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**ASSESSMENT OF THE IMPLEMENTATION OF THE PROTOCOL TO THE  
CARTAGENA CONVENTION CONCERNING SPECIALLY PROTECTED AREAS  
AND WILDLIFE (SPA) WITH A SPECIAL FOCUS ON  
SEA TURTLES LISTED ON ANNEX II**

**Executive Summary**  
**Assessment of the Implementation of the Protocol to the Cartagena Convention Concerning Specially Protected Areas and Wildlife (SPAW), with a Special Focus on Sea Turtles Listed on Annex II**

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*Background and Rationale*

A five-year (2000-2005) review of the adoption of enabling legislation among SPAW Parties was conducted, with a primary focus on legislation associated with Articles 10 and 11, and secondarily Articles 13 and 14, with regard to six species of sea turtles listed on Annex II of the Protocol Concerning Specially Protected Areas and Wildlife (SPAW). The emphasis on sea turtles was deliberate. Migratory sea turtles are regionally depleted, occur in (and are shared among) all Party jurisdictions, and are relatively well-studied, thereby providing a useful opportunity to gauge the degree to which Parties have responded to the obligation “to adopt co-operative measures to ensure the protection and recovery of endangered and threatened species” (Art. 11).

The objectives of Articles 10 and 11 are to reach consensus regarding criteria and methods to identify threatened or endangered species and means for their protection. Article 13 addresses the need for decisions about “industrial and other projects and activities” to be made after taking into consideration the “possible direct and indirect impacts, including cumulative impacts”, of the proposed project or activity. Article 14 recognizes traditional and indigenous activities, allotting all Parties the requirement to take such practices or cultures into account and to provide for appropriate exemptions. This review will focus on the degree to which enabling legislation, sufficient to discharge these obligations, has been adopted at the national level for 12 States Party to the SPAW Protocol as of 1 September 2005.

We analyzed the legislative frameworks of 12 SPAW Parties – Barbados, Colombia, Cuba, Dominican Republic, France (including French Guiana, Guadeloupe, Martinique, Saint Martin and Saint Barthélémy), the Kingdom of the Netherlands (including Aruba and the Netherlands Antilles: Bonaire, Curaçao, Saba, Sint Maarten, St. Eustatius), Panama, St. Lucia, St. Vincent and the Grenadines, Trinidad & Tobago, the United States of America (including Puerto Rico and the U.S. Virgin Islands), and Venezuela – with an aim to assess the capacity of each Party to enable the Protocol’s mandate to conserve, protect and support the recovery of the six species of sea turtles that occur in the Wider Caribbean Region.

Specifically, my objectives were to:

- Decipher criteria for enabling legislation from Articles 10, 11, 13 and 14 of the SPAW Protocol to use as a guide in assessing each Party
- Document each Party’s current legislation governing exploitation, trade and management of sea turtles and habitat important to them
- Assess the content of each Party’s legislation and systematically compare against the list of legislative criteria
- Provide recommendations for improving the development of enabling legislation and for increasing active participation in the SPAW Protocol

This was primarily a desk study of information obtained from the UNEP-Caribbean Environment Programme (CEP) library in Kingston, Jamaica, and from other government and non-government sources in the region. First, after a careful review of Articles 10, 11, 13 and 14, a normative list of legal characteristics and relevant sectors addressed by each Article was developed. Useful background

information regarding the development and criteria of appropriate legislation was gathered from a workshop (December 1993) designed to assist SPAW Parties in formulating national legislation to implement the SPAW Protocol<sup>1</sup>. The final qualitative checklist of legislative criteria for SPAW-enabling legislation to protect sea turtles of the WCR used in conducting this assessment is presented in Table 1.

An extensive review of archival documents was conducted for background information and breadth of understanding. Documents referenced include meeting notes of various UNEP sessions, the UNEP Regional Seas Programme, and the UNEP Caribbean Environment Programme. More specific information was taken from UNEP reports on the adoption of the Cartagena Convention and the Protocol Concerning Oil Spills in the Marine Environment, along with subsequent meetings regarding the development and adoption of the SPAW Protocol and its Annexes. These references include reports of the Interim Scientific and Technical Advisory Committee (ISTAC), Scientific and Technical Advisory Committee (STAC), Monitoring Committee, Plenipotentiary, and Conference of Parties. Other materials reviewed include national reports and National Biodiversity Strategy Action Plans submitted to the Convention on Biological Diversity and national Sea Turtle Recovery Action Plans (STRAPs) developed by individual Parties in collaboration with the Wider Caribbean Sea Turtle Conservation Network (WIDECAST).

A questionnaire was sent out to each Party's SPAW Regional Programme Focal Point, and information was also gathered from other government and non-government sources, including published reviews relating to legislation and management, readily available Government documents, official and unofficial translations of legislation text, and personal communication with in-country experts, primarily sea turtle resource managers and WIDECAST Country Coordinators. Comprehensive regional reviews, such as those published by TRAFFIC<sup>2</sup>, were especially helpful as secondary sources in cases when the full legal language for appropriate laws could not be obtained.

Information specific to Article 14 of the SPAW Protocol, which calls for Parties to take into consideration the subsistence and traditional use of listed species of fauna and flora, was also sought, primarily through government sources (e.g. national constitutions) and through determination of each Party's status with regard to the International Labour Organization (ILO) Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries.

With specific reference to Annex II, listed sea turtles, relevant fisheries, human rights, environmental, and trade and commerce laws and sector-specific policies were reviewed to identify progress made, including strengths, weaknesses and gaps, in the national regulatory framework of each Party. Individual tables for each nation and its relevant policies were compiled, and the final report will also include a summary table from which broader regional conclusions are drawn.

### *Preliminary Findings*

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<sup>1</sup> "Workshop to Assist with the Formulation of National Legislation to Implement the SPAW Protocol in the Common Law Countries of the Wider Caribbean Region." Ocho Rios, Jamaica, 6-9 December 1993. UNEP(OCA)/CAR WG.13/4

<sup>2</sup> 2001. *Swimming Against the Tide: Recent Surveys of Exploitation, Trade, and Management of Marine Turtles in the Northern Caribbean*, by Elizabeth Fleming. TRAFFIC North America. Wash. D.C.  
2006. *Turning the Tide: Exploitation, Trade and Management of Marine Turtles in the Lesser Antilles, Central America, Colombia and Venezuela*, by Amie Bräutigam and Karen L. Eckert. TRAFFIC International, Cambridge, UK.

A majority of the 12 States currently Party to the SPAW Protocol have met the mandate of Article 11 to fully protect sea turtles listed on Annex II through the establishment of temporary or permanent moratoria on exploitation of sea turtles in national waters. A majority of the Parties have also met the mandates of Articles 10 to adopt legislation that provides for the protection of habitats important to the survival of threatened or endangered species through, for example, the establishment of protected areas. However, not all Parties with protected areas legislation have invoked it for the protection of habitat important to sea turtles, as required by Article 11.

To evaluate the degree to which Articles 10 and 11 – which call for Parties to prohibit or regulate activities that pose a threat to endangered species and their habitats – had been fulfilled, I compared existing policies against a checklist of criteria that included *inter alia* provision for buffer zones, setbacks, habitat management areas (e.g. protected areas or no take zones), and lighting ordinances. I found that a minority of SPAW Parties had met these criteria, and that there are significant gaps in relevant legislation. For instance, while a majority of Parties have some type of protected area legislation, few have established protected areas specifically relevant to sea turtles. Similarly, the minority of Parties with coastal zone management mandates have also established provisions for “sea turtle friendly” coastal lighting or buffer zones associated with important nesting beaches.

With regard to Articles 13 and 14, a minority of Parties have met the mandates to require environmental impact assessments, or to make provisions for the indigenous or traditional use of sea turtles. Of those that do have provisions that in part meet the mandate of Article 14, the degree to which these policies are implemented is unclear.

This review recommends that the SPAW Regional Programme continue to support Parties in the development of policies sufficient to facilitate implementation of SPAW mandates, particularly, in the case of Annex II listed species, those associated with the protection of important habitats. To this end, UNEP should consider reviving an earlier series of regional workshops and collaborate with interested Parties in building capacity to enact (and implement) relevant policies. Many sources report that adequate enforcement is a significant and unmet challenge that hinders the implementation of important legislation; therefore, it is recommended that Parties welcome collaboration with local research and volunteer communities in a position to assist in monitoring and enforcement.

The review also recommends that UNEP promote the increased participation of WCR nations in the SPAW Protocol, and in the umbrella Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (Cartagena Convention). To this end, UNEP and the SPAW Programme may consider, as a priority, the need to identify success stories where a Party has developed the appropriate legislation and suffused the process with adequate human and financial resources.

Though the aim of the SPAW Protocol is to ensure the protection and recovery of endangered and threatened species, UNEP also acknowledges the importance of successful fisheries and tourism industries in the WCR. The ideal success story may, therefore, be of a Party that both has sufficient policies in place and has reaped specific benefits through their implementation, such as economic gains associated with hoteliers complying with coastal lighting ordinances or the indication of tourist support for the Party’s efforts.

Finally, the review recommends that SPAW Parties take all appropriate measures to ensure that enabling legislation is clear in its language and intent, that citizens are aware of the nature of all relevant legislation, that greater efforts to harmonize legislation among neighboring States be undertaken, and that any traditional or subsistence harvest of sea turtles be defined, regulated and monitored as provided for under Article 14.

**Table 1.** Criteria for enabling legislation, with informing data from the 1993 “Workshop to Assist with the Formulation of National Legislation to Implement the SPAW Protocol in the Common Law Countries of the Wider Caribbean Region”. The Legislative Sector column was created based on the mandate of stated Articles (SPAW Protocol) and recommendations of the 1993 Workshop; the related criteria were developed by the authors to evaluate the degree to which Parties have met their obligations under SPAW Protocol Articles 10, 11, 13 and 14.

<b>LEGISLATIVE SECTOR (with criteria)</b>	<b>SPAW PROTOCOL</b>	<b>WORKSHOP RECOMMENDATION (SPAW Article/ Recommendation No.)</b>
<i>Fisheries Law</i>	<b>Article 10-1;</b> Party shall regulate and prohibit, where appropriate, activities having an adverse affect on endangered or threatened species <b>Article 11-1b;</b> ensure total protection and recovery to species listed in Annex II by prohibiting the take, possession, or killing (including incidental) in such species, their eggs, parts or products	<b>Art. 11/Rec. 5;</b> prohibit the taking, possession or killing of, or commercial trade in, species listed under Annex II; <b>Art. 11/Rec. 8;</b> regarding destruction or disturbance that is authorized, require that intentional take is done by permit only; permits should impose conditions on amounts, time and places, equipment and harvest methods; non-selective means of capture, or killing, hunting and fishing be monitored and regulated; closed hunting and fishing season be declared as necessary; activities that result in the disturbance of species be regulated and monitored
Fishery management areas (e.g. no-take zones, multiple use areas)	<b>Article 10-1;</b> Party shall regulate and prohibit, where appropriate, activities having an adverse affect on the habitats or ecosystems of endangered or threatened species	<b>Art. 11/Rec. 8;</b> regarding destruction or disturbance that is authorized, require that closed hunting and fishing season be declared as necessary; activities that result in the disturbance of species be regulated and monitored
Fishing gear regulations to address sea turtle by-catch	<b>Article 10-3a;</b> regulate if not prohibit the take, possession or killing, including the incidental; <b>Article 11-1b-i;</b> ensure total protection and recovery to species listed in Annex II by prohibiting the take, possession, or killing (including incidental)	<b>Art. 11/Rec. 8;</b> regarding destruction or disturbance that is authorized, require that non-selective means of capture, or killing, hunting and fishing be monitored and regulated
Status of Exploitation (illegal/legal)	<b>Article 10-2/3a;</b> regulate and prohibit, where appropriate, all forms of destruction and disturbance, including the picking and collecting, as well as the take, possession and killing of endangered and threatened species; <b>Article 11-1b-i;</b> ensure total protection and recovery to species listed in Annex II by prohibiting the take, possession, or killing (including incidental) in such species, their eggs, parts or products	<b>Art. 11/Rec. 5;</b> prohibit the taking, possession or killing of, or commercial trade in, species listed under Annex II; <b>Art. 11/Rec. 8;</b> regarding destruction or disturbance that is authorized, require that intentional take is done by permit only; permits should impose conditions on amounts, time and places, equipment and harvest methods; non-selective means of capture, or killing, hunting and fishing be monitored and regulated; closed hunting and fishing season be declared as necessary; activities that result in the disturbance of species be regulated and monitored
Exploitation is illegal: Complete protection (indefinite), Moratorium (fixed period)	<b>Article 11-1b-i;</b> ensure total protection and recovery to species listed in Annex II by prohibiting the take, possession, or killing (including incidental) in such species, their eggs, parts or products	
Exploitation is legal	<b>Article 10-2/3a;</b> regulate all forms of destruction and disturbance, including the picking and collecting, as well as the take, possession	

	and killing of endangered and threatened species	
Local possession and sales– (il)legal and regulated	<b>Article 10-2</b> ; regulate all forms of destruction and disturbance, including the picking and collecting of endangered and threatened species; <b>Article 11-1a</b> ; extends this stipulation to Annex II species	<b>Art. 11/Rec. 9</b> ; require permits for the import, export or possession of protected species; prohibit trade and transport of unlawfully imported or acquired specimens
Total catch quotas	<b>Article 10-3b</b> ; regulate and, where appropriate, prohibit to the extent possible, the disturbance of wild fauna during the period of breeding, incubation, estivation or migration, as well as other periods of biological stress; <b>Article 11-1b-ii</b> ; extends this stipulation to Annex II species	<b>Art. 11/Rec. 8</b> ; regarding destruction or disturbance that is authorized, require that intentional take is done by permit only; permits should impose conditions on amounts, time and places, equipment and harvest methods; non-selective means of capture, or killing, hunting and fishing be monitored and regulated; closed hunting and fishing season be declared as necessary; activities that result in the disturbance of species be regulated and monitored
Turtle size/weight restrictions		
Time/Area closures		
Exemption/Provision for traditional/subsistence/indigenous possession and sale	<b>Article 14-1</b> ; provide exemptions as necessary to meet traditional subsistence and cultural needs of its local populations but shall not endanger the maintenance of areas protected under SPAW or cause the extinction or the substantial reduction particularly of migratory and endangered or threatened species	<b>Art. 14/Rec. 1</b> ; require consideration of traditional subsistence and cultural needs when formulating management and protective measures; make exemptions to management and protective measures when necessary, though subject to limitations in Article 14-1.
Exemption for scientific/educational/management purposes	<b>Article 11-2</b> ; may adopt exemptions for the protection of species in Annex II for scientific, educational or management purposes necessary to ensure the survival of species; exemptions should not jeopardize the species	<b>Art. 11/Rec. 6</b> ; require permits for taking Annex II species be limited to the exemptions specified in Article 11-2; permits be denied when they would jeopardize the species; monitoring and reporting are a condition of the permit

<b>Environmental Law</b>	<b>Article 10-1</b> ; regulate and prohibit, where appropriate, activities having an adverse affect on species' habitat; <b>Article 11-1a</b> ; extends this stipulation to Annex II species	<b>Art. 10/Rec. 1</b> ; identify and designate agency responsible for the ecosystem-based management of protected species; <b>Rec. 4</b> ; provide for the implementation of regional recovery programs; <b>Rec. 9</b> ; provide mechanisms to prevent threats to species from becoming threatened or endangered; <b>Rec. 11</b> ; authorize agency to promote and create partnerships with other national and municipal, state, or private agencies and organizations, as well as conservation and local communities, including users
Management Areas (e.g. Parks, multiple use areas)	<b>Article 10-1</b> ; to protect endangered and threatened species' habitat and ecosystems; <b>Article 10-1/2</b> ; prohibit all forms of destruction and disturbance <b>Article 11-1a</b> ; extends this stipulation to Annex II species	<b>Art. 11/Rec. 10</b> ; calls for <i>inter alia</i> integrated coastal management, designation of critical habitat, and zoning and land use planning
Species Identification (e.g. endangered species list)	<b>Article 10-1</b> ; identify endangered or threatened species	<b>Art. 10/Rec. 3</b> ; specify criteria for the identification of threatened and endangered species
Species research and conservation	<b>Article 10-1</b> ; accord protected status to such species; take appropriate actions to prevent species from becoming endangered or threatened	<b>Art. 10/Rec. 3</b> ; specify criteria for the identification of threatened and endangered species; <b>Rec. 7</b> ; provide for interim protective measures following the nomination/designation of species; <b>Rec. 8</b> ; require a designated agency to develop and implement species recovery, management, planning and other necessary measures; <b>Art. 11/Rec.7</b> ; authorize the designated agency to recommend, review and revise regulations for protected species, their habitats and associated ecosystem, including prohibitions or restrictions on destruction or disturbance, commercial trade, activities having adverse effects, application to all individuals and private and public entities
Pollution Controls	<b>Article 10-1</b> ; regulate and prohibit, where appropriate, activities having an adverse affect on species' habitat	
Distance from nesting beaches (e.g. buffer zones)	<b>Article 10-1 &amp; Article 11-1a</b> ; Party shall regulate and prohibit, where appropriate, activities having an adverse affect on endangered species and species' habitat as well as for those species listed in Annex II	<b>Art. 11/Rec. 10</b> ; calls for <i>inter alia</i> integrated coastal management, designation of critical habitat, and zoning and land use planning
Distance from shore (e.g. setbacks)	<b>Article 10-1</b> ; regulate and prohibit, where appropriate, activities having an adverse affect on species and their habitats; also to protect endangered and threatened species' habitat; <b>Article 11-1a</b> ; prohibit activities that have an adverse affect on Annex II species	<b>Art. 11/Rec.7</b> ; authorize the designated agency to recommend, review and revise regulations for protected species, their habitats and associated ecosystem, including prohibitions or restrictions on activities having adverse effects, application to all individuals and private and public entities
Restricted recreational activities (e.g. vehicular access on beaches, boating, diving)		
Time/Area closures	<b>Article 10-3b &amp; Article 11-1a</b> ; to protect endangered species and those listed on Annex II during nesting, breeding or other time of biological stress	
EIA	<b>Article 13</b> ; evaluate and take into consideration the possible direct	<b>Art. 11/Rec. 10</b> ; calls for <i>inter alia</i> integrated coastal management,

	and indirect impacts, including cumulative impacts, of proposed development projects	environmental impact assessments, designation of critical habitat, and zoning and land use planning; <b>Art. 13/Rec. 1.</b> Require EIAs be prepared for all projects and activities that would have a negative impact and significantly affect areas or species listed under SPAW; EIAs should be considered during the planning process so that the project/activity may be modified if necessary
CZM Plan	<b>Article 10-1;</b> Party shall regulate and prohibit, where appropriate, activities having an adverse affect on species' habitat; <b>Article 10-2;</b> to regulate and prohibit, where appropriate, all forms of destruction and disturbance; <b>Article 11;</b> extends this condition to Annex II species	<b>Art. 11/Rec.7;</b> authorize the designated agency to recommend, review and revise regulations for protected species, their habitats and associated ecosystem, including prohibitions or restrictions on destruction or disturbance, activities having adverse effects, application to all individuals and private and public entities; <b>Art. 11/Rec. 10;</b> calls for <i>inter alia</i> integrated coastal management, environmental impact assessments, designation of critical habitat, and zoning and land use planning
Lighting restrictions	<b>Article 10-1;</b> Party shall regulate and prohibit, where appropriate, activities having an adverse affect	
<b>Trade &amp; Commerce Law</b>	<b>Article 10-3a;</b> regulate if not prohibit the commercial trade in endangered or threatened species or their parts or products; <b>Article 10-7;</b> make provision for the repatriation of protected species exported illegally; <b>Article 11-1a;</b> prohibit commercial trade in Annex II species, their parts or products	<b>Art. 11/Rec.7;</b> authorize the designated agency to recommend, review and revise regulations for protected species, their habitats and associated ecosystem, including prohibitions or restrictions on commercial trade and application to all individuals and private and public entities; <b>Rec. 9;</b> require permits for the import, export or possession of protected species; prohibit trade and transport of unlawfully imported or acquired specimens
Export/Import Regulations (CITES)	<b>Article 10-3a;</b> regulate, if not prohibit the commercial trade of protected species; <b>Article 10-5;</b> coordinate actions through bilateral or multilateral actions; <b>Article 10-7;</b> make provision for the repatriation of protected species exported illegally; <b>Article 11-1a;</b> prohibit commercial trade in Annex II species, their parts or products	<b>Art. 10/Rec. 13;</b> require the repatriation of protected species exported illegally; <b>Art. 11/Rec. 1;</b> authorize designated agency to participate in bilateral, regional and global programmes for the protection and recovery of endangered and threatened species; <b>Rec. 3;</b> require the designated agency to implement the requirement and prohibitions of Article 11 for Annex-listed species; <b>Rec. 9;</b> require permits for the import, export or possession of protected species; prohibit trade and transport of unlawfully imported or acquired specimens
<b>Human and Public Rights</b>		
Consideration given to traditional/subsistence/indigenous practices (e.g. ILO No. 169)	<b>Article 14-1;</b> provide exemptions as necessary to meet traditional subsistence and cultural needs of its local populations but shall not endanger the maintenance of areas protected under SPAW or cause the extinction or the substantial reduction particularly of migratory and endangered or threatened species	<b>Art. 14/Rec. 1;</b> require consideration of traditional subsistence and cultural needs when formulating management and protective measures; make exemptions to management and protective measures when necessary, though subject to limitations in Article 14-1.
Right to "sustainable environment" (e.g. Constitution)	<b>Article 10-1;</b> regulate and prohibit, where appropriate, activities having an adverse affect on species' habitat and their ecosystems	

<p><b><i>International Cooperation/Party to other MEAs*</i></b></p>	<p><b>Article 10-5</b>; co-ordinate actions through bilateral or multilateral actions, including treaties for the protection and recovery of migratory species; <b>Art. 10-6</b>; consult with no-SPAW range states to co-ordinate efforts to manage and protect endangered species; <b>Article 11</b>; adopt co-operative measures to ensure the protection and recovery of species listed on Annexes I, II and III.</p>	<p><b>Art. 11/Rec. 1</b>; authorize designated agency to participate in bilateral, regional and global programmes for the protection and recovery of endangered and threatened species</p>
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