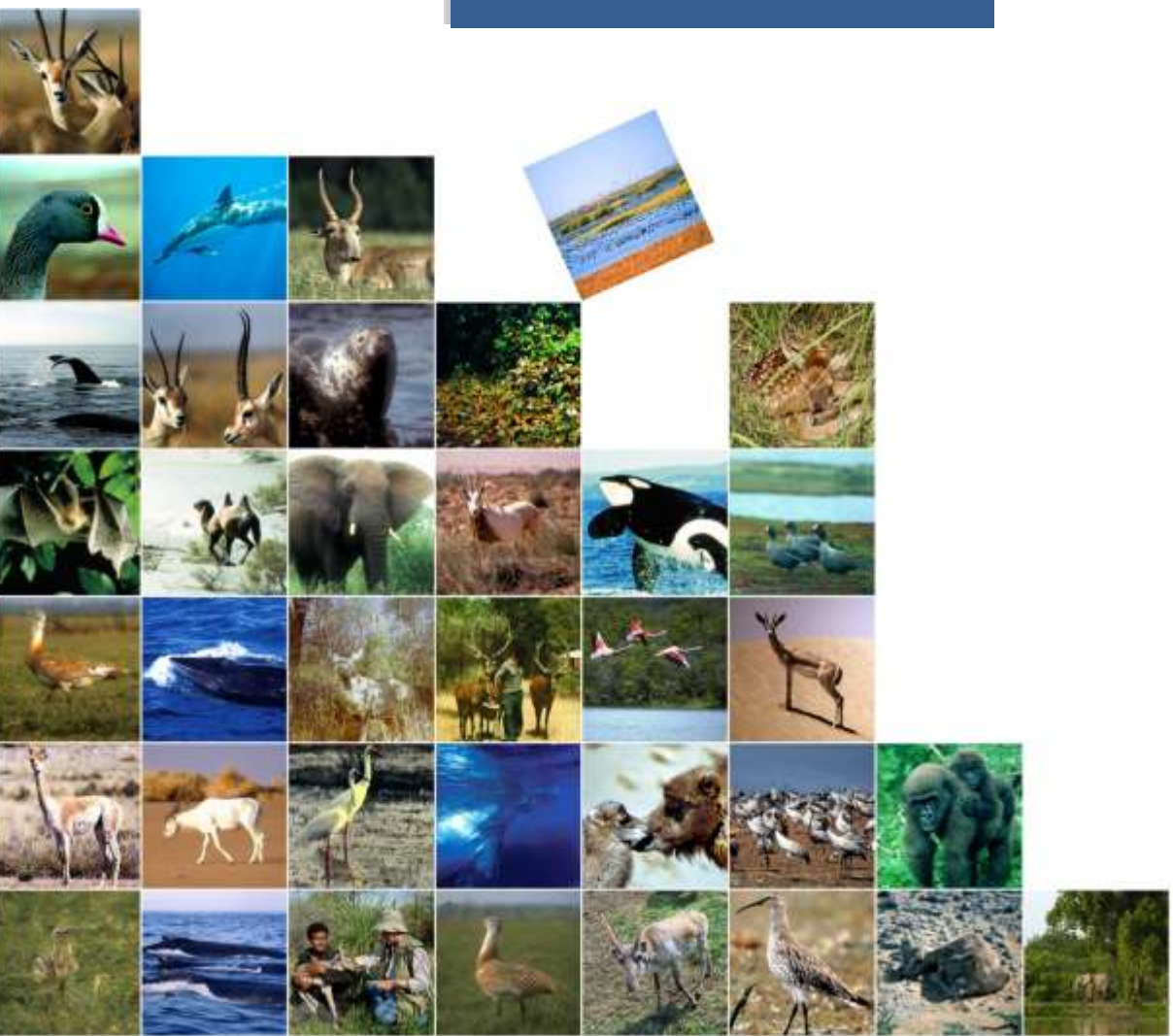
An Assessment of the CMS MOUs and their Viability



UNEP CMS

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Resolution 10.9, Activity 5.3

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1. EXECUTIVE SUMMARY

Activity 5.3 of Resolution 10.9 called for "an assessment of MOUs and their viability". The 19 CMS MOUs and the Gorilla Agreement were assessed according to a number of criteria in order to compare and contrast their key features. These include the number of Range States, Signatories, regions and species covered by each MOU, which contribute to the administrative complexity of an MOU; coordination and funding arrangements; and the engagement of Signatories and other stakeholders.

While each MOU is unique with often very different characteristics and levels of complexity; it is still possible to distil some general criteria that may be important for effective functioning and implementation of an MOU.

From the analysis it becomes clear that not all MOUs were concluded for the same reasons. Some provide a useful framework for cooperation which Signatories can largely manage by themselves. However, a number of the larger, more complex MOUs were clearly intended to attract attention and new resources to help the Range States improve the conservation status of the species. This has led to a collection of very different instruments, all unique in their evolution, functioning and coordination requirements and arrangements. In this, many of them have not yet met their original expectations and objectives.

As such it may be that the viability of an MOU is comprised of a combination of characteristics, but in essence an MOU would be viable when:

- the Signatories are willing and able to run it themselves (number of Signatories must be small), or
- there is a strong engagement from the stakeholders in the MOU and some modest and regular funding to assist them, or
- significant funding to staff a functional Secretariat is available.

Because of the differences in purpose and design of MOUs, it will be necessary to be flexible in the elaboration of criteria for the development of new MOUs. Drawing on the

preliminary considerations outlined in Resolution 10.16, and as requested therein, the Secretariat is currently developing more detailed criteria for consideration by COP11.

The Secretariat would welcome comments and guidance from Parties on this report

2. INTRODUCTION

At the Ninth Meeting of the Conference of the Parties to the CMS (COP9, December 2008; Rome, Italy), Parties adopted Resolution 9.13, which established an inter-sessional process to examine the Future Shape of the CMS Family (the Convention and its existing instruments) with the objective of strengthening the Convention's "contribution to the worldwide conservation, management and sustainable use of migratory species over their entire range".

The Inter-sessional Future Shape Working Group identified challenges associated with the growth of the CMS Family, in particular, the needs of Memoranda of Understanding (MOUs) to improve capacity and resources agreed pursuant to the Convention; similar concerns were also raised regarding the Gorilla Agreement. Parties and other CMS stakeholders discussed options to streamline the operation and administration of those instruments, avoid duplication of effort, and ensure the most efficient use of resources, such as through taxonomic or regional clustering of the instruments.

During the Tenth Meeting of the Conference of the Parties to CMS (COP10, November 2011; Bergen, Norway), deliberations related to the Future Shape of the CMS Family continued**.** During these discussions, Parties also emphasized respect for the regional identity and the ownership of instruments by Range States. They observed that the membership of some MOUs extended beyond CMS Parties, and that there was a wide variation in the performance of MOUs.

It was agreed that any changes to MOU structures (e.g. mergers) would require renegotiation, between the Governments of the Signatories of the MOUs concerned, and that before taking the step of proposing any new structure it was important that the

contribution each MOU was making to CMS objectives, how they were structured and what capacity they had were fully understood.

To further implement the Future Shape process, Parties adopted Resolution 10.9 (Annex 1, activity 5), which calls for a global gap and resource assessment (5.1), including a resource assessment of the Convention (5.2) and an "assessment of the MOUs and their viability" (5.3), the latter being subject of the present document.

It was agreed in Resolution 10.1 (Annex 2) that these activities would be funded through voluntary contributions. The CMS Secretariat approached Parties for voluntary contributions to conduct the present assessment. As these funds were not available, the Secretariat has prepared an assessment.

Background Documentation:

Several assessments and analyses have already been undertaken as part of the Future Shape process that took place between 2009 and 2011. These assessments examined CMS as a whole or specific taxonomic groups covered by CMS instruments. These assessments include:

i. Three Future Shape-related reports (written by the ERIC Group):

   - *Review of the current organization and activities of CMS and the CMS Family: First step of the Intersessional Future Shape Process. 2010 (UNEP/CMS/Inf.10.14.8)*
   - *Convention on Migratory Species: Future Shape Phase II Options Report. 2011 (UNEP/CMS/Inf.10.14.9)*
   - *Convention on Migratory Species: Future Shape Phase III. 2011 (UNEP/CMS/Inf.10.14.10)*

ii. Reviews of existing CMS Agreements and related projects, produced pursuant to Resolution 9.2, also in the context of the Future Shape process (written by UNEP-WCMC

- *Review of CMS existing instruments and projects on terrestrial mammals (including bats). 2011* (*UNEP/CMS/Inf.10.15)*
- *Review of CMS existing instruments and projects on marine turtles. 2011* (*UNEP/CMS/Inf.10.16*)

iii. NGO review undertaken as a contribution to the work of the Strategic Plan Working Group

- *A Natural Affiliation: Developing the Role of NGOs in the Convention on Migratory Species Family. 2013 (UNEP/CMS/StC41 Doc 6.2a)*

The ERIC reports from Phase I and III collated relevant information on the existing MOUs obtained from the Secretariat and from Parties. Phase I initiated an assessment of MOUs, outlining some key characteristics and looking at the advantages and disadvantages of various arrangements, such as colocation with CMS HQ. Phase III took the analysis further, describing the consequences of the proliferation of MOUs, suggesting suitable staffing levels for the Secretariat to manage MOUs, and calling for a more comprehensive assessment. Relevant findings and conclusions of these reports have been incorporated into this document.

The Taxonomic Reviews examined existing instruments relevant to specific taxa, identifying strengths and weaknesses, and gaps in their coverage. Analysis was based on questionnaires provided to Range State governments as well as NGOs and other stakeholders. Relevant findings and conclusions have been incorporated into this document.

As a contribution to the ongoing development of the Strategic Plan for Migratory Species 2015-2023, NGOs undertook a comprehensive review of their perceived relationship with the Convention and its instruments, and with the Secretariat. Findings from this analysis, which relate particularly to the engagement of NGOs in the MOUs, have been incorporated where relevant.

Activity 15 in Resolution 10.9 (“Enhanced collaboration between CMS agreements (for Option 2) via Secretariats or (for Option 3) via merger of agreements based on either

geography/ecology or on species clusters") is also relevant to this exercise. Activity 15 is comprised of three sub-activities to be implemented between 2012 and 2020:

15.1 "Cooperation and coordination between agreements' programmes and projects based on species clustering, thematic issues or geography as appropriate

15.2 If appropriate, cooperation and coordination between Agreement Secretariats e.g. based on species clustering or on geography.

15.3 Begin considering, if appropriate, merging agreements based on geography and/or ecology or species groupings".

These sub-activities were taken into account for this analysis.

3. METHODOLOGY

Activity 5.3 of Resolution 10.9 called for "…an assessment of MOUs and their viability." There are currently 19 MOUs agreed under the Convention[1].

The Gorilla Agreement was added to the MOU assessment as it does not have sustainable funding and is serviced by the CMS Secretariat, using staff and any other resources provided by the CMS core budget. This means that in terms of administration by the Secretariat, it functions in a similar manner to many of the MOUs. Therefore it was considered useful to include this Agreement with the MOUs, bringing the total number of instruments assessed to 20. For ease of reference, use of the term "MOUs" in this document refers to the 19 MOUs and the Gorilla Agreement.

Four clusters of factors were established to facilitate comparison and analysis of the MOUs. Factors have been clustered as follows:

[1] See Annex 1

Cluster 1: Main characteristics and essential factors relating to the MOU.

- Date of entry into force
- Number of Range States
- Number of MOU Signatories (as at 31 July, 2013)
- Number of regions covered by the MOU
- Number of working languages[2]
- Number of species covered by the MOU
- MOU Signatories' status as Parties to CMS
- Conservation status of MOU species

These factors provide basic information about the MOUs and enable comparison regarding the age, complexity, and costs involved in the administration of an MOU. For instance, MOUs that cover several regions or even entire continents and that involve communication in more than one language will require more resources and coordination for, *inter alia*, translation, interpretation and costs of participation in meetings.

These factors are not looked at in isolation, but in composite to tease out more meaning. For example, comparison of Range State and Signatory numbers is one indication of the engagement of relevant countries, and looking at these numbers and the age of the instrument provides additional insight.

Another factor is an assessment of Signatories that are not currently CMS Parties, as well as a comparison of MOUs in terms of the presence of such non-Party Signatories. Generally, this is a short-term situation with Signatories promptly acceding to the Convention and therefore committing themselves to all obligations under the Convention and engaging in processes across the Convention, including regulations on threats and emerging issues which may be directly relevant to the MOU in question. However, sometimes the envisaged transition from Signatory to Party status is taking time, which may limit MOU implementation.

[2] Defined in the MOU, except for the Central Asian ones, where by necessity we have had to provide Russian translation as well.

Cluster 2: Coordination and funding arrangements for the MOU

- Servicing arrangement (location of coordinating office)
- Current staffing levels
- Regular funding arrangements
- Annual budget (where agreed by Signatories)
- Level of funding available for coordination
- Level of financial contributions from Signatories
- Number of Signatories to be funded to meetings (UN scale eligibility)

These factors provide information about resources available to support the servicing of each MOU, as well as the funding sources. Most factors can be determined quantitatively, and are therefore easily compared.

Cluster 3: Engagement of Signatories in the MOU:

- Level of implementation by Signatories
- Frequency of communication between Signatories and Secretariat

Level of implementation by Signatories was measured by assessing factors such as conservation plans or work programmes that have been agreed at meetings, and national-level information provided to the Secretariat. In many cases, obtaining precise knowledge about the level of implementation was difficult due to the limited information provided by Signatories. This is turn may be linked to a lack of regular meetings under the MOU. Where sufficient information was available, an assessment of high/medium/low/none was given. Where there was insufficient information, "insufficient knowledge" was the assessed level.

Frequency of communication refers to communication between the Secretariat and the Signatories, in both directions. Information about communication is derived from Secretariat files; although not an exact measure, it provides a rough indicator of engagement. Nonetheless, a low level of communication does not necessarily imply a low level of implementation of the MOU.

Cluster 4: Engagement of other stakeholders

This cluster of factors takes into consideration the role that other stakeholders have in the implementation of MOUs.

1. Level of engagement
2. Number of stakeholders (e.g. non-governmental organizations)

MOUs are intergovernmental contracts between countries; however, civil society tends to play a vital role in implementing many MOUs. Therefore, implementation of MOUs may be enhanced if relevant NGOs/IGOs/experts that actively engage in the conservation of a particular species are also engaged in the MOU (e.g., by channelling their support through the MOU and supporting implementation). Engagement of stakeholders may also provide a general indication of the relevance of the MOU, as perceived by the conservation community.

Information used in the assessment (e.g. financial data, Signatory/CMS accession status) refers to the situation as of 31 July 2013, unless otherwise stated.

In the following charts, the MOUs are grouped by "Aquatic Species" (mammals, reptiles then fish), "Avian Species" and "Terrestrial Species", and are sorted alphabetically within each group.

4. RESULTS

4.1 Cluster 1: MOU Characteristics

The factors in Cluster 1 were examined in combination to draw as much meaning from the data as possible.

Figure 1 illustrates the 'raw data' in terms of membership status among the MOUs.

4.1.1 Membership Status

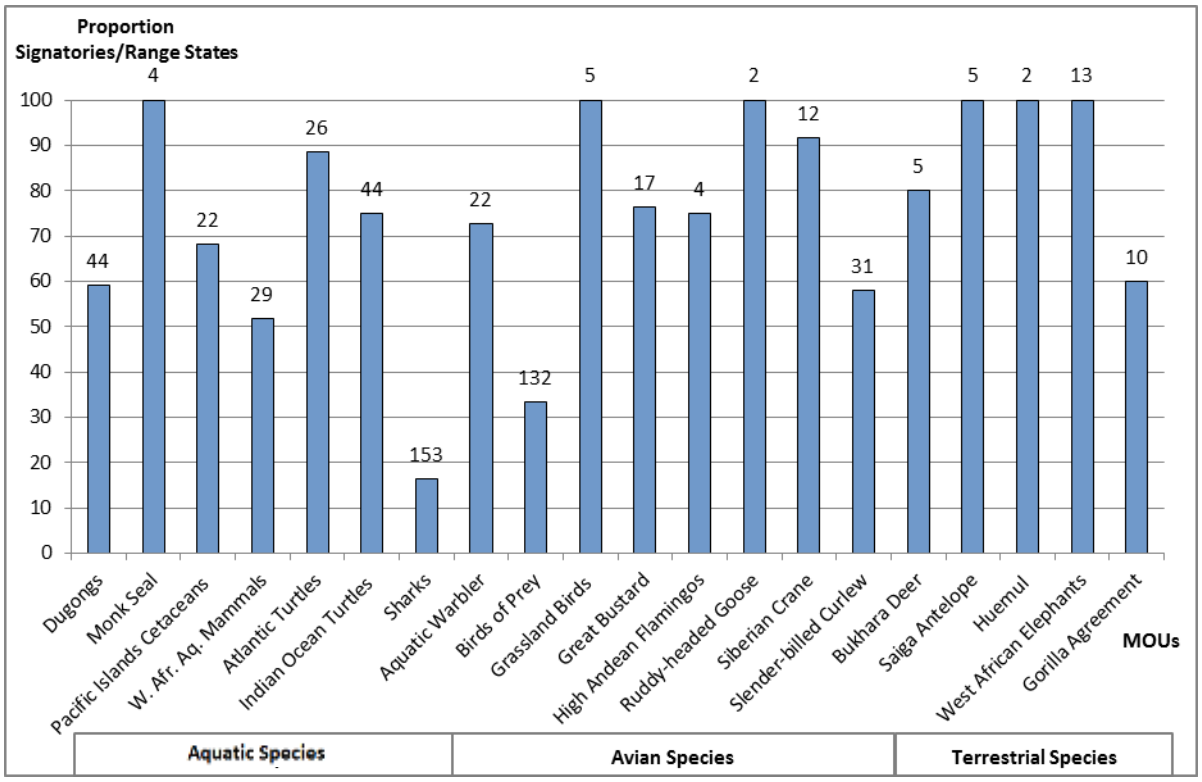


Figure 1. Membership Status. Percentage of Range States that have signed an MOU. The number above each column indicates the total number of Range States.

However, a more nuanced understanding of MOU membership is possible by examining the extent of membership to MOUs in the context of total number of Range States. Figure 2 plots this information, along with year of entry into force of the instruments.

As Figure 2 indicates, the proportion of Range States that are Signatories to an MOU differs significantly from one MOU to another. The figure suggests two general trends:

i. "Small" MOUs with few Range States tend to have a higher percentage of Signatories. This is both easier to achieve, and more important, than for large MOUs.

ii. "Young" MOUs tend to have a smaller percentage of Signatories.

One exception to these trends is the Slender-billed Curlew MOU, which came into effect early in 1994 and has relatively few Range States (31). There has been no confirmed sighting of this species since 2001 despite active monitoring efforts; the possible extinction of this

species means that this MOU has not been actively promoted. [Note: The Secretariat remains in close contact with BirdLife International regarding potential sightings of the species.]

Apart from the new and geographically very large Sharks and Birds of Prey (Raptors) MOUs, all MOUs show a membership status of at least 50%. Nine MOUs have been signed by 50-80% of Range States and another nine MOUs by more than 80%. Six MOUs have full membership, amongst which, the West African Elephants MOU has most Range States (13). The Atlantic and the Indian Ocean Turtles MOUs are also noteworthy because they show both high numbers of Range States and high percentages of Signatories.

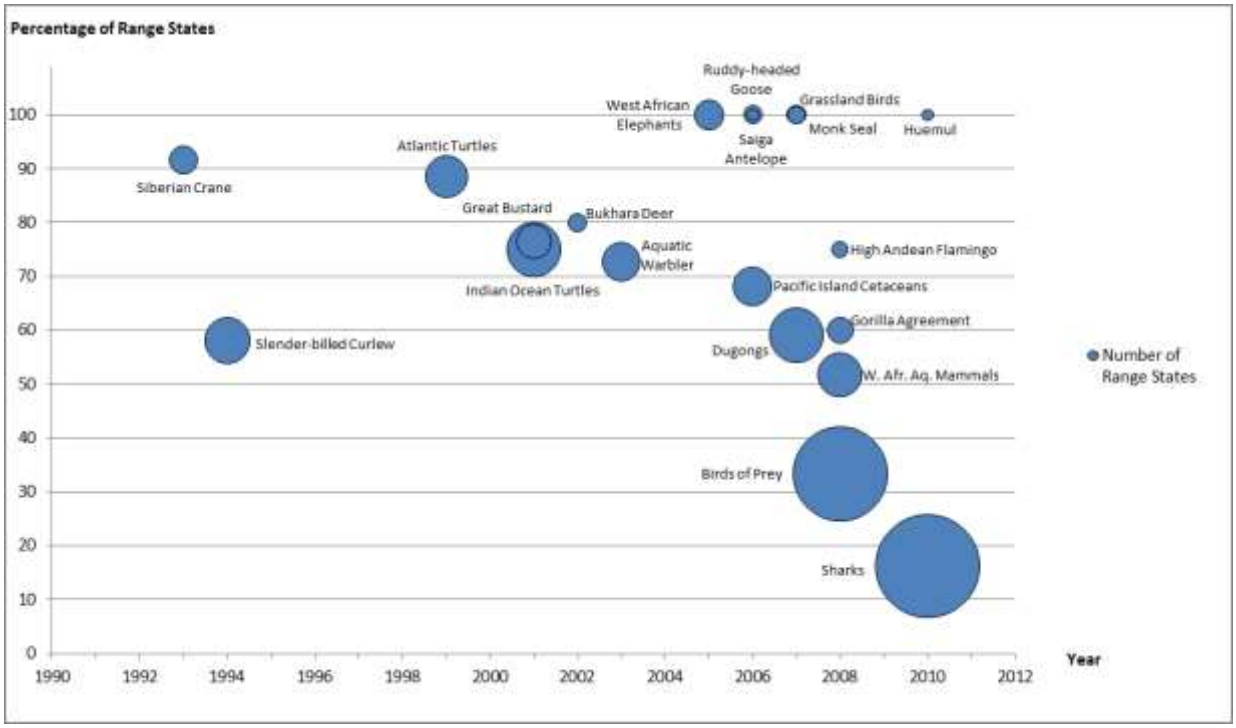


Figure 2. Extent of membership compared with the age of each MOU. This chart compares the age of each MOU (year of entry into force) on the x axis, with the extent of membership (percentage of Range States that have signed the MOU) on the y axis. The size of the bubble indicates the total number of Range States.

4.1.2 Countries not yet Parties to CMS participating in MOUs

The vast majority of countries that have signed an MOU have also ratified or acceded to CMS itself. Each of the MOUs functions in synergy with the Convention itself and thus, from an implementation perspective, it is beneficial for countries to sign up to the "full package".

Capacity-building programmes, training modules, and the Small Grants Programme are only available to CMS Parties. These and other services come at a cost, paid by the contributions of CMS Parties; for MOU Signatories, contributions are voluntary.

That being said, annual contributions for countries with GDP below a level of 0.2 on the UN scale have to only pay minor annual contributions, some lower than €50 pa, and benefit from financial support to attend meetings (see CMS Resolution 10.1 Annex IV) with a few exceptions there are therefore generally no financial arguments for Signatories not to accede to CMS.

It is worth noting that the growth in the number of Parties and in the number of MOUs has correlated geographically during the evolution of CMS. Strong Party representation in Europe and Africa (see Figure 3 below) went hand-in-hand with the early development of many MOUs covering species in this region. With MOU coverage increasingly spreading to Asia and the Americas, it may be that ratification of CMS will 'catch up' in order to ensure that these newer MOUs are implemented in full synergy with CMS policies.

Memoranda of Understanding / Countries	GORILLA AGREEMENT	SIBERIAN CRANE	SLENDER-BILLED CURLEW	AFRICAN MARINE TURTLES	INDIAN OCEAN SOUTH EAST ASIA TURTLES	SAIGA ANTELOPE	BUKHARA DEER	AFRICAN ELEPHANTS	PACIFIC ISLANDS CETACEANS	GRASSLAND BIRDS	DUGONGS	SHARKS	BIRDS OF PREY
Afghanistan		X											
Azerbaijan		X											
Bahrain					X						X		
Brazil										X			
Cambodia					X								
Central African Republic*	X												
China (incl. Hong Kong)		X											
Comoros					X						X		
Indonesia					X								
Malaysia					X								
Maldives					X								
Micronesia, Federated States of									X				
Myanmar					X						X		
Namibia				X									
Nauru												X	
Nepal													X
Niue									X				
Oman			X		X								
Papua New Guinea					X				X		X		

Russian Federation		X				X							
Sierra Leone				X				X					
Solomon Islands									X		X		
Thailand					X						X		
Tonga									X				
Tuvalu									X			X	
Turkmenistan		X				X	X						
United Arab Emirates					X						X		X
United States of America					X				X			X	
Vanuatu									X		X	X	
Viet Nam					X								

*The Central African Republic is a Signatory to CMS but has never ratified it and is therefore not a Party to the Convention.

Figure 3: Signatories to one or more CMS MOUs that have not yet ratified CMS (status July 2013).

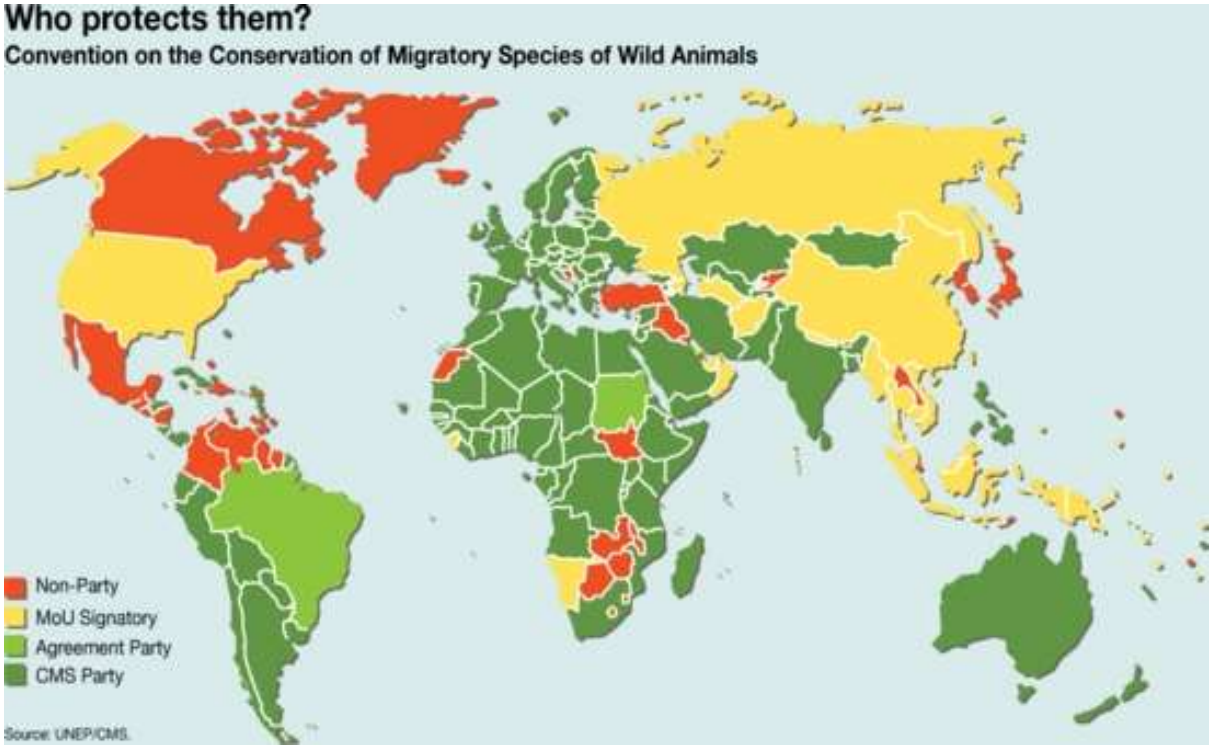


Figure 4. Map illustrating distribution of CMS Parties as well as non-Party countries that have only signed one or more MOU/Agreements. Non-Party countries that have not signed any CMS instrument are shown in red (as at November 2011)[3].

[3] Between November 2011 and March 2014, four additional countries have become CMS Parties: Fiji, Kyrgyzstan, Swaziland and Zimbabwe.

4.1.3 Administrative Complexity

A measure of "Administrative Complexity" has been derived from several objective factors that add to the effort and resources needed to coordinate an MOU. These factors are: the number of working languages, the number of regions covered by the MOU, the number of Signatories, and the number of species covered by the MOU.

Increasing administrative complexity will necessarily increase the amount of resources needed for the coordination of an MOU.

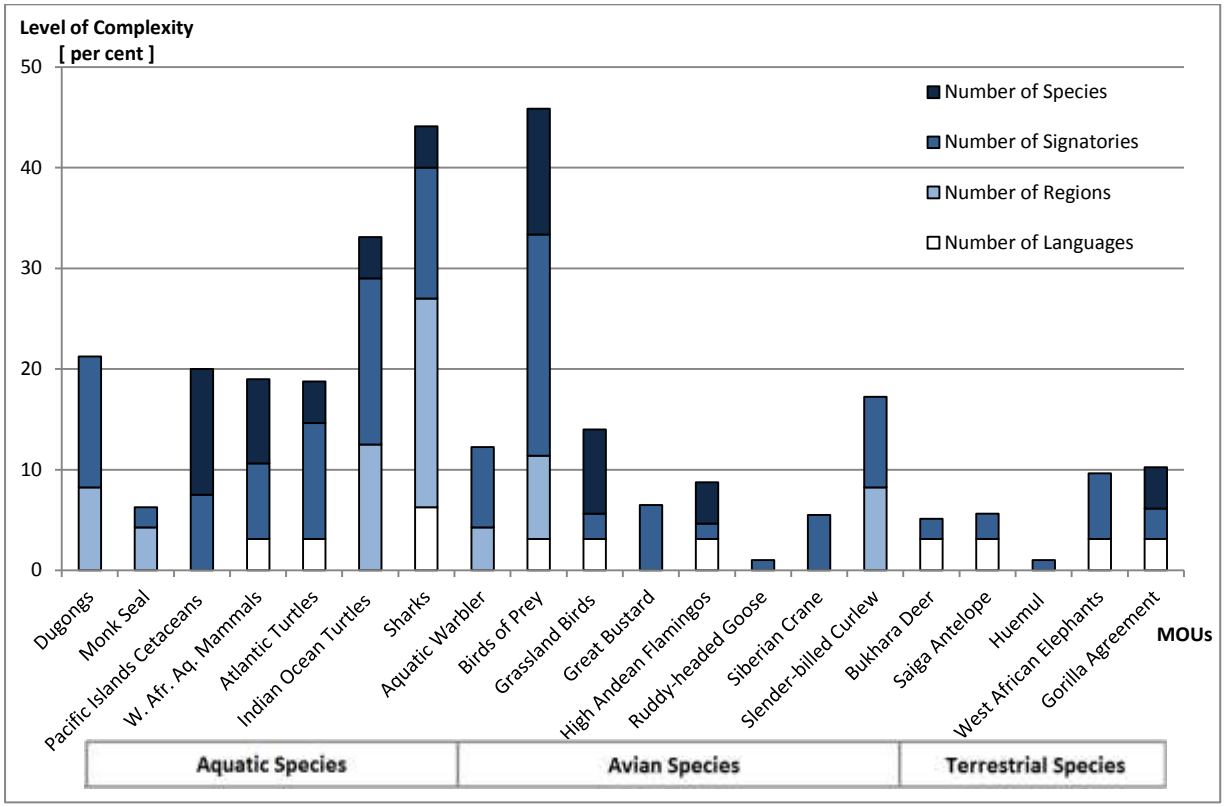


Figure 5. Administrative Complexity.

Each factor was weighted equally and added to illustrate total administrative complexity. The factors "Number of Languages", "Number of Regions", "Number of Signatories" and "Number of Species" were assigned a specific level of complexity as outlined in the text (with 0% being the lowest complexity and 100% being highest complexity).

- **No. of Languages:** One language was assigned a complexity of 0%, two languages 25%, three languages 50%, four languages 75%, and five or more languages a complexity of 100%.

- **No. of Regions:** One region was allocated a complexity of 0%, seven regions a complexity of 100%; numbers of regions in between were adjusted accordingly.

- **No. of Signatories:** A number of zero Signatories was given a complexity of 0%, a number of 50 Signatories 100%; numbers of Signatories in between were adjusted accordingly.

- **No. of Species:** Species were categorized into four groups: one species equals 0% complexity, 2-10 species 33%, 11-50 species 67%, and 51-100 species equals 100% administrative complexity.

Each complexity factor was treated as equally important. The overall complexity was defined as the average of the four complexity factors. The value for complexity of the Monk Seal MOU was corrected, due to the fact that in practice only one language is being used for communication and at meetings, although five languages were defined as official languages in the MOU text

Another issue is the geographic distance between the MOU's target region and the Secretariat office from which it is being coordinated (e.g. Bonn, Abu Dhabi, etc.). Where meetings are held near the Secretariat offices, there may be free facilities, free interpretation, etc. which save costs. Longer distances contribute to additional travel costs for meetings.

The two MOUs that scored highest in terms of complexity from an administrative point of view are: the Birds of Prey MOU, due to the high number of Signatories and species; and the Sharks MOU, due to the high number of Signatories and regions. The least complex MOUs are the Ruddy-headed Goose, the Huemul and the Great Bustard MOUs, because they encompass only one species, one region and one language. The Mediterranean Monk Seal MOU is an outlier, as its complexity is affected by its five official languages. However, as

Signatories largely manage the MOU themselves, this is not an administrative burden to the Secretariat[4].

Those MOUs with highest complexity values generally require more resourcing in terms of staff time and funding for the organization of meetings and translation of documents, as well as written communication and interpretation at meetings. MOUs that fall into this category include those covering Sharks, Birds of Prey, IOSEA Turtles and Western African Aquatic Mammals. Section 4.2 provides detailed data on budgetary and staffing matters, as well as on the servicing arrangements of the MOUs.

4.1.4 Conservation Status

The Convention foresees the development of regional agreements, including MOUs for species listed in Appendix II that have an unfavourable conservation status and/or that would benefit from international cooperation (Article IV).

Unfavourable conservation status is the raison d'être for all MOUs under CMS. Not all populations are necessarily threatened, so some MOUs are regionally restricted and target the action where it is most needed (e.g. Ruddy-headed Goose, Great Bustard).

The conservation status of a species or group of species, specifically at the population level, provides some indication of resourcing needs under the MOU. In addition, the trend in conservation status over time at the population level is worth observing and provides important information regarding MOU implementation needs, since the overall objective of each MOU is the improvement of the conservation status of the species.

Both population (Living Planet Index) and species data (IUCN Red List of Threatened Species) were presented in combination for CMS-listed species at the 15th meeting of the Scientific Council and at COP9 to assist Parties in better understanding the conservation needs and to guide prioritization (UNEP/CMS/ScC15/Doc.14).

[4] It should be noted however, that there is a discrepancy between official languages mentioned in the MOU text, and actual languages used by the Secretariat to communicate with Signatories. For example, Russian is not listed as an official language in any MOU, yet is used in communications and meetings of the Saiga Antelope, Siberian Crane and Bukhara Deer MOUs as Russian remains an essential negotiation language in large parts of Central Asia and eastern Eurasia.

Monitoring to assess population status, as well as critical sites along the migration route and other parameters, is a core activity under each MOU. When the conservation status for individual populations or species is not available due to data deficiency, this is a clear indication of the need for the instrument to focus on core monitoring to guide any policy action and may suggest that the instrument is still in a phase of early development.

Figure 6, for example, illustrates data from the IUCN Red List of Threatened Species showing that Bukhara Deer, many of the Pacific Islands cetaceans, and some grassland birds and birds of prey are data deficient. One cannot equate the IUCN Red List status with the CMS conservation status, an example being the Ruddy-headed Goose[5]. Criteria for listing species on the CMS Appendices are currently in development by the Scientific Council. Furthermore, data on status for many of the individual populations under CMS MOUs, such as Saiga Antelopes in the Russian Federation, are often lacking.

Figure 6 indicates that CMS MOUs cover species in all Red List categories, from Least Concern to Critically Endangered. When excluding the Ruddy-headed Goose MOU and MOUs where the conservation status of the target species cannot be assessed adequately due to deficient data, it is evident that all MOUs are targeting one or several threatened species in the broader sense (Vulnerable, Endangered, or Critically Endangered). Furthermore, elephants in West Africa are more threatened than the global listing (Endangered rather than Vulnerable).

[5] The Ruddy-headed Goose was assessed as being of Least Concern globally on the IUCN Red List of Threatened Species having a large global population estimated to be 43,000-82,000 individuals (Wetlands International 2006 in IUCN Red List). However, the population in Argentina and Chile, the range which is covered by the MOU, faces some serious threats and has decreased considerably. Simultaneous censuses in southern Chile and Argentina recorded 312 individuals in 1998 (Y. A. Vilina in litt. 1998 in IUCN Red List). On Tierra del Fuego, a census, in the 1973 breeding season, yielded only 30 birds (Del Hoyo et al. 1992 in IUCN Red List).

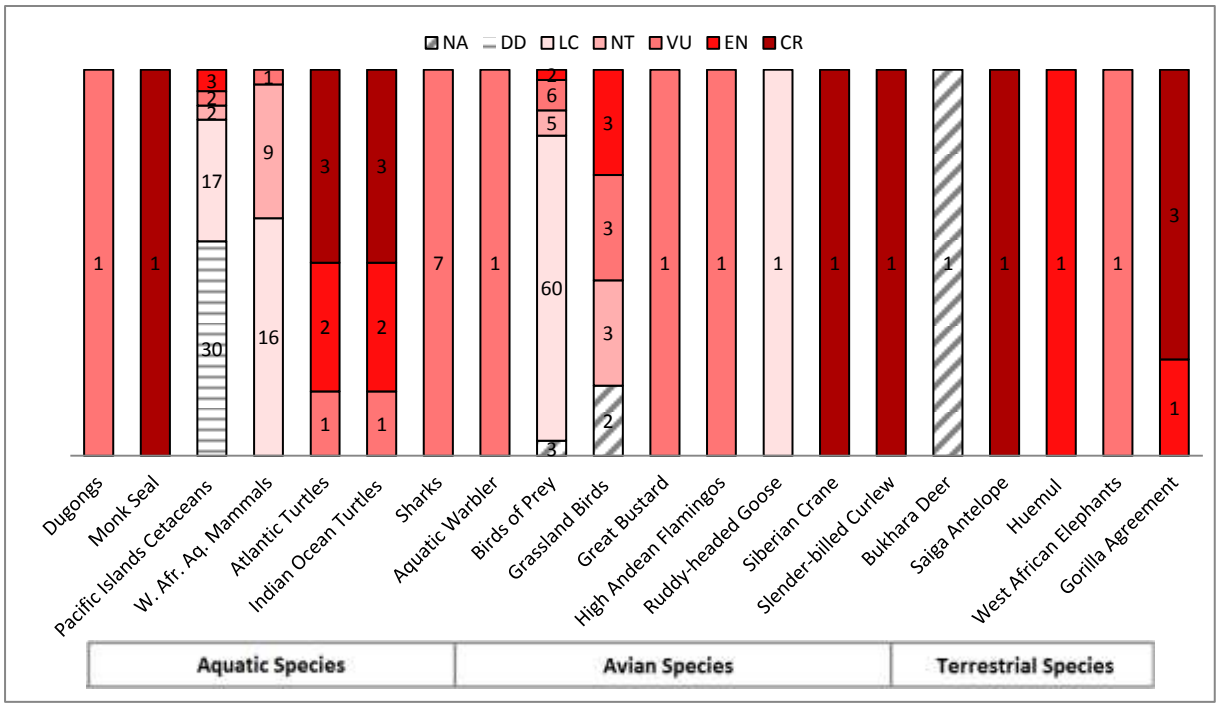


Figure 6. IUCN Red List of Threatened Species. The chart shows the IUCN Red List Status for all species or subspecies covered by each MOU. IUCN Red List Status categories are: Not Assessed (NA); Data Deficient (DD); Least Concern (LC); Near Threatened (NT); Vulnerable (VU); Endangered (EN); Critically Endangered (CR). The numbers within the columns represent the number of species or subspecies with the corresponding threat status. Note that IUCN Red List status is not the same as conservation status under CMS and that the data may be misleading, since CMS often only covers the most threatened populations of a species and not the global population.

4.2 Cluster 2: Coordination and Funding Arrangements

4.2.1 Servicing Arrangement

Servicing arrangements in place for MOUs may also provide valuable information to take into account in the analysis of the effective operation and administration of these instruments.

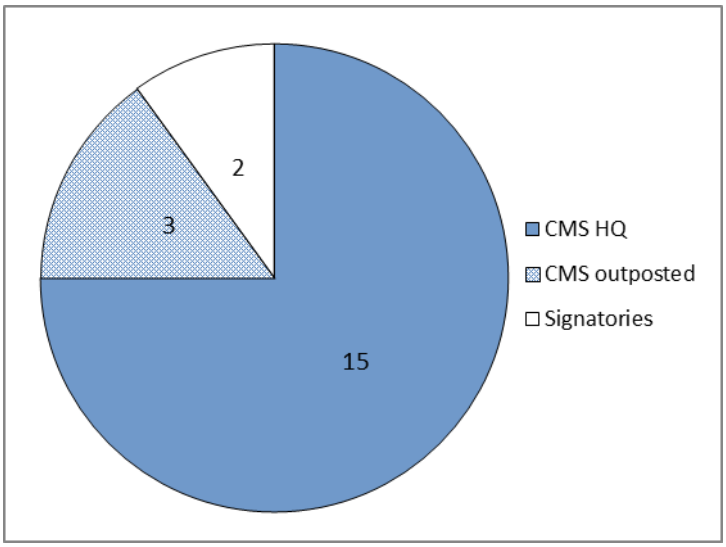


Figure 7. Servicing Arrangement. The pie chart displays the location from which the CMS MOUs are coordinated.

As shown in Figure 7, three-quarters of all MOUs are being serviced by the CMS Secretariat Headquarters in Bonn, Germany. For the coordination of four of these, NGOs are contracted to provide some technical coordination services if external funding can be secured (e.g. Saiga Antelope, Siberian Crane, Aquatic Warbler and Pacific Cetaceans). However, the overall responsibility remains with the Secretariat.

Three MOUs are serviced from out-posted CMS offices in Bangkok (IOSEA) and Abu Dhabi (Birds of Prey and Dugong). Each of these is located centrally within the MOU geographic region.

The remaining two MOUs (the Ruddy-headed Goose and the Huemul) are coordinated by the Signatories and are therefore functioning independently from MOU servicing activities at the CMS Secretariat. Coordination by Signatories for these MOUs may be facilitated because of the low administrative complexity of these MOUs (i.e. one species and two Range States).

4.2.2 Staffing Level

The availability of human resources to service an MOU will have an impact on its long-term viability.

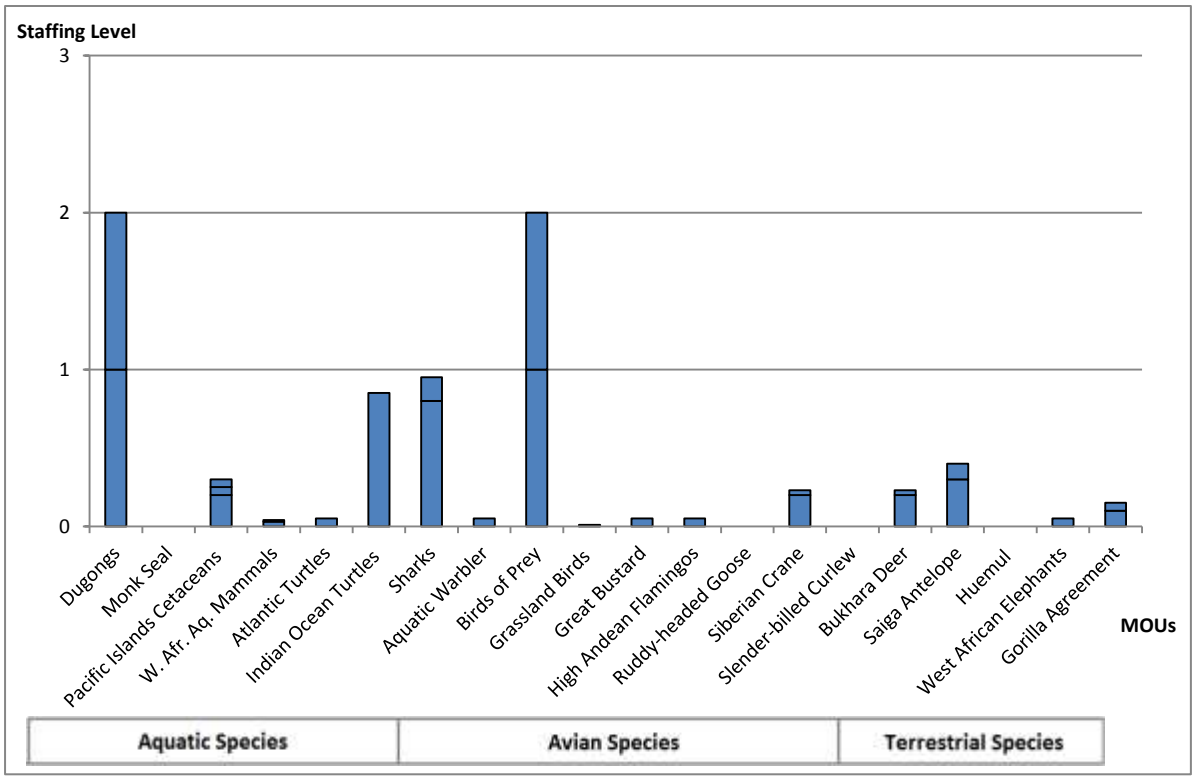


Figure 8. Staffing Level (as at 2013). The number of staff servicing an individual MOU is shown in this chart. The percentage of CMS staff time - which a staff member spends on servicing an MOU - is indicated by the height of the columns. Horizontal lines indicate the percentage of time spent by different staff. Only Professional staff is presented, irrespective of level, which ranges from P5 to P2.

Figure 8 indicates that the staffing situation for MOUs varies widely. The CMS Secretariat in Bonn currently services 15 MOUs. The core post of Agreements Officer was created in 2001. One JPO was provided in 2011[6] for four years; and a Sharks MOU Officer provided in 2012 for three years. Another JPO was available on a part-time basis in 2012 and 2013.

The Abu Dhabi Project Office, which opened in 2009, services two MOUs (Dugongs and Birds of Prey). The professional staff complement was recently increased to five, four of whom work full-time on MOU implementation. Funding is provided by the Environment Agency, Abu Dhabi on behalf of the United Arab Emirates.

The office in Bangkok, opened in 2003, services one MOU (IOSEA). There is one officer, who is funded 85% by voluntary contributions from Signatories. The remaining 15% of his time is funded from the core CMS budget, for wider CMS activities. The voluntary contributions to IOSEA fall short of the indicative budget required for coordination and implementation.

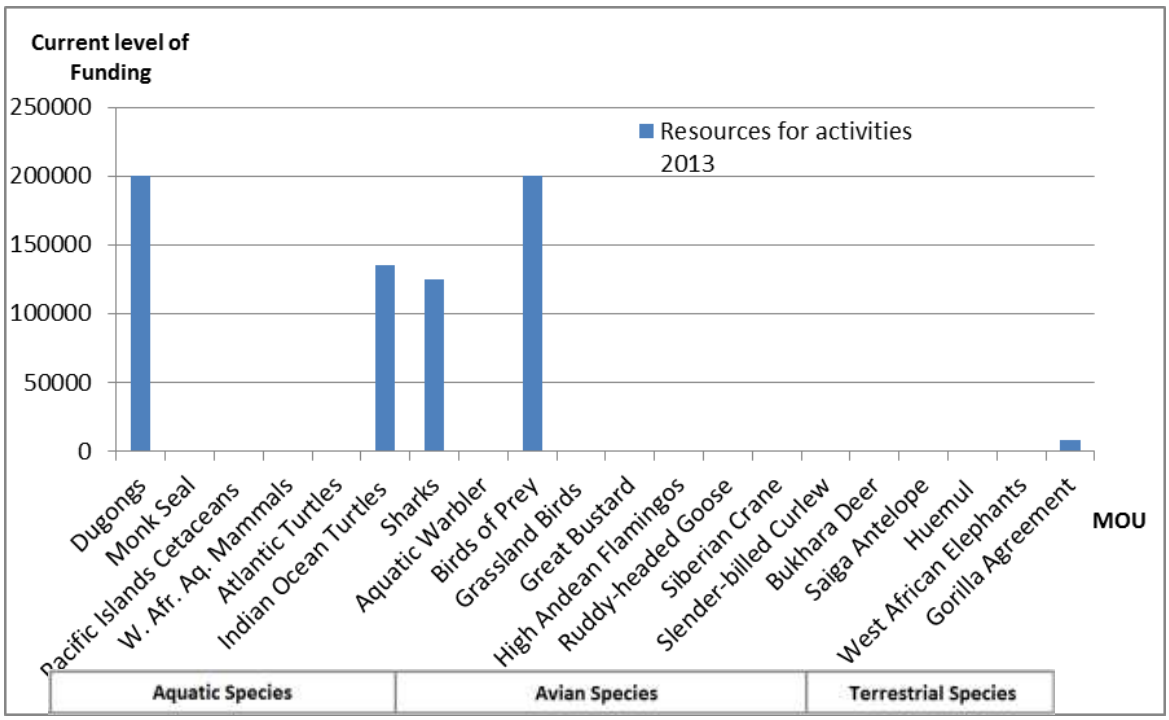
[6] JPO terms have been rounded to the nearest year. This JPO actually started in late 2010 and will finish in late 2014.

The Signatories to the Sharks MOU agreed on a budget at their first meeting in 2012, which provides for one professional staff member. Funds received to date have not been sufficient to recruit a staff member, although one is currently provided through a separate arrangement with Germany (i.e. the MOU officer provided in 2012).

For the 15 Bonn-based MOUs, the staff time indicated is the 2012-2013 average spent by the Agreements Officer and by the temporary staff, including Junior Professional Officers (see Figure 9 below). Note: at the end of 2014, staff available in Bonn is projected to decrease. The two MOUs where Signatories provide the Secretariat, as well as those where the Signatories undertake most of the coordination work (i.e. Monk Seal, Grassland Birds, High Andean Flamingos) operate relatively independently, though can call on the CMS Secretariat in Bonn for support when required.

The Atlantic Turtles, Western African Aquatic Mammals and West African Elephant MOUs have received less staff time, in part due to lack of dedicated staff, and to a lack of suitable partners[7] in the region to build a critical level of coordination activities.

4.2.3 Sustainable Funding for Activities



[7] In previous years, both Atlantic Turtles and West African Elephant MOUs have had implementation arrangements, which terminated, owing to an end to the funding or reduction of capacity within the partner organization.

Figure 9. Level of Sustainable Funding for Activities (2013). The level of funding for each MOU is indicated in US$ per annum. Figures are averaged over all years of the budget where appropriate.

Figure 9 indicates funding for each MOU, as channelled through CMS trust funds[8]. Funds used to implement MOUs directly by the Signatories are not indicated.

The funding for the Dugong and Birds of Prey MOUs reflects the high level of donor interest from the UAE Government. Although this funding is voluntary and from a single donor, it provides the conditions for adequate coordination and implementation.

The IOSEA[9] and Sharks MOUs have similarly modest budgets deriving from a range of their Signatories. As mentioned elsewhere, IOSEA has had relatively sustainable funding for basic coordination work. The much newer Sharks MOU has an approved budget but has not yet reached a position of sustainable funding. Although these two instruments rely on voluntary funding that is not entirely predictable,, they enjoy high levels of interest from countries and have at least one dedicated staff member to coordinate activities.

All other MOUs do not have predictable resource streams. Allocations of funding for MOUs in the CMS core budget have decreased over the years (see figure 11 in section 4.2.5). For the triennium 2012-2014, limited resources (€45,000[10] per year) were allocated and used to assist NGOs to provide basic coordination services to a few MOUs selected on the basis of either continuing ongoing arrangements, or the presence of suitable partner organizations.

The Gorilla Agreement, being a legally binding agreement with assessed contributions, set an annual contribution of €3000 per annum for each of its six Parties, which should yield €18,000 pa. Currently the Secretariat receives a maximum of €4,000 pa in dues, which is insufficient for implementation of any significant activities.

[8] Includes agreed voluntary budgets for the four larger MOUs (but note that for IOSEA and Sharks, these amounts were not reached in 2013). Ad hoc voluntary contributions are not included, as they vary widely from year to year, are usually earmarked for conservation activities, rather than MOU coordination and owing to their ad hoc nature cannot be used for planning purposes.

[9] The IOSEA Marine Turtle MOU is funded entirely from voluntary contributions of a restricted number of Signatory States. The Signatory States adopted a three-year budget and indicative scale of voluntary contributions at their Sixth Meeting (Bangkok, January 2012). The core budget in years without a Signatory States meeting averages about US$280,000 annually (including for staff); whereas the voluntary contributions received over the same period amount to about 70% of the requirement. This level of funding has been sufficient to maintain core operations, but has not been sufficient to fund much additional project work or to engage additional staff for programme delivery

[10] Budget line 1204, CMS Core budget 2012-2014. Resolution 10.1, Annex 1.

Additional voluntary contributions are raised on an ad hoc basis for selected activities, including organization of meetings, depending on identified priorities and capacity of CMS current staff.

4.2.4 Number of Signatories Eligible for Funding to Meetings

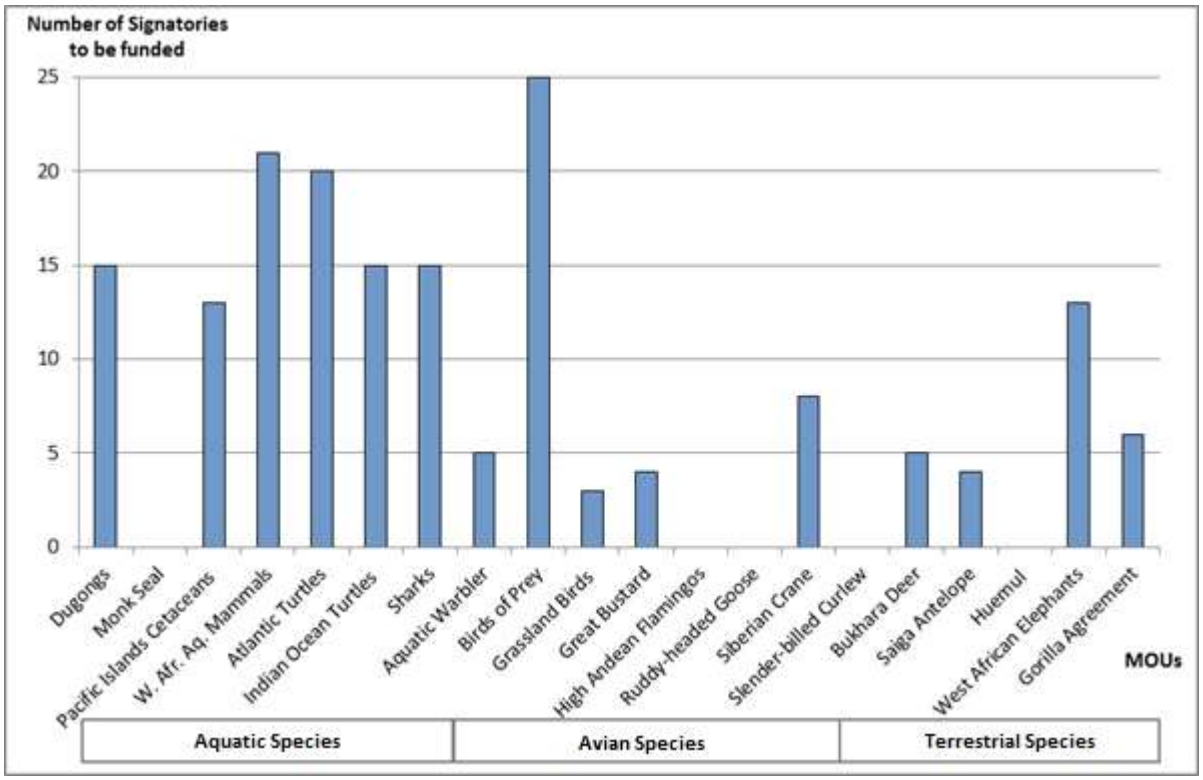


Figure 10. Number of Signatories eligible for funding to meetings. According to the UN Scale of Assessment certain countries are eligible for funding to attend meetings. The number of eligible Signatories in each MOU was calculated.

The number of Signatories to be funded to attend Meetings of Signatories is a rough approximation of the cost of holding a Meeting of Signatories, as travel costs make up a large component of the budget. The more Signatories there are, and particularly those from low-income countries, the greater the cost of convening meetings will be. Funding to cover these costs is available for the Dugongs, Sharks, Birds of Prey and IOSEA MOUs, but not for the Western African Aquatic Mammals, Atlantic Turtles and West African Elephant MOUs.

In order to save costs, Meetings of Signatories are often organized in conjunction with other meetings in the region. For example, the 2011 West African Elephants Meeting was

convened together with a CITES MIKE[11] meeting in the same region. This is in line with Future Shape Resolution 10.9, which further requests joint MOU meetings where Signatories largely overlap as in the case of the Atlantic Turtles and Western African Aquatic Mammals MOUs.

It should be noted that costs for MOUs with a growing membership, such as the Sharks and Birds of Prey, will grow significantly as more Signatories from countries with relatively low GDP sign up.

4.2.5 CMS Budget

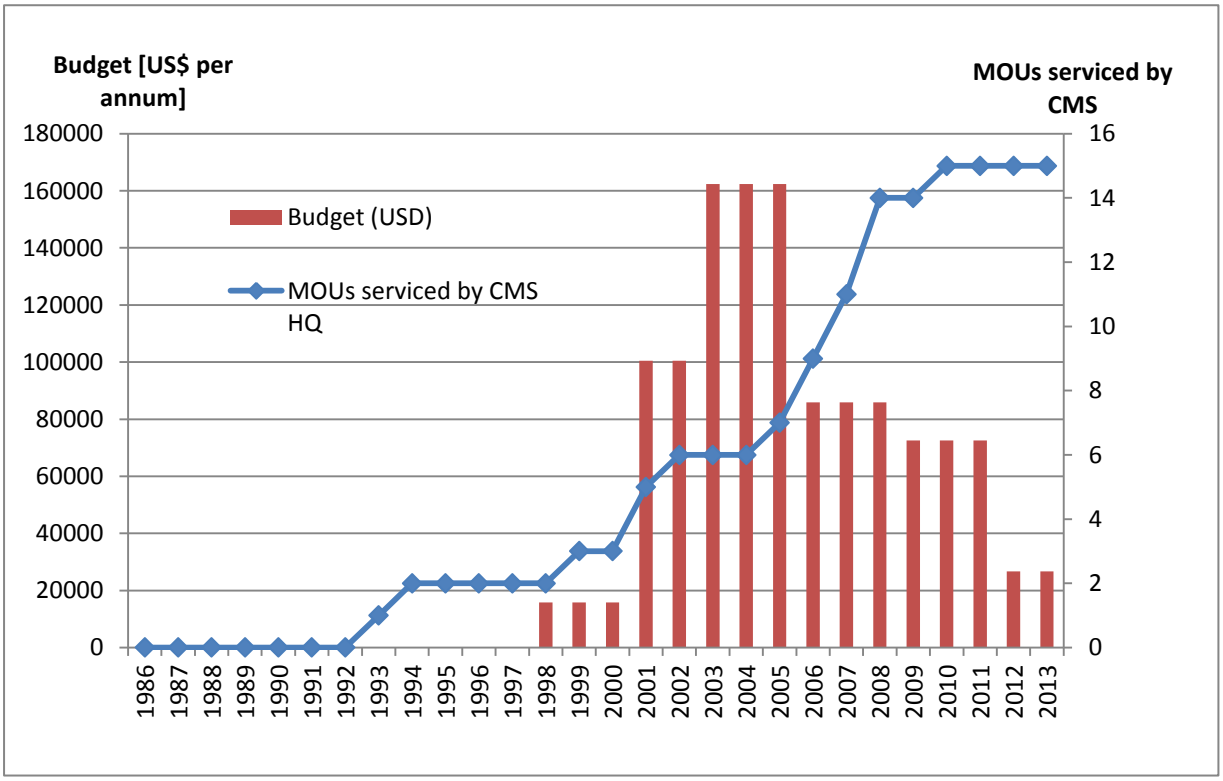


Figure 11. CMS core funding available for MOU implementation. The chart compares the number of MOUs serviced by the Convention Secretariat with the financial resources available for coordination in the CMS Core Budget in Mio US$ and how these figures change over year. Budget figures were derived from COP budget resolutions, and averaged over each triennium to remove COP-year aberrations. The five MOUs serviced outside of Bonn were eliminated from this analysis as they are funded independently.

From COP5 in 1997 until COP8 in 2005, the core budget rose steadily with the increase of new MOUs concluded and serviced by the Secretariat. At COP8 this changed dramatically. Until then there were at least US$25,000 available per MOU to ensure that basic MOU

[11] Monitoring the Illegal Killing of Elephants (MIKE) programme.

servicing costs were covered. At COP8 Parties decided to cut the core budget for MOU coordination by half and to rely on voluntary contributions for the bulk of MOU servicing.

This decision had wide-reaching consequences for MOU implementation. Firstly, this meant that funding for MOUs became unpredictable since voluntary contributions are made on an *ad hoc* basis by Parties and depend on the national financial situation and many other factors. This in turn led to a situation where the Secretariat was unable to plan MOU activities in advance. Finally, and most importantly however, this decision came at a time when the number of MOUs grew significantly and funds were needed more than ever before (see Figure 11). This situation led to the Future Shape process being launched by Parties in 2011 when it had become evident that MOU implementation had suffered dramatically.

It is also worth noting that sometimes voluntary contributions have been provided for certain activities which were not mandated directly by the Signatories of the MOUs, such as the implementation of conservation projects. Whilst this is highly appreciated, it leads to a situation where resources to cover basic MOU servicing were reduced because of staff time spent coordinating these conservation projects.

4.3 Cluster 3: Engagement of Signatories

The commitment of individual Signatories to implement an MOU is one of the most important factors to ensure MOU success (UNEP-WCMC 2011a). This includes policy decisions based on sound science and close collaboration with other range states, but most importantly this involves effectively managing populations within the country and at the borders; from monitoring to protected area management and law enforcement. Unfortunately due to a lack of data on national investment of Signatories in MOU implementation the Secretariat was unable to include a comparison of the level of financial/in-kind investment by Signatories by MOU. In future however it would be beneficial to all Parties for such data to be made available through reports to provide a full picture of contributions to on the ground implementation and upon such a basis assess MOU viability more fully.

The Secretariat was however able to rate the "Level of implementation by Signatories" and the "Frequency of Communication between Signatories and the Secretariat" as either "high", "medium", "low", "none", or "insufficient knowledge" (IK) based on observations throughout 2013. "IK" in the chart indicates the lack of sufficient knowledge without which the "Level of implementation by Signatories" could not be rated.

The chart shows the "Level of implementation by Signatories" and the "Frequency of Communication between Signatories and the Secretariat" for each MOU. The Secretariat assessed the first factor based on information provided from various sources regarding the implementation of activities agreed in the Action Plans under the MOUs, including meeting reports and documentation and national reports, as well as informal sources and communication with countries and/or NGOs working on the species. While in most cases it was possible to estimate the level of implementation based on the sources mentioned above, this was not possible for the MOUs on Sharks, Grassland Birds and West African Elephants, due to a lack of information, such as reports from Signatories.

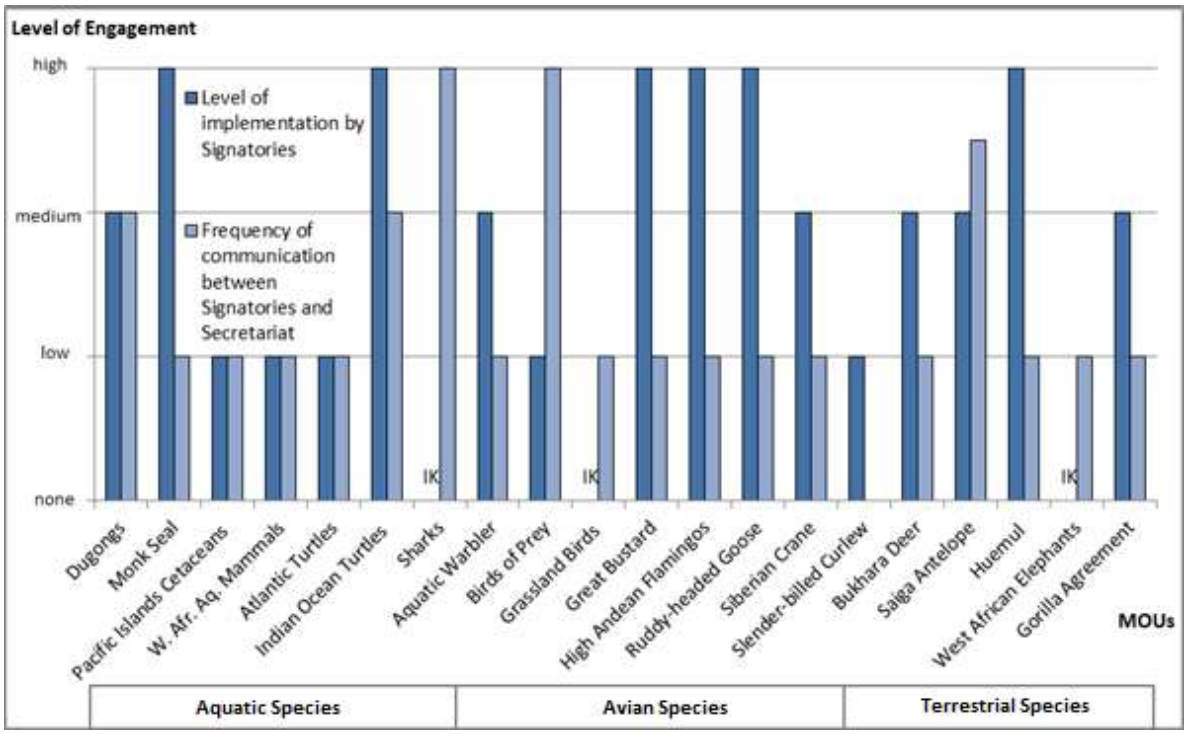


Figure 12. Engagement of Signatories. The "Level of implementation by Signatories" and the "Frequency of Communication between Signatories and the Secretariat" were rated to either "high", "medium", "low", "none", or "insufficient knowledge (IK)".

The level of implementation by Signatories is medium on average. It is high for six MOUs, medium for six and low for five (with insufficient knowledge for three). Overall, the South American MOUs score high on implementation, due to the fact that the Signatory States of those MOUs actively service the MOU themselves, organize their meetings themselves and implement the conservation actions they have agreed upon, without strong involvement of the CMS Secretariat.

The second factor (frequency of communication between the Signatories and the Secretariat) indicates the level of interaction between the Secretariat and the Signatories, which correlates with the presence of staff for specific instruments and/or regions. It is high for two MOUs, Sharks and Birds of Prey, which might relate to the fact that both had their first meeting of Signatories within the last year, and a lot of follow-up communication to implement the decisions made at those meetings has taken place. For the Saiga Antelope, communication is also rather high, not least due to the various inter-sessional activities including technical meetings, side events, preparation of studies and a dedicated website. All of this has been feasible due to the presence of a dedicated JPO for the central Asian region. The score is medium-high for one MOU, medium for two and low for fourteen (with insufficient knowledge for one MOU).

In some cases, however, it appears that a frequent communication between Signatories and the Secretariat is not necessary to achieve a high level of implementation. For instance, many activities outlined in the Action Plan under the Bukhara Deer MOU have been implemented and populations have increased – despite low levels of communication and interaction between the Secretariat and the Signatories for several years. In other cases, the level of implementation by Signatories remains low despite frequent communication between the Signatories and the Secretariat, as for the Birds of Prey MOU. This might also relate the greater complexity of actions required to implement the MOU.

4.4 Cluster 4: Engagement of Stakeholders

The “Minimum number of stakeholders engaged in the species/habitat” and the “Number of stakeholders engaged in the MOU” were rated to either “high”, “medium”, “low”, or “none”.

In the chart both assessments are presented next to each other for each individual MOU. The numbers above the columns indicate the estimated total number of stakeholders engaged (including NGOs, international organizations, MEAs, etc.).

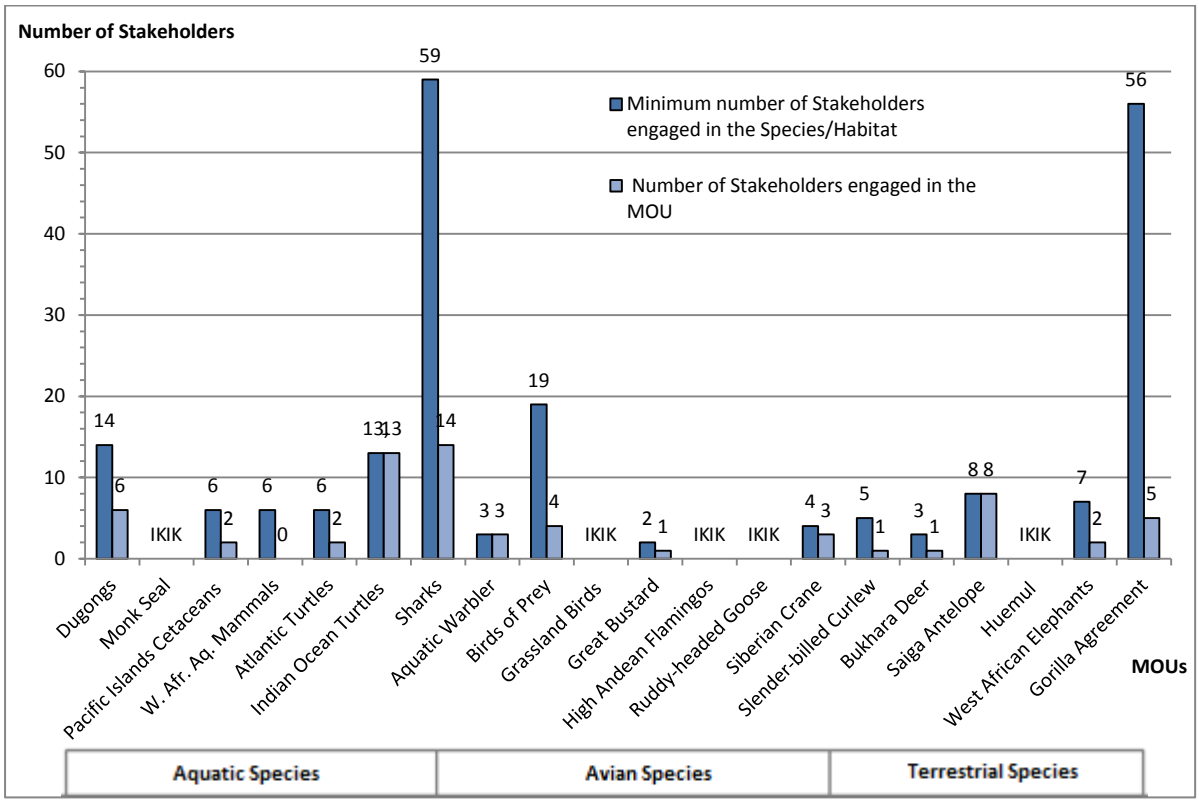


Figure 13. Number of Stakeholders. The "Minimum number of Stakeholders engaged in the Species/Habitat" and the "Number of Stakeholders engaged in the MOU" are shown in this chart .The numbers above the columns indicate the total estimated number of Stakeholders (including NGOs) engaged. "IK" = Insufficient Knowledge.

We assessed in a first step the number of NGOs and other organizations that are currently actively engaged in the conservation of the species covered by the particular MOU. If all of those are also involved in the MOU - as a cooperating organization to the MOU or informally - then the stakeholder engagement could be considered high. Ideally we felt the majority of stakeholders engaged in the conservation of the species would also be engaged in the MOU.

The total number of stakeholders is thereby not the important factor. As for the case of Saiga Antelope, the Aquatic Warbler and IOSEA, the total number of stakeholders is rather low, but all of them are actively engaged and participate in the MOU, suggesting the MOU is central to the wider conservation effort.

The level of engagement might however also differ, such as in the cases of the Saiga, Siberian Crane and Aquatic Warbler MOUs, where NGOs are providing technical coordination services, thus play a prominent supporting role for the implementation of the MOU.

On the other hand, for the Gorilla Agreement, there is a large number of stakeholders working on the conservation of the species, with only few of them participating in the Agreement. Not only are there dozens of NGOs, but also the Great Apes Survival Partnership which covers all gorillas (and their sympatric chimpanzees, as well as the other great apes), includes all Range States, and by being led by UNEP, like CMS, it possesses the neutrality and convening power of the UN. The Sharks MOU has a similar mismatch in stakeholders. However, this MOU is very new and the Signatories have not even finalized the admission criteria for cooperating partners, while many have shown interest in becoming engaged. We expect this number to rise in the future. Meanwhile diverse and important stakeholders are already engaged, such as IUCN, CITES and FAO.

For five MOUs (Monk Seal, Grassland Birds, High Andean Flamingos, Ruddy-headed Goose and Huemul), the Secretariat has insufficient knowledge about the number of stakeholders working on the species. For most of the other MOUs, there is only a rather low discrepancy between stakeholders working on the species and those engaged in the MOU.

5. CONCLUSIONS

Trying to draw neat conclusions from this analysis is difficult because every MOU is different. No matter which aspect is considered, the variability between MOUs is huge:

- Some deal with just one species, others deal with up to 76.
- Some have all their Range States signed up, others have a low proportion of Signatories[12]
- Some have just two Range States, one has 153.
- Many operate in one region, others in two or three and one in six.
- Some work in just one language, many in two, but one has five official languages.
- Some have no funds assigned, others have healthy annual budgets.
- Many have no staff or only a small percentage of one staff member's time assigned; others have two full-time staff to service the MOU.
- Some have Signatories which are highly engaged with the MOU, while others are less engaged.
- Some have many stakeholders engaged with the MOU, others have just a few, but which are highly committed to its coordination, while others again have very little engagement from any NGOs or IGOs.
- Some deal only with Endangered or Critically Endangered species, others cover additional species which are listed as Least Concern and thereby help prevent them from becoming threatened.

At one extreme, there is the Huemul MOU dealing with only one species listed as Endangered, and with only two Range States - both Signatories (and CMS Parties) - which manage the MOU between them, at their own cost and in a single language. At the other extreme there is the Birds of Prey MOU, dealing with 76 species, ranging from Endangered to Least Concern, spread over 132 Range States - of which less than 40% are currently Signatories and some are not yet CMS Parties - covering three regions, using two languages

12 For instance, the Sharks MOU covers 160 Range States and only had 26 Signatories (as of 31 JULY 2013). Therefore the Signatories represent 16% of the total coverage of the MOU.

and coordinated by CMS, through its office in Abu Dhabi, with two full time staff, managing a budget of approximately US$650,000 pa.

5.1 MOU Viability

5.1.1 Status Quo

The question of what makes an MOU viable is a complex one. While each MOU is unique with often very different characteristics and levels of complexity (as highlighted above); it is still possible to distil some general criteria that may be important for effective functioning and implementation of an MOU. Figure 14 provides an overview of some of the key factors assessed to illustrate how individual MOUs compare.

	Marine Species							Avian Species								Terrestrial Species				
	Dugong	Monk Seal	Pacific Islands Cetaceans	WAAM	Atlantic Turtles	IOSEA	Sharks	Aquatic Warbler	Birds of Prey	Grassland Birds	Great Bustard	High Andean Flamingos	Ruddy-headed goose	Siberian Crane	Slender-billed Curlew	Bukhara Deer	Saiga Antelope	Huemul	West African Elephtans	Gorilla Agreement
Administrative Complexity	🟢	🟡	🟡	🟡	🟡	🟡	🔴	🟢	🔴	🟡	🟢	🟢	🟢	🟢	🟢	🟢	🟢	🟢	🟢	🟢
Number of Signatories to be funded	🔴	🟢	🟡	🔴	🔴	🔴	🟡	🟢	🔴	🟢	🟢	🟢	🟢	🟢	🟢	🟢	🟢	🟢	🟡	🟡
Level of implementation by Signatories	🟡	🟢	🔴	🔴	🔴	🟢	IK	🟡	🔴	IK	🔴	🟢	🟢	🟡	🔴	🟡	🟡	🟢	IK	🟡
Communication with Secretariat	🟡	🔴	🔴	🔴	🔴	🟡	🟢	🔴	🟢	🔴	🟢	🔴	🔴	🔴	🔴	🔴	🟡	🔴	🔴	🟢
% of Stakeholders engagement	🟡	IK	🟡	🔴	🟡	🟢	🔴	🟢	🔴	IK	🟡	IK	IK	🟢	🔴	🟡	🟢	IK	🔴	🔴
Staffing Level	🟢	n.a.	🔴	🔴	🔴	🟡	🟡	🔴	🟢	🔴	🔴	🔴	n.a.	🔴	🔴	🔴	🔴	n.a.	🔴	🔴
Level of funding	🟢	🟢	🟡	🔴	🔴	🟢	🟢	🟡	🟢	🟢	🟡	🟢	🟢	🟡	🔴	🔴	🟡	🟢	🔴	🔴

Figure 14. Summary table of key factors

Human and Financial Resources: An obvious criterion for viability could be sustainable and predicable funding as this ensures maintenance of the core tasks for the functioning of an MOU: regular communication with Signatories and other stakeholders, convening of meetings, production and translation of relevant documents. While for some MOUs successful arrangements have been made with NGOs to provide the technical coordination, a certain amount of servicing and official coordination always remains with the Secretariat.

The resources required for coordination and meetings are largely determined by the level of administrative complexity of an

MOU. The more complex an MOU, the more resources are required to maintain a minimum standard of activity and implementation. For the large, complex MOUs such as Sharks or Birds of Prey, a central Secretariat is needed with significant funding to maintain a level of core activity.

It is clear that the more resources are available for an MOU, the more effectively it can be coordinated and implemented. The Dugong and Birds of Prey MOUs are good examples of a very satisfactory level of funding. This arrangement allows for the investment of staff time in important activities such as the preparation of a GEF project, which will in turn significantly increase the availability of resources from third Parties in order to implement the MOU objectives. Financial security for fulfilling basic coordination and servicing tasks, allows for additional investments to promote the MOU in international fora and stimulate overall implementation. This in turn attracts donors and offers further funding opportunities. Both MOUs have been able to invest human and financial resources to develop fundraising strategies to help secure supplemental funding to support implementation of the instruments.

The availability of regular annual budgets for an MOU is a major advantage since implementation activities can be planned for the medium- to long-term. In contrast, for those MOUs that depend on unpredictable voluntary contributions only short-term planning is feasible.

However, some MOUs have achieved quite some implementation success with very modest funds. The Saiga MOU is a good example of this. Since the last meeting of Signatories in October 2010, a range of activities have taken place under the MOU, including three technical workshops, a side event at CITES COP16, preparation of a study and the setting up of a dedicated website. While only marginal funding was available to support those activities, the MOU continues to benefit from the strong and often in-kind support of the scientific and NGO community engaged in Saiga conservation and the MOU. The catalyzing effect of the German-funded JPO for the central Asian region has been crucial to this endeavour.

Therefore in many ways the resources available are always relative and not the only determining factor for a viable MOU. For instance, the Birds of Prey MOU in some respects

(geographic coverage, number of species, Range States, etc.) more closely resembles a legally binding Agreement like AEWA than some of the other avian MOUs, such as the very simple Grassland Birds or Great Bustard MOUs. While the Birds of Prey MOU is well funded compared to its counterparts, if Signatories wanted to see the same level of implementation that AEWA achieves, it could be seen as under-resourced. At the same time, some of the smaller MOUs might become more successful with more modest, but stable and regular funding.

Stakeholder engagement: There is no neat correlation between the number of stakeholders engaged in the species, and the number engaged with the MOU. In fact there may be a negative correlation. In the case of the Gorilla Agreement, where there are many stakeholders already engaged with the species, few feel the need to involve themselves in the CMS Agreement, especially as there is already a UN-led partnership (GRASP) with similar goals. The core value of this Agreement is its legal status – it can be used by all stakeholders to remind themselves of their commitments under this contract and to thereby leverage wide implementation.

For some avian and marine mammal MOUs, having one highly committed partner, which feels a genuine sense of partnership may be sufficient to ensure a good degree of implementation; BirdLife International and Whale and Dolphin Conservation (WDC) are examples of this. Similarly with the Bukhara Deer MOU, there has been little engagement from the Secretariat over the years, but one committed NGO (WWF Russia) uses the MOU and its Action Plan to engage with the relevant governments in existing fora, and ensures conservation actions are being implemented.

Conversely, the lack of any suitable stakeholders to assist with implementation can cause significant problems. This is particularly the case on the west coast of Africa, where the Secretariat has been unable to identify a suitable NGO or other partner to assist with the implementation of the three MOUs there.

Regional differences: While the preceding analysis has not looked specifically at regional differences, it is possible to make some observations. MOUs that span regions with Signatories that are willing and able to contribute financially, are better resourced than those confined to regions with no traditional donors. This raises the question of how CMS

Parties as a whole wish to deal with MOUs in regions with no traditional donors. Again the three African MOUs and Gorilla Agreement come to mind.

Engagement of Signatories: The propensity for the Latin American countries to wholly or largely manage their MOUs themselves is a welcome initiative and a good example for functioning MOUs without much engagement of the Secretariat. The main common factor here is that all those MOUs, which are largely being run by the Signatories themselves (including also the European Great Bustard MOU), have a limited geographical coverage, only a few countries involved, which share or are willing to use the same language and where the complexity of actions required to improve the conservation of the species is limited.

It has been pointed out by the lead drafters of the Convention[13] that the intention of Article IV of the Convention text was that Parties would draw up and implement regional agreements amongst themselves, without the need for a secretariat function. But as mentioned elsewhere, this is impractical for very large or complex MOUs.

The rate of membership is partly a function of the age of the MOU. However, the outliers are interesting. Having a small number of Range States makes it easy to approach 100% involvement. Nonetheless, both of the Turtle MOUs as well as the West African Elephants MOU have very high rates, which suggest high level of country ownership. Yet the two African MOUs currently have very low rates of engagement and receive no regular funding. The Dugong MOU is a good example of a relatively young instrument with many Range States, which has already achieved an impressive 59% membership rate.

A favourable conservation status may suggest that an MOU is working well. The only example for which this statement applies within the CMS Family is the trilateral Agreement on the Conservation of Seals in the Wadden Sea. Apart from annual monitoring, the implementation of this agreement is currently dormant since the seals are doing well. The agreement is however available in case of emergencies, such as recurring disease outbreaks, and in case the conservation status deteriorates in future.

[13] Personal communication

For MOUs one might want to apply a similar strategy: should the conservation status become favourable continue monitoring, but freeze all other implementation activities. Treat the MOU as a tool available to be applied as the need arises, with no regular servicing activity beyond monitoring.

At the other end of the spectrum, this principle is already being applied to the Slender-billed Curlew MOU, a species which is thought to be extinct. There are no MOU servicing activities currently taking place beyond monitoring as sightings are reported.

Continuity in coordination is an important factor for MOU success. The Atlantic Turtles and the IOSEA MOUs were developed at about the same time, with similar substantive content and had a comparable start in terms of Bonn-based coordination activities, organization of meetings of Signatories etc. Nevertheless, once the Bangkok office was established, with a near-fulltime senior officer focusing on IOSEA coordination, that MOU soon overtook its African counterpart in terms of implementation.

Initially, the CMS Secretariat put considerable attention into the Gorilla Agreement, including organizing the global Year of the Gorilla campaign in 2009. In spite of this, a combination of lack of engagement from its Parties and capacity within the Secretariat, plus the increasingly obvious overlap with the GRASP Partnership in terms of conservation coordination, has led to a decrease in activity by the Secretariat.

Complexity of action required to implement the MOU: A potentially important criterion which was not included in the present study due to time and resource constraints, was the complexity of action required to implement an MOU.

Many of the above findings are in line with the conclusions of earlier reviews of CMS instruments (UNEP-WCMC 2011a and 2011b), which identified strong support and political will of range states, strong collaboration between all stakeholders, active discussion on conservation and sharing of knowledge, adequate resources and funding as the main factors contributing to the success of CMS instruments. ERIC (2010) noted that "the availability of financial resources allows greater capacity building promoting a virtuous circle".

While not examined in this analysis, it is worth nothing that both ERIC (2010) and UNEP-WCMC (2011a) have noted that the legal status of agreements does not appear to matter

much. Whether governments conclude a legally binding Agreement or an MOU matters less than its finances, in determining its impact.

5.1.2 The Essential Characteristics of Viable MOUs

It is clear that not all MOUs were concluded for the same reasons. The small Latin American MOUs were designed to provide a legal framework for bilateral cooperation, and would appear to have achieved this purpose. The Great Bustard MOU, with its main focus in Europe, provides a useful framework for cooperation that Signatories can largely manage by themselves. However, a number of the larger more complex MOUs were clearly intended to attract attention, and new resources to help the Range States improve the conservation status of the species. This has led to a collection of very different instruments, all unique in their evolution, functioning and coordination requirements. In this, many of them have not yet met their original expectations and objectives.

As such it may be that the viability of an MOU is comprised of a combination of a number of characteristics, but in essence an MOU would be viable when:

- the Signatories are willing and able to run it themselves (number of Signatories must be small), or
- there is a strong engagement from the stakeholders in the MOU and some modest and regular funding to assist them, or
- significant funding to staff a functional Secretariat is available.

It may be worth reiterating at this point, that through Resolution 10.9, Parties adopted a set of activities relevant to the implementation of MOUs. These included the request for the present analysis, along with the following activities to be implemented between 2012 and 2020:

15.1 "Cooperation and coordination between agreements' programmes and projects based on species clustering, thematic issues or geography as appropriate

15.2 If appropriate, cooperation and coordination between Agreement Secretariats e.g. based on species clustering or on geography.

15.3 Begin considering, if appropriate, merging agreements based on geography and/or ecology or species groupings".

Progress by the Secretariat towards activities 15.1 and 15.2 are outlined in CMS/StC40 Doc.13 and CMS/StC41 Doc.14. This assessment may assist Parties in addressing activity 15.3.

5.2 The Development of Future MOUs

Because of the differences in purpose and design outlined above, it will be necessary to be flexible in the elaboration of criteria for the development of any new MOUs. Each would need to be assessed case by case to tease out exactly what it needs and whether a proposed MOU is likely to be able to deliver the desired results.

However, a set of core conditions need to be strictly applied before an MOU is developed to ensure that adequate capacity for implementation is available. Through Resolution 10.16, Parties have already provided a set of preliminary criteria for the development of new agreements:

"a) substantiation of the case for a new instrument, based on an analysis of needs and gaps in current conservation provisions;

(b) whether the proposal helps to deliver a specific existing CMS COP mandate or other existing CMS initiative;

(c) the financial implications of the proposal, and what plan for financing the instrument is in view;

(d) the extent to which the financing plan is sustainable in the long term;

(e) whether a new instrument is the only option, or whether alternative options exist, such as extending an existing instrument;

(f) whether a CMS instrument is the only option, or whether the same outcomes could be achieved by delivery through one or more partner organizations, or by other means;

(g) what other synergies and efficient ways of working can be foreseen; and

(h) whether an organization or (preferably) a country has committed to leading the development process."

In light of the assessment presented in this document, the Secretariat finds that these criteria remain sound. However, it should be noted that if item (d), on long-term financing, had been applied in the past, as a necessary criterion to meet before an MOU could proceed, the Dugong MOU might not have been concluded, as its substantial funding offer only arose after the MOU was negotiated. By this criterion, perhaps only the Latin American and Birds of Prey MOUs would have been concluded.

It also appears that in some cases the availability of funding and the establishment of an administrative structure to service the MOU might not be necessary at all. As in the case of the Bukhara Deer, the MOU provided the legal framework and necessary international political backing for Signatories, to enhance their joint conservation actions. This again illustrates the need to look at each case individually and to thoroughly assess the needs and the expectations that are related to the proposal for a new MOU.

5.3 Next Steps

Resolution 10.16 (reiterated in Resolution 10.9 item 12) requests that the Secretariat further develop the above criteria, for consideration by COP11. It also requests the development of indicators to monitor the effectiveness of agreements. In developing these, the Secretariat will draw on lessons learned from this assessment to form a framework for the development of future CMS agreements.

The Secretariat would welcome comments and guidance from the Parties and MOU Signatories, on this report

6. REFERENCES

BUCHANAN G., CROCKFORD N. & GRETTON A. (2010) *The Slender-billed Curlew (Numenius tenuirostris) in Africa*, Bull ABC 17: 202-206.

ERIC Ltd (2010) *Review of the current organization and activities of CMS and the CMS family: First step of the Intersessional Future Shape Process*, UNEP/CMS/Inf.10.14.8.

ERIC Ltd (2011) *Convention on Migratory Species: Future Shape Phase II Options Report,* UNEP/CMS/Inf.10.14.9

ERIC Ltd, (2011) *Convention on Migratory Species: Future Shape Phase III*, UNEP/CMS/Inf.10.14.10.

GIBBONS J. E., MATUS R., VILINA Y. A., BLANCO D. E., ZALBA S. & BELENGUER C. (1998) *Desarrollo de un plan de conservación para el cauquén cabeza Colorada (Chloephaga rubidiceps), en la región austral de Argentina y Chile*, Corporación Nacional Forestal (Chile) & Wetlands International, Buenos Aires, Argentina, 40 pp.

DEL HOYO J.; ELLIOT A.; SARGATAL J. (1992) *Handbook of the Birds of the World*, vol. 1: Ostrich to Ducks, Lynx Edicions, Barcelona, Spain.

IUCN Red List of Threatened Species, Version 2013.1 available at: www.iucnredlist.org (downloaded on 02 August 2013).

PRIDEAUX M. (2013) *A Natural Affiliation: Developing the Role of NGOs in the Convention on Migratory Species Family*, A Review for the Attention of the CMS Strategic Plan Working Group. Available at: www.wildmigration.org

TOWNER A.V., WCISEL M.A., REISINGER R.R., EDWARDS D., JEWELL O.J.D. (2013) *Gauging the Threat: The First Population Estimate for White Sharks in South Africa Using Photo Identification and Automated Software*, PLoS ONE 8(6): e66035. doi:10.1371/journal.pone.0066035

UNEP/CMS (2011) CMS Convention Text, Agreements and MOUs, Volume I-III.

UNEP-WCMC (2011a) *Review of CMS existing instruments and projects on terrestrial mammals (including bats)*, UNEP/CMS/Inf.10.15.

UNEP-WCMC (2011b) *Review of CMS existing instruments and projects on marine turtles,* UNEP/CMS/Inf.10.16.

Wetlands International-China Office (2006) *Relict Gull surveys in Hongjianao, Shaanxi Province*, Newsletter of China Ornithological Society 15(2): 29

7. ANNEXES

ANNEX 1 - CMS Memoranda of Understandings

Aquatic Warbler

The Aquatic Warbler MOU was concluded in Minsk, Belarus, under the auspices of the Convention on Migratory Species (CMS) and became effective on 30 April 2003. It aims to safeguard the Aquatic Warbler (*Acrocephalus paludicola*) that is the rarest migratory songbird of Europe, and the only globally threatened passerine bird found in mainland Europe.

Birds of Prey (Raptors)

The Birds of Prey MOU was concluded at a meeting in Abu Dhabi, United Arab Emirates, on 20-22 October 2008 and became effective on 1 November 2008. he overall aim of the Raptors MOU is to promote internationally coordinated actions to achieve and maintain the favourable conservation status of migratory birds of prey throughout their range in the African-Eurasian region, and to reverse their decline when and where appropriate.

The Raptors MOU is serviced by the UNEP/CMS Abu Dhabi Office being hosted by the Government and the Environment Agency of Abu Dhabi (EAD).

Bukhara Deer

The Bukhara Deer MOU was developed under the auspices of CMS in collaboration with the Central Asia Programme of the World Wide Fund for Nature (WWF) and became effective on 16 May 2002. The Bukhara Deer Action Plan provides for the restoration of the range and number of the Bukhara Deer in suitable habitats, the development of a transboundary network of protected areas, legal protection measures and enhanced international cooperation.

Cetaceans in the Pacific Islands

The Memorandum of Understanding for The Conservation of Cetaceans and their Habitats in the Pacific Islands Region was launched on 15 September 2006. Through this MOU, the Pacific Islands Region seeks to foster cooperation, build capacity and ensure coordinated region-wide conservation for cetaceans and their habitats, as well as to safeguard the cultural values cetaceans have for the people of the Pacific Islands.

Dugongs

The Memorandum of Understanding on the Conservation and Management of Dugongs and their Habitats throughout their Range entered into force on 31 October 2007. The MOU is designed to facilitate national level and transboundary actions that will lead to the conservation of dugong populations and their habitats.

The Dugong MOU is serviced by the UNEP/CMS Abu Dhabi Office being hosted by the Government and the Environment Agency of Abu Dhabi (EAD).

Grassland Birds of Southern South America

The MOU on the Conservation of Southern South American Migratory Grassland Bird Species and Their Habitats became effective on 26 August 2007. The aim of the MOU is to improve the conservation status of grassland birds of southern South America throughout their breeding and wintering ranges.

Great Bustard Middle-European

The Great Bustard MOU became effective on 1 June 2001. It covers the Middle-European populations of the Great Bustard and manages modern agriculture throughout its range in Central Europe in order to save the remaining individuals.

High Andean Flamingos

The High Andean Flamingos MOU was concluded among the range states during COP9 on 4 December 2008. It aims at improving the conservation status of the high Andean flamingos and their habitats in the South America wetlands of Argentina, Bolivia, Chile and Peru.

Huemul del Sur / South Andean Huemul

The Memorandum of Understanding MOU on the Conservation of the South Andean Huemul (*Hippocamelus bisulcus*) between the Argentine Republic and the Republic of Chile became effective on 4 December 2010. It aims to address illegal hunting, habitat degradation, the introduction of diseases and other threats to the species.

Marine Turtles of the Atlantic Coast of Africa

The Memorandum of Understanding concerning the Conservation Measures for Marine Turtles of the Atlantic Coast of Africa became effective on 1 July 1999. It aims at safeguarding six marine turtle species that are estimated to have rapidly declined in numbers during recent years due to excessive exploitation (both direct and incidental) and the degradation of essential habitats.

Marine Turtles IOSEA

The Memorandum of Understanding on the Conservation and Management of Marine Turtles and their Habitats of the Indian Ocean and South-East Asia (IOSEA) became effective on 1 September 2001. It aims at conserving and replenishing depleted marine turtle populations in the Indian Ocean and South-East Asia region.

The Secretariat established by the Signatory States to service the Memorandum of Understanding, is situated in Bangkok, Thailand, co-located with the UNEP Regional Office for Asia and the Pacific (UNEP/ROAP).

Mediterranean Monk Seal

The Memorandum of Understanding concerning Conservation Measures for the Eastern Atlantic Populations of the Mediterranean Monk Seal (*Monachus monachus*) became effective on 18 October 2007. It aims at improving the conservation status and the habitat of the Eastern Atlantic Monk Seal throughout its range in cooperation with the four signatory states - the Islamic Republic of Mauritania, the Kingdom of Morocco, the Republic of Portugal and the Kingdom of Spain.

Ruddy-headed Goose

The MOU between the Argentine Republic and the Republic of Chile on the Conservation of the Ruddy-headed Goose (*Chloephaga rubidiceps*) became effective on 21 November 2006. It aims to safeguard the

mainland population of this species, which is in serious danger of extinction with an estimated size at around 900-1,000 individuals.

Saiga Antelope

The MOU concerning Conservation, Restoration and Sustainable Use of the Saiga Antelope (*Saiga spp*) came into force on 24 September 2006. Together with the associated Action Plan it provides a road map to guide the implementation of conservation action for the Saiga antelope in the range states and in those countries which import Saiga produce, such as the species' horns.

Sharks

The Memorandum of Understanding on the Conservation of Migratory Sharks was negotiated and signed in Manila in February 2010 and came into force on 1 March 2010. It aims to achieve and maintain a favourable conservation status for migratory sharks based on the best available scientific information and taking into account the socio-economic value of these species for the people in various countries.

Siberian Crane

The Siberian Crane MOU was the first MOU developed under CMS auspices. It was concluded on 1 July 1993 and revised on 1 January 1999. Its overall aim is to reduce mortality in the remaining populations, to protect and manage their habitats and enhance co-operation among the Range States and other concerned agencies. The plans for the Western and Central populations strive also to increase numbers and genetic diversity.

Slender-billed Curlew

The Slender-billed Curlew MOU became effective on 10 September 1994. It aims to safeguard the Slender-billed Curlew, a migratory shorebird that is estimated to have declined to less than 50 individuals.

Western African Aquatic Mammals

The Memorandum of Understanding concerning the Conservation Manatee and Small Cetaceans of Western Africa and Macaronesia was signed on 2-3 October 2008 in Lomé, Togo and came into effect immediately. It aims to achieve and maintain a favourable conservation status for manatees and small cetaceans and their habitats and to safeguard the associated values of these species for the people of Western Africa.

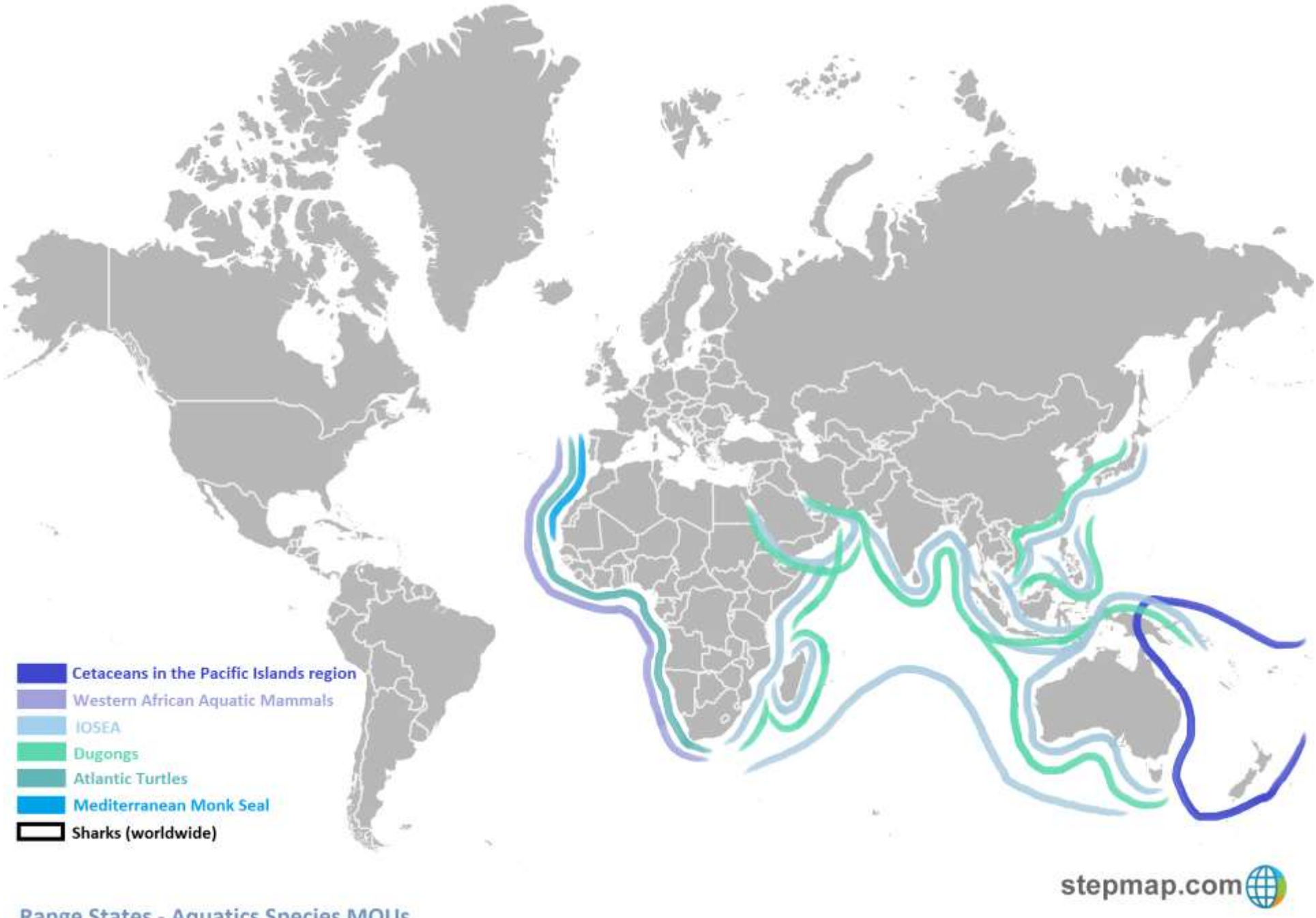
West African Elephants

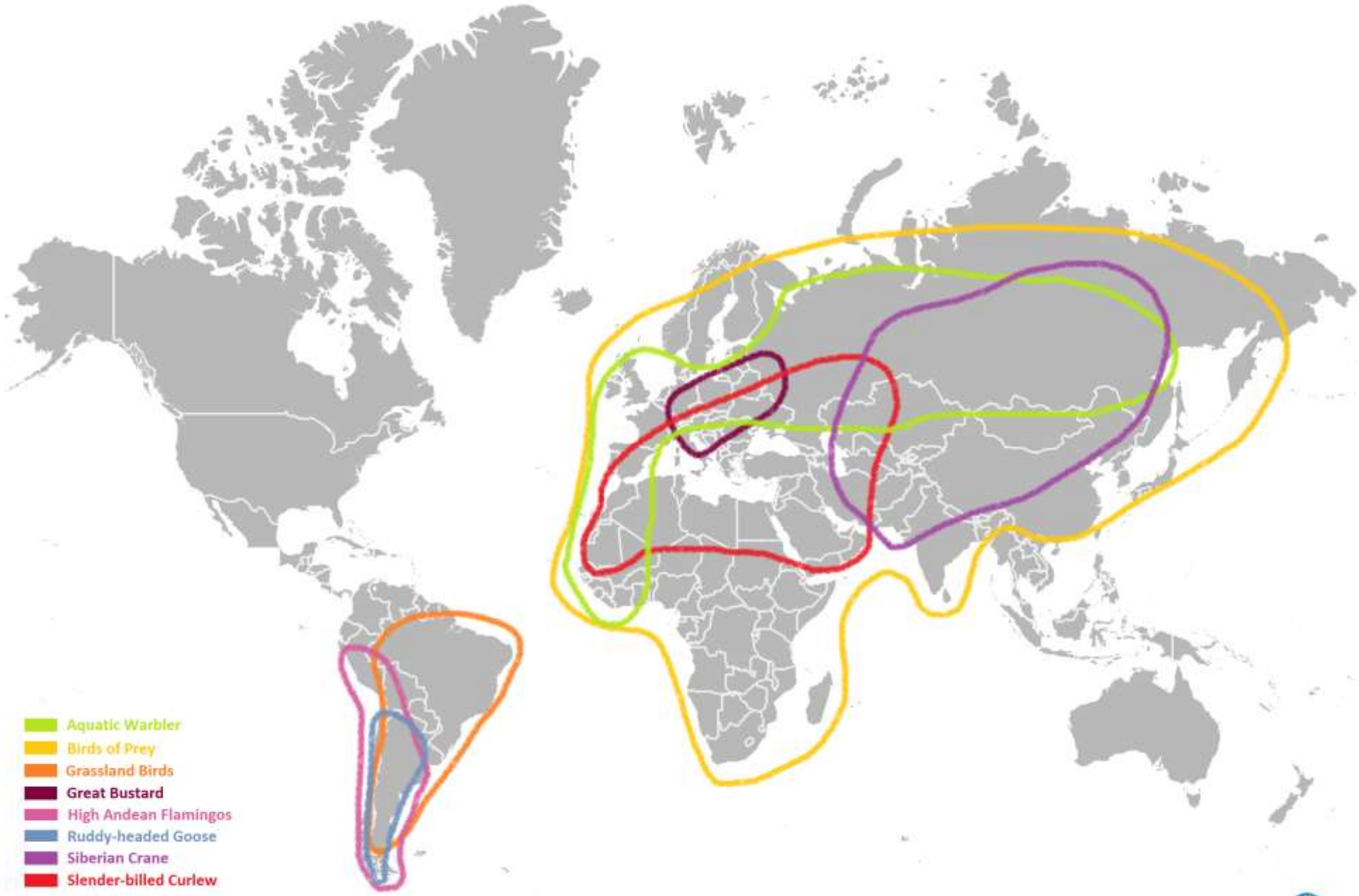
The Memorandum of Understanding concerning Conservation Measures for the West African Populations of the African Elephant (*Loxodonta africana*) came into effect on 22 November 2005. It aims at improving the conservation status and the habitat of the African Elephant throughout its range.

Gorilla Agreement

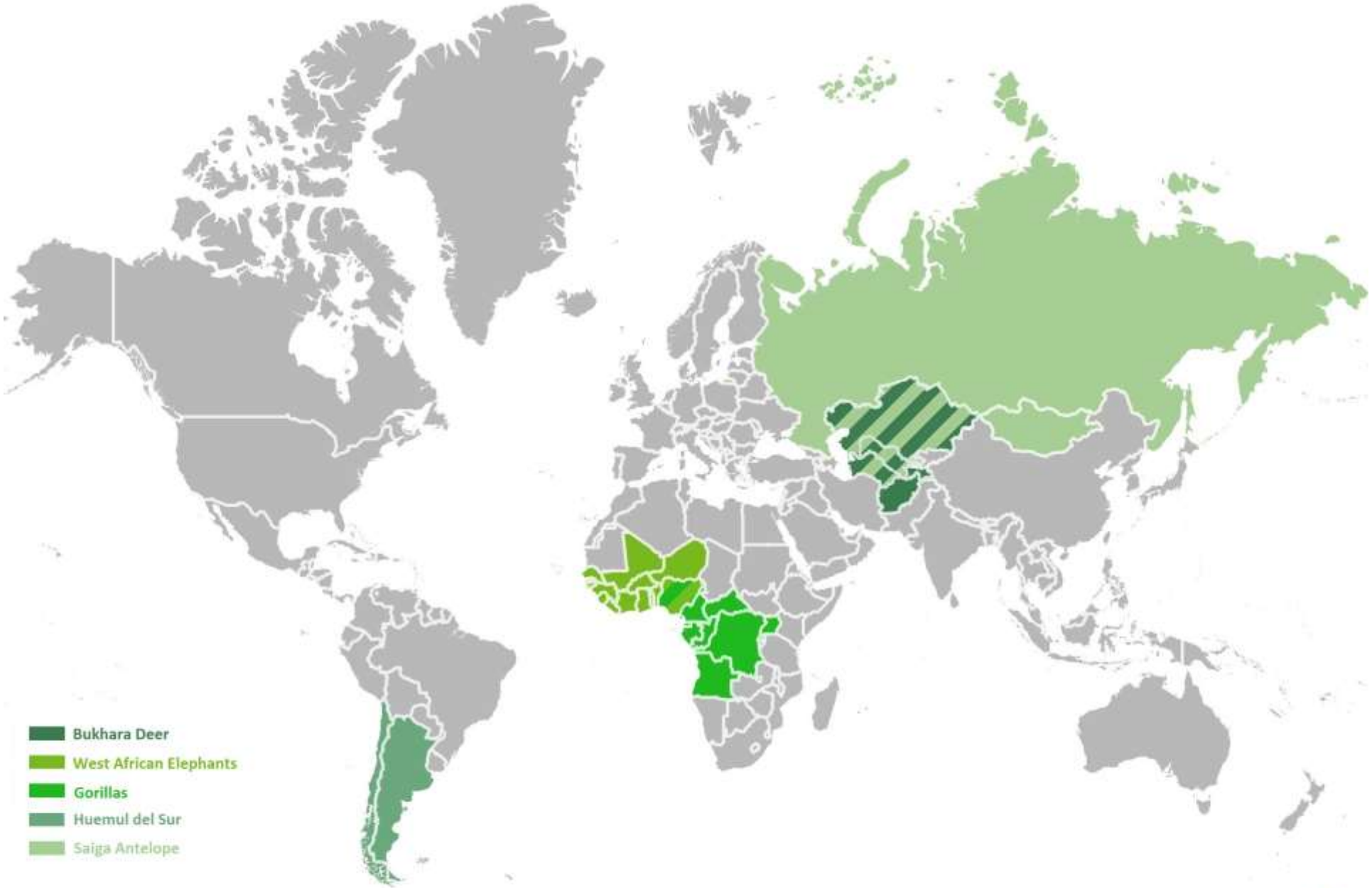
The Agreement on the Conservation of Gorillas and Their Habitats came into force on 1 June 2008. It aims at promoting the long-term survival of gorillas, their forest habitats and dependent human populations.

ANNEX 2 – Range States of the MOUs





Range States - Avian Species MOUs



Range States - Terrestrial Species MOUs