

7th MEETING OF THE TECHNICAL COMMITTEE
29 October - 01 November 2006, Bern, Switzerland

POTENTIAL ROLE OF THE AGREEMENT IN THE CONSERVATION OF SEABIRDS

(Report by TC Working Group 6)

BACKGROUND

AEWA's Third Meeting of Parties in its Resolution 3.8 requested the Technical Committee "... *in close co-operation with the Agreement Secretariat and consultation with the relevant bodies of the Convention, to further consider the potential role of the Agreement in the conservation of seabirds, taking into account the actions being undertaken by the RFMOs and other relevant international organisations, such as the Convention on Biological Diversity and the United Nations Convention on the Law of the Sea, and to report to the fourth session of the Meeting of the Parties.*"

A Technical Committee working group was convened in order to look closely at this issue and report to the 7th meeting of the Committee about its findings and suggested conclusions.

FINDINGS AND DISCUSSION

The TC working group examined the CBD Programme on Marine and Coastal Biological Diversity. This programme is very much about marine protected areas. All references with some relevance to the potential role of the work of CBD to the conservation of seabirds have been compiled and presented below in *Appendix 1*.

From the examination of these references, it can be concluded that:

- (a) There are very few provisions in CBD for a potential role of the work of CBD in the conservation of seabirds.
- (b) There are several references to UNCLOS that indicate that UNCLOS has little potential role in the conservation of seabirds.
- (c) There are no references to other ISOs or to RFMOs that indicate their potential role in the conservation of seabirds.
- (d) There are several paragraphs in the CBD's Programme on Marine and Coastal Biological Diversity that can be interpreted as appeals to other ISOs, like AEWA, to play a role in the conservation of species, like seabirds, in marine and coastal areas within and beyond national jurisdiction.

The geographical scope of the AEWA is clearly about marine and coastal areas within and beyond national jurisdiction (see map and definition of the Agreement area in *Appendix 2*). The definition of waterbirds in the text of the AEWA refers to wetlands and is the same as that of the Ramsar Convention on Wetlands (*see again Appendix 2*). Formally, the AEWA has no explicit definition of wetlands, but implicitly takes over the definition of the Ramsar Convention.

In conclusion, no other ISO takes care of the conservation of seabirds in the geographical area of the AEWA (with the exception of albatrosses and petrels in the south of Africa which are covered by the Agreement on Albatrosses and Petrels under the CMS), and a role in the conservation of seabirds in the geographical area of the AEWA could be assigned to the AEWA, in response to Resolution 3.8 that follows on Resolution 2.1 (*see Appendix 3*).

With regards to Resolution 3.8, the TC working group is not aware to date [20 October 2006] of any concern expressed by any Party regarding the information contained in Table 1 annexed to Doc. AEWA/MOP3.29.Rev.2 or regarding the addition of 21 species to AEWA Annex 2 (*see Appendix 4*).

The TC could recommend to submit the proposal of adding 21 species to Annex 2 as proposed in Doc. AEWA/MOP3.29.Rev.2 to the 4th session of the Meeting of the Parties (MoP4), taking into account that this proposal has to be communicated to the Parties not less than 150 days before the opening of MoP4.

From CBD Decision VII/5

Marine and coastal biological diversity

Review of the programme of work on marine and coastal biodiversity

3. *Agrees* that the programme of work on marine and coastal biological diversity should be applied and interpreted consistently with national law, and where applicable, international law, including the United Nations Convention on the Law of the Sea;

6. *Welcomes* the entry into force of the Agreement on the Conservation of Albatrosses and Petrels, and notes the adoption of the International Convention for the Control and Management of Ships' Ballast Water and Sediments under the International Maritime Organization and encourages Parties to the Convention on Biological Diversity and other Governments to consider ratifying these treaties

29. *Notes* that there are increasing risks to biodiversity in marine areas beyond national jurisdiction and that marine and coastal protected areas are extremely deficient in purpose, numbers and coverage in these areas;

30. *Agrees* that there is an urgent need for international cooperation and action to improve conservation and sustainable use of biodiversity in marine areas beyond the limits of national jurisdiction, including the establishment of further marine protected areas consistent with international law, and based on scientific information, including areas such as seamounts, hydrothermal vents, cold-water corals and other vulnerable ecosystems;

31. *Recognizes* that the law of the sea provides a legal framework for regulating activities in marine areas beyond national jurisdiction and requests the Executive Secretary to urgently collaborate with the Secretary-General of the United Nations and relevant international and regional bodies in accordance with their mandates and their rules of procedure on the report called for in General Assembly resolution 58/240, paragraph 52, and to support any work of the General Assembly in identifying appropriate mechanisms for the future establishment and effective management of marine protected areas beyond national jurisdiction;

57. *Recalling* paragraph 32 (a) and (c) of the Plan of Implementation from the World Summit on Sustainable Development, that calls on the international community to "maintain the productivity and biodiversity of important and vulnerable marine and coastal areas, including in areas within and beyond national jurisdiction";

III. PROGRAMME ELEMENTS

Programme element 1: Implementation of integrated marine and coastal area management (IMCAM)

Operational objective 1.2: To undertake direct action to protect the marine environment from negative impacts

Suggested activities

(e) To take measures to reduce by-catch

Programme element 2: Marine and coastal living resources

Operational objective 2.1: To promote ecosystem approaches to the conservation and sustainable use of marine and coastal living resources, including the identification of key variables or interactions, for the purpose of assessing and monitoring, first, components of biological diversity; second, the sustainable use of such components; and, third, ecosystem effects.

Suggested activities

(a) To develop collaborative links with relevant organizations and institutions, including in regards to cooperative activities aimed at protecting biodiversity in marine areas beyond national jurisdiction.

(i) To maintain the productivity and biodiversity of important and vulnerable marine and coastal areas, including areas within and beyond national jurisdiction.

Ways and means

The activities should be carried out by Parties acting individually or under regional agreements where appropriate, and regional and international organizations.

Programme element 6. General

Operational objective 6.2: To undertake effective collaboration, cooperation and harmonization of initiatives with relevant conventions, organizations and agencies while recognising their independent mandates.

Suggested activities

(a) To identify and implement meaningful joint activities and initiatives with relevant conventions, organizations and agencies aimed at the implementation of this work programme.

Appendix 3

ELEMENTS OF A MARINE AND COASTAL BIODIVERSITY MANAGEMENT FRAMEWORK

A. Purpose of the framework

4. Marine ecosystems include both benthic and pelagic elements. Most species have a mobile stage in their life cycle. As a consequence, marine systems are considered open and dispersing larvae can link distant marine, coastal and inland water habitats. This means that connectivity issues are significant in designing a marine biodiversity management framework, and one marine and coastal protected area will not be able to protect all the biodiversity within the area. A network approach is therefore essential. The network should be at an appropriate scale, which may in some cases require a regional approach. That regional approach should address proportionality issues on a regional rather than a national scale, for example when one or a handful of countries possess most or all of a particular habitat type or the world population of a particular species.

Appendix 2

From AEWA Annex 1: Definition of Agreement Area

The boundary of the Agreement area is defined as follows: from the North Pole south along the 130°W line of longitude to 75°N; thence east and southeast through Viscount Melville Sound, Prince Regent Inlet, the Gulf of Boothia, Foxe Basin, Foxe Channel and Hudson Strait to a point in the northwest Atlantic at 60°N, 60°W; thence southeast through the northwest Atlantic to a point at 50°N, 30°W; thence south along the 30°W line of longitude to 10°N; thence southeast to the Equator at 20°W; thence south along the 20°W line of longitude to 40°S; thence east along the 40°S line of latitude to 60°E; thence north along the 60°E line of longitude to 35°N; thence east-northeast on a great circle to a point in the western Altai at 49°N, 87°27'E; thence northeast on a great circle to the coast of the Arctic Ocean at 130°E; thence north along the 130°E line of longitude to the North Pole. The outline of the Agreement Area is illustrated on the following map.

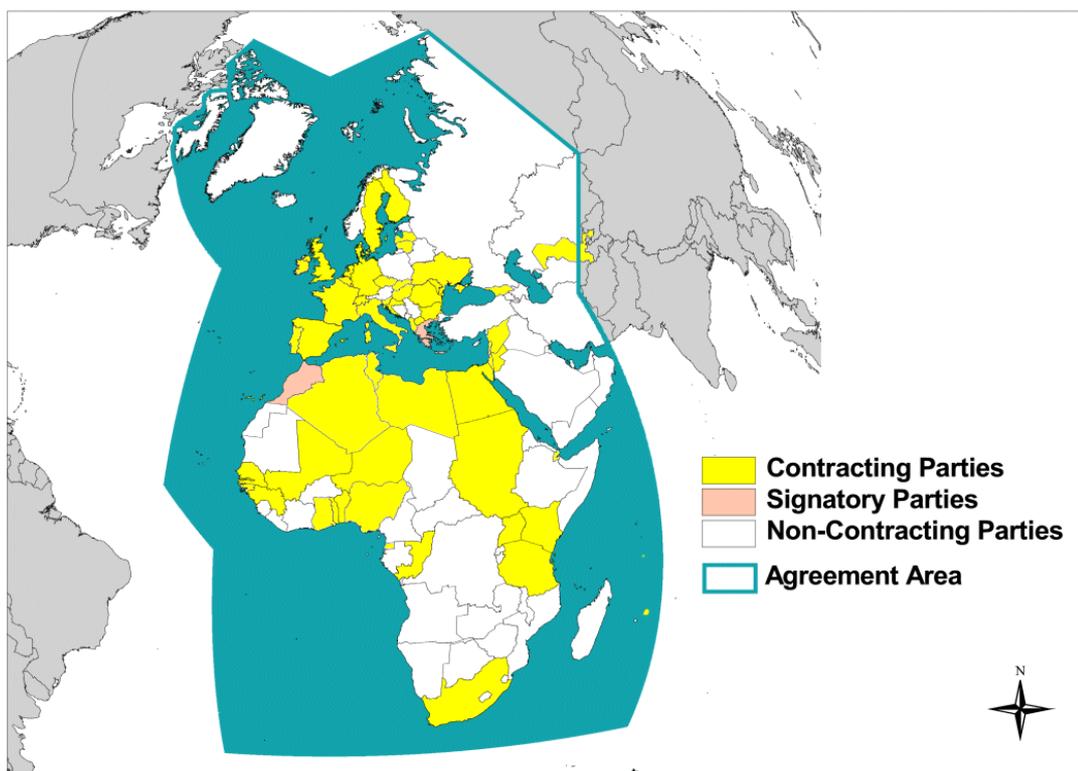


Figure 1. Map of the AEWA area.

From AEWA Article I: Scope, Definitions and Interpretation

(c) "Waterbirds" means those species of birds that are ecologically dependent on wetlands for at least part of their annual cycle, have a range, which lies entirely or partly within the Agreement Area and are listed in Annex 2 to this Agreement;

From Ramsar Definitions:

1. For the purpose of this Convention wetlands are areas of marsh, fen, peatland or water, whether natural or artificial, permanent or temporary, with water that is static or flowing, fresh, brackish or salt, including areas of marine water the depth of which at low tide does not exceed six metres.
2. For the purpose of this Convention waterfowl are birds ecologically dependent on wetlands.

Appendix 3

From AEWa Resolution 2.1

AMENDMENTS TO THE ANNEXES TO THE AGREEMENT

6. *Requests* the Technical Committee of the Agreement, in close cooperation with the Agreement Secretariat and in close consultation with the relevant bodies of the Convention on Migratory Species, to review further development of the Agreement by including additional species of wetland birds and species traditionally considered to be seabirds, looking in the first instance at the species listed in Table 2 and Table 3 of AEWa/MOP2.9, expanding Table 3 to species from the whole of Africa, and considering, in particular, the extent to which the existing Action Plan is adequate in its scope to address differing conservation problems faced by birds of prey, passerines and other taxonomic groups using wetlands;

From Doc. AEWa/MoP2.9

PROPOSED AMENDMENTS TO THE ACTION PLAN OF THE AGREEMENT ON THE CONSERVATION OF AFRICAN-EURASIAN MIGRATORY WATERBIRDS PROPOSAL FROM SOUTH AFRICA

At the 6th meeting of the Conference of the Parties to CMS in Cape Town, South Africa, in November 1999, a recommendation (6.2) was put forward for concerted action concerning Appendix II species, including the African Penguin *Spheniscus demersus*. The IUCN/CBSG *Spheniscus* Penguin Conservation Workshop, held in Chile in September 2000, endorsed the development, under the terms of the CMS, of a Memorandum of Understanding (MOU) between South Africa and Namibia for the conservation of *Spheniscus demersus*. However, there are several other southern African coastal seabirds that interact with one another, face similar threats and would benefit from international co-operation in their conservation and management. Thus it was suggested that the MOU should be expanded to include South Africa, Namibia, Angola and possibly Mozambique and to cover the following species: *Spheniscus demersus*, *Oceanodroma leucorhoa*, *Pelecanus onocrotalus*, *Sula (Morus) capensis*, *Phalacrocorax neglectus*, *P. coronatus*, *P. capensis*, *P. carbo lucidus*, *Haematopus moquini*, *Larus dominicanus vetula*, *L. cirrocephalus poiocephalus*, *L. hartlaubii*, *Sterna caspia*, *S. bergii bergii*, *S. dougallii*, *S. vittata* and *S. balaenarum*. *Oceanodroma leucorhoa* was subsequently removed from this list as it is strictly pelagic and has a large Northern Hemisphere population. Of the remaining 16 species, five are already included in Annex 2 to the AEWa (*Pelecanus onocrotalus*, *Sterna caspia*, *S. bergii bergii*, *S. dougallii* and *S. balaenarum*).

During a workshop on *Conservation Assessment and Management Plan for Southern African Coastal Seabirds* held in Cape Town, South Africa, in February 2002 and attended by a representative of UNEP/AEWa Secretariat and a representative of the UNEP/CMS Secretariat, it was concluded that rather than develop a MOU for this group of species under the CMS, a better way forward would be to seek the inclusion of the additional 11 species in the AEWa, and to develop an action plan for the conservation of all 16 species within the framework of the AEWa Action Plan. It was noted that while the AEWa Action Plan makes provisions for the development of international single species action plans (Section 2.2), it does not include any provisions for international action plans covering a suite of species faced with similar problems (multi-species action plans). The workshop therefore urged the South African government (the only Contracting Party to AEWa in this region) to submit a proposal to the Agreement Secretariat for inclusion of an additional eleven species in Annex 2 of the Agreement (and Table 1 of the Action Plan), and for amendment of the Action Plan to include provision for the development of multi-species action plans.

The workshop also noted that the Technical Committee of the AEWa could recommend the establishment of working group (Article VII, paragraph 5) to develop, adopt and implement international action plans. The workshop therefore urged the South African government to propose to the Technical Committee of the AEWa that a Southern African Working Group (consisting *inter alia* of Angola, Namibia and South Africa) be established to co-ordinate the conservation of southern African coastal seabirds.

The 11 species proposed for inclusion in Annex 2 are African Penguin *Spheniscus demersus*, Cape Gannet *Sula capensis*, Crowned Cormorant *Phalacrocorax coronatus*, Bank Cormorant *P. neglectus*, White-breasted Cormorant *P. carbo lucidus*, Cape Cormorant *P. capensis*, African Black Oystercatcher *Haematopus moquini*, Kelp Gull *Larus dominicanus vetula*, Grey-headed Gull *L. cirrocephalus poiocephalus*, Hartlaub's Gull *L. hartlaubii* and Antarctic Tern *Sterna vittata*. Most of these species breed on islands and rock islets along the coasts of southern Angola, Namibia and the Northern, Western and Eastern Cape Provinces of South Africa, although several also breed on mainland cliffs, coastal dunes, salt pans and estuaries, and at inland localities. One species, *S. vittata*, occurs only as a non-breeding visitor from breeding grounds in the subantarctic islands. Seven species (*Spheniscus demersus*, *Sula capensis*, *Phalacrocorax coronatus*, *P. neglectus*, *P. capensis*, *Haematopus moquini* and *L. hartlaubii*) are endemic to southern Africa, as is the *vetula* race of *Larus dominicanus*. All can be defined as 'waterbirds' in that they spend a considerable part of their lives in shallow inshore waters and/or along sandy or rocky seashores, and all are to some extent migratory, undertaking regular movements along the coasts of Namibia and South Africa, and in some cases also reaching Angola and Mozambique.

In southern Africa, as elsewhere, coastal seabirds face a number of threats due mainly to changes brought about by human activity and its consequences. These include oil pollution (affecting especially *Spheniscus demersus*), depletion of food supplies as a result of over-fishing, incidental mortality in fisheries, human disturbance from inadequately controlled tourism and recreation, habitat loss (*e.g.* from guano scraping on islands, and diamond mining and harbour development on the mainland), and predation by introduced predators such as feral domestic cats. Although many of the species under consideration breed at protected sites, away from the direct effects of human development, they are not immune to these pressures, and a number of them are in serious need of better conservation measures. The numbers of *Spheniscus demersus* have been decreasing for nearly a century and some former colonies have shrunk to extinction, especially in Namibian waters. The numbers of *Sula capensis* and *Phalacrocorax neglectus* have plummeted in Namibia, and naturally small populations, such as that of *Haematopus moquini*, are at risk of extinction by a catastrophic event. Three species (*Spheniscus demersus*, *Sula capensis* and *Phalacrocorax neglectus*) are now considered to be globally threatened in the category 'Vulnerable', and three others (*Phalacrocorax coronatus*, *P. capensis* and *Haematopus moquini*) are listed as 'Near-threatened' (BirdLife International 2000).

From AEWa Resolution 3.8

AMENDMENTS TO THE ANNEXES TO THE AGREEMENT

3. *Invites* Parties to indicate to the Secretariat their particular concerns regarding the information contained in Table 1 annexed to Doc AEWa/MOP3.29.Rev.2 and regarding the addition of 21 species to Annex 2 before the next meeting of the Technical Committee;
4. *Requests* the Standing Committee, in view of the assessment by the Technical Committee of updated information consolidated by the Secretariat, to review Table 1 of the Action Plan, and if appropriate, communicate to the Secretariat a proposal for its amendment not less than 150 days before the opening of future sessions of the Meeting of the Parties, in accordance with Article X of the Agreement;

6. *Requests* the Technical Committee, in close co-operation with the Agreement Secretariat and consultation with the relevant bodies of the Convention, to further consider the potential role of the Agreement in the conservation of seabirds, taking into account the actions being undertaken by the RFMOs and other relevant international organisations, such as the Convention on Biological Diversity and the United Nations Convention on the Law of the Sea, and to report to the fourth session of the Meeting of the Parties.

From Doc. AEWA/MOP3.29.Rev.2

PROPOSAL FOR AMENDMENT OF THE ACTION PLAN OF THE AGREEMENT ON THE CONSERVATION OF AFRICAN-EURASIAN MIREGATORY WATERBIRDS (AEWA)

Table 1a¹
STATUS OF POPULATIONS OF WATERBIRD SPECIES PROPOSED FOR INCLUSION IN THE AGREEMENT

Population	A	B	C
PHAETHONTIDAE			
<i>Phaethon aethereus</i> Red-billed Tropicbird			
<i>aethereus</i> - South Atlantic	1c		
<i>indicus</i> - Persian Gulf, Gulf of Aden, Red Sea	1c		
<i>Phaethon rubricauda</i> Red-tailed Tropicbird			
<i>rubricauda</i> - Indian Ocean	1c		
<i>Phaethon lepturus</i> White-tailed Tropicbird			
<i>lepturus</i> - Persian Gulf, Gulf of Aden, Red Sea	1c		
SULIDAE			
<i>Sula (Morus) bassana</i> Northern Gannet		2a	
<i>Sula dactylatra</i> Masked Booby			
<i>melanops</i> - W Indian Ocean	1c		
FREGATIDAE			
<i>Fregata minor</i> Great Frigatebird			
<i>aldabrensis</i> - W Indian Ocean	1c		
<i>Fregata ariel</i> Lesser Frigatebird			
<i>iredalei</i> - W Indian Ocean	1c		
STERCORARIIDAE			
<i>Catharacta skua</i> Great Skua		1	
<i>Stercorarius longicaudus</i> Long-tailed Skua			
<i>longicaudus</i>			1
LARIDAE			
<i>Rissa tridactyla</i> Black-legged Kittiwake			
<i>tridactyla</i>		2a	

¹ Table 1a has been established for discussion purposes only. Upon decision of MOP3 it will be merged with Table 1.

<i>Sterna anaethetus</i> Bridled Tern			
<i>melanopterus</i> – W Africa	1		
<i>fuligula</i> – Red Sea, E Africa, Persian Gulf, Arabian Sea to W India			1
<i>antarctica</i> – S Indian Ocean		1	
<i>Sterna fuscata</i> Sooty Tern			
<i>nubilosa</i> – Red Sea, Gulf of Aden, E to Pacific		2a	
<i>Anous stolidus</i> Brown Noddy			
<i>plumbeigularis</i> – Red Sea & Gulf of Aden		1	
<i>Anous minutus</i> Black Noddy			
<i>atlanticus</i> – Atlantic Islands, Gulf of Guinea			(1)
<i>Anous tenuirostris</i> Lesser Noddy			
<i>tenuirostris</i> – Indian Ocean Islands to E Africa			1
ALCIDAE			
<i>Alle alle</i> Little Auk			
<i>alle</i> High Arctic, Baffin Is – Novaya Zemlya		2a	
<i>Uria aalge</i> Common Guillemot			
<i>aalge</i> – E North America, Greenland, Iceland, Faeroes, Scotland, S Norway, Baltic		2a	
<i>albionis</i> Ireland, S Britain, France, Iberia, Helgoland		2a	
<i>hyperborea</i> Svalbard, N Norway to Novaya Zemlya		2a	
<i>Uria lomvia</i> Brunnich's Guillemot			
<i>lomvia</i> – E North America, Greenland, E to Severnaya Zemlya		2a	
<i>Alca torda</i> Razorbill			
<i>torda</i> E North America, Greenland, E to Baltic & White Seas			1
<i>islandica</i> Iceland, Faeroes, Britain, Ireland, Helgoland, NW France			1
<i>Cepphus grylle</i> Black Guillemot			
<i>grylle</i> Baltic Sea		1	
<i>mandtii</i> Arctic E North America to Greenland, Jan Mayen & Svalbard E through Siberia to Alaska		1	
<i>arcticus</i> N America, S Greenland, Britain, Ireland, Scandinavia, White Sea		1	
<i>islandicus</i> Iceland		1	
<i>faeroeensis</i> Faeroes		1	
<i>Fratercula arctica</i> Atlantic Puffin			

<i>arctica</i> Hudson bay & Maine E to S Greenland, Iceland, Bear Is, Norway to S Novaya Zemlya		2a	
<i>naumanni</i> NE Canada, N Greenland, to Jan Mayen, Svalbard, N Novaya Zemlya		2a	
<i>grabae</i> Faeroes, S Norway & Sweden, Britain, Ireland, NW France		2a	