

LEGAL ASSESSMENT OF AUTORSHIP AND INTELLECTUAL PROPERTY RIGHTS



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At its **Fifteenth Meeting (Monaco, hybrid format, 22–23 November 2023)**, the ACCOBAMS Bureau requested the Secretariat to assign **Digital Object Identifiers (DOIs)** to all relevant ACCOBAMS documents. This process aims to facilitate easier access to key documents in force, as well as to the Decisions of the Parties.

To streamline this process, a consultant, Ms. Pauline GAUFFIER, was engaged and worked to implement the DOI system on the ACCOBAMS website to all Rules of Procedure, Guidelines, and Best Practices in force.

Such developments were presented during the **Seventeenth Meeting of the ACCOBAMS Bureau (13-14 February 2025, Hybrid, Monaco)**.

During the **Sixth Meeting of the ACCOBAMS Extended Bureau (Nice, 23-24 April 2025)**, the ACCOBAMS Legal Expert, Professor Tullio Scovazzi and Associate Professor Ilaria Tani presented a document titled *“Legal Assessment of Authorship and Intellectual Property Rights”* including further analysis of different citation options for various types of documents, including a legal assessment of authorship and intellectual property rights for documents prepared by contracted experts.

THE QUESTION OF ACCOBAMS DOCUMENTS

Legal analysis by Tullio Scovazzi¹ and Ilaria Tani²

1. Terms of Reference

The legal consultants were asked by the ACCOBAMS Bureau to make an analysis on:

- a) the citation of ACCOBAMS documents depending on the type (resolutions, guidelines, reports, etc.),
- b) whether the documents, when prepared by experts, should be attributed to ACCOBAMS, the ACCOBAMS Secretariat or the experts themselves,
- c) the implications in terms of intellectual property.

The three questions have a different character. The first is of technical nature, the others have legal implications.

2. The Citation of ACCOBAMS Documents

The citation of documents of international organizations or secretariats of multilateral agreements should adhere to a structured and consistent approach to ensure their speedy identification. Given the diverse legal, scientific and policy-oriented nature of these documents, as well as the diversity of organs adopting them, it is essential to apply citation modalities that reflect the proper source and formal status of each document. This will also facilitate the appropriate use of such documents in policy development, legal contexts and research. Once an internal citation guideline is established, this must be followed to maintain coherence across all official publications.

While the ACCOBAMS Secretariat already follows a coherent citation style, the following considerations may be put forward.

First, citations should follow a uniform format that includes key elements, such as, first and foremost, reference to the ACCOBAMS framework, the specific organ adopting the document, the meeting in which the document was adopted (if applicable, as in the case of the Meeting of Parties, the Scientific Committee, the Follow Up Committee and the Bureau), the year of adoption and the reference number (if applicable, as in the case of resolutions and recommendations). References must clearly indicate the type of document (resolution, recommendation, report, guideline, best practice, etc.).

Second, any type of document, when circulated during meetings with the view to its subsequent adoption, should be circulated as a “working document”; any type of document that is already finalized and is being circulated only in support of the decision-making process or for mere informational purposes should be named “information document”. Once adopted, all working documents should be given their official abbreviation as finalized documents; the information documents should return to their original abbreviation or be annexed to the adopted documents.

Third, considering that the working languages of the ACCOBAMS Secretariat are two, while abbreviations should remain in English, citations of documents which have only one linguistic version shall reflect the original language of the document.

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² Associate professor of international law in the University of Milan-Bicocca.

The following suggested abbreviations identify the above-mentioned key elements for each document, based on a comparison with the editorial practice of the United Nations Secretariat and documents adopted within the framework of the Convention on the Conservation of Migratory Species of Wild Animals.

Resolutions of the Meeting of Parties

ACCOBAMS/MOP[number of the meeting]/[year]/RES[number of the resolution]

Example: ACCOBAMS/MOP6/2016/RES6.23

Recommendations of the Scientific Committee

ACCOBAMS/SC[number of the meeting]/[year]/REC[number of the recommendation]

Example: ACCOBAMS/SC16/2024/REC16.1

Recommendations of the Follow Up Committee

ACCOBAMS/FC[number of the meeting]/[year]/REC...

Please note that it would be advisable that recommendations adopted by the Follow Up Committee be numbered to facilitate their identification and status.

Reports of the Meeting of Parties

ACCOBAMS/MOP[number of the meeting]/[year]/REPORT

Example: ACCOBAMS/MOP6/2016/REPORT

Reports of the Bureau

ACCOBAMS/BU[number of the meeting]/[year]/REPORT

Example: ACCOBAMS/BU17/2025/REPORT

Reports of the Scientific Committee

ACCOBAMS/SC[number of the meeting]/[year]/REPORT

Example: ACCOBAMS/SC16/2024/REPORT

Reports of the Follow Up Committee

ACCOBAMS/FC[number of the meeting]/[year]/REPORT

Example: ACCOBAMS/FC2/2018/REPORT

As regards to the **Rules of Procedure** of the Meeting of Parties, the Scientific Committee, the Follow Up Committee, and the Bureau, it is noted that they are consistently cited as Resolutions of the Meeting of Parties, which adopts the rules of procedure for each organ. This practice shall be continued, provided that it is consistent.

The following suggestions take into consideration the thematic nature of guidelines, best practices and experts' reports and the advisability that these documents be speedily identified through a proper keyword for the purpose of their use in research, policy development and legal contexts.

Guidelines

ACCOBAMS/[year]/GL/[keyword]

Example: ACCOBAMS/2019/GL/Noise

Best Practices

ACCOBAMS/[year]/BP/[keyword]

Examples: ACCOBAMS/2023/BP/PollutionGenetics; ACCOBAMS/2019/BP/PostMortem;

ACCOBAMS/2023/BP/ChemicalPollution

Experts Reports

ACCOBAMS/[year]/EXP/[keyword]

Example: ACCOBAMS/2017/EXP/Dolphinaria; ACCOBAMS/2021/EXP/Semi-enclosedFacilities

Working Documents

During the relevant meeting or before formal adoption, working documents can be usefully referred to as [name of the organ][number of meeting].Doc[number of document]

Example: MOP8/Doc01; SC16/Doc02; FC3/Doc03 ...

Information Documents

During the relevant meetings or before formal adoption, information documents can be usefully referred to as [name of the organ][number of meeting].Inf[number of document]

Example: MOP8/Inf01; SC16/Inf02; FC3/Inf03 ...

Revisions

If a revised working document or information document is circulated, the abbreviations Rev1, Rev2, etc. can be added at the end of the abbreviation.

Example: MOP8/Inf01/Rev1

Annexes

Any information document eventually annexed to an adopted document will assume the same legal status and form an integral part of the latter. It can be cited as [name of the adopted document] Annex1, Annex2, ...

Example: ACCOBAMS/MOP5/2013/RES5.4/Annex1

Other publications that may be downloaded from the ACCOBAMS website, such as briefs and conservation status reports, should be quoted including their complete authorship, editorship, title, place, and year of publication.

However, it may be open to discussion how far this interpretative trend should go, moving from the assumption that no subsequent practice in the application of a treaty can go as far as to deny the very object and purpose of one of its provisions.

Finally, as regards the content of the document, it is strongly suggested that, when acronyms are used by ACCOBAMS organs to refer to various documents, instruments, initiatives, working groups, etc., their full names be spelled out between round brackets the first time that they are quoted in the document. The full citation must report the complete name and comply with the lower-case and upper-case letters of the official referenced name.

3. The Attribution of ACCOBAMS Documents and the Implications in Terms of Intellectual Property Rights

According to the general principles on copyright common to most national regimes on intellectual property rights and to the practice generally followed by international organizations and multilateral agreements secretariats, a document (study, report, legal advice etc.) prepared by an expert following a contract with the organization or secretariat is to be attributed to the expert, as the author of the document. The expert is responsible for the content of the document. Usually, the expert also states in the contract that he or she performs the task in his or her personal capacity and does not represent any government, authority or organization.

By concluding the contract, in exchange for a remuneration, the expert cedes to the organization or secretariat the right to reproduce and publish the document – on which the name and affiliation of the author must be indicated, unless otherwise agreed – in whatever form, language and country and the right to receive all the financial benefits arising from the publication. Sometimes it is agreed that the organization or secretariat shall not unreasonably refuse to consent the exploitation of the document by the author for the advancement of his or her personal career. Provisions on confidentiality of the document may also be agreed, where the circumstances so require.

Usually, the relevant contracts between the ACCOBAMS Secretariat and experts provide that the contract shall be regulated by the laws of the Principality of Monaco and that any dispute shall be settled by the courts of the same Principality. The Monegasque legislation on intellectual property rights is *Loi n° 491 du 24 novembre 1948 sur la protection des œuvres littéraires et artistiques*³. To this legislation reference must be made for all the questions not specifically regulated in the contract (for example, the duration of the copyright or the remedies against violations of copyright).

By endorsing in whatever form the document (for example, by distributing it as an official document or by putting the relevant logo on it), the organization or the secretariat shares with the expert the responsibility for the document. This is the reason why it is frequent to read on this kind of documents so-called disclaimer clauses⁴. For example, on a document prepared by a team of experts and issued by the United Nations the following disclaimer has been written: “The designations employed, including geographical names, and the presentation of the materials in the present publication, including the citations, maps and bibliography, do not imply the expression of any opinion whatsoever on the part of the United Nations concerning the names and legal status of any country, territory, city or area or of its authorities or concerning the delimitation of its frontiers or boundaries and do not imply official endorsement or acceptance by the United Nations. Information contained in the present publication emanating from actions and decisions taken by States does not imply official endorsement, acceptance or recognition by the United Nations of such actions and decisions, and such information is included without prejudice to the position of any State Member of the United Nations”⁵.

Coming to the specific case of ACCOBAMS documents, it is to be excluded that they can be attributed to ACCOBAMS, which in itself is an agreement and has no legal personality. It is also to be excluded that they can be attributed to single ACCOBAMS Parties or to the whole of the Parties, as the Parties do not participate in any way in the elaboration and endorsement of the documents. Those to whom the documents can be attributed are the author and the ACCOBAMS Secretariat.

However, the conclusion above could be different in the case of documents officially annexed to resolutions adopted by the Meeting of the Parties. Under certain circumstances, they could also be attributed to those ACCOBAMS Parties that have voted in favour of their adoption or have contributed to the *consensus* reached at the time of their adoption. Much will depend on the wording used in the relevant resolution. For instance, “approves” or “endorses” seem different from “takes note”. Ambiguous formulations are also available⁶.

³ *Journal de Monaco* of 29 November 1948.

⁴ In fact, many notes of protest issued by States are due to boundaries on maps reproduced in official publications or to geographical names deemed to be inappropriate.

⁵ *The Second World Oceans Assessment*, New York, 2001.

⁶ What to say about “makes reference”?