



Distr. LIMITED

UNEP(DEPI)/CAR WG.45/INF.19

29 April 2025

Original: ENGLISH

Eleventh Meeting of the Scientific and  
Technical Advisory Committee (STAC) of the  
Protocol Concerning Specially Protected Areas  
and Wildlife (SPA W) in the Wider Caribbean  
Region

Panama City, Panama  
30 June – 3 July 2025

## REPORT OF THE SPA W STAC EXEMPTION WORKING GROUP

*This meeting is being convened hybrid. Delegates are kindly requested to access all meeting documents electronically for download as necessary.*

## ACRONYMS

COP	Conference of the Parties
MPA	Marine Protected Area
NGO	Non-Governmental Organization
PA	Protected Area
RAC	Regional Activity Center
RAN	Regional Activity Network
SPAW	Specially Protected Areas and Wildlife
SPAW RAC	Regional Activity Centre for the Protocol Concerning Specially Protected Areas and Wildlife for the Wider Caribbean Region
STAC	Scientific and Technical Advisory Committee
UNEP	United Nations Environment Programme
WCR	Wider Caribbean Region
WG	Working Group

## **EXEMPTION WORKING GROUP**

### **Mandate**

The SPAW STAC Working group on Exemptions had the following tasks assigned by the STAC:

- **Mandatory tasks**

- Review exemptions reports submitted by Contracting Parties for pertinence and for recommendations to the STAC;

### **Key figures**

**Number of experts in the working group:** 17 (12 countries + 5 observers)

**Number of meetings of the working group:** 7

**Average number of experts per meeting:** 4

### **Main outcomes**

- Recommendations on the report submitted by Curaçao for a proposed coastal development at the Santa Martha coastal area
- Recommendations on the report submitted by the USA for 2022 - 2024
- Recommendations on the report submitted by Bonaire for the crocodilian case

### **Summary of recommendations of the working group for the STAC to:**

1. Establish an agenda item to discuss compliance issues under the Protocol
2. Provide a recommendation to extend the mandate of the Exemptions Working Group to revisit and prioritize those recommendations adopted by COP12
3. Consider whether additional information could be provided by Curacao for its exemption proposal to clarify under what Article 11(2) categorical justifications the activity will occur
4. Request a post-assessment report from Curacao regarding implementation of the reported activity, implementation of activities, and/or mitigation.
5. Encourage Parties to utilize the adopted reporting format for Article 11(2) where possible.
6. Encourage Parties, when utilizing a programmatic exemption report format, to provide information for each individual exemption identified in the report.
7. Encourage Parties to report their exemptions in advance of the activity occurring, where possible, to allow for constructive feedback from the STAC.

**Chair of the working group:** SPAW RAC

## INTRODUCTION

The first Meeting of the Contracting Parties (COP) of the SPAW Protocol, Havana (24-25 September 2001), in its Decision I.7, awarded “specific mandates to the STAC for the creation of *ad hoc* Working Groups to deal with those themes that, owing to their complexity or level of specialisation, thereby require [special attention].”

Four (4) such *ad hoc* working groups exist dedicated respectively to Protected Areas, to Species, to Exemptions and the most recent one, to Sargassum. Working Groups are established by the STAC and operate according to Terms of Reference.<sup>1</sup> The outcomes of each Working Group depend on its tasks assigned by the STAC.<sup>2</sup>

### Mandate and composition

Formally established in January 2024, the SPAW STAC Ad Hoc Working Group on Exemptions for this biennium has the following task assigned by had the following tasks assigned by the STAC and listed in the “2024-2025 Task and chairs of the SPAW STAC ad hoc Working Groups” document:

- *Review for exemptions reports submitted by Contracting Parties;*

The current exemptions working group is composed of 27 experts nominated from 9 countries, 11 nominated from observers (Appendix I).

## I. GENERAL FUNCTIONING OF THE WORKING GROUP

One introductory meeting with all the working groups (Species, Protected Areas, and Sargassum) was organised on February 28<sup>th</sup>, 2024. The meeting was aimed at introducing the new nominated experts to SPAW Protocol’s background, working groups’ rules and objectives, and to create momentum among the veteran experts to launch a good work dynamic. Twenty-two (22) participants attended.

The exemption working group then met in online meetings (7 meetings) and worked collaboratively to produce online deliverables (documents) on the SPAW-RAC google platform. Meetings were dedicated to discussing the tasks to be performed, the method to address them, identify and discuss potential points of disagreements, and validate the working group outputs. Most of the working group work was performed online, on shared documents that experts collaboratively drafted with SPAW RAC support and reviewed.

As planned by the 2024 working groups terms of reference, all working group emails were sent via the “teamwork” virtual platform and all documents were shared *via* a collective Google Drive folder. This allowed all members of the species working group to keep track of exchanges and productions, including newcomers. The work performed by the working group during this biennium 2024-2025 and the major outputs are presented in the following paragraphs.

---

<sup>1</sup> Terms of Reference of the SPAW STAC *ad hoc* Working Groups, as approved 11 January 2022.

<sup>2</sup> 2021-2022 Tasks and Chairs of the SPAW STAC *ad hoc* Working Groups, as approved 11 January 2022.

## II. WORK CONDUCTED DURING THE BIENNIUM 2023-2024

### 1. BACKGROUND ON EXEMPTIONS UNDER ARTICLE 11(2) OF THE SPAW PROTOCOL

According to the criteria and process to assess exemptions under Article 11(2) of the SPAW Protocol<sup>3</sup> adopted at COP9 in French Guiana, only three situations can trigger the possibility of an exemption to Article 11(1) prohibitions, including: *scientific purposes* necessary to ensure the survival of the species or prevent significant damage to forests or crops; *educational purposes* necessary to ensure the survival of the species or prevent significant damage to forests or crops; and *management purposes* necessary to ensure the survival of the species or prevent significant damage to forests or crops.

According to this guidance, ‘assessing the pertinence’ of an exemption is defined as assessing whether the exemption meets at least one of these three criteria specifically set forth in Article 11(2).

Through the course of the adoption of this guidance and the creation and endorsement of the format to report exemptions, the parties clarified that the Exemptions Working Group provides review and feedback of exemptions reports, but it is the STAC that assesses pertinence.

According to the endorsed guidance for assessing and reporting exemptions<sup>4</sup>, an exemption report should include details relating to:

- The prohibited activity, including: the species affected; type of activity to be undertaken; government department with responsibility for oversight, location of the activity; mitigation measures, etc. (Note: these and additional fields are reflected in the adopted reporting format);
- How the prohibited activity is likely to contribute to the species survival or prevention of significant damage to crops.
- Why the prohibited activity will not jeopardize the species or other listed species.
- Monitoring or evaluation protocols that will be used to assess the effect of the activity on species populations, including changes in range, numerical trend, or reproductive success.
- Article 13 (Environmental Impact Assessment) requirements, including:
  - a. detailed description of the current conservation status of the species
  - b. threat to species from prohibited activity, including impacts on population size, distribution and fragmentation, and cumulative impacts;
  - c. other threats to species in short and long term;
  - d. the potential for impacts on other species as a consequence of the prohibited activity

---

<sup>3</sup> UNEP(DEPI)/CAR IG.37/3 (2017). Guidance Document. Criteria and process to assess exemptions under Article 11(2) of the Specially Protected Areas and Wildlife Protocol (SPAW).

<sup>4</sup> Ibid.

The adopted Exemptions Guidance also calls for post-implementation reporting, where a Party is encouraged to prepare a report on the activity presented for an exemption. The guidance also notes the reporting burdens on Parties, and suggests that post-implementation reporting can utilize the adopted reporting format or can be combined with reporting undertaken under Article 19 of the Protocol and other reports required by the Cartagena Convention.

## 2. REVIEW OF CURACAO EXEMPTION REPORT

5 experts worked on the review of the Curacao report that was discussed during three meetings.

### 2.1 General comments on the report

The exemption report describes a proposal from a hotel developer to build a new hotel and restore the adjacent beach, including placing a revetment along part of the beach and breakwaters along the coast to protect the beach. The design of the revetment and breakwaters will result in damage to and removal of SPAW-listed coral species.

**As this beach enhancement proposal is primarily for commercial purposes, tourism, and recreation, it does not meet the necessary threshold criteria for scientific, education or management purposes necessary to ensure the survival of the species or prevent significant damage to forests or crops.**

In addition, the report does not consider cumulative impacts of the activity, such as the impact of future hotel operations on the surrounding environment, including not just habitat destruction from construction but also e.g. increased tourism and resulting water pollution from the future hotel, with possible impacts on marine species such as corals and sea turtles. Nor does it include any corresponding plans/requirements for wastewater management. This may be a reasonable opportunity to take advantage of calls within the Convention to encourage increased collaboration between the three protocols (SPAW, LBS and Oil Spills Protocols). It would be helpful for the exemptions report to include more about Curacao's environmental laws, such as any domestic laws regarding water pollution and endangered species.

However, the Working Group notes several positive aspects of the report, including:

- the preemptive and proactive reporting by Curacao, enabling feedback and advice before the beach enhancement, reconstruction and breakwater activity is conducted;
- the utilization of the adopted reporting format;
- the incorporation of environmental impact assessments and due diligence to ensure listed coral species are protected or relocated through strong mitigation and longer-term monitoring activities

Based on the assessment that the activity described is for primarily commercial purposes and does not meet the threshold criteria for an exemption, the working group did not provide detailed comments in sections 2.2-2.5 below.

### 2.2 Description and justification of the prohibited activity

Not applicable because the proposed activity does not meet the threshold criteria for an exemption.

### 2.3 Description of explanation of how the prohibited activity is likely to contribute to the species' survival or prevention of significant damage to forests or crops

Not applicable because the proposed activity does not meet the threshold criteria for an exemption.

**2.4 Description of explanation of why the prohibited activity will not jeopardize the species or, if relevant, other listed species**

Not applicable because the proposed activity does not meet the threshold criteria for an exemption.

**2.5 Description of explanation of the monitoring or evaluation protocol**

Not applicable because the proposed activity does not meet the threshold criteria for an exemption.

**2.6 Conclusion on Curacao report**

Based on the description provided in the exemption report, the activity proposed for exemption is for primarily commercial purposes, and does not meet the necessary threshold criteria for scientific, education or management purposes necessary to ensure the survival of the species or prevent significant damage to forests or crops. The Exemptions Working Group recommends to STAC11 that this proposal \*does not\* meet one of the three criteria under Article 11(2) to be deemed ‘pertinent’ to the Protocol for an exemption.

The Exemptions Working Group acknowledges several positive aspects of the Curacao report, including:

- preemptive and proactive reporting by Curacao, enabling feedback and advice before the beach enhancement, reconstruction and breakwater activity is conducted;
- utilization of the endorsed reporting format;
- incorporation of environmental impact assessments and due diligence to ensure listed coral species are protected or relocated through strong mitigation and longer-term monitoring activities.



### **3. REVIEW OF THE USA EXEMPTION REPORT**

Two experts worked on the review of the USA report that was discussed during one meeting.

#### **3.1 General comments on the report**

While the United States has chosen to submit a programmatic exemption report, which is consistent with past submissions and admissible under STAC and COP adopted recommendations pertaining to the reporting of exemptions, the U.S report would benefit from the inclusion of additional information to assist the STAC in making a determination of pertinence of not only the categories of exemptions presented, but the individual (permitted) exempted activities themselves. Additionally, the U.S. report is missing one category of permitting and exemptions relating to educational purposes (public display).

#### **3.2 Description and justification of the prohibited activity**

The U.S. report includes a description of permitting programs in the United States that fall under the category of exemptions for scientific research and management purposes. There appear to be no categories of permits/exemptions relating to education or public display. Because only links to these permits are provided, it is difficult to evaluate the pertinence of each activity that is linked in the report, or evaluate the quality of data upon which each exemption permit has been granted.

Twelve (12) Biological Opinions are linked within the report, and eight (8) Incidental take permits for private entities (including research institutions), along with one (1) pending, are also linked within the report.

While programmatic reports have been deemed acceptable reporting formats, the quality of information contained within the U.S. report is lacking specificity on each exempted activity. A brief summary of each permit, species impacted, and category of exemption would be helpful to facilitate review in the future.

Because of the difficulties associated with reviewing the U.S. report, we recommend that all Parties use the COP-endorsed reporting format to report their exemptions for review by the STAC.

#### **3.3 Description of explanation of how the prohibited activity is likely to contribute to the species' survival or prevention of significant damage to forests or crops**

Not provided

#### **3.4 Description of explanation of why the prohibited activity will not jeopardize the species or, if relevant, other listed species**

Not provided

#### **3.5 Description of explanation of the monitoring or evaluation protocol**

Not provided

### **3.6 Conclusion on the USA report**

Because of the difficulties associated with reviewing the U.S. report, it is not possible for the working group to assess the pertinence of the at least 20 activities exempted under the U.S.' permitting review and permissions process. While the categories outlined in the report align with the categories of acceptable activities that may be exempted from the protective provisions of the SPAW protocol, as submitted, we are unable to assess each individual permitted activity. We recommend that all Parties use the COP-endorsed reporting format to report their exemptions for review by the STAC.

## **4. REVIEW OF BONAIRE EXEMPTION REPORT**

Four experts worked on the review of the Bonaire report that was discussed during one meeting.

### **4.1 General comments on the report**

The Exemptions Working Group commends Bonaire for submitting an exemptions report for this activity. The report is concise and adequate to describe the nature of the exemption and justification for the removal of an American crocodile (*Crocodylus acutus*) in Bonaire.

### **4.2 Description and justification of the prohibited activity**

The taking (including disturbance or harassment) of a SPAW-listed species is prohibited unless undertaken in support of specific categories of exempted activities, including for scientific, education, and management purposes necessary to ensure the survival of the species or to prevent significant damage to forests or crops. We note there is ambiguity in how the Article 11(2) exemption would apply in this situation, in which a presumably non-native SPAW-listed species is taken in order to protect native species, including other SPAW-listed species, as well as sensitive ecological areas and human safety. Based upon the information provided, the removal of a non-native, SPAW-listed American crocodile (*Crocodylus acutus*) does not appear to be pertinent with regard to the exemptions described in Article 11(2). However, it does appear to be justified as a management activity to protect both native species and the general public who recreates in this protected lagoon area. It may be more appropriate to consider this to be a management action under Article 12, which requires Parties to take all appropriate measures to prohibit intentional or accidental introduction of non-indigenous species to the wild that may cause harmful impacts to the natural flora, fauna, or other features of the Wider Caribbean Region.

### **4.3 Description of explanation of how the prohibited activity is likely to contribute to the species' survival or prevention of significant damage to forests or crops**

The activity is not likely to contribute to the survival of *Crocodylus acutus* and the report does not describe any potential damage specifically to forests or crops. However, the removal of an individual of a non-native and 'out of habitat' species may have contributed to the survival of other SPAW-listed species, as well as the protection of native species and biologically important areas for species with economic, ecological, and recreational value.

### **4.4 Description of explanation of why the prohibited activity will not jeopardize the species or, if relevant, other listed species**

The removal of an individual of a non-native and 'out of habitat' species will not jeopardize the species in a significant part of its range. If it is not an established species in Bonaire, this activity would not have conservation consequences.

#### **4.5 Description of explanation of the monitoring or evaluation protocol**

No monitoring or evaluation protocol description was included in the report, as the animal has been removed and no further monitoring will be conducted. However, while there are no stipulations within the SPAW Protocol specifically relating to animal welfare or wellbeing, further consultation with experts regarding the method of handling and staff present during the relocation would provide the opportunity to potentially improve animal handling and relocation techniques in the future. For example, the presence of veterinarians during the capture, binding, and relocation of the animal may have improved outcomes for the animal. In addition, alternative removal methodologies may be available, as the deployment of nets, even if monitored regularly, can contribute to a high probability of entanglement, and potentially drowning and/or injury of the animal.

#### **4.6 Conclusion on the Bonaire report**

Based upon the information provided, there is ambiguity as to whether the action is pertinent under Article 11(2). However, the management action appears to be justified, did not have conservation consequences for the species, and may have contributed to the survival of other SPAW-listed species. It may be more appropriate to consider this to be an action under Article 12, which requires SPAW Parties to take all appropriate measures to regulate or prohibit intentional or accidental introduction of non-indigenous or genetically altered species to the wild that may cause harmful impacts to the natural flora, fauna or other features of the Wider Caribbean Region.

## V. GENERAL CONCLUSIONS AND REMARKS

The exemption Working Group thanks Curacao, Bonaire and the U.S.A for submitting exemption reports. In addition, the group commends Curacao for submitting its report early for feedback in advance of conducting the proposed activity, and Curacao and Bonaire for utilizing the endorsed SPAW exemptions reporting format. To date only the Kingdom of the Netherlands and the U.S.A have submitted formatted Exemptions Reports.<sup>5</sup>

‘Assessing the pertinence’ of an exemption is defined as assessing whether the exemption meets any of the three criteria specifically set forth in Article 11(2). As specified by Article 11(2), only three situations can trigger the possibility of a pertinent exemption to Article 11(1) prohibitions, including: *scientific purposes* necessary to ensure the survival of the species or prevent significant damage to forests or crops; *educational purposes* necessary to ensure the survival of the species or prevent significant damage to forests or crops; and *management purposes* necessary to ensure the survival of the species or prevent significant damage to forests or crops.

To date, the STAC has never made a formal determination of pertinence for the few exemption reports that have been provided to the STAC and considered by the COP. Rather, the STAC and COPs have reviewed the reports submitted by Parties (some using the reporting format, some not), and assessed the adequacy of the information in these reports. Therefore, there are two aspects of exemption proposals or reports that require attention: 1) adequacy of the information provided in the report; and 2) whether this information justifies an exemption under one of the required categories in Article 11(2), including for scientific, educational or management purposes (i.e., is it pertinent?).

What has not been clarified by the exemptions process to date is what a determination of pertinence or non-pertinence might mean to a Party, and what process a determination of non-pertinence might trigger for both the STAC and the Party. If an assessment of non-pertinence is determined by the STAC, does this mean the Party is not in compliance with the Protocol should it move forward with the proposed activity without an exemption?

The Exemptions Guidance document notes that an assessment may also need to consider whether the activity is within the scope of the Protocol in general, in addition to its pertinence to the three identified criteria for scientific, educational or management purposes.

The Exemptions Guidance document notes that an exemption report does not have to be preemptively reported for permissions or review by the STAC in advance of the activity occurring, but can be submitted for pertinence after the activity has occurred. However, the guidance emphasizes the importance of early reporting to obtain feedback, guidance, and technical support from Parties in advance of the commencement of activities proposed for an exemption to enhance collaborative efforts to protect species. If the STAC determines that additional information is necessary before it can complete its assessment, it may ask the Party, through the Secretariat, to provide additional information.

---

<sup>5</sup> Note that The Bahamas informed STAC6 (Cartagena, 2014) of an exemption under Article 11(2) for two species, the Bahama Parrot (*Amazona leucocephala*) and Bahamian Rock Iguana (*Cyclura cyclura*) for display on the property of Baha Mar for educational purposes. Both this report, and the Netherlands Antilles dolphin exemption report in 2001 and 2007, preceded the existence of a reporting format. See paragraph 111, Agenda Item 9. In UNEP(DEPI)/CARWG.36/8

## **VI. EXEMPTION WORKING GROUP RECOMMENDATIONS**

As a result of its deliberations, and in consideration of the Exemptions Guidance document, the Exemptions Working Group recommends that the STAC:

8. Establish an agenda item to discuss compliance issues under the Protocol, including reporting and other implementation obligations under the Protocol. This agenda item would include discussions regarding what kind of guidance or support the STAC should/could provide to Parties whose Exemption Reports are deemed 'not pertinent' by the STAC, and to clarify what course of action Parties might take after exemption reports are assessed for pertinence.
9. Provide a recommendation to extend the mandate of the Exemptions Working Group to revisit and prioritize those recommendations adopted by COP12 regarding possible actions that can be undertaken by the Secretariat to facilitate the reporting of exemptions to the Protocol and as outlined in UNEP(DEPI)/CAR WG.43/INF.35.
10. Consider whether additional information could be provided by Curacao that would provide any justification for the proposed activity under the three categories of pertinence, and for reassessment by the Exemptions Working Group and subsequent STAC12. If additional information can be provided by Curacao, the STAC could extend additional review of the proposed activity intersessionally and with the assistance of the Exemptions Working Group.
11. Request a post-assessment report from Curacao regarding how it will incorporate a decision of non-pertinence into its planning and implementation of the proposed activity (beach enhancement project) for presentation to COP13. As noted in the Exemptions Guidance document, post-implementation reporting is encouraged for all Parties who submit an exemption report for a prohibited activity.
12. Encourage Parties to utilize the adopted reporting format for Article 11(2) where possible.
13. Encourage Parties, when utilizing a programmatic exemption report format, to provide information for each exemption identified in the report.
14. Encourage Parties to report their exemptions in advance of the activity occurring, where possible, to allow for constructive feedback from the STAC.

# **APPENDIX I: LIST OF SPAW EXEMPTION WORKING GROUP EXPERTS**

<b>Name of experts</b>	<b>Affiliation</b>
Julia Horrocks	Barbados
Andrea Polanco	Colombia
Milena Benavides	Colombia
Dannerys Beatriz Baez Taveras	Dominican Republic
Bienvenido Marchena	Dominican Republic
Marcos Casilla Mariñez	Dominican Republic
Mr. Iván Figueroa Reyes	Cuba
Mrs. Indra Contrera Caballero	Cuba
Océane Beaufort	France
Sietske van der Wal	Netherlands
Anna Venema	Netherlands
Marino Eugenio Abrego	Panama
Dra Lissette Trejos	Panama
Kristen Koyama	USA
Angela Somma	USA
Betzabey Motta	Venezuela
Susan Millward	AWI
Monica Borobia-Hill	Monitor Caribbean
Courtney Vail	Lighthousekeepers
Jeffrey Bernus	CCS
Jaime Bolaños-Jiménez	Caribbean-Wide Orca Project (CWOP)
Lindsay Porter	IWC
Roxanne Francisca	DCNA
Olga Koubrak	SeaLife Law
Sonja Fordham	Shark Advocates International
Myles Philipps	WECAFC
Nuno Barros	Manta Trust