

Agenda Item 18.1

Evaluation of the New Arrangements for the
ASCOBANS Secretariat (2007-2009)

Presentation of Report and Conclusions

**Document 16
(restricted)**

**Comments of the Secretariat on the
Draft Evaluation Report (AC16/Doc.15)**

Action Requested

- Take note of the information submitted
- Comment

Submitted by

Secretariat



NOTE:
**IN THE INTERESTS OF ECONOMY, DELEGATES ARE KINDLY REMINDED TO BRING THEIR OWN
COPIES OF DOCUMENTS TO THE MEETING**

Comments of the Secretariat on the Evaluation Report (AC16/Doc.15)

General Remarks

1. The Secretariat appreciates the report prepared by Mr Kurukulasuriya and Ms Kitakule-Mukungu and supports its general conclusions. It would like to seize this opportunity to make some comments in relation to some of the findings of the report, mainly with a view to contributing to the consideration by the Parties of the future Secretariat Arrangements, and making some clarifications where deemed appropriate.

2. The Secretariat believes that the lesson learned as described in paragraph 129 of the report cannot be overemphasized: “Financial considerations alone, important as they are, should not determine the structure and staffing arrangement of a secretariat. Careful consideration should be given to the overall objectives of the Agreement and the agreed workplan and a realistic appraisal of the minimum staffing arrangements required achieving an acceptable degree of effectiveness and efficiency in the functioning of the secretariat.”

3. In this connection, it is worth reiterating what paragraph 111 points out: “The profile of an Agreement is influenced by the success it has in realising its objectives and purposes. To that extent, the profile of ASCOBANS could only be enhanced by the collective actions of all its institutions, including, of course the Secretariat, in steadily advancing through effective international cooperation towards the realisation of the goal of protecting small cetaceans.” The role of the Secretariat in this regard is, while not insignificant, nevertheless limited. The more general review of formal structures and processes of the Agreement, called for in Resolution 6 of MOP5, could be a good opportunity to assess the effectiveness of the other bodies of the Agreement, the general institutional setup, as well as the activities of the Parties.

4. We believe the report could have given more attention to the fact that the Secretariat was required to carry out a number of highly time-consuming tasks unforeseen at the time the Secretariat merger and the work plan were agreed. These meant that significant resources had to be diverted from other key tasks of the Secretariat. In particular, this includes the very time-consuming investigation of the 2005 accounts, as well as attacks from various stakeholders, including a libellous German NGO website purporting to be an official ASCOBANS source, and lengthy debates and legal consultations related to the Jastarnia Group.

Comments on the Executive Summary

5. The Secretariat fully respects the views expressed and supports most conclusions drawn in the Executive Summary. At the same time, the Secretariat feels that some statements would benefit from further explanations.

6. In paragraph 6.a., the view is expressed that “the staffing arrangements agreed at MOP5, may not be sufficient for carrying out the increasing functions of the secretariat effectively.” We believe that this sentence accurately sums up one of the core problems – the significantly expanded work programme cannot be delivered fully by a significantly decreased team. We would like to stress that shortfalls in effectiveness are not caused by a lack of efficiency or dedication of the staff members in question, but are rather a symptom of

understaffing in relation to workload. Therefore, the only ways to improve the functioning of the Secretariat would be to strengthen its staff complement or to reduce its workload.

7. The problems with relations between key players alluded to in paragraph 6.b. seem to be, as far as the Secretariat plays a role in this, to a large degree caused by the content of communications, rather than their form. On several occasions, the Executive Secretary has had to defend key UN principles including (a) preventing an unlawful election for the Jastarnia Group in 2008 (b) ensuring that decisions on the individuals employed by ASCOBANS (including consultants) are made by the Secretariat rather than individual countries, and (c) defending the reputation of a staff member of the Secretariat against inaccurate, personal criticism which was widely circulated. Defending these principles was bound to lead to resentment in some quarters.

8. The Evaluator succinctly brought out a key point in paragraph 6.g., which reads: "It would be most regrettable and counter productive to view effectiveness and efficiency of the secretariat and its ability to deliver on the expectations of the contracting parties and other stakeholders exclusively from a fiscal standpoint." No doubt due to lack of time, the financial questions seem to have been at the fore of the debate in late 2006, when it seems Parties decided what they were prepared to pay and then checked what staff complement they could get for that amount. The experiences since have shown that this approach has led to a mismatch between Parties' expectations and the capacity of the Secretariat. There is sufficient time until the next MOP for Parties to determine (a) what functions they expect the Secretariat to carry out; (b) what the appropriate seniority of staff members is for these functions, in line with UNEP classification guidelines; and (c) how much time of each staff member involved would be necessary to carry out the functions identified for this level. The Evaluator stresses similar points again and again throughout the report, most notably in chapter 3.6 on cost effectiveness.

9. Comments on the staffing scenarios outlined briefly in paragraph 7.a. are included in the next section.

10. The Secretariat welcomes the suggestions in paragraph 7.b, but had already indicated to UNEP in November 2008 that it would be unrealistic to expect the small Secretariat team to develop a strategy for involving the European Commission in the short time between the CMS COP and AC16, or indeed before MOP6. It would also be more fitting to get a mandate from Parties before such substantial work is undertaken. The Secretariat's suggestion is therefore that this item is officially included in the Work Plan for the next triennium (2010-2012), which would ensure it receives the appropriate attention.

Comments on the Main Report

11. Paragraph 37.e) states that the Acting Executive Secretary and the Senior Advisor spend more time on ASCOBANS than is reflected in the budget. This is also reflected in the report on the budget for 2008 (AC16/Doc.07). In the view of the Secretariat, this is directly related to the unforeseen tasks and challenges the Secretariat continues to be faced with. There is no reason to suspect that if allowed to perform its functions unhindered, and after the successful conclusion of the 2005 accounts investigation, the demand on senior officials' time would be higher than budgeted. This is one more reason for all to put needless quarrels and historical arguments behind us and concentrate on effective collaboration to improve the implementation of the conservation objectives of the Agreement.

12. Paragraph 37.g) reports that some respondents to the questionnaire perceived a lack of commitment by the Acting Executive Secretary. In this regard, and in view of the

explanation given above, it must be borne in mind that Parties pay only for 3% of his time, which corresponds to about 6.5 days per year. This clearly implies that the Acting Executive Secretary needs to delegate extensively to the Senior Advisor and Coordinator and cannot be personally present on all days of all ASCOBANS meetings; or respond personally to all requests from Parties. In 2007-2008 the Executive Secretary spent considerably more than 13 days on ASCOBANS business, and the pattern has continued into 2009.

13. Paragraphs 68 and 69 comment on the excessive workload of the Senior Advisor, Coordinator and the Administrative Assistant. It should be noted that, besides the generally ambitious work programme, which stretches all staff members, the Coordinator also needs to take over many administrative tasks, which the Secretary cannot manage within the hours she is paid for, despite her best efforts and efficiency. Since she is working on a part-time contract, she cannot be expected to work overtime significantly.

14. The Evaluator expressed doubts in paragraph 89 that the responsibilities of the Coordinator could be classified in the UN job classification system for recruitment at P2 level. It is worth pointing out that since then, the Secretariat has indeed taken steps to get the post classified and received a response from UNON in line with this assessment. More details can be found in AC16/Doc.06.

15. The conclusions drawn in paragraphs 95 and 96 point to the actions requested of the Acting Executive Secretary in Resolution 2d of MOP5 (2006). In line with provision 4.3 of the treaty text (1992), the Secretariat will present to the next Meeting of Parties a summary of, *inter alia*, progress made and problems encountered in the fulfilment of these instructions.

Comments on the Recommendations

16. Clearly, "leaving things as they are certainly would not appear to be a constructive option", as paragraph 116 brings out. Maintaining the current staffing arrangement, however, would seem feasible only if the output expected from the Secretariat would be adjusted to correspond to the time allocated to ASCOBANS by each staff member.

17. The Parties to CMS made budgetary provisions to continue supporting the current arrangement (CMS Resolution 9.14; attached as an Annex to AC16/Doc.15). This leaves the ASCOBANS Parties a significant variety of choices, including a strengthening of the staff complement, provided the CMS budget is not exceeded.

18. The Secretariat appreciates that Parties have already taken first steps to address the recommendation in paragraph 117 and stands ready to support the process outlined for the time until MOP6, e.g. by servicing a working group to that effect.

19. Scenario 1: It seems difficult to justify that with a P4 Officer installed, ASCOBANS should be required to cover 3% of the Executive Secretary's post. The two other co-located Agreements EUROBATS and AEWA, who are also headed by P4 Officers, do not make such payments and indeed do not require 3% of the Executive Secretary's time. This arrangement would seem more appropriate if the Officer was appointed at P3 level and therefore required more guidance. If a P4 was appointed, the Executive Secretary's time could be costed at 1 or 2%.

20. Scenario 2: Generally, this seems to the Secretariat to be a very good way forward, as increasing the GS5 post to 100% would address the problem of the insufficient administrative capacity of the current staff complement. This would relieve the Coordinator of the general service-related tasks she currently has to carry out and would open the

opportunity to focus more on currently weak aspects of the implementation of the work programme. However, the Secretariat would see no reason for the increase in the time of the P4 Officer to 20%. This is also not in line with the CMS budget approved in December 2008 and would require negotiation at the CMS Standing Committee.

21. Scenario 3: In itself this option is of course feasible and is similar to the arrangement of e.g. EUROBATS, which has only one additional GS4 post. However, it is not in line with general UN policies to reduce the number of independent MEA secretariats, as e.g. brought out in the recent "Management Review of Environmental Governance within the United Nations System" tabled as AC16/Doc.14. While not excluding this option, such wider considerations should be borne in mind.

22. Scenario 4: In the Secretariat's view, this option would worsen the current situation. Bearing in mind the role of the Secretariat within the Agreement as a whole, the administrative and other general service-level tasks cannot be reduced. Currently, as explained above, the P2 Coordinator takes over tasks which exceed what can realistically be achieved by a part-time assistant. If a P3 was installed instead of the P2, but with no increase in GS staff, resources would be used even more inefficiently.

23. Scenario 5: Assuming that this would still imply a time-sharing of the P2's time with CMS, this scenario would not be practicable for the CMS Secretariat. There is no benefit to be had from a 10% time share of a junior officer, who, unlike more senior levels, is expected to execute decisions rather than make them. This option can also not be considered practical from the standpoint of ASCOBANS: a P2 Officer, by the very nature of the junior level, needs adequate supervision and guidance and cannot be made to bear responsibilities of a P4 just because the transition period is over. There can be no doubt that with a P2 Coordinator, the P4 is needed at 15%.

24. In conclusion, the Secretariat would like to thank the Evaluator for his efforts, fair assessments and sharp observations, as well as the staff of the UNEP Evaluation and Oversight Unit for their support. Special appreciation is also expressed to the Netherlands for generously providing the funding for this study and for guiding the process.