection and the terms of their tenure are specifically established by the COP. Eight such experts were appointed for the period 2006-08,[141] an arrangement that was continued for the current triennium. These eight experts are responsible for African Fauna, Asiatic Fauna, Aquatic Mammals, Birds, By-catch, Fish, Marine Turtles and Neotropical Fauna. There are clear strengths to this system and it allows the Scientific Council to further develop its specialist advice in the context of broad species subject to multiple subsidiary instruments (such as birds, marine turtles and aquatic mammals) as well as cross-cutting anthropogenic threats to particular species (such as by-catches). Moreover, specific sectoral representation is also made through Councillors (African, Asian and Neotropical species). A case could be made for the expansion of the system to include additional areas, not least the Pacific Region. Additional threats might also be given additional scientific consideration, especially given the increased emphasis in recent years upon climate change, which might also be complemented by consideration for pollution issues and directed hunting. The appointed Councillors´ term is for one COP and their appointment must be reviewed at the following COP, or as mandated.

179. The Chair of the Scientific Council can also invite experts from other organizations to attend Scientific Council's meetings where there is an expression of interest. This is

[141] Resolution 8.21, Institutional Arrangements: Standing Committee and Scientific Council, adopted at the Eighth COP.

an advantage as it allows CMS and its Family to exchange data, knowledge and expertise with scientific experts from NGOs, MEAs and INGOs.

180. In 2007, the Forum for the CSAB of the Biodiversity-related Conventions was established to improve collaboration between the scientific bodies of the biodiversity-related MEAs. The Forum is an initiative which arose out of the BLG, which itself was founded to harmonize capacity building across all of the MEAs. With the introduction of the 2010 Biodiversity Targets, a key objective of the BLG is to develop capacity and to improve technical support.

181. The Scientific Council is also complemented by a host of Working Groups, which may be established for an ad hoc project – such as the development and drafting of a new subsidiary instrument – or with a greater degree of permanence, providing a platform for interchange between the Scientific Council as well as pertinent NGOs, such as the Cetacean Liaison Group proposed by WDCS and established at the Thirteenth Meeting of the Scientific Council. This allows a focused approach to specific scientific issues.

182. All subsidiary instruments have a degree of institutional scientific capacity, to a greater or lesser extent. This ranges from the central provision of scientific advice from the CMS itself, to supplementary activities by pre-existing institutions and expert groups or the activities of NGOs, to sophisticated bespoke arrangements within the larger and legally-binding Agreements. It is clear that the provision of appropriate and sustained technical advice is as essential to the operational effectiveness of the subsidiaries as it is to the parent Convention, without which it is impossible to gauge the impact of conservation measures adopted to date, to identify the scale of current and emerging threats and to prioritise areas of activity within the context of finite budgets.

183. AEWA's Technical Committee is composed of nine regional representatives (one still to be appointed for Central Africa, three experts covering environmental law, rural economics and game management, three experts from NGOs and seven others, of which one post is vacant and the Chairman of the Standing Committee)[142]. Twenty one members attended the 9th Meeting of the Committee in 2008, including an AEWA Secretariat representative.

184. EUROBAT's Advisory Committee acts as its scientific body and 44 representatives attended the 14th Meeting of the Advisory Committee in 2009 (20 Party range states, three non-Party range states and 11 observers). Each party is entitled to be represented on the Advisory Committee and may be accompanied by an advisor[143].

185. ACAP's Advisory Committee, like EUROBATS, acts as its scientific advisor and operates within four working groups[144]. It is composed of 13 Party representatives, two Committee Members (Chair and Vice-Chair) and the Secretariat. Its 4th meeting was held in 2008 in South Africa and attended by 46 delegates.

186. ACCOBAMS' Scientific Committee last met in 2008 in Italy and was attended by 12 members and a further 18 assorted experts and observers. The newest Gorilla Agreement has established a Technical Committee, which is to be composed of one

142 Source AEWA website.
143 EUROBATS.MoP5. Record. Annex12b.
144 Seabird Bycatch, Breeding Sites, Taxonomy and Status and Trends Working Groups.

representative from each range state, one representative from GRASP and one expert in environmental law, forest management and conservation and wild animal health[145].

187. The most formal autonomous scientific arrangements are to be found among the most extensive and well-supported of the Agreements. In this respect, ACCOBAMS has established a Scientific Committee, which is charged with providing technical advice to the MOP, elaborating conservation guidelines, conducting scientific assessments on the conservation of cetacean populations and facilitating the exchange of data.[146] The establishment of a specific Scientific Committee is seen as a major operational advantage of the Agreement, having "secured the support of high-level specialists, working in an exemplary spirit of partnership" [147]. Nonetheless, concerns have been raised over its future effectiveness, given that central funding constraints have been experienced, as well as a perceived regional imbalance in the composition of this body[148].

188. Likewise, within AEWA, a distinct TC has been established since the inception of the Agreement which, until 2009 met annually. As in the case of ACCOBAMS, the TC is seen as a vital cog in the AEWA machinery. However, due to funding constraints, the Technical Committee is now scheduled to operate biennially, with a dedicated TC Forum established via an intranet to maintain and support the work and communication in the interim. It is too early to state whether this will prove to be an effective alternative to convening an official scientific meeting annually.

189. Elsewhere within the CMS Family, a process of scientific reform has been ongoing – especially within the context of some of the earliest subsidiary instruments. In this regard, neither EUROBATS nor ASCOBANS, negotiated within the early 1990s, provided a specific platform for scientific issues in the manner prescribed by later agreements. In this respect, ASCOBANS had initially provided scope for technical and scientific issues to be addressed through its AC. A review of the Agreement commissioned for consideration at the Fifth MOP in 2006 revealed a considerable level of dissatisfaction with the then arrangements[149], which had accorded minimal time available within the various institutional meetings to address scientific concerns.

190. At ASCOBANS' Fifth MOP a Resolution was adopted that sought to redress these perceived shortcomings, declaring that since the AC was essentially tasked with providing advice on scientific, policy-related and administrative matters, it was therefore necessary to provide "a balance of scientists, policy-makers and administrators to adequately cover its role", stressing that the success of the AC essentially "depends on the ability of its members to allocate sufficient time to the work of the AC and its working groups" [150]. Accordingly, for the 2007-10 quadrennium onwards, AC Meetings have been formally demarcated into two distinct sections, addressing administrative issues and scientific and policy matters.

191. A strength of this system is that it has seemingly provided a greater degree of coherence in discharging the AC agenda over the meetings in which this process has

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145 The Gorilla Agreement questionnaire.

146 Article VII(3) of the ACCOBAMS Agreement.

147 *Report of the Second Meeting of the ACCOBAMS Contracting Parties*, (Monaco: ACCOBAMS, 2004), at 7.

148 *Ibid*., at 10.

149 UNEP/ASCOBANS MOP 5/ Doc.24 (O), submitted by WWF for consideration at the Fifth MOP, September 2006.

150 UNEP/ASCOBANS Resolution 2b: Financial, Budgetary and Administrative Matters – Operating Procedures of the Agreement 2007-2010. In practice, these pressures are substantially replicated within the MOP given that there is often little difference in the personnel attending Meetings of the Parties and those of the AC, with similar issues raised in both fora.

been operational. Nevertheless, this creates substantial pressure of time on the AC, which is usually convened across a period of four days and has to review financial, policy and administrative aspects of progress between MOPs, hence the true amount of time available to discuss scientific matters is heavily truncated in practice[151]. Moreover, concerns raised within the initial review at the Fifth MOP that delegations were composed more of administrators than scientists have continued to linger, which further reduces the scientific capacity of this organization.

192. The debate within ASCOBANS at the material time was replicated in EUROBATS, which convened its AC Meeting shortly before the Fifth MOP to ASCOBANS. At this juncture, the AC to EUROBATS conducted a full review of the possibilities for administrative reform,[152] before establishing a formal Standing Committee at the Fifth MOP[153]. The new Standing Committee meets annually and a considerable degree of satisfaction has been expressed by the delegates over the new streamlined approach to the Agreement[154]. AEWA went through a similar process.

193. Elsewhere within the CMS Family, scientific arrangements are provided centrally by the CMS in the first instance, as part of its formal administration of the various MOUs and agreements. There are also examples of MOUs having established their own technical advisory bodies, e.g. IOSEA and West African Turtle MOUs. The advantages and disadvantages of this arrangement are broadly similar to those experienced in the general administration of these instruments, as noted elsewhere in this report. The primary advantages are that small-scale bodies with modest resources can access the central expertise of the parent Convention. On a less positive note, the constraints on time and resources at a central level to adequately service an expanding array of eclectic subsidiaries has adverse practical implications for the provision both of vital administrative and scientific support.

194. In practice, most of the subsidiaries have received supplementary scientific support from external bodies, primarily pre-existing expert and advisory groups, or through specialist NGOs. Examples of this approach may be seen in the Great Bustard and Aquatic Warbler MOUs, in which technical support is provided by BirdLife International. Other subsidiaries are able to receive support from pre-existing expert groups and bodies – for instance the Pacific Islands Cetaceans MOU benefits from the marine conservation framework that currently exists through SPREP, while the Western African Elephant MOU reported benefits from collaboration with the AfESG from IUCN´s SSC developed and concluded the West African Elephant Conservation Strategy, with support from WWF. The advantages to the CMS of this broad policy of external support are clear – not only does it enable the parent Convention and subsidiaries to access such information freely, but also provides scope for further collaborative relations while avoiding the duplication of effort and initiatives.

3.2.5.2 Technical data perspective

195. Interrelated with the development of a more effective and efficient reporting system are two related but distinct issues. The first is the existence of accurate, up-to-date scientific and technical data in order to base planning and decision-making[155]. The

[151] ASCOBANS MOP5/DOC24 0.
[152] Doc.EUROBATS.AC11.20.
[153] Resolution 5.8, Establishment of a Standing Committee of the Agreement, adopted at the Fifth MOP to EUROBATS in 2006.
[154] EUROBATS.StC2.Record, at 1.
[155] UNEP/CMS/Conf7.6.

second issue is the availability and compilation of this information for use by the CMS Family. The first issue deals with the collection, quality assurance and analysis of the data to ensure its accuracy, whilst the second deals with the storage and management of the data to ensure that it is widely available to all relevant stakeholders and is in a format that can be used by those stakeholders. Whilst these two issues are closely linked they require different responses to resolve the problems.

196. There are both general and specific information challenges within the CMS Family. The existence of baseline data is an example of a general issue, for example ACCOBAMS reported that current knowledge on distribution, abundance, stock identity and population structure of cetaceans in the ACCOBAMS area is very scarce and patchy[156]. For others there are specific information issues, which may reveal common issues for particular geographical areas. AEWA[157] has acknowledged that current levels of data for AEWA are poor, stating that this is in part due to a shortage of expertise, financial or logistical support in some parts of the Agreement area, which resulted in gaps in available population count data. This highlights the divergence in levels of scientific expertise for some CMS Range States. Addressing threats to populations is also hampered by gaps in basic species knowledge, as well as lack of monitoring or assessment in some CMS regions[158].

197. The availability of reliable, scientific information is one of the greatest challenges for CMS and the CMS Family. This issue was highlighted in the CMS Strategic Plan for 2006-11, as the first of its four stated objectives is "*to ensure that the conservation and management of migratory species are based on the best available information*"[159]. Information is essential in prioritizing both scientific and management actions as it informs decision-makers about the abundance of migratory species relative to the threats facing them, and the ability to determine whether the populations are stable, increasing or decreasing.

198. There are however, some problems encountered in relation to both of these issues, these are:

1. *Access to scientific capacity*. This varies across the different instruments. Article IV(3) Agreements in general have specific scientific committees (for example ACCOBAMS) or technical committees (for example AEWA). A number of the MOU instruments receive their scientific support from partner organizations (Aquatic Warbler MOU), in particular NGOs. Other MOUs, for example the Siberian Crane and Western African Aquatic Mammals MOUs have no scientific committee and therefore rely on the scientific capacity of the CMS. As a consequence, the integration of scientific and technical data therefore needs to be addressed not only across the CMS Family and between biodiversity-related conventions but also with multiple NGOs.

2. *Funding*. Funding remains a major issue for the development of scientific capacity, for example ACCOBAMS has stated that research projects, whilst vital to the state of knowledge of the Agreement are often highly cost-prohibitive[160]. The progress of GROMS has been hampered due to financial restrictions as has

[156] ACCOBAMS/MOP2/Doc.50.
[157] AEWA/MOP4/Resolution 4.2.
[158] UNEP/CMS/PIC2/Inf.6-01.
[159] UNEP/CMS/Conf.9.18/Rev.1.
[160] ACCOBAMS/MOP2/Doc.50.

the strengthening of linkages with the on-going global environmental assessments, particularly through UNEP/GEO, which has not yet been implemented.

3. *Resources*. A lack of resources both in absolute terms and by comparison with other conventions has impacted negatively on the CMS Secretariat's scientific and technical capacity[161].

4. *Compatibility and availability – from collection to dissemination*. For scientific data to be effective, population estimates need to be collected in similar ways across the CMS Family to ensure that comparisons are compatible[162]. The BLG stated that there is abundant data and information on biodiversity but that these data are often not available to the Conventions' scientific advisory bodies. The BLG stressed that the focus had to be on bringing together various sources of scientific information, including traditional ecological knowledge, in a coherent and comparable form, whilst at the same time being easy and user-friendly[163].

199. In response to these issues, the CMS Family has taken the following positive actions to address these either within instruments or across the CMS Family.

200. Response to data collection and analysis:

- The BirdLife Global Procellariiform Tracking Database, which exists due to the collaboration of scientists worldwide, facilitates the analysis of the global distribution of ACAP species. ACAP advised that data gaps still remain in the Tracking Database for the foraging range of some species during different stages of their life cycle[164].

- The CMS Information Management System[165] enables the collection, management, analysis, use and dissemination of the scientific and management information that is necessary for the implementation of the Convention and its agreements at local, regional and global levels. This is a 'hub' for the information generated by national and international expert agencies[166].

- Integrated efforts are pursued, via the BLG, for cooperation among scientific bodies and development of scientific advice, knowledge management for MEAs, capacity development and technical support for achieving the 2010 targets.

201. Response to data acquisition and custodianship:

- CMS Secretariat has seized opportunities to implement some of the Information Management Plan priority actions in conjunction with other multilateral treaties, therefore saving on resources and facilitating the development of a more harmonised inter-organizational approach to information management[167]. This includes developing MOUs with partner organizations for the collection, management and use of information (IFAW, GNF, ITTO to name a few). Also working with the UNEP Knowledge Management Project to improve reporting

[161] UNEP/CMS/COP9/REPORT.
[162] UNEP/CMS/COP9/REPORT.
[163] UNEP/CMS/Conf.9.12.
[164] SAR-9-11b.
[165] Developed out of UNEP/CMS/Resolution 6.5.
[166] UNEP/CMS/Conf.8.13/Rev.1.
[167] UNEP/CMS/Conf.9.18/Rev.1.

between conventions and collaborating with Encyclopaedia for Life to build on existing efforts to establish an up-to-date, comprehensive database on listed species.

- CMS Information Management System - Systems currently interconnected through the CMS Information Management System include: Fishbase; Species 2000; IOSEA Online Report Facility and other technical databases; IUCN Red List; International Taxonomic Information System; and GBIF information.[168]

- Science, Data and Marine Unit – Resolution 9.03 states that the IMP/IMS work should in future be led by a strengthened Science, Data and Marine Unit, and form part of a wider remit for scientific and conservation data management and be supported by other units with responsibility for website management and liaison with other bodies.

- IOSEA Marine Turtle Interactive Mapping System (developed by UNEP-WCMC and IOSEA Secretariat). The system is designed to facilitate the integration of public-domain field data, such as distribution, abundance, migration, trends, status, photographs, and information on index beaches, together with habitat information such as presence and extent of sea grasses, coral reefs, mangroves, priority areas such as Internationally and Nationally Protected Areas, and physical background parameters. While at the cutting edge of technology when it was first developed, both partners recognise that the interface needs to be upgraded to a GoogleEarth platform.

- A Memorandum of Cooperation between CMS and the GBIF was signed in October 2008 to work together to develop and share biodiversity data on migratory species. Having access to scientific data is vital for the advancement of science, the conservation and sustainable use of biodiversity, natural resource management, policy-making, and education and public awareness. GBIF specialises in providing accessible biodiversity data. The purpose of the MOC is to facilitate the access to the GROMS database by CMS clients (e.g. COP and Scientific Council) and GBIF clients to GBIF primary data by the CMS constituency.

- In relation to the CMS Information Management System, the implementation of linking data related directly or efficiently to knowledge and information generated within CMS with other sources has not been established[169]. In the same document it is also acknowledged that whilst the infrastructure is already in place, due to lack of implementation of some of the actions identified in the CMS Information Management Plan[170], much of the information available to the CMS Family remains fragmented and dispersed[171]. With the recognition of the vital role of scientific and technical information by all the MEAs, integrated programmes are being developed to resolve the current existing data problems in recognition that the harmonization of information management and reporting can lead to a more integrated process, reduction of duplication and greater sharing of information.

[168] UNEP/CMS/Resolution 8.10.
[169] UNEP/CMS/Conf.9.18/Rev.1.
[170] In particular, provide the basis for a continuous review of the Appendices, provide the means to monitor the effectiveness of the Convention and its contribution to global processes, enable the effective management and interlinking of information systems and reporting within the CMS Family and with other biodiversity MEAs relevant to CMS (in particular CBD, Ramsar and CITES).
[171] UNEP/CMS/Conf.9.18/Rev.1.

This would support the more efficient and coherent implementation of the conventions and agreements involved.

- One of these integrated programmes is the development of a common information portal with other MEAs via a UNEP/WCMC project. However, it does not contain baseline data but has merely ready access to and cross-linkages among the strategic documents and information tools. The Secretariats of CMS and CITES have a joint programme of work approved by their COPs and have fund raised jointly.

3.2.5.3 Advantages and disadvantages of scientific resource

3.2.5.3.1 Advantages

Appointment to scientific bodies

202. CMS's Scientific Council is represented by experts nominated by Parties and by the COP. In the latter case, nomination and appointment is not tied to a Party but is determined by the need to provide advice on specific topics across expert areas such as common threats (by-catch) taxa (such as birds and mammals) and at a regional level (such as African fauna) (see paragraphs 177 and 178).

203. Scientific experts from other organizations can be invited to meetings of the Scientific Council which adds to the science base encouraging synergies and transfer of data and expertise (see paragraphs 179).

Scientific capacity

204. All of the CMS Family has access to some scientific support. Some have their own advisory bodies, such as CMS's Scientific Council, ACCOBAMS' Scientific Committee and IOSEA; others depend on the Scientific Council for their scientific input, such as most MOUs; and others receive external support, such as Great Bustard MOU from Birdlife International (see paragraphs 182-190).

External support

205. Some MOUs, which largely receive little regular financial contributions, receive scientific support externally from NGOs (see para 194). This increases CMS and the CMS Family's scientific capacity whilst not draining resources further. It also enables synergies and integration of scientific data outside the CMS Family.

Integration

206. The FCSADBC and the BLG have the potential to improve collaboration between CMS and scientific bodies of the biodiversity related MEAs (see paragraph 184). The fact that most MOUs receive scientific support from CMS' Scientific Council facilitates a measure of integration.

3.2.5.3.2 Disadvantages

Underrepresentation

207. East and West Africa are underrepresented on the CMS Scientific Council (see paragraph 177). A regional imbalance was also reported within ACCOBAMS' Scientific Committee (see paragraph 187).

Lack of integration

208. Various instruments have access to different amounts of technical data collected in different ways, some internal some external to CMS, without there being one tool with which to gather, process and disseminate this information (see paragraphs 198 and 200 and Annex I Table 35).

Lack of baseline data, monitoring and basic species knowledge

209. The lack of baseline data on distribution, abundance, stock identity and population structure (e.g. ACCOBAMS) is an issue. Addressing pollution threats is also hampered by gaps in basic species knowledge as well as lack of monitoring or assessment in some CMS regions (see Annex I Table 35).

Funding

210. There appears to be a lack of funding to improve integration of technical data (see paragraph 198).

Activity rate

211. The greater the amount of different type of data that has to be collected, the greater is the strain placed on limited resources.

3.3 Strengthening cooperation with other international organizations and interested partners

3.3.1 Current examples of strengthening cooperation with other international organizations and interested parties

212. Given the considerable array of MEAs currently in existence, many of which are charged with addressing cross-cutting issues affecting the conservation status of migratory species, it is of vital importance that CMS develops strong collaborative links with other regulatory bodies, as well as civil society. The crowded regulatory field within which CMS operates offers considerable challenges of competition. In order to be in an effective position to strengthen cooperation with other relevant bodies and distinguish itself from other MEAs which are competing for resources, CMS and its Family would do well to ascertain and enunciate their precise role or niche within the biodiversity regulatory framework.

213. In a number of key respects, CMS and its subsidiary organizations are in a relatively strong position to advance cooperative actions with key partners. A number of

memoranda have been concluded with pertinent bodies recognising the experience and expertise of the Convention in relation to the conservation of migratory species, thereby providing a platform of cooperative activities. A series of joint work plans have been developed with, among others, the Council of Europe, which have resulted in the elaboration of species action plans for bats, birds and marine mammals. Such organizations have also been important sources of funding throughout the tenure of the CMS. The appointment of a specific fundraising officer (albeit one with other duties) from 2010 onwards provides further impetus for grant capture – a development of real significance given that a number of the subsidiary bodies (such IOSEA and the Bukhara Deer and Saiga MOUs) have explicitly identified this as a pressing need to further their respective conservation programmes.

214. A further development of significance has been the endorsement at the Ninth COP of a mandate for the elaboration of a formal Programme of Work for Cetaceans,[172] comprising a substantive review of the synergies between the CMS and other pertinent organizations with a view to identifying gaps and overlaps and thereby further ascertaining the precise contribution that may be rendered under the Convention to address the conservation needs of cetaceans. As noted elsewhere in this report, the regulatory bottleneck creates a substantial scope for the duplication and conflict of regulatory initiatives, which the parent Convention and its subsidiaries are currently working to address. Nonetheless, the pursuit of Programmes of Work, similar in scope to that of the Programme of Work for Cetaceans, will permit the CMS to develop a targeted series of projects to advance the conservation status of migratory species, while better harnessing the collaborative possibilities raised by pertinent external agencies.

215. ACCOBAMS has developed partnerships with the the Convention on the Protection of the Black Sea Against Pollution and the RAC/SPA with which it has established co-ordination units to facilitate implementation of its Conservation Plan. In 2006 a coordination unit for the Atlantic Marine Turtle MOU was established in Senegal in conjunction with SINEPAD following the signing in 2005 of an agreement between SINEPAD and CMS. The role of this co-ordination unit is to implement conservation programmes and sustainable use activities including through training and awareness raising.

216. A final means of strengthening cooperation has been forged primarily with the NGO community and research bodies in the form of what may be termed "friendship arrangements". This has been most explicitly pursued to date within ACCOBAMS, which has developed a project to recognise the contribution of such actors on a more formalised footing, with the option to confer the status of an "ACCOBAMS Partner" upon organizations and entities that "have the potential to contribute to the mission of the Agreement" mandated at a preliminary stage in the operation of the Agreement.[173] The grant of such a status is designed to facilitate the involvement of such bodies in the implementation of the international priorities adopted by the Parties and to receive scientific information on a priority basis. Partner status has since been conferred upon a variety of organizations, ranging from NGOs to university laboratories and scholarly societies, which are subsequently entitled to use a unique logo to this effect.[174] With ACCOBAMS having subsequently acknowledged that such organizations "represent a substantial contribution to the successful implementation

[172] Resolution 9.9: Migratory Marine Species, adopted at the Ninth COP in 2008.
[173] Resolution 1.3: Awarding the Status of "ACCOBAMS' Partner, adopted at the First MOP in 2002.
[174] Resolution 1.4: Adopting a Logo for the Agreement, and Conditions for its Use, adopted at the First MOP.

of the Agreement",[175] the relationship has recently been formalised further with the Partners now required to present a report of relevant activities at each MOP and able to contribute officially to the evaluation of project proposals and the development of ACCOBAMS policies, as well as other scientific or technical instruments such as Conservation Plans and guidelines.[176] Such a policy could bear fruit within other CMS agreements and, indeed, has been successfully pursued by the parent Convention in the form of partnership arrangements with NGOs, such as the WDCS, WCS, BirdLife, IFAW and others – for a non exhaustive list of CMS partners see Annex II. NGOs and IGOs are able to sign species MOUs as "Collaborating Organizations". A distinct entity called "Friends of CMS" is a national German non-profit society (exact legal status is registered association), which was founded to support CMS for effort in raising funds and awareness.

217. There are no real disadvantages to strengthening cooperation with other organizations and partners as long as CMS follows its mandate, keeps within the remits of its Agreements and has sufficient capacity to integrate and manage these new relationships. Where political sensitivities exist, these can be resolved by the Parties. The Secretariat was instructed by COP9 to develop a code of conduct for private partnerships to facilitate some of these processes to be considered by the 36th Standing Committee [177].

3.4 Synergies and overlap of the CMS Family with other MEAs, IGOs and NGOs

218. Closer synergies with other related MEAs and CMS agreements can be beneficial to the conservation work of individual agreement in that these synergies will help (i) avoid duplication of activities, (ii) enhance joint programmes, and (iii) improve mutual representation in meetings and field missions, thus permitting time and resources to be saved. In addition coordination between CMS range states might become smooth and consistent with national programmes and strategies, which will certainly enhance the CMS Family impact within Parties and range states. Below are examples of synergies, overlaps, some advantages and drawbacks of the current system and further potential synergies.

3.4.1 Examples

3.4.1.1 ASCOBANS

219. ASCOBANS is the only instrument within its region that applies solely to small cetaceans, although issues of importance to small cetacean conservation are addressed by other bodies operational in respect of these waters. Of particular importance to the work of ASCOBANS are the European Union (through the Habitats Directive and relevant policies on by-catch mitigation and marine biodiversity), the IWC, HELCOM, OSPAR and NAMMCO. The Council of Europe, through the operation of the Bern Convention, is also relevant. Although few meaningful synergies have emerged with the Council of Europe, there have been no discernible conflicts.

220. The IWC is stymied by a lack of universal recognition of a regulatory mandate for small cetaceans, but such issues have been considered widely within its Scientific

[175] Resolution 2.9: Recognising the Important Role of Non-Governmental Organizations (NGOs) in Cetacean Conservation, adopted at the Second MOP in 2004.
[176] Resolution 3.5: Strengthening the Status of ACCOBAMS Partners, adopted at the Third MOP in 2007.
[177] UNEP/COP9/Resolution 9.6.

Committee, which has played an advisory role to ASCOBANS. In 1993 an IWC Resolution called attention to the conservation needs of harbour porpoises in the Baltic and North Seas and recognised "the relevance" of ASCOBANS[178]. IWC advice was received in the drafting of the ASCOBANS Recovery Plan for Baltic Harbour Porpoises (Jastarnia Plan) and has been represented at the ASCOBANS MOPs. Technical advice has been received in respect of by-catches and pollution issues.

221. Strong lines of communication have been consistently established with HELCOM since the inception of ASCOBANS[179], with a joint reporting scheme is ongoing, with HELCOM soliciting reports using the ASCOBANS [180] format and an exchange of the information received. HELCOM has targeted the establishment of a coordinated reporting system and database on Baltic harbour porpoise sightings, by-catches and strandings in conjunction with ASCOBANS by 2010: HELCOM Ministerial Declaration, adopted on 25 June 2003. HELCOM has also identified ASCOBANS as a key partner in the Baltic Sea Action Plan adopted in November 2007. The BSAP now forms the basis for all efforts of the Baltic riparian states to achieve good environmental status of the Baltic Sea by 2012. OSPAR has been identified as a forum through which the ASCOBANS agenda against contaminants in the North Sea may be effectively advanced[181]. OSPAR has instituted a programme of by-catch mitigation in respect of North Sea harbour porpoises, broadly in line with ASCOBANS objectives.[182] ASCOBANS has also collaborated strongly with ACCOBAMS, attending meetings and facilitating document and information exchange. Discussions are ongoing between the two Secretariats with regards to options for reporting of observations of small cetaceans as part of the Contracting Parties' routine aircraft surveillance operations[183]. These flights normally used to sight oil discharges could also be used to collect sightings data of cetaceans and transmit this data to ASCOBANS.

222. Relations between the European Union have historically been somewhat strained – ASCOBANS has in the past criticized the stance of the EU as "disappointing and unsatisfactory"[184] and "not helpful"[185] and the European Union has declined to accede to ASCOBANS. Particular difficulties are encountered given that all current Parties to ASCOBANS are EU Member States that have vested exclusive competence for fisheries matters with the Community, which affects the Agreement's ability to address by-catches. The establishment of a strong working relationship with DG-Mare and DG-Fisheries (now one DG Mare) has been repeatedly emphasised within ASCOBANS[186] meetings and formal discussions have been held annually with the European Union. During the triennium 2007-9, the Executive Secretary undertook two missions to Brussels to meet representatives of DG-Mare and DG-Environment. Another positive step has been the representation of the European Union at the 16th AC meeting and their registration for MOP6. AC 16 encouraged ASCOBANS' participation in the Marine Strategy Coordination Group of the European Union, with particular emphasis on ASCOBANS to contribute to the work of the Marine Strategy Framework Directive in securing a "good environmental status" within the

178 Resolution 1993-11: Resolution on Harbour Porpoise in the North Atlantic and the Baltic Sea.
179 Document AC15/Doc. 34.
180 Information provided by ASCOBANS 22/10/2009.
181 Resolution on Management and Further Needs, adopted at the Second MOP.
182 *Background Document on the Ecological Quality Objective on Bycatch of Harbour Porpoises in the North Sea* (London: OSPAR, 2005), at 3.
183 Information provided by ASCOBANS 22/10/2009.
184 Third Meeting of the AC, 1996.
185 Fourth Meeting of the AC, 1997.
186 Information provided by ASCOBANS 22/10/2009.

Community waters incorporated within the Agreement area. ASCOBANS in the category "other marine co-operation fora" in the Coordination Group. ASCOBANS has also been included in the Working Group on Good Environmental Status (WG GES)[187].

223. The matter of ASCOBANS extending to larger cetaceans has been considered by the MOP[188] and this can create overlaps with the IWC and may affect the well-established relationship with IWC who sees a demarcation of roles between ASCOBANS and itself to be respectively a focus and small and large cetaceans. It would also mean that more scientific and administrative resources would have to be dedicated to ASCOBANS, including re-branding of the Agreement. Restricting ASCOBANS to small cetaceans has meant that it has avoided political conflict with Norway and Denmark and also meant that scientific and conservations efforts have been able to focus largely on one species. On the other its sister agreement ACCOBAMS includes large cetaceans and now borders with ASCOBANS Agreement area, thus inclusion of large cetaceans may create more synergies between the two Agreements.

3.4.1.2 ACCOBAMS

224. Of particular importance to the work of ACCOBAMS are the European Union (through the Habitats Directive and relevant policies on by-catch mitigation and marine biodiversity), Council of Europe, the IWC, Barcelona Convention on the Protection of the Marine Environment of Coastal Regions of the Mediterranean and its associated Protocols, the Bucharest Convention on the Protection of the Black Sea against Pollution, GFCM and CIESM. ACCOBAMS has pioneered a unique system to promote synergies with the Barcelona and Bucharest Conventions, through the establishment of Sub-Regional Coordination Units charged with implementing conservation priorities and collecting relevant data: Article V(1) of the Convention. ACCOBAMS has established linkages with other relevant organizations through the membership of its Scientific Committee.

225. So far, the EU has not formally acceded to ACCOBAMS, and despite a divergence of views regarding driftnet policies[189] and the use of acoustic deterrent devices, has been supportive of the development of Conservation Plans. The Council of Europe played a key role in the conclusion of ACCOBAMS, convening initial working groups towards the ultimate development of the Agreement and has participated at a host of meetings, pledging the availability of "its achievements and its institutional framework" to ACCOBAMS[190].

3.4.1.3 ACAP

226. ACAP has identified that it can play an important role with RFMOs by (i) providing information on the distribution of albatrosses and petrels and their potential overlap with fishing effort and (ii) recommending appropriate mitigation measures that may be adopted to reduce seabird bycatch. A number of RFMOs have expressed interest in entering into 'arrangements' similar to the ones entered into between the WCPFC,

[187] ASCOBANS/MOP6/Doc5-02.
[188] CMS/ASCOBANS/MOP6/Doc.5-04
[189] ACCOBAMS' driftnet policy is the same as adopted by GFCM and the EU is participating in this forum. ACCOBAMS is planning to further clarify policy by defining driftnet at the next MOP.
[190] Report of the First Meeting of the ACCOBAMS Contracting Parties (Monaco: ACCOBAMS, 2002) at 6.

the IOTC and the Agreement Secretariat[191]. The purpose of these agreements is the exchange of information and expertise that would assist in minimising the incidental by-catch of albatrosses and petrels.

3.4.1.4 Pacific Islands MOU

227. The main linkages are centrally with the CMS and through SPREP. SPREP has administered a pre-existing Marine Species Programme that had a strong application to cetaceans. The SPREP Whale and Dolphin Conservation Plan was annexed to the original text of the MOU, and an amended version based on the SPREP Whale and Dolphin Action Plan 2008-2012 was formally adopted at the Second Meeting of the Signatories. SPREP is likely to continue to play a primary role in developing later versions of the MOU Action Plan. CITES is also relevant, with the Solomon Islands having been identified as a hotspot for poorly regulated live trade activities.

228. Representatives of ACCOBAMS have already pledged to "collaborate and share experiences and expertise with the Pacific Islands Region[192]. The IWC has been strongly active in the area, primarily through the Southern Ocean Sanctuary and associated research programmes but the political issue of commercial and scientific whaling has created sustained friction within the MOU area. Friction has been generated within CITES regarding the trade policies of certain Range States[193].

3.4.1.5 West African Aquatic Mammals

229. There are few pertinent organizations *in situ* within the area of operation of the MOU. It is envisaged that the Secretariat of the Convention for Co-operation in the Protection and Development of the Marine and Coastal Environment of the West and Central African Region will be the primary focus for institutional synergy.

230. CMS Family members, most notably ASCOBANS, ACCOBAMS and the Dugong and Marine Turtle MOUs, are likely to constitute the most immediate source of institutional synergy at present, along with the central CMS institutions.[194] With regard to small cetaceans, the IWC is likely to be of assistance in respect of research issues. There is no global body with expertise and competence over manatees in a manner analogous to the IWC.

3.4.1.6 Bukhara Deer

231. The preamble of the MOU emphasises links between the Range States and pertinent NGOs as opposed to other multilateral environmental agreements and linkages are primarily envisaged within the CMS institutions, with some data exchange ongoing with the CMS Saiga MOU[195].

3.4.1.7 Dugongs

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191 ACAP/MoP3 Doc 8.

192 "Report of the First Meeting of the Signatories to the Memorandum of Understanding for the Conservation of Cetaceans and their Habitats in the Pacific Islands Region (Bonn: CMS, 2007), at 3.

193 Selection of the Solomon Islands Population of *Tursiops aduncus* for Inclusion in the Review of Significant Trade; Document 8.5.1 presented at the Twenty-Third Meeting of the Animals Committee to CITES, April 2008.

194 WAAM questionnaire.

195 Bukhara Deer questionnaire.

232. Signatories of the Dugongs MOU undertake to "consider joining those international instruments most relevant to the conservation and management of dugongs and their habitat"[196]. The preamble specifically notes the role of the CMS and CITES. Notwithstanding a commitment to "take steps to ratify the most relevant international conventions addressing Monk Seal's conservation"[197] (paragraph 2), the primary synergies between the MOU are likely to be established with the parent Convention.

3.4.1.8 West and Central African Elephants

233. The AfESG from the IUCN Species Survival Commission has played a significant role in the development and coordination of the West African Elephant MOU and the Central African Elephant Action Plan. The West African Elephant MOU grew out of an existing West African Elephant Conservation Strategy developed by the AfESG. One potential problem is that the origins of the division between Central and Western Africa are not entirely clear and are perhaps based less on taxonomic distinction and more on geographic location of the lead Parties of the West African MOU[198].

234. One argument against the further development of a MOU on elephants in Central Africa is that the available resources might be used more effectively on the already-concluded MOU covering West Africa[199]. However, concerns have been raised by AfESG that expanding the existing agreement to include Central African elephants would not be productive as the threats faced there are very different from those in West Africa. It has been recommended that in the case of a trans-boundary elephant population between West and Central Africa, a bilateral cooperative agreement should be pursued (for example between Nigeria and Cameroon) rather than trying to significantly increase the scope of the agreement[200].

3.4.2 Advantages and Disadvantages of synergies and overlaps

3.4.2.1 Advantages

Scientific Advice

235. Drawing specific lines of expertise with other conventions where there is overlap has been of benefit to the CMS Family. A clear example is ASCOBANS and the IWC where ASCOBANS has received advice from the IWC in establishing by-catch mitigation policies, as well as collaborating in addressing pollutants through the IWC's POLLUTION 2000+ programme. In fact, the IWC has adopted a Resolution "recognising the relevance" of ASCOBANS for the protection of the harbour porpoise and calling upon Range States to provide full information on population distribution and abundance, stock identities, pollutant levels, and by-catch mortality and to give "high priority" to reducing by-catches of such species[201].

236. The African Elephant Specialist Group (AfESG) acts as the technical advisor to the West African Elephant MOU.

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196 Paragraph 2, MOU on the Conservation and Management of Dugongs and their Habitats throughout their Range.
197 Paragraph 2, Memorandum of Understanding concerning Conservation Measures for the Eastern Atlantic Populations of the Mediterranean Monk Seal.
198 Central African Elephant Questionnaire.
199 Central African Elephant Questionnaire.
200 West African Elephant Questionnaire.
201 Resolution 1993-11: Resolution on Harbour Porpoise in the North Atlantic and the Baltic Sea.

Outsourcing MOU Coordination

237. With increased demands on the CMS Secretariat, calls on staff resources have been reduced through partnerships with collaborating organizations to support Range States and provide technical documentation (e.g., BirdLife International (BLI)) and outsourcing coordination of the MOU to such organizations. Under Aquatic Warbler MOU, the RSPB and APB (BLI partner in Belarus) have been providing coordinating functions for the MOU since 2004, initially through funds raised by RSPB, and since 2007 on a cost-sharing agreement with the CMS Secretariat. The main coordination functions provided by the agreement include the production of a newsletter, maintaining a web site for the Aquatic Warbler Conservation Team, coordinating and supporting the development, fundraising and implementation of dedicated monitoring and conservation projects, and preparing the Second meeting of signatories[202].

238. The International Crane Foundation (ICF) is a CMS partner organization for which the Convention co-funds the post of the Siberian Crane Flyway Coordinator for the Siberian Crane MOU.

Data exchanges

239. For the CMS Family, integration is required not only across the CMS Family but also between biodiversity-related conventions, particularly on current data on various trends which impact on migratory species, for example information on ecosystem status, climate change and sea and land based pollution. Integration has become more essential with the need to meet the 2010 biodiversity targets and biodiversity indicators development by the Convention on Biological Diversity.

240. The CMS Information Management Plan encourages these synergies by developing MOUs with partner organizations for the collection, management and use of information (IFAW, GNF, ITTO to name a few). Further activities include working with the UNEP Knowledge Management Project to improve reporting between conventions and collaborating with Encyclopaedia for Life to build on existing efforts to establish an up-to-date, comprehensive database on listed species.

Funding opportunities

241. WDCS paid for a half time officer during the period July 2007 to Dec 2008 based in Australia, mainly to support the Pacific Cetaceans Agreement. From August 2008 to June 2009 IFAW funded a full time officer based in Hamburg who focused on marine mammals and other species conservation work[203]. CMS, AEWA and the EU LIFE Programme have funded surveys for the Slender Billed Curlew MOU[204].

Common reporting

242. Following concerns about the role of migratory birds as potential vectors of HPAI H5N1, the CMS in close cooperation with AEWA established the Scientific Task Force on Avian Influenza and Wild Birds (the Task Force) in August 2005. It comprises 15 members and observers, including UN bodies, multilateral

[202] Aquatic Warble Questionnaire.
[203] UNEP/CMS/Conf.9.34.
[204] Slender Billed Curlew Questionnaire.

environmental agreements, and specialist intergovernmental and non-governmental organizations. Since August 2007, the CMS Secretariat and FAO have provided joint coordination of the Task Force. The Task Force enhances implementation of wider outreach, conservation and sustainability and promotes coordinated research and monitoring at the same time as reducing costs for all partners involved[205].

Development of MOUs

243. One example is the development of the West African Elephant MOU which arose out of the AfESG West African Strategy (see above). Another example is the development of the Siberian Crane MOU, which was developed by the International Crane Foundation. The development of the draft Houbara Bustard Agreement has been spearheaded by Saudi Arabia and is largely based on a review of existing documentation and studies. A contribution was made by the IUCN (formerly known as the World Conservation Union).

Joint Projects and Programmes

244. A number of MOUs have found financial and resource advantages by working in partnership with partner organizations. The Aquatic Warbler MOU is working with BirdLife International on a large-scale project to protect key sites for the Aquatic Warbler in Poland and neighbouring Germany. The project, which is funded by the EU LIFE Nature Fund and also supported by the RSPB aims to promote Aquatic Warbler-friendly management of 42,000 hectares (approximately 160 square miles) of fen and wet meadow, mostly in Poland, but also in a small part of Germany.

245. Facilitated by the CMS Siberian Crane MOU, GEF funded a six-year project to promote the conservation of wetlands vital for the Siberian crane and other migratory waterbirds in Asia. The project had been proposed by the International Crane Foundation (ICF) and CMS. GEF contributed a total of US$10 million, with an additional US$12.7 million in co-financing committed. The project was executed by ICF, under the aegis of the UNEP as well as in cooperation with CMS, and the Governments of China, the Islamic Republic of Iran, Kazakhstan and the Russian Federation. It focused specifically on conserving the international network of wetlands upon which the Siberian Crane depends, together with a wide range of other wetlands biodiversity. The results of this project, nearing completion at the end of 2009, will provide a basis to expand the wetland site networks and more widely apply the approaches that have been developed in each participating country.

246. AEWA is developing cooperation between the UNEP/AEWA Secretariat and NGOs regarding the coordination of Single Species Action Plans which is being outsourced through Memoranda of Cooperation to NGOs.

Overlapping of scientific and administrative capacity

247. This is an issue in terms of reporting – where countries have different national focal points for different agreements, it results in duplication of time, resources and information. The other big problem is the lack of synergy in terms of reporting timescales – recognition of this problem has led to the need for the on-line 'live' reporting system.

[205] UNEP/CMS/Conf.9.25.

3.4.2.2 Disadvantages

Drawing lines of expertise

248. The distinction in species coverage between IWC and ASCOBANS disadvantages accession to ASCOBANS by a number of new Range States, which would be required to adopt measures in respect of small cetaceans under ASCOBANS in part of their jurisdictional waters and in respect of large and small cetaceans under ACCOBAMS. Although not an insurmountable problem – France has acceded to both Agreements on this basis, while all new Range States are subject to overarching obligations under the EU Habitats Directive in relation to "all species" of cetaceans (Annex IV(a) of Directive 92/43/EC) – it creates practical and political difficulties that are not conducive to expediting the accession process to ASCOBANS.

Policies may be different and cause conflict

249. A difficulty with seeking further synergies is the existence of differing policies. For example the EU has not formally acceded to ASCOBANS and this can be due to a divergence of views regarding fishing polices, including driftnet policies and the use of acoustic deterrent devices.

250. Synergies with NAMMCO and ASCOBANS cannot be well developed, primarily due to the commitment by NAMMCO towards the sustainable harvest of cetaceans which is expressly precluded under ASCOBANS. Joint research activities have been stymied by a refusal to grant access to jurisdictional waters to NAMMCO research vessels by certain key Parties to ASCOBANS[206].

4. Conclusions

251. It is perhaps understandable that a significant portion of this report is given over to matters of resources. Resource issues begin with human resources. As the tendency has been for Secretariat capacity for MOUs to be provided by the CMS, the increase in the number of MOUs and species coverage has led to overstretching the current staffing levels undermining the benefits that might otherwise flow from economies of scale through greater centralization of staffing. While the work of the Agreements and MOUs remain underfunded and understaffed, with a reliance on short-term appointments, doubling up of personnel and a steady stream of interns there is a continual additional price to be paid in terms of a dilution of expertise. Major investment in the personnel structure would seem to be necessary merely to maintain the status quo. Capacity building is also a critical element in the implementation of CMS and its subsidiary instruments, particularly for recent acceding Parties and in the geographical and species areas touched by the newer instruments.

252. Finance, or rather the shortage of financial resources is a common theme through most of the questionnaires. When an MOU is supported by a fairly wealthy country as with the UAE support for the Birds of Prey MOU, or an Agreement like ACCOBAMS by Monaco and ACAP by Australia, significant problems are abated.

[206] *North Atlantic Marine Mammal Commission: Annual Report 2001* (Tromsø: NAMMCO, 2001), at 19-20.

This is not only due to the availability of resources but because the certainty of a resource base allows for better planning and co-ordination of activity. The availability of financial resource allows greater capacity building promoting a virtuous circle.

253. This reporting has also considered reporting processes whereby the MOUs, Agreements and the CMS require a national report to be produced. While there are plans to move towards more harmonised, consistent and easier (on-line) modes of reporting, progress has been faltering. While easier reporting may be important in securing the goodwill of Parties, many respondents attached to MOUs fear that a single format will not provide the relevant detail required for the particular conservation purposes of that MOU. It should be noted that rarely do all of the signatories submit a national report on time or at all for the ordinary meetings of the signatories. Inevitably this restricts the work of meetings which are hard to conduct without timely and accurate progress information.

254. The lack of national data submitted means that there are not always accurate data sets for particular species. Moreover current data sets not always updated (sometimes due to lack of resources). The new systems planned by CMS in this area are urgently needed. Data are crucial for measuring and monitoring. There is room for synergy and co-operation with other agencies and MEAs particularly since there are difficulties at present in measuring the impact of action plans and other programmes due to data shortfalls and methodological difficulties.

255. Interestingly, the legal status of agreements does not appear to be a matter of great significance. Although it may be regretted that MOUs are not legally binding, in practice this is not a vital issue, not least that commitments in the binding Agreements have not always been meet by the Parties. The more important difference is a financial one - CMS and the Agreements having the stability provided by core funding and MOUs depending exclusively on voluntary contributions which could be withdrawn or not materialize at any time. The value of all of the instruments is the advancement of scientific research and official coordination of conservation efforts through the existing institutions and actors. The CMS work in this regard is admirable in many of the respects highlighted in this report. However, the issue is that effort when resource shortfalls stifle not only day-to-day work but also the capacity to innovate and instigate structural change.

5. Annex I – CMS and CMS Family data compilation Tables 1 - 35

Tables 1- 34 under revision – to follow

Table 35 - Summary table of advantages and disadvantages of CMS and CMS Family

	Advantage	Disadvantage
Legal framework	Legally binding instruments have a secure financial foundation with their own core budgets (the exception being the Gorilla Agreement).	MOUs have no core budget to provide a secure financial foundation as they rely exclusively on voluntary contributions.
	The non-binding nature of an agreement may make it easier to attract Parties because it does not result in direct financial obligations and there is no need to go through complicated ratification procedures.	
Institutional structure	All instruments have some form of scientific input either through their own bodies or through the CMS Scientific Council.	Not all Agreements have a body dealing separately in management and scientific matters reducing their focus and the time they can spend on these very different matters.
		Some MOUs have no provisions for Parties to meet, therefore no decision-making body (e.g. Slender Billed Curlew).
Staffing	The CMS and CMS Family team is extremely dedicated (a small team handles a great deal of work) and multifaceted.	CMS Secretariat has an increased workload due to the increase in the number of Parties (32) and subsidiary instruments (2 Agreements, 11 MOUs and 2 Action Plans) since 2002, while staffing numbers have not increased proportionately in that period.
		CMS has less staff than other MEAs when comparing the number of Parties they service: - CMS and CMS Family – 34 staff and 144 Parties/signatories; - CBD - 91 staff with 190 Parties; - CITES - 36 staff with 175 Parties; - WHC - 94 staff with 186 Parties; - Ramsar Convention - 22 staff with 159 Parties.
Finances	Donations fund projects and Parties can decide how much and to which projects they will contribute, taking ownership and special care of that project.	Not having the certainty of a resource base does not allow for long or medium term planning and co-ordination of activities.

	Advantage	Disadvantage
		A number of subsidiary agreements have reported that a lack of finances is impacting on the implementation of their work plans, e.g. the Gorilla Agreement has received no funding so far, the Siberian Crane MOU cannot finance monitoring of released birds, Bukhara Deer MOU cannot develop a network for protection areas, The African Elephant MOU requires an estimated US$120,000 to operate for the next three years but has only received pledges of €30,000 for that period.
	Legally binding agreements have core funding which is allocated to operational, scientific and information management ensuring that CMS and its Agreements can plan, assist all the other agreements which depend on their services and seek donations for conservation activities.	MOUs are exclusively funded by donations which makes them very vulnerable as this funding is ad hoc in some instances and may not materialize.
	The budget is approved by unanimity of the Parties so there is absolute consensus on what is to be done with the core budget.	It is difficult to assess whether the agreement have been properly implemented as only tasks that will receive funding are approved.
	UNEP charges PSC on the budgets CMS and UNEP administered instruments and puts some of this back in the form of personnel and other resources.	PSC applies to both the core budget and voluntary contributions and Parties who make donations may resent that not all of the money is going to activities.
		There is no clear fundraising policy or strategy across CMS and its Family although it depends heavily on donations for its activities.
Centralization	CMS, AEWA, EUROBATS, ASCOBANS and the Gorilla Agreement are housed in the same building in Bonn, and through formal and informal meetings are able to share experiences, ask questions, and further support each other by loaning staff at peak times of activity (MOPs etc). They also share the services of the AFMU.	

	Advantage	Disadvantage
	All MOUs receive their Secretariat and most their Scientific support from the CMS Secretariat which allows sharing of expertise, experience in conservation, consistency of services, delivery of a strong central policy and understanding what the MOUs require.	This puts further pressure on already stretched resources.
	It is easier to co-ordinate and carry out training and capacity building in a centralised context.	
Regionalisation	The operation of a viable CMS/IOSEA office in Bangkok for six years demonstrates that CMS can function effectively away from headquarters.	IOSEA's success may be in part due to the support it received from UNEP where it is housed. There is little experience of the how the Abu Dhabi office function as it has just opened.
	May assist in the development of capacity within developing countries.	There may be issues with capacity building particularly in the newer agreement areas.
	Regional Project Offices would provide more focus on specific regional issues and would be based in areas with the greatest abundance of biodiversity.	However, transboundary cooperation in some regions may very difficult depending on the political situation within and between States, it can take years to develop and requires close and ongoing facilitation and coordination at all levels. For example in West Africa, the West African Elephant MOU recognises that harmonization of legislation across countries is necessary to ensure effective law enforcement and control of the ivory trade.
	ACAP, ACCOBAMS and Wadden Sea operate independently from UNEP and all three are well supported by Party funding.	
Species grouping	The merger of ASCOBANS and CMS Secretariats provided for a new post to be created in CMS: 75% of the marine mammal officer's time is dedicated to ASCOBANS and 25% of time dedicated to other CMS marine mammal work, thereby sharing resources and valuable experience across other Agreements. The officer also serves as the Joint Secretariat Focal Point for ACCOBAMS. The Officer also deals with , the CMS Pacific Islands Cetaceans MOU and is responsible for coordinating the WATCH (Western African Talks on Cetaceans and their Habitats) now in force as the MOU on Western African Aquatic Mammals (WAAM).	Higher than expected time consumption of the staff. Need for a comprehensive estimate of duties and time allocation, without this time commitments are exceeded.

	Advantage	Disadvantage
	Species grouping allows limited resources to be shared across species groups and thus is a more effective use of resources.	The scientific expertise required even for the same taxa may be different.
Scientific capacity	There is flexibility within the system to invite scientific experts onto the Scientific Council, including allowing outside experts to contribute which adds to CMS's political independence and science base.	
	Most of the subsidiaries agreements have received supplementary scientific support from external bodies, primarily pre-existing expert and advisory groups, or through specialist NGOs. Examples of include the Great Bustard and Aquatic Warbler MOUs, in which technical support is provided by Birdlife International, while the Bukhara Deer MOU harnesses the expertise of the WWF Central Asia programme.	A number of the MOU have no scientific capacity and are dependent on the CMS Scientific Council for expertise. Even those Agreements with Scientific support have stated that further funding is required to implement work programmes and support Working Groups.
	The creation of the Biodiversity Liaison Group provides common capacity building across all biodiversity-related MEAs.	
		In some range states insufficient capacity building and training for technical staff. In addition, there is not always sufficient technical equipment available in some range states to allow technical staff to undertake their duties e.g. ecological surveys and monitoring.
Reporting	A number of instruments have provided a mandate for carrying out work on harmonization of reporting (CMS, AEWA).	Across the CMS Family and across biodiversity-related Conventions in general there is no coordination of reporting periods and this in turn increases the burden on States due to multiple reporting requirements. Another concern is that the formats often change after each Meeting.

	Advantage	Disadvantage
	Some instruments have introduced guidelines or explanatory notes to improve the quality of information (CMS and IOSEA).	Reporting deadlines are often missed by numerous Parties; whilst some Parties may report at a later date, there is also often a high percentage of non-compliance. This may be in part due to the increased reporting burden on a number of Parties.
	IOSEA On-line Reporting Facility (ORF) recognised as most advantageous.	
		Questions are sometimes duplicated across agreements as a consequence this can lead to duplication of work. Where each agreement has identified a different national focal point this problem is compounded where national focal points do not communicate to one another.
		An additional problem that has been identified is that it is difficult for the Secretariat to consolidate individual reports into a single report that summarises the collective position of all Parties.
Technical data	The IOSEA Marine Turtle Interactive Mapping System (developed by UNEP-WCMC and IOSEA Secretariat) is designed to facilitate the integration of public-domain field data.	
	A Memorandum of Cooperation between CMS and the GBIF was signed in October 2008 to work together to develop and share biodiversity data on migratory species. Integrated programmes are being developed by all MEAs to resolve the current existing data problems in recognition that the harmonization of information management and reporting can lead to a more integrated process, reduction of duplication and greater sharing of information.	For scientific data to be effective, population estimates need to be collected in similar ways across the CMS Family and other MEAs to ensure that comparisons are compatible.

	Advantage	Disadvantage
	The BirdLife Global Procellariiform Tracking Database, which exists due to the collaboration of scientists worldwide, facilitates the analysis of the global distribution of ACAP species.	ACAP has advised that data gaps exist in our knowledge of the foraging range of some species during different stages of their life cycle. ACAP is also in the process of negotiating MoU with relevant fisheries management organizations to obtain relevant data on seabird bycatch. Confidentiality clauses may restrict access/distribution of data amongst CMS affiliates.
		General data problem is the lack of baseline data on distribution, abundance, stock identity and population structure (e.g. ACCOBAMS). Addressing population threats is also hampered by gaps in basic species knowledge, as well as lack of monitoring or assessment in some CMS regions.
Synergies	You gain resources, gain expertise, gain networks, gain supporters, capacity, where the partner is already well established you come into an area and hit the ground running.	Risk that you may stray off your mandate or legal framework or not have capacity to support the relationship.
	Joint representation of multi Agreements at meetings and fora and the development of collaboration with other Intergovernmental and Non-governmental organizations.	The right expertise is required in order for joint representation to be successful as otherwise it may diminish the confidence of other organizations in the level of 'expertise' of the representative.
Activity rate	Rate of expansion in terms of Parties and in number of Agreements and MOUs indicates an increased awareness of the need to protect biodiversity and the import role played in national ecosystems by migratory species.	Rapid growth without consolidation can mean that limited resources are further stretched risking patchy implementation of all, newer and older, agreements.
		Key Range States still not a Party to the CMS, in particular USA, Canada and China.

6. Annex II: List of CMS Partners

CMS collaborates with the following organizations either in the development of conservation policy or on specific projects and fieldwork through formal memoranda of cooperation. CMS cooperates with a number of other organizations outside the framework of formal agreements. The list below is not conclusive.

AMMPA	-	Alliance of Marine Mammal Parks and Aquariums
BLI	-	BirdLife International
Cartagena	-	Convention for the Protection and Development of the Marine Environment in the Wider Caribbean Region
CBD	-	Convention on Biological Diversity
CBFP	-	Congo Basin Forest Partnership
CIC	-	International Council for Game and Wildlife Conservation
CITES	-	Convention on International Trade in Endangered Species of Wild Fauna and Flora
FAO	-	Food and Agriculture Organization
FZS	-	Zoological Society of Frankfurt
GBIF	–	Global Biodiversity Information Facility
GNF	-	Global Nature Fund
ICF	-	International Crane Foundation
ICMBio	-	Chico Mendes Institute for Conservation of Biodiversity
IFAW	-	International Fund for Animal Welfare
ITTO	-	International Tropical Timber Organization
IUCN	-	International Union for Conservation of Nature
IWC	-	International Whaling Commission
Museum Koenig	-	Forschungsmuseum Alexander Koenig
Nairobi Convention	-	Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Eastern African Region
NOAA	-	National Oceanic and Atmospheric Administration
Ramsar	-	Convention on Wetlands of International Importance especially as Waterfowl Habitat
SCA	-	Saiga Conservation Alliance
SCF	-	Sahara Conservation Fund
SPREP	-	Pacific Regional Environment Programme
UNCCD	-	United Nations Convention on Combating Desertification
UNESCO	-	United Nations Educational, Scientific and Cultural Organization
WAZA	-	World Association of Zoos and Aquariums
WCS	-	Wildlife Conservation Society
WDCS	-	Whale and Dolphin Conservation Society
WI	-	Wetlands International
WHMSI	-	Western Hemisphere Migratory Species Initiative
ZSL	-	Zoological Society of London