



The CMS-CITES African Carnivore Initiative as an Illustration of Synergies Between MEAs

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INTRODUCTION

As the population numbers and geographic ranges of large carnivores have dwindled, an extensive multi-layered legal framework with respect to their conservation and sustainable use has gradually been put in place. But despite the plethora of international wildlife treaties, the existing legal framework has not succeeded in reversing the tide for most of Africa's large carnivores (see the most recent IUCN Red List Assessments). Nevertheless, international law remains an indispensable instrument in reversing the crisis for large carnivores. For one, a portion of the threats with which large carnivores are faced have an inherently transboundary character (Trouwborst et al., 2017, p. 85). For example, legal and illegal international trade have contributed significantly to the decline of Cheetah numbers (Tricorache et al., 2018, p. 191–204). In addition, it should be noted that large carnivore populations often straddle international boundaries, and individual animals have long ranges that are not confined within the borders of one State (see e.g., IUCN Red List Assessment for Cheetah, Durant et al., 2015; Woodroffe and Sillero-Zubiri, 2015; Bauer et al., 2017; Stein et al., 2017). While the applicable legal framework is extensive, it is also complex, comprising global, regional and (sub)national instruments, and is subject to important ambiguities and shortcomings, including significant questions regarding its effectiveness “on the ground.”

A fitting illustration of the complexity that hampers the practicability of the existing legal framework is reflected in the clutch of resolutions and decisions adopted under the Convention on the Conservation of Migratory Species of Wild Animals (CMS) and the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), which combined are responsible for over 500 active resolutions and decisions. One of the biggest challenges now is to implement these instruments coherently and effectively without dropping stitches or unnecessarily duplicating efforts. Accordingly, it has been suggested that the international community should not only strive to align legal obligations and processes as much as possible, but also endeavor to pool resources and coordinate conservation efforts under the various treaties.

One example of such collaboration that specifically centers on large carnivore conservation is the relatively recent Joint CMS-CITES African Carnivore Initiative (hereafter “ACI”), which is a cooperation between two of the larger wildlife treaties. But while the desirability of “synergies” between treaty regimes is increasingly recognized, and examples such as the ACI demonstrate that there is certainly a willingness to work together, little research has been done as to what such inter-treaty cooperation has achieved and what potential synergies exist specifically between large carnivore-related treaties. While it is not the intention to fully remedy that with this article, this article offers some background on the synergies debate to date, and how the ACI fits into that narrative. It also paints a general picture of the ACI and its proposed activities, and offers some first thoughts on whether it can be successful and produce the benefits it aims to deliver.

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SYNERGIES BETWEEN MEAS: SOME BACKGROUND

As environmental issues have come to the forefront of international policy, multilateral environmental agreements (hereafter “MEAs”) have burgeoned (United Nations Environment Programme, 2016a, *Elaboration of Options*, 1), and a sizeable body of international treaties with respect to the protection of wildlife has emerged. According to ECOLEX (ecolex.org), 1,989 bilateral and multilateral environmental treaties are currently in force, 225 of which concern wild species and ecosystems. These are supplemented by 8,477 presently active treaty decisions, of which 730 resolutions alone concern wild species and ecosystems. A search for wildlife-related international treaties and ancillary decisions in the International Environmental Agreements Database Project run by the University of Oregon (iea.uoregon.edu) yields similarly high numbers.

The number of MEAs has mushroomed, but without any coordinating entity to guide this process, the result is a wide-ranging, haphazard array of legal instruments that address a panoply of related issues (United Nations Environment Programme, 2016b *Understanding Synergies*, 1). Various MEAs overlap when it comes to scope and application, and accordingly certain species may be subject to different MEAs, each with a different policy on how to manage populations (Trouwborst, 2015, p. 1572; Caddell, 2016, p. 437). This can cause practical difficulties for parties in seeking to implement multilateral commitments. A common agreement has crystallized around the assertion that the international environmental governance framework has become unworkably extensive, fragmented, and complex (Perrez and Ziegerer, 2008, p. 253–254; Wehrli, 2012, p. 1; United Nations Environment Programme, 2014, p. 2), and it is now widely recognized that the existing legal framework does not provide a blueprint for success. Concerns on how to effectively and coherently implement the existing array of MEAs have arisen, as well as concerns that efforts are being duplicated across various instruments (Caddell, 2016, p. 437).

As the number of legal instruments (and concomitant legal obligations) has continued to grow, it has become clear that a necessary first step to effectively and coherently implementing and enforcing the existing wildlife-related instruments is to strengthen the collaboration, cooperation and coordination among the different conventions (Caddell, 2016, p. 437; United Nations Environment Programme, 2016b; *Understanding Synergies*, 4). The main current of reform—absent the practical feasibility (and perhaps even desirability) of starting afresh and designing a brand-new framework—has been mostly phrased in terms of enhancing “coordination” or “synergies” between the existing MEAs (Najam et al., 2006, p. 29).

The idea of achieving and enhancing synergies between the throng of multilateral environmental agreements is certainly not a new one. Since the turn of the century, the discussion on how to forge and operationalize such synergies has gathered steam. While difficult to pinpoint the exact starting point of the discussion, it is to be found in the period between 1990 and

1999, somewhere between the publication of Edith Brown Weiss’ article in which she first put forward the term “treaty congestion” as a powerful visual explanation of the phenomenon of MEA proliferation (Brown Weiss, 1993, p. 697), and the first United Nations University Conference on “Interlinkages: Synergies and Coordination between MEAs” in 1999. From then on, the idea that the international environmental playing field is too cluttered, and that “interlinkages and synergies” are the preferred remedy has firmly taken hold (Chambers, 2008, p. 7; Schiele, 2014, p. 90; Lyman, 2015, p. 17). The realization has not only received considerable attention in academic literature, but also in policy. Indeed, significant efforts have already been made to improve alignment among the biodiversity-related conventions, and to identify and build on opportunities for collaboration, cooperation and coordination (Perrez and Ziegerer, 2008, p. 256; United Nations Environment Programme-World Conservation Monitoring Centre, 2018, p. 4).

Since 2000, when awareness of the need for synergies first became acute, a slew of what have been termed “generic” mechanisms as well as “thematic” mechanisms for cooperation have been developed (Wehrli, 2012, p. 2). Generic mechanisms include the Biodiversity Liaison Group, the Environment Management Group, the MEA Information and Knowledge Management Initiative, and the Aichi Task Force, to name a few (United Nations Environment Programme-World Conservation Monitoring Centre, 2012, p. 31). In addition, a series of thematic “joint work programmes” (“JWPs”) as well as “Memoranda of Cooperation” (“MoCs”) have been launched. These include multilateral cooperation mechanisms on topics such as invasive alien species, forests, and avian influenza, but also bilateral mechanisms. A web of Memoranda of Understanding and Memoranda of Cooperation as well as Joint Work Plans/Programmes has been established between the different biodiversity-centered MEAs (Jóhannsdóttir et al., 2010, p. 143; United Nations Environment Programme-World Conservation Monitoring Centre, 2012, p. 32–33). In this respect, the Convention on Biological Diversity has tried to fulfill its role as biodiversity-nexus, and has developed a series of MoCs and JWPs with the five other large biodiversity-related conventions; i.e., CMS, CITES, the Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat, the Convention Concerning the Protection of the World Cultural and Natural Heritage and the International Treaty on Plant Genetic Resources for Food and Agriculture. But bilateral cooperation schemes have also been set up among those other conventions separately (Lyman, 2015, p. 23).

Myriad of clustering schemes, programmes, plans and recommendations have come into existence (United Nations Environment Programme-World Conservation Monitoring Centre, 2018, p. 4; Jóhannsdóttir et al., 2010, p. 145). But while the multitude of mechanisms and projects of cooperation between the biodiversity-related conventions shows that the call for enhanced cooperation and synergies has not fallen on deaf ears, it does raise the question whether these initiatives have any added value. In 2009 Niko Urho already observed that, in fact, the efforts for enhancing synergies between biodiversity-related

MEAs had been “undertaken in a fairly *ad hoc* fashion and with no particular coordinated approach in mind. This has resulted in the duplication of work, on the one hand, and unexplored areas for enhancing synergies, on the other” (Urho, 2009, p. 13). He further argues that very few, if any at all, truly synergistic solutions have been found for the biodiversity-related MEAs (Urho, 2009, p. 13). See also Lyman, 2015, p. 17).

Not only has the web of resolutions and decisions under each of the conventions become increasingly intricate, but it has also extended to inter-convention relations. And despite the large number of such initiatives, there is still no over-arching program that would guide the pursuit of synergies, and would mobilize all MEAs to truly pool resources for common issues. The search for and expansion of synergy initiatives has been so frantic, that it might not be long before there will be workshops and conferences on how to “synergize the synergies.”

One of the main takeaways from the 2010 Nordic Symposium on “Synergies in the Biodiversity Cluster,” which brought together experts in international environmental governance and biodiversity, was that, in operationalizing synergy arrangements, the areas for joint action that should be targeted are (i) the science-policy interface, (ii) harmonization of reporting, (iii) streamlining of meeting agendas, (iv) joint information management and awareness raising, (v) capacity building, (vi) funding, (vii) compliance, and (viii) review mechanisms (United Nations Environment Programme, 2014, p. 23).

The so-called “chemicals and waste cluster” is often cited as an example of a successful and effective synergy initiative. The term refers to the clustering process between the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposals, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention on Persistent Organic Pollutants (United Nations Environment Programme-World Conservation Monitoring Centre, 2012, p. 34). In 2007, the Conferences of the Parties (CoPs) of the respective conventions established the *ad hoc* Joint Working Group among the Basel, Rotterdam and Stockholm Conventions (AHJWG). The AHJWG made a series of recommendations on possible avenues for synergies between the different conventions. In developing these recommendations, the AHJWG identified a series of key focal points in the synergy process, namely, organizational cooperation, technical cooperation, information management and public awareness, administrative issues, and decision-making (Wehrli, 2012, p. 3). Identical decisions on each of these aspects were subsequently adopted as decisions by the Conferences of the Parties of the respective conventions, which convened in a simultaneous extraordinary meeting (United Nations Environment Programme-World Conservation Monitoring Centre, 2012, p. 34). The clustering approach adopted in the chemicals and waste cluster consist of a formal process for a combined CoP and administrative institutions (Wehrli, 2012, p. 3). A joint head of the secretariats was appointed and the budget cycles of the conventions were synchronized. In the meantime, further steps toward common institutional development have been taken in the chemicals and waste cluster.

Several reasons have been identified as the cause for success of the clustering process between the Basel, Rotterdam, and Stockholm conventions. For one, the conventions are quite homogenous, and the secretariats of the three conventions were already co-located in Geneva and administered by UNEP. Secondly, the process (and its pace) was essentially party-driven and strictly adhered to the principle of form follows function. Moreover, most of the work was undertaken in the AHJWG and there was little need for the individual CoPs to undertake extensive negotiation work. Of particular importance was the fact that the process was based on trust, confidence-building and transparency. Some wildlife-related MEAs have attempted to engage in closer cooperation, but those arrangements have remained relatively loose, and have not succeeded in replicating such close cooperation. One such example is the ACI.

ACI-SPECIES: CONSERVATION STATUS AND THREATS

The issue this paper explores is the question whether the ACI can actually extend some of the benefits that are usually associated with and expected from “synergies or interlinkages between MEAs” to large carnivore conservation efforts in Africa.

The ACI is a product of the Joint CMS-CITES Programme of Work for 2015–2020, which centered around four core issues: (i) the harmonization of species-specific information (e.g., harmonization of nomenclature), (ii) joint activities addressing shared species and issues of common interest, (iii) implementation and fundraising, and (iv) outreach and capacity-building (CITES Secretariat, 2018, p. 1). The ACI is one of the activities that materialized under the heading “(ii) joint activities addressing shared species.” In a first movement, the CMS and CITES Secretariats had broadly identified “big cats” as the shared species that deserve particular attention, and described the envisaged joint activities in terms of ensuring “*collaboration on the conservation and management of big cats, including regular exchange of technical and other relevant information, attendance of each other’s meetings, capacity building, joint fundraising and collective reach-out to range States where appropriate*” (CMS CITES Joint Work Programme, 2015–2020). The selection was later refined (and expanded to one non-felid) to include four iconic African carnivore species; African Lion (*Panthera leo*), Cheetah (*Acinonyx jubatus*), Leopard (*Panthera pardus*), and African Wild Dog (*Lycaon pictus*).

The geographic ranges of all these species have contracted dramatically in the past decades (Riggio et al., 2013, p. 17; RWCP and IUCN/SSC, 2015, p. 10–13 and 23–26; see also IUCN Red List Assessments, Durant et al., 2015; Woodroffe and Sillero-Zubiri, 2015; Bauer et al., 2017; Stein et al., 2017). Studies indicate that the ranges of African Lion, African Wild Dog, and Cheetah have shrunk by over 90%. The figures are slightly less bleak, but still worryingly grim for Leopard, with a range contraction of approximately 80% (Wolf and Ripple, 2017, p. 2). As their ranges have dwindled, populations of those carnivores have declined concomitantly (Ripple et al., 2014, p. 151). Indeed, with the notable exception of Lions in southern Africa, where populations

actually grew, the most recent IUCN Red List Assessments indicate that populations of African Lion, Cheetah, Leopard, and African Wild Dog have declined across their ranges. Between 1997 and 2012, populations of African Wild Dog declined by 17%, while populations of African Lion declined by 43 per cent in a similar timeframe. Populations of Cheetah and Leopard have declined by around 30 per cent over the past 15 years. African Wild Dog is currently listed as an Endangered species under the IUCN Red List. Whilst Cheetah, Leopard, and African Lion are generally listed as Vulnerable, some specific populations are listed as Endangered or even Critically Endangered.

Although populations of the four “ACI species” are influenced by a myriad of different factors, most causes of population decline are inextricably linked with human encroachment or other human activity (Hunter, 2018, p. 11). Habitat loss and habitat fragmentation, in tandem with the effects of a reduced prey base and increased human-wildlife conflict have driven population declines of ACI species across their range. Unsustainable trade completes the “*evil quartet*” that adversely affects ACI carnivores (for a detailed account see IUCN Red List Assessments, Durant et al., 2015; Woodroffe and Sillero-Zubiri, 2015; Bauer et al., 2017; CMS Secretariat, 2017, p. 9; Stein et al., 2017).

Habitat loss and fragmentation affect all ACI species. ACI species have been extirpated from much of their historic range as human settlement has increasingly expanded into wildlife habitat. Land-use changes have not only resulted in a reduction of available suitable habitat, but also in a fragmentation thereof. But the pernicious impact of habitat loss and fragmentation also manifests in indirect ways. The reduction and conversion of suitable habitat leads to more exposure to people and domestic animals, which is in turn conducive to human-wildlife conflict and the transmission of infectious disease. For ACI species, conflict with game and livestock farmers is exceedingly prevalent (Hodgetts et al., 2018, p. 2754; Madden, 2008, p. 190).

Habitat loss and fragmentation moreover affect large carnivores’ natural prey base. As a result of habitat conversion and increased livestock densities, which leads to intensified grazing, wild herbivore populations are also increasingly under pressure. The decline of prey populations is further exacerbated by bushmeat hunting by local communities. Prey depletion, in turn, further feeds into the vicious circle because it increases the likelihood that large carnivores will prey on livestock, and thus directly fuels human-wildlife conflict, and increases the likelihood of targeted retaliatory or pre-emptive killings. A final substantial threat is found in unsustainable trade. For instance, international trade in live Cheetah has always been a major problem. There is a flourishing illegal pet trade in Cheetah cubs, the main destination of which are the Gulf States (Tricorache et al., 2018, p. 191–203). In addition, like Leopards, they are hunted for their skin, which is used for traditional purposes but is also in high demand on the international market. Aside from their skins, big cat bones and other parts are also in demand for use in traditional medicine in Africa, and increasingly in Asia. Illegal trade in bones and body parts is a cause for concern for both Leopard and African Lion (Williams et al., 2015; Bauer et al., 2018, p. 6).

Although the overarching reasons for the decline of ACI species are largely the same, the relative extent to which each

of these threats has contributed to population declines of the different species varies depending on that species’ behavior, dietary preference, etc., and is difficult to assess accurately. Of course, the above is no complete or in-depth outline of the threats that ACI carnivores are faced with. Issues such as (unsustainable) trophy hunting, accidental killing (e.g., roadkill), and unregulated tourism can also have a detrimental effect on populations (Hunter, 2018, p. 12). However, the four threats discussed above were earmarked in the ACI as the primary drivers of population decline (CMS Secretariat, 2017, p. 9).

STATUS UNDER CITES AND CMS

CITES

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, which currently boasts 183 parties, is one of the most successful wildlife-related MEAs in terms of membership. To control international trade in wildlife products, CITES imposes a series of incrementally more stringent restrictions on imports and exports of listed species, depending on the species’ conservation status and how the species is affected by trade (Makuyana, 2018, p. 148). These restrictions are implemented on the basis of a listing system in which protected species are listed in one of three Appendices to the Convention (Matthews, 1996, p. 421). International trade between CITES parties in specimens of listed species is regulated through a system of import and export permits that is administered by a national Management Authority, which in turn receives advice from a national Scientific Authority (Bowman et al., 2010, p. 485). Appendix I includes “*all species threatened with extinction which are or may be affected by trade*” (art. II.1 CITES). International trade in Appendix I species may, with the exception of exemptions granted under Article VII of the Convention, only occur for non-commercial purposes and is subject to strict conditions (Matthews, 1996, p. 421; Pratt and Hirst, 2017, p. 5). An import permit as well as an export permit are required for international trade in Appendix I species.

Appendix II includes species that are not necessarily currently threatened with extinction, but which may become threatened if trade is not controlled strictly [art. II.2(a) CITES]. “Look-alike species” may also be listed in Appendix II if doing so is necessary to ensure that the trade in threatened species can be brought under effective control [art. II.2(b) CITES]. International commercial trade in Appendix II species is permitted, but only under stringent conditions (Reeve, 2002, p. 30). International trade in Appendix II species requires an export permit.

Species in Appendix III are listed because a country has requested assistance in the control of trade in that species (art. II.3 CITES). A State party that has domestic legislation limiting the export of certain species which are not included in Appendix I or II can ask other parties for support in enforcing those domestic regulations (Bowman et al., 2010, p. 484).

CMS

With “only” 130 Parties as at December 1, 2019, the Convention on the Conservation of Migratory Species and Wild Animals (CMS) is a slightly smaller MEA than CITES. CMS operates on the basis of a two-tier listing system (Matz, 2005, p. 201).

Appendix I lists migratory species that are endangered and thus require a high level of protection [art. III(1) CMS]. CMS imposes a number of obligations on range States of Appendix I species. These include the obligation for range States to endeavor to conserve species' habitats [art. III(4)(a) CMS] and take measures to address obstacles that impede the migration of the species as well as factors that are endangering the species [art. III(4)(b-c) CMS]. In addition, range States of Appendix I species must prohibit the taking of such species [art. III(5) CMS].

Appendix II lists migratory species that have an unfavorable conservation status and that require international agreements for their conservation and management, as well as species that would significantly benefit from the international cooperation that could be achieved by an international agreement [art. IV(1) CMS; Lyster, 1989, p. 982]. Accordingly, parties to CMS that are range States of Appendix II species are encouraged to enter into ancillary agreements for the conservation and management of said species (Matz, 2005, p. 201). As opposed to what is the case under CITES, it is possible for a species (or population) to be simultaneously listed on both Appendix I and Appendix II to CMS.

Status Under the Conventions

African Lion is included in Appendix II to both CITES and CMS. Although in 2016, at CoP17, there was a proposal to "uplist" the African lion to CITES Appendix I, its Appendix II listing was eventually maintained, but an annotation was added regarding annual export quotas (Hodgetts et al., 2018, p. 2751). A zero annual export quota was established for specimens of bones, bone pieces, bone products, claws, skeletons, skulls, and teeth taken from wild lions and traded for commercial purposes. Annual export quotas for trade in those products for commercial purposes, derived from captive breeding operations in South Africa will be established and communicated annually to the CITES Secretariat. However, in August 2019, the quotas that were set for 2017 and 2018 were considered unlawful and unconstitutional by the high court in Pretoria.

Leopard is listed in Appendix I to CITES, and Appendix II to CMS. Quotas for Leopard hunting trophies and skins for personal use are set by the CITES CoP [see Resolution Conf. 10.14 (Rev. CoP16)]. Both Uganda and South Africa have entered reservations as to the CMS Appendix II listing of African Lion and Leopard. Cheetah is listed in Appendix I to both conventions, but under CITES annual export quotas are set for live specimens and hunting trophies from Botswana, Namibia and Zimbabwe. Trade in such specimens should occur in accordance with article III of CITES. It should also be noted that Namibia entered a reservation as regards the inclusion of Cheetah in Appendix I to CITES, and the CMS listing of Cheetah does not include the populations of Zimbabwe, Botswana and Namibia. African Wild Dog is not a CITES-listed species, but is listed in Appendix II to CMS. The CMS listings for Lion, Leopard, Cheetah and African Wild Dog are quite recent, and date from, respectively, 2018 for the first two, and 2009 for the latter two. Although they are all included in Appendix II to CMS, there are currently no CMS Agreements or Memoranda of Understanding relating to the conservation of African Lion, Leopard or African Wild

Dog under the CMS umbrella. It should moreover be noted that some range States with substantial populations of ACI carnivores are not party to either CMS or CITES. Most noteworthy in this respect are Botswana, Namibia and Zambia, which are not party to CMS but host large populations of ACI species, and are even considered a stronghold for some of them.

The status of the different ACI species under the two conventions can be condensed as follows:

Appendix	African Lion	Leopard	Cheetah	African Wild Dog
CITES	II	I	I	N/A
CMS	II	II	I	II

JOINT CMS-CITES AFRICAN CARNIVORES INITIATIVE

Aim of the ACI

A number of decisions and resolutions have been adopted under both conventions in relation to the four large African carnivores at issue. For African lion, the CITES CoP adopted decisions 17.241–17.245, and the CMS CoP adopted resolution 11.32 on the Conservation and Management of the African Lion. The CITES CoP further adopted decisions on quotas for leopard hunting trophies (Decisions 17.114–17.117), illegal trade in cheetahs (Decisions 17.124–17.130) and on African Wild Dog (Decisions 17.235–17.238). The CMS CoP adopted decisions on the conservation and management of cheetah and African Wild Dog (Decisions 12.61–12.66). Through the ACI, the CMS and CITES Secretariats want to bring coherence and efficiency to the implementation of these resolutions and decisions.

In 2017, the goals espoused by the ACI were broadly set out to include (i) the development of concrete, coordinated and synergistic conservation programmes for all four carnivore species, with local and regional projects implemented across their African range, (ii) the development of policy guidance and recommendations for range States, CITES and CMS concerning the four species, and (iii) the organization of collaboration with other conservation initiatives and organizations, such as the IUCN.

The proposed governance structure of the ACI consists of triennial range State meetings, a network of both national and regional coordinators, and a Joint CITES-CMS Programme Officer (CMS and CITES Secretariats, 2018b, Meeting Outcomes, 3). In November 2018, delegates from 31 range States met in Bonn for the First Meeting of Range States for the ACI. The outcomes of the meeting were a set of decisions for submission to the CITES and CMS CoPs (CMS and CITES Secretariats, 2018b, Meeting Outcomes, 2).

Based on the recommendations of the First Meeting of Range States for the ACI, several recommendations involving CITES were submitted to CITES CoP18. These related to the ACI itself, as well as to individual species covered by the ACI. At the 18th meeting of the CITES CoP, Parties adopted a number of decisions relating to the ACI. Decisions included a direction

to the CITES Secretariat to develop, together with the CMS Secretariat, a dedicated Programme of Work for the ACI. In addition, specific decisions concerning African Lion (Decisions 18.244–18.250), Cheetah (Decision 18.193 on a Cheetah trade resource kit), and Leopard (Decisions 18.254–18.255 on Leopards in Africa) were adopted. CITES Parties also instructed the CITES Secretariat to establish and convene a Big Cats Task Force (Decision 18.245), subject to the CITES Standing Committee approving the terms of reference as well as external funding. The Task Force will focus on big cat species from Africa, Asia, and Latin America. Further decisions concerning the ACI are expected to be adopted at CMS CoP 13, in particular on the development of a joint programme of work, as well as the conservation and management of individual ACI species (see UNEP/CMS/COP13/Doc.26.3.1/Rev.1/Annex 1).

Theoretical Issues

In light of the debate that was concisely set out above about synergies in the biodiversity-related MEAs, some important reservations of a theoretical nature should be highlighted with respect to the ACI. When considering the literature on, and policy initiatives launched in the sphere of synergies between the biodiversity-related MEAs, two conceptual issues emerge. A first one is that, despite the fact that scant comprehensive in-depth research has been conducted to understand and evaluate the international environmental governance regime, a consensus has formed around the assertion that the existing framework is too complex. And even though there seems to be general agreement on the fact that this framework should be streamlined, there is a considerable dearth in knowledge about its structure (Oberthür, 2005, p. 59). As the intricacies of the existing framework are not fully understood, it is nigh impossible to accurately and comprehensively identify its shortcomings. This lack of knowledge makes it difficult to determine what shape solutions should actually come in. Secondly, the aim of “cooperation and coordination” between the different MEAs is usually phrased as a means of “enhancing their effectiveness and efficiency” (von Moltke, 2001, p. 5). These two concepts are in themselves however also not studied extensively and are little understood (Young and Levy, 1999, p. 3–6; Sand, 2017, p. 1; Young, 2018, p. 2). Chambers already highlighted this lack of understanding in 2008 (Chambers, 2008, p. 8), and although literature on the topic has developed (see e.g., Baakman, 2011; Young, 2011, 2018; Sand, 2017), and some MEAs have attempted to develop a better understanding of “effectiveness,” the question of how interlinkages or synergies actually affect legal instruments’ effectiveness in practice remains largely open (Jóhannsdóttir et al., 2010, p. 148; Schiele, 2014, p. 90; Sand, 2017, p. 1).

Practical Problems

When it comes to reservations with regard to the operational content of the ACI specifically, a first issue that catches the eye is that the goals the CMS and CITES CoPs and Secretariats set themselves in the ACI are modest, vague, or both. The CMS Secretariat described the expected benefits from their joining of forces as follows (CMS Secretariat, 2017, p. 11):

- Increased conservation means for all four species by pooling funds and expertise;
- More equitable deployment of resources amongst the four species;
- Avoidance of duplicative activities and associated costs;
- Coordinated and consolidated support to range States in implementing conservation measures;
- More effective and immediate conservation actions across the range of the four species;
- Synergistic and holistic conservation approaches; and
- Increased opportunities for donors to allocate resources to well-coordinated and internationally recognized conservation actions.

But whereas most of the ACI’s perceived benefits seem to hinge on increased means and cost-savings, CMS and CITES decisions are conspicuously silent as to how the funding needs of the conservation of the four iconic carnivores in question will be satisfied. The resource requirements for the ACI’s first 3 years were estimated to be in the area of 56 million dollars, of which USD 53,1 million would be earmarked for promoting coexistence, sustainable land management and the maintenance of connectivity for all carnivores (CMS and CITES Secretariats, 2018a, Communiqué, 2). No precise clarification is provided as to how these estimates were come by, and whether they in fact reflect the expected costs accurately. For example, it has been calculated that establishing and managing protected areas for lions alone would require upwards of 1 billion USD annually (Lyndsey et al., 2018, p. 1). The budget proposed in the ACI seems woefully inadequate compared to these estimates. It requires no great deal of imagination to realize that especially for developing range States where conservation has to compete with urgent poverty and social development pressures, the issue of reliable and sufficient funding is even more pressing (Redpath et al., 2017, p. 2159). And while it is of course not the aim of the ACI to fund every possible conservation action with respect to ACI species, there does remain some ambiguity concerning the precise use ACI funding will be put to. It is clear however that the success of the ACI will substantially hinge on securing reliable, adequate and continuous funding. One possibility that is being explored involves using the IUCN Save Our Species Conservation Action Programme (SOS). However, there is no certainty yet as to how funding will in fact be secured. Neither of these conventions’ core budgets currently make provision for the ACI’s funding and, given the conventions’ own consistent underfunding, it is unlikely that the ACI will ever be partially—let alone entirely—funded from parties’ obligatory CMS and CITES contributions. Indeed, both conventions are entirely reliant on contributions by their Parties, and not only are the contributions relatively small, some Parties are more than 5 years in arrears on contribution payments. In consequence, external funding will need to be obtained. The resource constraints that might bedevil the ACI are already painfully reflected in both the organization as well as the outcomes of the First Range State Meeting, where the vast majority of the forward-looking decisions are preceded by the qualifier “subject to external resources” or “subject to external funding.” The organization of the First Range State Meeting

itself was only made possible by *ad hoc* funding by the Belgian, German, and Swiss governments. And while it is of course not unusual for CoPs of MEAs to agree on desirable conservation measures without identifying sources of funding, or even for treaty implementation support to be funded largely by voluntary contributions, this remains problematic if the ACI is to achieve its goals.

Another significant point of concern that may be raised is the question whether CMS and CITES are really the most appropriate instruments for this type of cooperation. While it is encouraging to see two of the largest wildlife-related MEAs working together on this, the question should be posed whether these two conventions are really the best forum to streamline the conservation of those four iconic carnivores. While they certainly do address some of the main threats, i.e., international trade and habitat fragmentation (in part), these two species-focused treaties might not be the most attuned instruments when it comes to human-wildlife conflict and wholesale habitat loss (Trouwborst et al., 2017, p. 102–113). Although CMS does address habitat loss to a certain extent, its significance vis-à-vis ACI is inhibited by several factors. For one, CMS does not incorporate enforceable obligations with respect to Appendix II species (i.e., African Lion, Leopard, and African Wild Dog). As for Cheetah, which is listed on Appendix I to CMS, articles III(4) and III(5) of CMS do include a number of obligations, *inter alia* an obligation of habitat conservation, but those obligations are qualified in the sense that article III(4) only requires that range States “endeavor” to conserve habitat, and only applies to “those habitats of the species which are of importance in removing the species from danger of extinction.” It has been argued that CMS in general lacks focus and teeth (Matz, 2005, p. 202). And while the impact and effectiveness of CMS can perhaps not be reduced to the strength of the obligations it incorporates and the practical enforceability thereof, it should be noted that CMS has, for a long time now, struggled with compliance (Caddell, 2005, p. 142; Bowman et al., 2010, p. 572). Although CMS is making progress in this respect, for example with Resolution 12.9 on the establishment of a review mechanism and a national legislation programme, which will be further elaborated on during CoP13 (see UNEP/CMS/COP13/Doc.22), and which are supposed to facilitate compliance with the obligations set out in article III(5) CMS, it is not yet clear to what extent this will have an impact on actual compliance by range States. In addition, CMS does not have the broad global membership base CITES does. If issues such as habitat loss are to be addressed, it might be useful to latch the cooperation onto other relevant international instruments (e.g., the Convention on Biological Diversity and the World Heritage Convention) and regional instruments (e.g., the Revised African Convention on the Conservation of Nature and Natural Resources or the SADC Protocol on Wildlife Conservation and Law Enforcement; von Moltke, 2001, p. 18; Nowell and Rosen, 2018, p. 295).

As was mentioned above, interlinkages and synergies are considered an important tool to avoid duplication in the implementation of MEAs, but in this case, considering the ACI species’ respective listings under both conventions, there is no overlap—and thus no potential for duplication—between the

remit of CMS’s mandate and that of CITES. It is accordingly doubtful whether the ACI can really create a convergence between the two conventions. The main outcome of the First Range States Meeting was a set of draft decisions to be adopted at the CMS and CITES CoPs. Whether it is really cost-effective to have a meeting of representatives of 31 African range States in Bonn with the only discernible aim of preparing CMS and CITES decisions (which may or may not be adopted by the CoP) is implausible. Material cooperation is limited at the moment, and more considerable cost-saving processes, such as joint national reporting and administrative streamlining, are not on the books in the ACI. Reverting to the findings and recommendations formulated at the Nordic Symposium and to the elements that made the “chemicals and waste cluster” successful, not many corresponding elements are found in the ACI. The synergy arrangements espoused in the chemicals and waste cluster were expanded to include important elements of organizational cooperation (national and programmatic cooperation), technical cooperation (reporting, compliance, scientific issues), joint outreach, information exchange, administrative issues (joint services and functions; resource mobilization; budgets and audits), and decision-making (coordinated meetings) (United Nations Environment Programme-World Conservation Monitoring Centre, 2012, p. 34). And while it is perhaps somewhat unfair to judge the ACI by the yardstick of the chemicals and waste cluster, it is rather vexing to see that synergies in the biodiversity cluster develop in such piecemeal fashion, and in fact may directly contribute to the underlying problem that such synergies seek to address—i.e., the general overload and clutter of existing obligations. Factors that ensured the relative success of the chemicals and waste cluster cannot always be extrapolated to a small, species-specific, and geographically limited initiative as the ACI, but it deserves mention that the ACI thus far does not really create substantive synergies. For example, it does not unburden states when it comes to national reporting, there is no administrative or technical streamlining, and it does not provide for organizational cooperation or a convergence in decision-making.

It should also be taken into account that the attitude espoused by the range States vis-à-vis CITES and CMS is not always a positive one. Some of the most significant range States of ACI carnivores (e.g., Botswana and Namibia) are simply not a party to CMS. And while most countries attended the First Range State Meeting, which is a promising sign, it remains unclear to what extent they will actually engage with the CMS-side of the equation. It should also be noted that some range States have displayed increasing skepticism toward CITES in view of recent decisions—primarily on the trade in ivory and rhino horn. Zimbabwe and other SADC member States are reportedly even playing with the idea of leaving CITES altogether. Added to this is the fact that there is no general consensus between the range States about substantive issues. For example, during the First Range State Meeting, no agreement was reached on the need for the development of a CITES resolution with respect to African Lion. As such, the goal of “coordinated and synergistic conservation programmes” might prove overly ambitious. In addition, not all range States are on the same page with respect

to how best to fund conservation measures. This is already a point of contention between African countries, and is reflected in the at times venomous discussions relating to selling of ivory or rhino horn stockpiles and in using revenues from trophy hunting (Bauer et al., 2018, p. 11).

Some Hope?

At first glance, the main benefit that seems to derive from the ACI is a more targeted allocation of funding toward these four species. Depending on whether the ACI can develop a stable donor base, it could have significant added value, not necessarily from a legal perspective, but from a practical one. It would increase the visibility of conservation efforts for these species, and mobilize resources on a more permanent basis. It is also encouraging to see that even States that are not party to one of the two conventions (e.g., Central African Republic, Namibia, Botswana, South Sudan, Sudan and Zambia—which are not party to CMS but host populations of ACI species) attended the First ACI Range State Meeting, and might be stimulated to actively take part in the ACI. This might prove to be a good way of—indirectly—bringing them under the CMS umbrella (Trouwborst, 2015, p. 1574).

CONCLUDING THOUGHTS

It has become trite to say that synergies between MEAs are desirable. Numerous synergy arrangements, programmes, plans, and recommendations have been developed. Academic and policy discussions on the subject are also advancing. But even though enhanced efficiency and effectiveness are usually the primary aim of the synergy process, it is not certain that synergies between MEAs actually lead to better biodiversity outcomes. This article briefly zoomed in on the ACI as an example of a synergy

process between two of the larger MEAs: CITES and CMS. It concludes that, whereas the ACI might offer some benefits to large carnivore conservation, this should not be taken for granted. There are several factors that might prove fundamental inhibitors to the potential success of the ACI.

For one, CMS and CITES remain disparate treaties with individual mandates that address different specific issues. In addition, at the moment, the structure established around the ACI raises more questions than it answers, the biggest question being who will actually pay for it. It remains to be seen whether the ACI can meaningfully contribute to conservation efforts, or whether it will in fact prove to be a distraction from the implementation of international commitments and effective conservation plans. There is a very real risk that initiatives such as the ACI, which seek to bring synergies and enhanced coordination, will instead clutter the playing field, overwhelm international players with less capacity, and contribute further to the general overload at the national level in implementing MEAs. One can only hope such concerns are effectively addressed when taking further steps in outlining the ACI, and that effective conservation measures can be developed and funded through initiatives such as the ACI.

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