

## **Governance synthesis report on institutional strengthening**

*In response to Decision SC62-17 of the Standing Committee of the Convention on Wetlands*

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by

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This report has been prepared in response to the terms of reference issued by the ISWG to the Convention on Wetlands on the basis of Decision SC62-17. By this decision the Standing Committee established a working group to lead the process to achieve organizational robustness to support the implementation of the Convention, including through the preparation of a draft resolution for the consideration of COP15.

This report reflects the views of the author only. It does not necessarily reflect the view of the Institutional Strengthening Working Group or its members, nor the views of any Contracting Party to the Convention.

# Abbreviations

ALCP	Swiss Agreement on the Free Movements of Persons
Basel Convention	Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal
BRS Conventions	Basel, Rotterdam and Stockholm conventions
CBD	Convention on Biological Diversity
CITES	Convention on International Trade in Endangered Species of Wild Fauna and Flora
CMS	Convention on Migratory Species of Wild Animals
COP	Conference of the Parties / Conference of the Contracting Parties
CRW	Conference for the Regulation of Whaling
CSD	Commission on Sustainable Development
DAPF 2016	Delegation of Authority Policy and Framework for the management and administration of Multilateral Environmental Agreements secretariats (UNEP, 2016)
DG	Director General
DoA	Delegation of Authority
ECOSOC	Economic and Social Council (of the United Nations)
ED	Executive Director
ES	Executive Secretary
EU	European Union
EWG	Effectiveness Working Group (Convention on Wetlands)
e.g.	For example
FAO	Food and Agriculture Organization of the United Nations

FN	Footnote
HLPF	High-level Political Forum on Sustainable Development
HQ	Headquarters
HQA	Headquarters Agreement
HR	Human Resources
ICJ	International Court of Justice
i.e.	That is
IGO	Intergovernmental Organization
ILC	International Law Commission
INC	Intergovernmental Negotiating Committee
INC	Intergovernmental Oceanographic Commission
IPBES	Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services
IPCC	Intergovernmental Panel on Climate Change
ISA	International Seabed Authority
IPCC	Intergovernmental Panel on Climate Change
IUCN	International Union for Conservation of Nature and Natural Resources
IPSAS	International Public Sector Accounting Standards
ISWG	Working Group on Institutional Strengthening
IWC	International Whaling Commission
LoA	Letter of Agreement
LT	Long-term
MEA	Multilateral Environmental Agreement
MT	Mid-term
Montreal Protocol	Montreal Protocol to the Vienna Convention for the Protection of the Ozone Layer
MOP	Meetings of the Parties

MoU	Memorandum of Understanding
NGO	Non-governmental organization
no / nos	number / numbers
OLA	Office of Legal Affairs (of the United Nations)
Para / paras	paragraph / paragraphs
SC	Standing Committee
SDG(s)	Sustainable Development Goals
SIDS	Small Island Developing States
SG	Secretary General
ST	Short-term
Stockholm Convention	Stockholm Convention on Persistent Organic Pollutants
UK	United Kingdom (of Great Britain and Northern Ireland)
UN	United Nations
UNCCD	United Nations Convention to Combat Desertification
UNCED	United Nations Conference on Environment and Development
UNCLOS	United Nations Convention on the Law of the Sea
UNDP	United Nation Development Programme
UNEA	United Nations Environment Assembly
UNECE	United Nations Economic Commission for Europe
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFCCC	United Nations Framework Convention on Climate Change
UNGA	United Nations General Assembly
UNOG	United Nations Office in Geneva

UNON	United Nations Office at Nairobi
USA	United States of America
Convention on Wetlands	Convention on Wetlands of International Importance, especially as Waterfowl Habitat
WGAR	Working Group on Administrative Reform
WH Convention	World Heritage Convention
WSSD	World Summit on Sustainable Development
WTO	World Trade Organization



## Table of contents

<b>ABBREVIATIONS.....</b>	<b>II</b>
<b>EXECUTIVE SUMMARY .....</b>	<b>1</b>
<b>PART I. INTRODUCTION AND BACKGROUND .....</b>	<b>2</b>
1. TORs OBJECTIVES .....	2
2. METHODOLOGY & STRUCTURE .....	3
<b>PART II : INSTITUTIONAL CONTEXT .....</b>	<b>4</b>
1. ARTICLE 8.1 & RES. ON SECRETARIAT MATTERS .....	4
2. IUCN ADMINISTRATIVE STATUS.....	5
3 IUCN-CONVENTION ON WETLANDS RELATIONSHIP.....	7
4. HOSTING ARRANGEMENTS UNDER OTHER MEAS .....	8
5. LEGAL STATUS OF THE SECRETARIAT .....	9
6. CONCLUSION .....	11
<b>PART III CHRONOLOGY OF PREVIOUS EFFORTS ON INSTITUTIONAL STRENGTHENING OF THE SECRETARIAT.....</b>	<b>12</b>
<b>PART IV PROCESS .....</b>	<b>13</b>
A. PRELIMINARY DISCUSSIONS ON THE STATUS OF THE SECRETARIAT .....	13
B. WG ON ADMINISTRATIVE REFORM (2009-2012) .....	13
C. OBSERVER STATUS WORKING GROUP (2019-2021) .....	15
D. WORKING GROUP ON INSTITUTIONAL STRENGTHENING (2023-2025) .....	16
<b>PART. V : CHALLENGES AND OPPORTUNITIES .....</b>	<b>17</b>
A. CHRONOLOGICAL LIST OF CHALLENGES .....	17
A1. WG ON ADMINISTRATIVE REFORM .....	17
A2. OSWG, SC62 Com. 2 .....	18
A3. SC62 Doc11 .....	19
B. SYNTHESIS OF CHALLENGES AND OPPORTUNITIES .....	19
B1 ADMINISTRATIVE ARRANGEMENTS.....	21
B2. GOVERNANCE .....	23
B3. LEADERSHIP.....	24
B4. FROM HR COMPETITIVENESS TO HR INDEPENDENCY .....	24
B5. HIGH-LEVEL REPRESENTATION AND VISIBILITY .....	26
B6. CONCLUSION ON REMAINING CHALLENGES.....	27
<b>PART VI : GOALS AND OBJECTIVES.....</b>	<b>27</b>
A. GOAL ISWG .....	27
B. OBJECTIVES .....	27
<b>PART VII : SOLUTIONS OR OPTIONS.....</b>	<b>29</b>
A. METHODOLOGY .....	29

A1. INITIAL 3 OPTIONS (WGAR) .....	30
A2. OPTIONS A1-3, B1-2, C1-3 (OSWG).....	32
A3. OPTIONS SC62 DOC 11 .....	35
A4. OTHER OPTIONS PERTAINING TO THE LEGAL STATUS / PERSONALITY OF THE SECRETARIAT.....	38
<b>CONCLUSION AND WAY FORWARD .....</b>	<b>39</b>
<b>ANNEXES.....</b>	<b>40</b>



# Executive summary

The **Institutional Strengthening Working Group (ISWG)** was established by the 62<sup>nd</sup> meeting of the Standing Committee (SC) to the Convention on Wetlands of International Importance, especially as Waterfowl Habitat (Convention on Wetlands). The Convention's decision-making body, the Conference of the Parties (COP), is assisted in its tasks by a number of subsidiary bodies and groups, including a SC, a Secretariat, and ad-hoc working groups. This is the usual framework in the network of existing Multilateral Environmental Agreements (MEAs). The ISWG was asked to produce an options paper to guide the development of a draft resolution on institutional strengthening for consideration by the SC. This draft resolution would address the needs of the Secretariat of the Convention on Wetlands to achieve organizational robustness to support the implementation of the Convention. The present report aims to facilitate the task of the ISWG by providing a Governance synthesis report on the institutional strengthening of the Secretariat of the Convention on Wetlands.

Among all MEAs, the Convention on Wetlands is unique in that it is **hosted by International Union for the Conservation of Nature (IUCN)** which enjoys special status both under international law and the law of its host country, Switzerland. This has an impact on several aspects of the life of its Secretariat, particularly in comparison with other MEAs affiliated to the UN. These hosting arrangements were defined in the Convention text, on an interim basis, and were confirmed by Resolution XI.1, after work had been undertaken on the various possible hosting arrangements.

Given the interim characters of the hosting arrangements in the Convention's text, **the Contracting Parties (CPs) worked to really understand the challenges, their root cause and potential solutions for strengthened institutional arrangements.** This work began quite early in the 80's and three working groups were constituted to address this wide-ranging issue. The first identified and discussed a list of challenges, the second focused on obtaining permanent observer status with the UN General Assembly to raise the visibility of the Convention. The third was formed in 2023 and is expected to conclude its work by 2025 with a draft resolution for submission to the COP.

This report is organized in **several parts, following two main axes**: an introductory section to set the scene (Parts I-IV) and a more substantial section looking at substantive developments on challenges and options (Parts V-VI). After a brief introduction (Part I), Part II sets out the general institutional context of the Convention, while Part III presents a chronology of the events that paved the road for the institutional strengthening of the Secretariat. Part IV summarizes the work of each of the working group that has addressed this issue from 2008 to the present day.

The second axis of the report (Parts V, VI, VII and Annexes) forms the backbone of the elements needed by the ISWG to prepare its options report. It **draws extensively on the minutes of the previous working groups, on SCs reports and on the independent legal and financial analyses commissioned by the SC in 2008, 2020, and 2022.** The recent Secretariat report (SC 62 Doc. 11), prepared following two meetings with CPs in 2023, also provides substantial information on the proposed options. The Annexes of this report provide a synthetic overview on various options proposed and the associated challenges.

Part V presents **a list of issues** that were identified at the outset and which have evolved over time, pertaining to the status of the Secretariat staff and their (lack of) privileges and immunities, the competitiveness of working conditions between IUCN and the UN, the visibility of the Convention on Wetlands at high-level events, UN fora and other related events, and the domestic and international capacity of the Secretariat. More recently a couple of additional challenges were identified such as the management of outstanding arrears and difficulties in project management, the need for a new

procedure to establish the process for recruiting a new SG. The next part (Part VI), in reverse chronological order, lists and synthesizes the objectives that the various groups of CPs working on institutional strengthening were determined to achieve, around the overall objective of achieving organizational robustness. These objectives are oriented towards reaching independence; improving current operations of the Secretariat; ensuring proper implementation of the Convention; raising the visibility of the Convention; raising synergies with other MEAs and the UN.

Part VII is dedicated to a presentation of all the **options** that have been put forward to address the various challenges. Three sets of options were presented, with an initial set of three options in 2008, proposing three different hosting modalities: an improved status quo, a shift towards the building of an intergovernmental organization, or UN-affiliated hosting modalities. These options were refined in 2020 and supplemented by a number of solutions designed to enhance the Convention's visibility – those would need some update as the context of the HLPF and of the UNGA have changed. Finally, in 2023, further solutions were proposed to meet a number of updated challenges, which are more short-term and less oriented towards a complete change in the Secretariat's administrative arrangements. For instance it was suggested to interview staff members of the Secretariat to have a complete overview of the challenges they face; to prepare comparison tables between IUCN and UN staffing conditions; to discuss with IUCN to properly understand how to face the challenges faced by Secretariat staff and how the competitiveness of contracts can be enhanced; to update current administrative arrangements and prepare a draft resolution; to involve other WGs under the Convention; to promote a HL meeting to raise the visibility of the Convention.

The **legal status of the Secretariat** has been the topic of discussion throughout the whole process until today. The ability of the Secretariat to conclude contracts at the domestic level and international agreements has been questioned, affirmed, questioned again, and needs now to be clarified both through a discussion with the IUCN and a COP resolution. It has also to be determined whether the Secretariat staff can be granted privileges and immunities to be able to travel smoothly and without difference in treatment between staff members. This could be investigated through a discussion with the host country.

## Part I. Introduction and background

### 1. ToRs objectives

2. The Convention on Wetlands of International Importance, especially as Waterfowl Habitat (Convention on Wetlands) was signed on February 2<sup>nd</sup>, 1971 in Ramsar, Iran, and to date 172 States are Parties to the Convention<sup>1</sup>.

3. Being an early Multilateral Environmental Agreement (MEA), the Convention on Wetlands has navigated through the evolving landscape of MEA governance over the past decades, and as such it had to adapt to the many evolutions of MEA governance. The need for institutional strengthening has been a recurring theme among the Contracting Parties (CPs), prompting extensive discussions and the preparation of four consultancy reports to provide insights for decision-making. However, to date, no substantial decision has been taken on the matter despite extensive work undertaken, and the challenges and options identified throughout this process have evolved. Recognizing the substantial and extensive nature of the information available on this subject, CPs expressed the opinion that a

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<sup>1</sup> See UN Treaty collection for more details on status of ratification: <https://treaties.un.org/pages/showDetails.aspx?objid=0800000280104c20>

synthesis report consolidating information and findings from prior research and reports would be beneficial. Such a comprehensive document was deemed useful to streamline future discussions and facilitate informed decision-making processes related to the Convention.

4. The consultancy's terms of reference outline its primary goal as the preparation of a synthesis report *"that brings together in one document information and findings from work undertaken and reports prepared on the matter of **institutional strengthening of the Secretariat of the Convention on Wetlands**, from COP-2 (1984) through to the 62<sup>nd</sup> meeting of the Standing Committee."* Contracting Parties to the Convention seek to ensure that the Secretariat achieves organizational robustness with the goal of improving effectiveness in assisting CPs to deliver the aims of the Convention.

5. A list of what should be included in the report was also provided by the terms of reference, as follows:

- A synthesis of the process followed to date (a chronology of events)
- A synthesis of the goals and objectives for strengthening the Secretariat
- A synthesis of the key challenges and opportunities to achieve organizational robustness of the Convention and strengthen the Secretariat. The root cause for those challenges and the limiting factors for seizing opportunities;
- The solutions or options proposed for addressing each challenge and the limiting factors, if these solutions have been implemented, and
- A summary of the remaining challenges and opportunities.

6. The terms of references further required that limitations, opportunities and options should be grouped under the following key themes: administrative arrangements, governance, leadership, human resources independency, high-level political engagement, and the Convention's visibility objectives.

## 2. Methodology & structure

7. The methodology employed for this report commenced with the compilation of all relevant documents on a SharePoint portal, a task carried out by the Secretariat. Subsequently, the Consultant was entrusted with the responsibility of consolidating the wealth of prior work and synthesizing key issues in a manner conducive to inform decision-making in the future.

8. Throughout this process, the Consultant received guidance from the Institutional Strengthening Working Group (ISWG) through a series of regular meetings. The initial discussions on methodology occurred in a session with Chair and Co-Chair. Subsequently, a proposed structure was presented to the ISWG, with an invitation extended to other CPs to participate. Valuable comments from CPs were incorporated into the suggested structure. Following this, the draft report underwent a pre-circulation phase, presenting it to ISWG members for their input. Adequate time was allocated for members to submit their comments and feedback. A subsequent period was allotted to the Consultant to integrate these comments into the final version, which was ultimately submitted on 28 February 2024. The executive summary was subsequently submitted on 4 March, allowing additional time for comments.

9. Feedback from the ISWG regarding the structure and content emphasized the need for the report to be updated based on outcomes for the aforementioned engagements. The primary directive remains the synthesis of all prior work into a single document, synthesizing key issues to facilitate future decision-making. The report, along with any accompanying annexes, tables, figures, or graphics, is envisaged as a tool to explore and identify future options.

10. The structure of the report follows closely the guidance given in the terms of reference. Firstly, it seemed important to provide insights on the institutional context of the Convention, including on its historical background and on the legal status of the Secretariat (Part I). To aid readers on navigating the extensive timeframe of the process, a concise chronology has been included in Part III, spanning corresponding decades. Subsequent actions delve into substantive content, forming the backbone of the report. These parts lay the groundwork for future work of the ISWG by presenting a synthesis of challenges discussed in the previous consultative processes, an overview of objectives in response, and a comprehensive summary of available options. An attempt has been made to group this material under the categories defined in Resolution XIV.6<sup>2</sup>. A summary table lists the challenges each option addresses and also indicate whether they are categorized as short-term, medium-term or long-term solutions, providing a starting point for the ISWG's future work.

## Part II : Institutional context

### 1. Article 8.1 & Res. on Secretariat matters

11. In the realm of MEAs, the Conference of the Parties (COP) typically directs and establishes secretariats, often hosted by International Governmental Organizations (IGOs), as subsidiary bodies for administrative functions. The Convention on Wetlands diverges from this practice due to its unique historical context as an older MEA and the role the International Union the Conservation of Nature (IUCN) has played in the convention's negotiations.

12. Article 8.1 of the Convention on Wetlands states that the IUCN shall perform the continuing secretariat duties (initially referred to as "bureau duties") under the Convention until such times as another organization or government is appointed by a majority of two-third of all CPs. This provision serves to establish interim arrangements pertaining to the exercise of the administrative functions of the Convention<sup>3</sup>. Article 8.2 further delineates and enumerates these duties, encompassing responsibilities such as the organization and services of meetings, maintenance of a list of Wetlands of International Importance, and handling notifications. An extensive interpretation of these duties has been provided by the legal consultant in their 2008 report<sup>4</sup>.

13. Initially, IUCN was performing itself directly the secretariat duties<sup>5</sup>. Resolution 4.15 on Secretariat matters<sup>6</sup>, responding to recommendations from a dedicated Task Force<sup>7</sup>, brought about significant changes to the structure, powers, and functions of the Secretariat. This transformation was deemed necessary for the effective implementation of programme priorities, leading augmentation of staff and a consolidation of the Secretariat in Switzerland. The Resolution on Secretariat Matters formalized collaboration with IUCN, establishing a Secretariat as an independent unit co-located with IUCN. This Secretariat, funded from the Convention's budget, was tasked with fulfilling all requirements outlined by the COP.

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<sup>2</sup> COP Resolution XIV.6 on Enhancing the Convention's visibility and synergies with other MEAs and other international institutions (5-13 November 2022), para 22.

<sup>3</sup> Initially the Secretariat was comprised of two sections: one attached to IUCN and one attached to the International Waterfowl and Wetlands Research Bureau (IRWB, now Wetlands International). See D. KLEIN, E. FERNANDEZ FERNANDEZ Independent analysis on the legal status of the Secretariat of the Convention on Wetlands, 15 July 2020, p. 4 for more information.

<sup>4</sup> COP10 DOC.35, L. KURUKULASURIYA, Report on the legal personality of the Ramsar Secretariat, 20 October 2008, p. 20.

<sup>5</sup> By Resolution 3.1 (1987, COP.3) the "Ramsar Bureau" was formally established as an "integrated unit".

<sup>6</sup> Annex to DOC C.4.15: Resolution on Secretariat matters (COP4, 1990)

<sup>7</sup> See 2008 legal analysis, p. 21, cited FN 4; See 2020 legal analysis, p. 5, cited FN 3.

14. In accordance with Resolution 4.15, the Secretary General (SG) for the Convention is appointed by the Director General (DG) of IUCN, with the DG's powers in this process being largely formal. The appointment is made "in consultation with, and on the basis of a proposal from the [SC]". The SG assumes sole responsibility for administration of the Convention funds and for all administrative matters other than those requiring the exercise of the legal personality, which falls under the purview of the DG of IUCN for matters requiring compliance with national law.

## 2. IUCN administrative status

### 2.1 IUCN status in Switzerland

#### 2.1.1 A quasi-intergovernmental organization

15. IUCN is a membership union of government and civil society organizations<sup>8</sup>. It has been established as a hosting organization for the Convention on Wetlands. IUCN is established in Switzerland as an international association under Art. 60 of the Civil Code. However, on the basis the Agreement between the Swiss Federal Council and the IUCN concerning the fiscal status of the Union and of its personnel in Switzerland<sup>9</sup>, IUCN benefits from a special status in its relationship with Switzerland related to fiscal advantages and personnel status.

16. Although IUCN does not fulfil the International Organization (IO) criteria in the strictly legal sense of the term, it has certain predominant characteristics of it, including regarding its membership, structure, financial resources and core activities<sup>10</sup>. In 1986 the Swiss Federal Council (FC) officially recognized that IUCN was a quasi-governmental IO. This practice was confirmed through its application in other similar cases, and subsequently codified in the 22 June 2007 Federal Act on the Privileges, Immunities, Facilities and Financial Assistance Granted by Switzerland as a Host State (Host State Act, LEH).

17. Under the Host State Act (Article 8 LEH), a quasi-governmental organization may enjoy certain privileges, immunities and exemptions upon the following conditions:

- A majority of its members are States, organizations established under public law or entities discharging responsibilities that typically fall under the remit of States;
- Its institutional structures are similar to those of an intergovernmental organization;
- It undertakes activities in the territories of two or more States.

#### 2.1.2 Fiscal advantages conferred by the Swiss Government to IUCN

18. The Swiss Federal Council considers that *"the predominantly inter-State character of [quasi-intergovernmental] organizations qualifies them for special status in Switzerland, so as to allow them, similarly to intergovernmental organizations and international institutions, to carry out their activities*

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<sup>8</sup> <https://www.iucn.org/about-iucn>

<sup>9</sup> Accord entre l'IUCN et le Conseil Fédéral Suisse pour régler le statut fiscal de l'Union et de son personnel en Suisse, 17 December 1986, RS [0.192.122.451](#)

<sup>10</sup> Letter of the Swiss Confederation on the Legal Status of IUCN in Switzerland, Bern, 7 September 2010

*in full independence and without Switzerland, as the Host State, gaining financial advantages from their presence on its territory.”<sup>11</sup>*

19. More concretely these are the advantages accorded to IUCN according to the afore-mentioned agreement between IUCN and the Swiss Federal Council:

- IUCN is exonerated from all direct, indirect (value-added tax) federal, cantonal and communal taxes on salaries, income and indemnities paid to them by IUCN;
- Non-Swiss IUCN staff members are exonerated from all direct federal, cantonal and communal taxes on salaries, income and indemnities paid to them by IUCN;

### 2.1.3 Staff administrative status

20. The agreement with IUCN in 1986 did not provide for any exemption from the restrictions on foreign nationals (no exemption from Swiss residency requirements for staff members)<sup>12</sup>. IUCN was therefore subject to the normal Swiss rules on granting work permits to foreign employees<sup>13</sup>. This posed a problem for IUCN, and also for the Convention, given the difficulties in recruiting staff from outside the EU/EFTA countries with the appropriate qualifications, while IUCN needed to be able to count of a broad representation of its member states (87) among its staff, which was also a request of its bodies.

21. At the request of IUCN’s management, the 1986 agreement was amended to include an exemption from the limitation on foreigners. Since 1 January 2017, IUCN has benefited from this facility. Since that date, its foreign staff members recruited from abroad receive, without application of the ordinary Swiss conditions, a legitimization card from the Federal Department of Foreign Affairs (FDFA) under Article 17, paragraph 1, letter b, OLEH. The same rule applies to staff members of the Convention. IUCN thus benefits from the same entry and residence conditions in Switzerland for its staff as the 43 other international organizations that have signed an agreement with the Federal Council.

22. As a result, IUCN can hire any staff it wishes without being subject to ordinary Swiss law and without any restrictions. The procedure for issuing visas and FDFA legitimization cards is fast and free of charge, unlike ordinary Swiss law. Foreign staff members who are already in Switzerland with a valid permit at the time of their recruitment remain in possession of their permit. Swiss staff do not receive a legitimization card. The FDFA legitimization card serves as a residence permit in Switzerland, attests to any privileges and immunities enjoyed by its holder and exempts the latter from the visa requirement for the duration of his or her duties in accordance with article 17, paragraph 3, OLEH.

23. FDFA legitimization cards are limited to the duration of the employee’s duties<sup>14</sup>, including a courtesy period of two months. Under the Agreement on the Free Movements of Persons (ALCP)<sup>15</sup>, EU/EFTA nationals may apply to the cantonal authorities for a permit at the end of their employment, in particular with the view to finding a job. Employees from non-EU countries who are retiring from their

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<sup>11</sup> Communication concerning the Federal Law on Privileges, Immunities, Facilities and Financial Assistance Granted by Switzerland as Host State (Host State Act, “LEH”), of 13 September 2006, Federal Register 2007, p. 4311 ss.

<sup>12</sup> Internal note of Swiss Federal Department of Foreign Affairs, 20 February 2024

<sup>13</sup> These rules include a priority to workers in Switzerland or Europe, qualification criteria for workers from third countries, compliance with the quota of permits issued, compliance with Swiss salary conditions.

<sup>14</sup> Article 17, paragraph 3, of the OLEH, point 9 of the above mentioned related guidelines

<sup>15</sup> 21 June 1991, <https://www.fedlex.admin.ch/eli/cc/2002/243/fr>

jobs can obtain a permit as a pensioner, in accordance with the rules of the State Secretariat for Migration, if they meet the conditions laid down<sup>16</sup>.

## 2.2 IUCN status under other jurisdictions

24. In international law, while there is no unanimity in regard to the legal nature of IUCN, the United Nations General Assembly (UNGA) has granted it observer status. Germany has explicitly recognized IUCN as an “organization established by an intergovernmental agreement”<sup>17</sup>. It is important to note that in other countries, IUCN has not been granted such a special status and is considered under national law, as an NGO. The legal analyses diverge on this topic. While the 2008 legal analysis considered IUCN as being an NGO<sup>18</sup>, the 2020 legal analysis however considered that it rather is of an intergovernmental or quasi-governmental nature<sup>19</sup>.

## 3 IUCN-Convention on Wetlands relationship

25. Administrative arrangements regarding the Secretariat have evolved from IUCN initially directly performing the secretariat duties under the Convention, to a large degree of independence of for the Secretariat in relation to IUCN. According to the **COP Resolution on Secretariat matters**<sup>20</sup>, the DG of IUCN retains “formal responsibility” for those matters under the Convention requiring the exercise of legal personality on behalf of the Convention (e.g. establishment of the separate bank account, formal personnel and contract administration, etc.).

26. The **Memorandum of Understanding (MoU) on Headquarters facilities**, signed in 1991 between the Chair of the Standing Committee on behalf of the Convention and the IUCN DG, outlines arrangements for headquarters, notably the fact that no rent shall be charged to the Secretariat for the provided facilities. However, the Convention budget is structured to reimburse IUCN for the Secretariat’s equitable share of maintenance, heating, ventilation, and other agreed-upon costs and services. Additionally, provisions are made for covering the costs incurred in servicing any meetings organized by the Secretariat.

27. In 1993 a **Delegation of Authority (DoA)** of the DG of IUCN was agreed, granting the SG the authority to receive and expend Convention funds, including payments of Secretariat salaries and benefits; purchase and rental of supplies, materials, and equipment; **the authority to enter into contracts**; and otherwise provides for the financial administration of the Convention’s funds by means of a separate Convention account. According to this DoA, IUCN as the legal persona to which the Secretariat is attached, must inevitably retain ultimate liability for the actions of the SG, while exercising the delegated authority, it being understood that the SG has to undertake certain actions in order to minimize any risk of legal and financial liability to IUCN. The DoA also implicitly recognizes the ultimate authority of the IUCN DG on the matters covered by this delegation with regards to financial and budgetary matters; personnel management; and facility management<sup>21</sup>.

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<sup>16</sup> See the [following webpage](#) for more information

<sup>17</sup> See 2020 legal analysis, p. 23, cited FN 3.

<sup>18</sup> *Idem*, p. 24, : “IUCN does not have apparent personality under international law as its membership comprises mainly of non-governmental organisations and is therefore itself, a non-governmental organization rather than an intergovernmental body”.

<sup>19</sup> *Ibidem*, p. 16.

<sup>20</sup> Annex to DOC C.4.15: Resolution on Secretariat matters (1990) para. 1.

<sup>21</sup> See 2020 legal analysis, p. 24, cited FN 3.

28. A **letter of Agreement on the provision of services** (LoA) was signed in 2006 and updated in 2009. This arrangement provides for clear provision of services from IUCN to the Convention Secretariat and has evolved through time. The LoA provides that :

- IUCN agrees to provide the Secretariat with services in the areas of accounting and finance, information technology, facility and personnel management in return for monetary payments;
- The Secretariat agrees to all IUCN policies and procedures relevant to matters within the purview of this Services Agreement as they currently exist;
- The Secretariat and IUCN shall always remain in compliance with applicable Swiss laws and regulations;
- IUCN shall provide and maintain a separate Convention ledger with separate accounting transactions from those of IUCN;
- The agreement also set a cap of 13% over the budgeted expenses as the maximum amount to be paid by the Convention to IUCN as compensation for the hosting services provided;

29. The Secretariat does not have any direct individual agreement with Switzerland.

30. The main sources of income for the Secretariat are contributions from CPs, which are determined in accordance with the UN scale of assessments for contributions of Member States to the UN budget approved by the UN General Assembly. The Convention's income also includes voluntary contributions and other income (income for projects). Additionally, the Convention incorporates in its income the Swiss income tax rebates. The Secretariat follows IUCN Staff regulations and policies, which determine the salaries, allowances, leave and other benefits<sup>22</sup>.

## 4. Hosting arrangements under other MEAs

31. The process of investigating the legal status of the Secretariat, as well as identifying opportunities for institutional strengthening in the context of the Convention, has led to in-depths discussions on alternative arrangements and hosting arrangements under various MEAs. The results of these discussions and research were described in detail and synthesized in the 2020 independent legal analysis through desk research, questionnaires and documents already provided during the first decades of internal discussions on institutional strengthening. The 2022 independent Financial analysis provides a comprehensive comparative analysis of the cost implications under the various MEAs hosting arrangements. Although the available observations would need to be updated in light of the more recent United Nations (UN) context, the following synthesis observations can be made from the research already undertaken<sup>23</sup>.

32. The 2020 legal analysis identified several models followed by MEAs in terms of institutional structure, in order of independence. The first model is that of a traditional intergovernmental organization, as exemplified by the International Whaling Commission (IWC)<sup>24</sup>. Under this model, the IWC and its institutional and administrative arrangements are entirely independent of any other organization. It should be noted that the IWC is not part of the UN system. The International Seabed Authority (ISA) and World Trade Organization (WTO) have also been cited as an example under this model, although they share closer links with the UN while being institutionally independent.

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<sup>22</sup> MARTINEZ, HERNANDEZ, L. BADOZ, L. SLOBODIAN, Financial analysis of the legal status of the Secretariat (May 2022),

<sup>23</sup> These observations are synthesized in Table 1 of the 2020 legal analysis (cited FN 3), p. xi.

<sup>24</sup> See 2020 legal analysis, p. 27ss, cited FN 3.



33. The second model provided in the legal analysis is based on the example of the Arms Trade Treaty Secretariat<sup>25</sup>. It explores a model in which a secretariat was created by an intergovernmental treaty that did not establish an IGO in the traditional sense, but rather followed a “COP-model” with the establishment of a secretariat as a treaty body of a multilateral convention to assist a COP. This model, compared with other COP models, offers an example of a secretariat that is administratively totally independent of any other organization. It is separate from the UN and does not benefit from the advantages of a host organization in terms of visibility and participation.

34. The third model is that of a treaty secretariat with largely independent status and institutionally linked to the UN, following the United Nations Framework Convention on Climate Change (UNFCCC) and United Nations Convention to Combat Desertification (UNCCD) practice<sup>26</sup>. Under this model the secretariat is part of the UN’s administrative structure while not being fully integrated in the work programme and management structure of any particular department or programme. The model was very much “context-specific” and it is highly uncertain whether it could be replicated today for another MEA.

35. The fourth model describes a treaty secretariat largely integrated into the management structure of a UN programme or specialized agency. This is the example of the MEAs secretariats provided by UNEP<sup>27</sup> (CBD<sup>28</sup>, CITES<sup>29</sup>, CMS<sup>30</sup>, Vienna Convention and its Montreal Protocol<sup>31</sup>, the BRS and Minamata Conventions<sup>32</sup> and UNESCO such as the World Heritage Convention<sup>33</sup> Secretariat). This model includes specific administrative arrangements that may differ under each situation, with important common features: the overall administrative arrangements of these secretariats are such that the degree of integration is significantly higher than in the case described in the paragraph above.

## 5. Legal status of the Secretariat

36. When delving into the legal status of the Secretariat it is crucial to initially differentiate between the legal status of the Convention, of the COP, and of the Secretariat; and between international legal personality and domestic legal personality. The following paragraphs aim to distill and synthesize the key points discussed regarding this matter.

37. While the **legal status** of the **Convention** is unequivocal in international public law as an accredited intergovernmental treaty, the legal status of the **Secretariat** has been a subject of prolonged debate. Doc 35-18 on the status of the Secretariat was introduced at the 35<sup>th</sup> SC meeting (14-16 Feb 2007) and read that “*the Secretariat of the Convention has no recognition per se*”, the “*lack of legal personality*

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<sup>25</sup> *Idem*, p. 35ss.

<sup>26</sup> *Ibid.*, p. 41ss

<sup>27</sup> Convention on Biodiversity, CITES, CMS, Vienna Convention, Vienna Convention and its Montreal Protocol, BRS and Minamata Conventions.

<sup>28</sup> Convention on Biological Diversity of 5 June 1992.

<sup>29</sup> Convention on international trade in endangered species of wild fauna and flora of 3 March 1973.

<sup>30</sup> Convention on the conservation of migratory species of wild animals of 23 June 1979.

<sup>31</sup> Vienna Convention for the Protection of the Ozone Layer of 22 March 1985 and Montreal Protocol on Substances that Deplete the Ozone Layer of 16 September 1987.

<sup>32</sup> Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 22 March 1989; Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade of 10 September 1998; Stockholm Convention on Persistent Organic Pollutants of 22 May 2001; Minamata Convention on Mercury of 10 October 2013.

<sup>33</sup> Convention concerning the Protection of the World Cultural and Natural Heritage of 17 December 1975.

for the Secretariat” being perceived as an issue<sup>34</sup>. Doc 36-15 on the legal status of the Secretariat was introduced at the 36<sup>th</sup> SC meeting (27-29 Feb 2008)<sup>35</sup>. It emphasized that, unlike other MEAs Secretariats hosted by UNEP such as CITES or CBD, the Secretariat of the Convention does not possess independent recognition. The 2008 legal audit considers that the secretariat of an MEA is a **non-self governing international body** and is a **subsidiary of the COP**.<sup>36</sup> The 2020 legal audit brings a different perspective, suggesting that, as the Convention as a whole including its Autonomous Institutional Arrangements may be perceived as an Intergovernmental Organization (IGO), the Secretariat may be considered as **a body, or an organ, of an IGO**<sup>37</sup>. This seems to be in line with the Resolution on the use of the term “Ramsar Secretariat” which implicitly recognize a similar status between the Secretariat and secretariats of other MEAs<sup>38</sup>.

**38. International legal personality of the Secretariat:** The 2008 independent legal analysis considers that the COP as the supreme body of an MEA, has international legal personality, within the limits of its express mandate. On the other hand, the Secretariat has no such decision-making powers, is directed by the COP and is linked to and derive its legal status from the host intergovernmental organization which creates it or which it is a part. The report further states that several resolutions at successive sessions of the COP have shaped the evolution of the legal personality of the Secretariat. The report considers that those resolutions make it clear that **the Secretariat has such international personality as might be necessary to carry out the functions assigned to it by the COP**<sup>39</sup>.

39. The 2020 legal analysis explained that there are different views within legal doctrine and among States on the international legal personality of treaty secretariats and concluded that while the Convention does not constitute an IGO in the traditional sense, and follows what can be called the “COP Model”, the Convention – its institutional framework – as a whole enjoys international legal personality and has legal capacity – separate from CPs and separate from other IOs. However, regarding the Secretariat’s relation to its “host organization”, the following needs to be taken into account : (i) by deciding that IUCN would perform the continuing bureau duties, the CPs limited the possibilities for the Secretariat to act in full independence from any other organization: (ii) based on the DoA the Secretariat is empowered to enter into contractual arrangements autonomously from IUCN (without IUCN needing to sign on behalf of, or in conjunction with, the Secretariat).

**40. International capacity of IUCN:** The legal analysis 2020 suggests<sup>40</sup> that, in addition to its international legal personality derived from implied powers, the Secretariat may also benefit from the international legal personality of IUCN, which may arguably be recognized as an IGO<sup>41</sup>. This may be seen as an advantage in those cases where another State (different from the host State or the Secretariat) or an intergovernmental or non-governmental organization does not recognize the international legal personality of the Secretariat but does recognize it in the case of IUCN.

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<sup>34</sup> DOC SC35-18, Status of the Ramsar Convention Secretariat, 2007.

<sup>35</sup> DOC SC36-15, Legal Status of the Ramsar Convention Secretariat, 2007.

<sup>36</sup> See 2008 legal analysis, p. 15, cited FN 4.

<sup>37</sup> See 2020 legal analysis, p. 25, cited FN 3.

<sup>38</sup> COP9 DOC.19, Information paper on the IUCN Environmental law Centre’s opinion on the use of the terms “Ramsar Bureau” and “Ramsar Secretariat”.

<sup>39</sup> See 2008 legal analysis, p. 24, cited FN 4.

<sup>40</sup> This statement contradicts the legal analysis 2008, para 49 that states: *IUCN does not have apparent personality under international law as its membership comprises mainly of non-governmental organizations and is therefore itself, a non-governmental organization rather than an intergovernmental body. Accordingly, it could not exercise such personality on behalf of the [Wetlands] Secretariat*”.

<sup>41</sup> See 2020 legal analysis, p. 23, cited FN 3.

41. **Domestic legal capacity of the Secretariat:** The domestic legal capacity of the Secretariat remains unclear and is the subject of diverging views. The **first independent legal analysis<sup>42</sup> concluded in 2008** that the Secretariat of the Convention can enter into administrative and contractual arrangements provided it receives a **delegation of authority from the IUCN DG**. It further considered that the Secretariat has gradually acquired most attributes of domestic legal personality under Swiss law (e.g. power to conclude Swiss contracts etc.). It also stressed that the attribution of domestic legal personality in the Secretariat would also depend on the nature of activities that **its governing bodies entrust to it** and a **corresponding decision of the host government**, Switzerland.<sup>43</sup> It further suggested the kind of actions set out that require IUCN to exercise its legal personality is limited by implication to the exercise of legal personality under *national law*. The audit recommended to formalize this domestic personality attributes through a COP resolution requesting that the Swiss government recognize the domestic legal personality of the Secretariat for formal purposes.<sup>44</sup>

42. The 2020 legal audit considered that the Secretariat has the capacity to enter into contractual arrangements both at the international and domestic plane<sup>45</sup>. The administrative linkage between the Secretariat and IUCN, coupled with the DoA and the recognition of both by Switzerland, seemed to afford the Secretariat legal capacity for contractual arrangements based on IUCN's legal personality. It also enabled the Secretariat to benefit from IUCN's tax agreement with Switzerland.<sup>46</sup> Both reports concurred to say that even though the institutional framework has evolved through time, the Secretariat is not fully independent from IUCN<sup>47</sup>. They also recommended to clarify remaining doubts and ambiguities through a COP resolution.

43. CPs seemed to have divergent views on this topic, at divergent times. In 2008 Switzerland considered in its position on the legal personality of the Secretariat, that it resides with IUCN due to the fact that the Secretariat sits under the Swiss-IUCN agreement. Switzerland clarified that a separate agreement with the Convention would require a COP decision, and that it was unclear whether the UN would recognize this type of agreement. More recently, Columbia, supported by Australia, questioned the assumption that IUCN "provides legal status" to the Convention's CPs. They stressed the importance of recognizing IUCN as the host of the Secretariat offering administrative services enabling its operation. Their stance emphasized the distinct and non-interchangeable legal personalities of the Secretariat and IUCN. It underscored that the Secretariat, funded by CPs, provides services to Parties independently of IUCN<sup>48</sup>.

## 6. Conclusion

44. Under the current administrative arrangements, COP resolutions, LoA, DoA and other instruments, the Secretariat, while not fully independent, enjoys a large degree of autonomy vis-à-vis IUCN. The 2020 legal analysis concluded that the Secretariat has the capacity to enter into contractual arrangements both at the international level and at the domestic plane, as necessary to perform its functions under the Convention and as assigned by the COP. Furthermore, the Secretariat should be able, under the terms of the DoA, to enter into such contractual arrangements in a manner that is autonomous from IUCN.

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<sup>42</sup> DOC SC36-15, Legal Status of the Ramsar Convention Secretariat, 2007

<sup>43</sup> See 2008 legal analysis, p. 23, cited FN 4.

<sup>44</sup> *Idem*, p. 25.

<sup>45</sup> See 2020 legal analysis, p. 25, cited FN 3.

<sup>46</sup> *Idem*, p. 24.

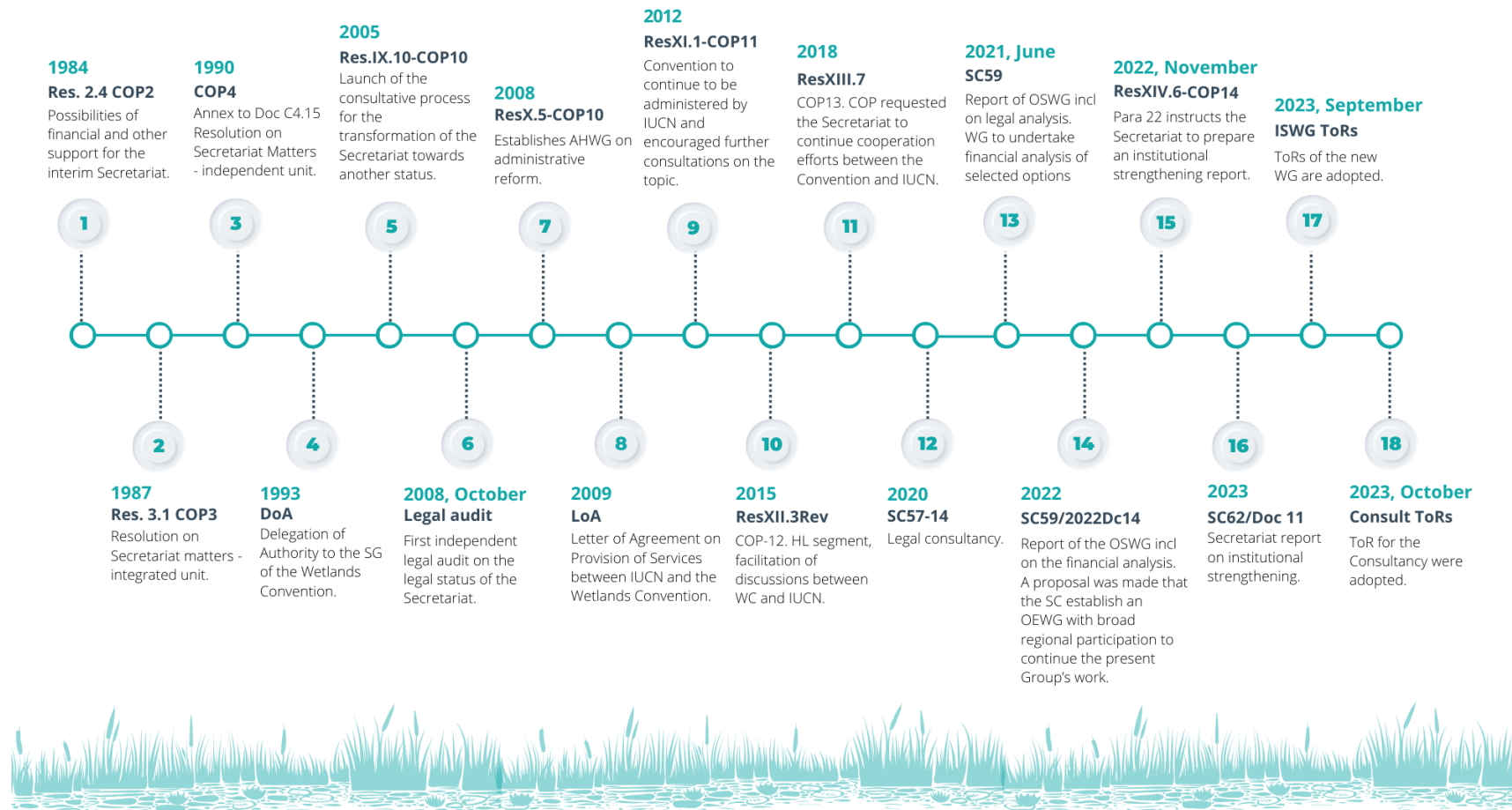
<sup>47</sup> *Ibid*, p. 25; See 2008 legal analysis, p. 24, cited FN 4.

<sup>48</sup> ToRs, Preparation of a Governance synthesis report, 2023, Comment by Columbia.

## Part III Chronology of previous efforts on institutional strengthening of the Secretariat

# SECRETARIAT- CONVENTION ON WETLANDS

## CHRONOLOGY



## Part IV Process

### A. Preliminary discussions on the status of the Secretariat

45. The institutional arrangements of the Convention on Wetlands have evolved over time and through a number of consultation processes. The question of the institutional strengthening of the Secretariat involves many elements which have been under consideration by the Parties of the Convention, its governing and subsidiary bodies as well as the Secretariat in different phases of the Convention and at various occasions. Many of these aspects have evolved over the decades of the Convention's existence, as has evolved the overall landscape of environmental treaties and the work of the UN and the international community more broadly.

46. By Resolution IX.10, in 2005, the Wetlands Convention COP instructed the SG to *“engage in a consultation process with appropriate bodies such as IUCN and UNESCO, as well as the government of the host country and other interested organizations and governments, regarding the options, as well as legal and practical implications, for the transformation of the status of the Ramsar Secretariat towards an IO or other status whilst still recognizing and maintaining its links with IUCN and the host country”*; and requested the SG to report on the outcome of these consultations, through the SC, to COP10.

47. The SC considered this issue between 2006 and 2008<sup>49</sup>, assisted by the Secretariat, including by seeking a dialogue with IUCN, UNESCO, Switzerland and engaging in consultations with other MEAs secretariats on their experience. A document on the legal status of the Secretariat was prepared as an input to SC 37, the last SC meeting before COP 10. In this document<sup>50</sup> the Secretariat presented **a list of problems** related to the legal status of the Secretariat, and recommendations on the way forward (Synthesis of challenges and opportunities), **including a preliminary analysis on available potential solutions through the development of three options**.

48. Further analytical work was undertaken and inputs prepared for COP10 (held 28 October – 4 November 2008), including a Report on the legal personality of the Convention Secretariat, prepared by a legal consultant<sup>51</sup>; and Additional information concerning the legal status of the Secretariat<sup>52</sup>.

### B. WG on administrative reform (2009-2012)

49. At COP-10 a contact group was formed to discuss these issues with support from a legal consultant, IUCN and UNEP. **COP Resolution X.5 (2008, COP 10)** established the Working Group on administrative reform (WGAR) and its mandate, with the objective of recommending efficient and effective measures to improve the capacity and operation of the Secretariat to support and facilitate the implementation

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<sup>49</sup> SC34, held 10-13 April 2006; SC35, held 14-16 February 2007. SC 36, held 27-29 February 2008, SC37, held 2-6 June 2008.

<sup>50</sup> DOC. SC37-2, Legal status of the Ramsar Convention Secretariat (incl. comments from Switzerland), 2008.

<sup>51</sup> See 2008 legal analysis, cited FN 4. This report analyzed the three options from various aspects of international law and practice, in particular with respect to the international legal personality and international and domestic legal capacity under international legal doctrine as well as in the light of the practice of various secretariats of the time.

<sup>52</sup> COP10 Doc. 20 Add. 1. This overview document presented the key findings of the assessment of the legal and institutional status of the Wetlands Secretariat, including considerations, advantages and disadvantages of each of the three options.

of the Convention and serve the interests of the CPs, and of determining whether the Secretariat should continue to be hosted by IUCN or should be institutionally hosted by UNEP.

50. The mandate of the WG was set out in the Resolution as follows:

- Address the reasons for and benefits of a change in the status quo for the Secretariat and for the CPs;
- Address the costs and consequences of the Secretariat's operation and of its engagement with the CPs, including :
  - Staffing costs and the composition of the Secretariat under the UN system including any resources that would be provided by UNEP;
  - Options for Secretariat location;
  - Implications for any future budget of the Secretariat, including any transition cost;
  - The role of the International Organization Partners (IOPs);
  - Advantages and disadvantages of the institutional context in which the Secretariat would operate.
- Address how this should be implemented, legally and administratively;
- Address the ability to meet the future needs of the Convention;
- Opportunities to further improve the implementation of the Convention;
- Address a timeframe for the implementation of the Convention.

**51. The group met nine times between 19 January 2009 and 29 June 2011. UNEP and IUCN were invited to some of the meetings.** During the discussions the group focused on the identification of a list of nine issues (Part. V : Challenges and opportunities, and on discussing the three potential options that had been raised during the preliminary discussions (Part VII : Solutions or options). Important developments were accorded to the visibility issues and to the lack of clarity of the legal status of the Secretariat. As part of the results a synthesis report concerning hosting arrangements for the Wetlands Convention was prepared as an input to COP11<sup>53</sup> as well as two options for draft resolutions that were transmitted by SC to COP11. Those options contained draft resolutions text for institutional hosting under administration of UNEP or, alternatively, for institutional hosting under administration of IUCN.

**52. At COP11 in 2012,** Parties held extensive discussions, in various phases and formats of deliberations and consultations. Debates also involved some questions of procedure, including related to the requirements of Article 8.1 of the Convention, according to which the appointment of another organization a decision by a two-thirds majority of all CPs is needed.

**53. COP Resolution XI.1** finally decided to renew its confidence in IUCN and to continue its hosting arrangements for the Secretariat; it further invited IUCN to work towards continued improvement of this cooperation in order, amongst other things, to reinforce the efficiency of the Secretariat's functioning and the status of its staff, as well as the issues of common interest related to the host country; and requested the SC to establish at its 46th meeting a mechanism of the CPs that will, taking into account the needs of the CPs and the Secretariat, facilitate negotiations between the Secretariat and the DG of IUCN, evaluate the work already achieved and seek ways of improving the current operations of the Secretariat and enhancing the implementation of the Convention, and to provide the SC with a report on these negotiations at its 47th meeting.

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<sup>53</sup> COP11 (held Bucharest, Romania, 6-13 July 2012) DOC. 17, Synthesis report of information and conclusions concerning hosting arrangements for the [Wetlands] Convention.

## C. Observer Status Working Group (2019-2021)

54. In 2017 the question of the legal status of the Convention on Wetlands arose in the context of efforts to enhance the participation of the Wetlands Convention in UN high-level processes and events, in particular the High-Level Political Forum for Sustainable Development (HLPF). Following consultations by the Secretariat with the UN Office for Legal Affairs (UNOLA) in New York, which explored and indicated possibilities for such enhanced participation, a process was initiated with the aim of obtaining observer status in the UN General Assembly (UNGA)<sup>54</sup>. A decision on this issue had been deferred until the seventy-fifth session of the UNGA, scheduled in September 2020. No update has been provided since then, except that there seem to be no consensus at UNGA on this issue<sup>55</sup>.

55. Concurrently, in 2018 Resolution XIII.3 on the Governance of the Convention had **established the Effectiveness WG** with the objective to review the governance structure of the Convention. This group was expected to work on close issues as the WGs on institutional strengthening and organizational robustness.

56. The SC discussed the issue of the Observer status at its 54<sup>th</sup> <sup>56</sup> and 55<sup>th</sup> <sup>57</sup> meetings. Several CPs stressed the importance of better engagement for the Convention in the environment-related processes that take place within fora of the UN. CPs realized that without an independent legal status as an OI it would be difficult for the Secretariat to obtain permanent observer status at UNGA and started a discussion on this topic. CPs decided to start working to identify alternative solutions, in order to ensure the participation of the Secretariat in relevant international events within the UN system.

57. By decision SC55-12 (October 2018) the SC instructed the Secretariat, with the support of an informal group of CPs, to bring forward a **structured proposal regarding the possibility for the Convention to obtain observer status at the UNGA, taking into account the various options, for consideration at its 57th meeting**. This group was formalized at SC 57 as the Observer Status Working Group (OSWG) with the mandate to analyze the different options and other options that might not yet have been addressed. The OSWG commissioned two studies aiming to explore the most feasible ways to move forward in strengthening the Convention, including a change of legal status, and financial implications (Part VII : Solutions or options).

58. In 2018 and 2019, the WG engaged in discussions about persistent limitations arising from the Secretariat's lack of legal personality. These discussions revisited concerns previously raised, such as enhancing the visibility of the Convention within UN processes and meetings. Additionally, attention was drawn to the Secretariat's challenges in maintaining competitiveness relative to UN standards, encompassing issues like salary scales, pensions, and education allowances. Emerging issues surfaced more recently, including hurdles in project management and the capacity to sign contracts. Notably, challenges arose when donors resisted the DoA, insisting on project signatures by IUCN. Furthermore, external auditors expressed concerns regarding the risk posed by arrears from Contracting Parties, emphasizing the potential impact on the Convention's financial stability (Part. V : Challenges and opportunities).

59. The legal analysis detailed five options for the Secretariat to better define its legal personality and legal capacity. The WG analyzed the options against their potential to solve the main challenges faced

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<sup>54</sup> For detailed information on this process see See 2020 legal analysis, p. 14, cited FN 3.

<sup>55</sup> SC59/2022 Doc. 4, page 4

<sup>56</sup> Held 23 – 27 April 2018, Geneva, Switzerland

<sup>57</sup> Held October 2018, Dubai, United Arab Emirates



by the Secretariat; and preselected three options for the development of a financial analysis, plus the current arrangements of the Secretariat hosted by IUCN (Part VII : Solutions or options).

60. At its meeting on 6 May 2022 the WG agreed to seek instructions from SC59 at its resumed session on the way forward, taking into consideration the results of the legal and financial analysis, and that both reports provide valuable information to further discuss different options that are financially viable, but that discussions should take place within a group with balanced regional representation<sup>58</sup>. During discussions at the resumed session of SC59, several participants stressed the importance of the work undertaken. Others noted that the issue has been the subject of discussion in [the Convention] fora for many years and that it had proven difficult to make substantive progress. It was also noted that there had been a low level of engagement and participation among CPs. There was general agreement that the work undertaken to date was of value to the Convention and that, although not urgent, some mechanism should be found to allow its continuance. A proposal was made that the SC establish an open-ended working group with broad regional participation to continue the present Group's work<sup>59</sup>.

## D. Working Group on Institutional Strengthening (2023-2025)

61. COP14 Resolution XIV.6 para 22 was presented during the COP meeting by Mexico, co-sponsored by the Latin America and Caribbean region, and was adopted by consensus<sup>60</sup>. This Resolution instructed the Secretariat, in collaboration with interested CPs, to prepare an institutional strengthening report with recommendations reflecting the needs of the Secretariat to achieve organizational robustness to support the implementation of the Convention. It further requested the Secretariat to present the report with recommendations to SC62 for discussion and a subsequent DR to SC63 for its consideration.

62. During SC62 the Secretariat presented its report<sup>61</sup>, including recommendations from CPs and the Secretariat. The CPs held different views, particularly regarding the hosting of the Secretariat. Some CPs supported the transition to the UN system, while others preferred exploring a restricted number of measures to achieve organizational robustness. At this meeting, some members noted that few CPs had participated to this process, with others noting that certain questions in relevant documents might require input from IUCN. Others suggested further analysis prior to the inclusion of these draft recommendations in a DR for consideration by the Parties at COP15. The establishment of a WG gained support among several SC members, bearing in mind all potential pathways and addressing budgetary implications. One member cautioned that these should avoid overburdening the Management Working Group (MWG) and subgroup on Finance in the process. The Working Group on Institutional Strengthening (ISWG) was finally established by decision SC62-17 with the objective to **lead the process to achieve organizational robustness to support the implementation of the Convention**, including through the preparation of a DR for the consideration of the SC63 and requested that the terms of reference for the WG be tabled at SC62.

63. According to its mandate<sup>62</sup> the ISWG is to:

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<sup>58</sup> SC59/2022 Doc 14.

<sup>59</sup> SC59/2022 Doc 14; Report and Decisions of the resumed session of the 59<sup>th</sup> Meeting of the Standing Committee (held Gland, 23-27 May 2022), p.12.

<sup>60</sup> COP Resolution XIV.6 para 22, see FN 2.

<sup>61</sup> Sc 62 Doc 11.

<sup>62</sup> SC62 Com. 2, terms of reference of the ISWG (SC62, held 4-8 September 2023, Gland, Switzerland).

- Gather and analyze all existing documents on the options contained in the report to SC62 and in doing so ensure access to all WG members. This should include:
  - Obtaining information to inform and support all options on institutional arrangements;
  - A compilation of an adequate list of what has been done and past findings, included a collated problem statement;
  - A synthesis of key findings from those documents;
  - The identification of potential gaps or opportunities for strengthening arrangements;
- Further refine the options tabled in SC62 for strengthening administrative arrangements, human resource independency, high-level political engagement, and the convention's visibility objectives, including defining short and long-term options,
- Engage with CPs ;
- Summarize options ;
- Prepare a draft resolution.

64. At its first meeting on 1 October 2023 the Group discussed through a Jamboard session the views of CPs concerning what they expect from a strengthened institution. The Group Members provided input that could be formulated as overarching objectives for what a strengthened institution could look like (Part VI : Goals and objectives). Switzerland and Mexico presented a chronology of previous efforts on the institutional strengthening of the Secretariat since 1984 to the last triennium 2022. At this stage it became clear that a synthesis report would be useful to outline the current situation, what are the existing problems, what are the options to address these problems, what has been implemented to date in order to provide direction for a next report on options and to look at the different aspects of these options, including financial and institutional implications. The synthesis report would be reviewed by the Secretariat to highlight the problems that have been identified and the solutions that have been implemented, but also to identify if there are still pending issues to be dealt with.

65. The ISWG is scheduled to take place from 2023 to 2025. The present governance synthesis report will lead to the preparation of a draft resolution to be considered first by SC64 and then by COP-15.

## Part. V : Challenges and opportunities

### A. Chronological list of challenges

#### A1. WG on Administrative Reform

66. Initially a first list was identified by the Secretariat following Decision SC35-32 (2007) by which the SC *"called on the Secretariat to provide a more informative and comprehensive paper on the problem and options for solutions [on the legal status of the Secretariat]"*. In response to that decision, the Secretariat discussed many aspects of the situation but felt that the focus should first be upon agreeing a list of the perceived problems caused by the legal situation. The Secretariat concluded at that time that some of these problems had to do with IUCN specifically, but most of them were caused by not having a status as an international organization. The following list of challenges, or problems identified in 2007, has been discussed during the work of the AHWG on Administrative Reform:

- Difficulty in obtaining travel visas for staff without international organization legitimization;
- Difficulty in obtaining recognition of Wetland's delegation at major international meetings;
- Difficulty in obtaining work permits for spouses of non-Swiss staff members;

- Potential impossibility of making binding contracts as the Secretariat, which has no legal power to sign contracts;
- Legal liability of IUCN for Secretariat actions (in case of staff disputes, the regional initiatives, misappropriation of funds, etc);
- Difficulty some Parties have in paying contributions to the Convention in absence of legal identity;
- Non-Swiss employees do not pay Swiss income tax and may be losing privileges in their communes;
- IUCN controls the Secretariat's financial procedures in ways that may not be suitable for the Secretariat;
- And, when in the field, Secretariat staff do not have access to a network of logistical and security assistance, as UN staff would, for example.

67. It is noteworthy that two of those identified issues have been declared solved to date and will not be further detailed in this report: the fact that the non-Swiss employees do not pay Swiss taxes and may be losing privileges in their communes (solved), and the delivery of work permits for spouses of non-Swiss staff members (solved and not considered as an issue anymore)<sup>63</sup>.

68. During these discussions more challenges were referred to:

- Challenges in terms of enhancing the visibility of the Convention due to the difficulties in taking part in global debates (CSD);
- The Secretariat needed better cooperation with major processes such as the GEF;
- The SG requested assistance from the Contracting Parties in securing the Secretariat Permanent Observer status at the GEF Council as well as at the ECOSOC.

69. These challenges were already assessed against the first three options (Part VII : Solutions or options).

## A2. OSWG, SC62 Com. 2

70. The list of challenges and issues evolved through time, shaped by discussions, changes in the representatives of each WG, and the ongoing evolution of international governance and the Secretariat's operations. A new list of challenges was presented to the OSWG and retained for discussions during SC62, where the OSWG reported to the SC and proposed way forward. The list comprised the following identified challenges:

- Limited visibility of the Convention in UN processes and meetings;
- Questions raised on the process of UN observer status relating to legal personality;
- Difficulties in the management / implementation of projects;
- Auditors PWC have expressed concern on the risk that Contracting Parties' arrears represent for the Convention and their methodology applies more to private companies;
- The recruitment and reduction of the turnover rate of Secretariat staff, as compared with other MEAs;
- The lack of logistical and security assistance for staff traveling on missions, as compared with other MEAs, and;
- Ability for the Secretariat to seek, receive, allocate and implement projects using donor funding independently.

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<sup>63</sup> Report of the 1st meeting of the WGAR, Gland, 19 January 2009 (WG-AR1-1), pp. 14/15.

### A3. SC62 Doc11

71. At SC62 the Secretariat presented a report<sup>64</sup> as mandated by COP Resolution XIV.16 para 22 with a new list of elements for discussion:

- Ability for the Secretariat to enter into international cooperation agreements;
- Limitations in Secretariat's ability to sign contract with donors and third parties;
- Provisions for unpaid contributions;
- Secretariat staff do not have access to a network of logistical assistance as UN staff do;
- The procedure for selecting a SG under UNEP would reduce the SC's role in Convention governance;
- Limited competitiveness in terms of recruitment of staff, compared with UN conditions and benefits;
- Staff recruitment and retention is growing in importance given that the competitiveness of IUCN and UN/other contracts is decreasing;
- International participation and visibility;
- Difficulties in participating as member in UN system inter-agency coordination mechanisms;
- Lack of visibility of the Convention's objectives.

### B. Synthesis of challenges and opportunities

72. According to the terms of reference of the present consultancy an effort has been made to categorize each the above-mentioned challenge under a specific category that has been set out in Resolution XIV.6 para. 22. This categorization is shown in the above slide and has been cleared by the ISWG.

73. Each of the identified challenge has therefore been grouped under one of the above-mentioned categories and for each of these, the aim is to provide for comparable elements related to:

- Description of the challenge;
- Identification of its root cause;
- Description of what has been done so far to address this challenge;
- Remaining issues;
- Potential solutions or options.

74. The following section endeavors to offer comprehensive information in this regard. However, if certain aspects have not been deliberated by CPs, addressed in an independent audit, or presented in external contributions from other organizations, the report refrains from introducing substantive elements and will leave it to be addressed in subsequent discussions. It is important to note that the terms of reference for this consultancy mandate a report designed exclusively as a synthesis document, serving as a starting point for further discussions.

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<sup>64</sup> Sc 62 Doc 11.

# Categorization

- **Admin arrangements**
  - Ability of the Secretariat to enter into contracts
  - Ability for the Secretariat to enter into international agreements
  - Legal liability of IUCN for Wetlands actions
  - IUCN controls the Secretariat's financial procedures
  - Difficulties in the management / implementation of projects
  - Lack of access on mission to logistical / security assistance
  - Unpaid contributions & related risks
- **Governance**
  - Effective governance under any circumstances
- **Leadership**
  - The procedure for selecting a SG under UNEP would reduce the SC's role in convention governance
- **HR Independency**
  - The recruitment and reduction of the turnover rate of Secretariat staff, as compared with other MEAs
  - Limited competitiveness & equivalencies (UN)
  - Visas and permits for staff
- **High-level representation & visibility (legal status)**
  - Difficulty in obtaining recognition of Wetlands's delegation at major international meetings
  - Questions raised on the process of UN observer status relate to legal personality
  - Limited visibility of the Convention in UN processes and meetings

## B1 Administrative arrangements

76. Challenges associated with administrative arrangements primarily, if not exclusively, revolve around the matter of the legal personality of the Secretariat of the Convention on Wetlands. Consequently, those challenges have been categorized into two subgroups: those pertaining to the domestic legal personality of the Secretariat, and those related to its international legal personality.

### 1. Challenges related to domestic legal personality

77. Difficulties related to the domestic legal personality of the Secretariat include its ability to enter into contracts; project management and implementation; IUCN control over internal (financial) procedures.

78. An ongoing concern has been the **potential impossibility in making binding contracts as Secretariat**, which had no legal power to sign contract. The issue has evolved through time, impacting project management and donor relations. Indeed, initially the Secretariat (former “Bureau”) was not able to conclude binding contracts and had to obtain IUCN clearance. Since the conclusion of the DoA in 1993, explicitly authorizing the SG to enter contracts, this situation has significantly improved<sup>65</sup>. The Secretariat is bound by the LoA and any further limitation of the DoA has to be reviewed and decided by the SC. Nevertheless, a misled perception remains sometimes quite strong, partly due to past practices of IUCN co-signing contracts with donors. Recent challenges emerged in project management when some donors did not accept the DoA and requested projects to be signed by IUCN. A new concern has arisen as IUCN now requests additional requirements for projects and programmatic management that deviate from the DoA and LoA<sup>66</sup>. Additionally, IUCN has requested to receive the Convention’s projects funds and record them in their books when providing legal personality<sup>67</sup>. The lack of information on how many countries did not want to sign a project proposal with IUCN because they considered it as being an NGO has been pointed out, as this could contribute to assessing the scale of the issue<sup>68</sup>.

79. Potential options include to make the Secretariat an independent organization with legal personality by itself. Another in-between solution would be to just make the DoA more visible to donors or explicitly state that the Secretariat can enter into binding contracts directly, in a DR of the COP. This would provide another source of legitimacy, publicly available and consensual among CPs. In terms of project management and recent IUCN practice, discussions between the Secretariat and IUCN have been preconized. More information is available on the Options Part below (Part VII : Solutions or options).

80. Regarding the issue of **IUCN control over financial procedures**<sup>69</sup>, this was considered somewhat beyond the scope of the WGAR and left for discussions and improved coordination between the SG and DG of IUCN. It was reported that COP-10 had set out a framework for discussions between IUCN and the Secretariat on the provision of services by IUCN and IUCN mentioned that Switzerland enacted a law in January 2008 on internal financial control which both IUCN and the Secretariat are required

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<sup>65</sup> See Paragraph I(B) of the DoA; 2008 legal analysis, Annex 3, cited FN 4 ; and minutes of the WGAR meetings, incl. WG-AR1-1 p. 10 and Report of the 4th meeting of the WGAR, 26 January 2010, p. 6.

<sup>66</sup> See Letter of Agreement on provision of services between IUCN and the Convention on Wetlands, 2009, p. 2.

<sup>67</sup> See Doc. SC62 Doc11.

<sup>68</sup> Written contribution of Switzerland, 20 February 2024.

<sup>69</sup> DOC. SC37-2, Legal status of the Ramsar Convention Secretariat, 2008 (incl. comments from Switzerland), p. 22.

to follow<sup>70</sup>. During WGAR-4 the SG emphasized the necessity for consultations between the Secretariat, the SC Subgroup on Finance, and IUCN to clarify areas where the SG can make decisions that may not be entirely in line with IUCN procedures. The LoA plans for mutual reporting between the two bodies, should these cases happen. He underscored that the agreement of both bodies would be essential in addressing this matter<sup>71</sup>.

## 2. Challenges related to international legal personality

81. Difficulties related to the international legal personality of the Secretariat include its ability to enter into international agreements; legal liability of IUCN for Secretariat actions; lack of access on missions to logistical and security assistance; CPs payment of contributions; methodology applied to the management of outstanding arrears.

82. Concerning the **ability of the Secretariat to enter into cooperation agreements**, this issue has been recognized as common to other MEAs. The 2008 legal audit documented that the Secretariat, like other MEAs secretariats, has not been granted full international legal personality by its CPs. It would therefore be prudent for the Secretariat to conclude MOUs with governments rather than formal treaties or “binding agreements” with States, UN, its agencies and other MEA secretariats<sup>72</sup>. The WGAR concluded that this issue depended from the host country and powers accorded by the COP<sup>73</sup>. The 2020 legal audit held a different view, stating that, based on the doctrine of implied powers, the Secretariat has the capacity to enter into contractual arrangements both at the international and at the domestic plane as needed. However, as the international legal personality and the legal capacity of the Secretariat is sometimes being questioned, it would be recommendable to clarify remaining doubts or ambiguity by way of a COP Resolution<sup>74</sup>.

83. The **legal liability of the host organization for Secretariat actions** was also pointed out as a potential issue under the current administrative arrangements. The legal liability lies with IUCN and this has been unchanged in the 2009 version of the LoA<sup>75</sup>. During the discussions on this matter it was agreed that the problem was solved through the MoU on Headquarters facility and DoA<sup>76</sup>. If this is still perceived as an issue by the ISWG, renegotiation of the LoA with IUCN or similar dialogue could be an option.

84. The challenge related to the **lack of staff access when in the field to UN logistical and security assistance** has been raised already at the beginning of the discussions on institutional strengthening and has been reiterated at several occasions, including SC62. Secretariat staff do not have access to a network of logistical and security assistance, as UN staff do in countries where they are at risks to staff safety and well-being. Several ways to mitigate this impairment have been tabled during the discussions of the WGs. It has been raised that the staff visiting the field should seek information from the Administrative Authorities of the country they are visiting and ask them to provide support on the ground. Resolution X.5 implicitly included a request to the CPs to continue to help and reduce the chance of risks<sup>77</sup>. Following this Resolution views were still diverging between CPs with some

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<sup>70</sup> Report of the 1st meeting of the WGAR, Gland, 19 January 2009 (WG-AR1-1), p. 13.

<sup>71</sup> Report of the 4th meeting of the WGAR, 26 January 2010, p. 7.

<sup>72</sup> See 2008 legal analysis, p. 30, cited FN 4.

<sup>73</sup> Report of the 4th meeting of the WGAR, 26 January 2010, p. 6.

<sup>74</sup> See 2020 legal analysis, p. 25, cited FN 3.

<sup>75</sup> Report of the 4th meeting of the WGAR, 26 January 2010, p. 6.

<sup>76</sup> Report of the 1st meeting of the WGAR, Gland, 19 January 2009 (WG-AR1-1), p. 11

<sup>77</sup> Resolution X.5, Facilitating the work of the Ramsar Secretariat, COP10 (held 28 October – 4 November 2008), para 10 the COP requests that the Secretariat seek CPs assistance to facilitate the work of the Secretariat in their respective countries by expeditiously arranging required support and assistance.

considering that the risks can be considerably mitigated by building relationship with local governmental agencies abroad, and others considering that this could be an issue and would be resolved by joining the UN. Several alternatives were raised (websites with security warning, SOPs) but they did not lead to consensus and it was underlined at this stage that the challenge concerned both information about security and security on the ground<sup>78</sup>.

85. Some CPs expressed their **difficulties in paying contributions to the Convention on Wetlands through an NGO**. Views diverged among Parties on this issue, with some explaining that since their Administrative Authorities frequently do not have the resources to pay their contributions directly, these have to be paid by the Ministry of Foreign Affairs, thus it is better if they are paid to UN institutions, and that some CPs are not IUCN members. Other Parties considered that the legal status of the Secretariat is not a valid reason why some CPs were not paying their dues. The case was also made that IUCN has a designated account for the receipt of contributions from CPs, and that all of the financial decisions are made by the WC COP and the SC with no influence from IUCN. Some CPs also considered that this is an internal problem for the CPs, not related to institutional strengthening. Since these discussions, this problem has not been the topic of further discussions or actions.<sup>79</sup> The lack of information on how many CPs did not pay their mandatory contributions because of the legal status of the Secretariat has also been pointed out, as this could contribute to assessing the scale of the issue<sup>80</sup>.

86. More recently, **auditors of the PWC have expressed concern on the risk that CP's arrears represent for the Convention. There seemed to be also an issue regarding the methodology used to process these arrears**. Swiss law requires the Convention to book a higher amount as a provision for outstanding contributions than for UN-affiliated conventions following the IPSAS<sup>81</sup> rules. To be in accordance with Swiss law, the SC through decision SC57-39 (June 2019) approved the external auditor's proposed modification for the calculation of the provision for outstanding CPs contributions<sup>82</sup> and accordingly agreed to increase the provision for 2019 to 100% for balances outstanding for less than five years, for CPs who have not contributed payment in the past four years. As a solution it has been suggested to verify the Swiss government possible solutions regarding risks due to non-payment of contributions, and to look at experiences in other conventions. (Part VII : Solutions or options)

## B2. Governance

87. The governance issue has been debated in the Effectiveness WG (EWG) and occurred recently in the ISWG. The EWG has been established by Resolution XIII.3 in 2018 with the objective to review the governance structure of the Convention with the assistance of an independent consultant. Following the pandemic the challenge of effective governance under any circumstances has been pointed out. Later in 2022 Resolution XIV.3 on the Effectiveness and efficiency of the Convention on Wetlands requested the Secretariat to prepare a report on possible online systems to facilitate collaboration between CPs intersessionally. Several solutions have been put forward, including the involvement of the MWG and Subgroup on Finance. It has been highlighted that by improving communication channels, the Convention can better support Parties and foster a greater sense of community among all stakeholders. The Secretariat suggested that based on the decisions of SC62 it will take further

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<sup>78</sup> Report of the 1st meeting of the WGAR, Gland, 19 January 2009 (WG-AR1-1), p. 13-14.

<sup>79</sup> Minutes Conference call, OSWG 17 May 2019, p. 3; SC62 Doc11, Secretariat report on institutional strengthening to support the implementation of the Convention; information on the status of annual contributions is also available in SC62 report (held in Gland, 4-8 September 2023), Report and Decisions of the 62<sup>nd</sup> meeting of the Standing Committee, p. 15.

<sup>80</sup> Written contribution of Switzerland, 20 February 2024.

<sup>81</sup> International Public Sector Accounting standards.

<sup>82</sup> Written contribution of Switzerland, 20 February 2024.



action to explore and ultimately implement requested systems and tools to facilitate collaboration between Parties.

### B3. Leadership

88. The various WGs also discussed the **procedure for selecting a SG, including the fact** that the procedure under UNEP would reduce the SG's role in the Convention governance. During WGAR-3 one CP felt that one of the current strengths of the Convention is its independence, for example, with the SG able to appoint staff instead of recommending to the ED of UNEP<sup>83</sup>. In 2017 during SC53 the Report of the Facilitation WG considered that the new leadership area presented tremendous potential for the Convention to regain its footing and make solid forward progress<sup>84</sup>. The Group agreed that the responses from the SG demonstrated good progress is being made on a number of issues and that the SG is managing the Secretariat in a way that takes Parties' needs into account in a clear and transparent manner. The WG anticipated that it could steadily step back from its closer-than-usual facilitation role, and give the SG space to exercise her role in managing the Secretariat. This issue was also raised in SC62 Doc.11 and discussed before in the MWG. In Decision SC59-40, the SC entrusted the MWG to develop a draft resolution to guide the process for recruiting a new SG. Some SC members during the discussions underscored the value of ensuring that all CPs have a good understanding of the process. On this matter no draft resolution was submitted to the resumed session of SC59 in May 2022. During ISWG-1 the need to have greater independence on a process to recruit a new SG was emphasized through the Jamboard process.

### B4. From HR Competitiveness to HR Independency

89. The discussions around the institutional strengthening of the Secretariat evolved recently, from discussions around **HR competitiveness** to discussions around **HR independency**. **Staff feeling of inequality** has also been raised on several occasions. Although the Secretariat recruitment process has been defined as not enough competitive as compared with the UN recruitment system and advantages, a switch to the UN has also been described as a loss of human resources independency.

90. Concerns have been raised about the **Secretariat's competitiveness** in recruiting profiles with intergovernmental expertise, particularly when compared to UN conditions and benefits, highlighting the absence of clear equivalencies with UN positions<sup>85</sup>. The challenges in talent acquisition, leading to a higher turnover rate, have been acknowledged. The growing importance of staff recruitment and retention, coupled with the decreasing competitiveness of IUCN and UN / other contracts, prompted discussions in IUCN to formulate a strategy, including benchmarking with IUCN and UN equivalent positions<sup>86</sup>. Some CPs expressed concerns about the potential impact on the Secretariat's ability to raise and manage funds, considering IUCN's different legal status from IGOs, affecting recruitment and retention<sup>87</sup>. In summary, IUCN's table of equivalencies between IUCN and UN jobs does not provide clear-cut equivalencies and this issue remains unclear<sup>88</sup>. At ISWG-1 it was reaffirmed that IUCN has a legal status under Swiss law that is different from other international institutions and that has

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<sup>83</sup> Report of the 1st meeting of the WGAR, Gland, 3 December 2009 (WG-AR1-1).

<sup>84</sup> Report of the facilitation Working group (held Gland, 29 May – 2 June 2017).

<sup>85</sup> Minutes Conference call, OSWG, 17 October 2019, p. 3; Minutes Conference call, OSWG 17 May 2019, p. 1.

<sup>86</sup> *Idem*, p. 3.

<sup>87</sup> Minutes Conference call, OSWG, 27 August 2020, p. 2.

<sup>88</sup> In 2023 CPs expressed the need for an updated table of equivalencies between IUCN and UN positions. They observed that the 2022 Financial analysis (cited FN26) did not identify clear-cut equivalencies between both staffing conditions. See the Minutes of the meeting of interested CPs on the consultation process for the preparation of the report on institutional strengthening of the Secretariat, 25 April 2023, p. 7.

repercussions on recruitment and retention of Secretariat staff, including on salary conditions. The lack of a recent, comprehensive comparative study of working conditions for UN and IUCN staff, or of staff consultation, was highlighted more recently<sup>89</sup>. Opportunities to overcome this challenge include documenting Secretariat staff turnover, discussing the issue with the host country and IUCN.

91. Since 2017, for work and resident permits expatriate international members of the staff are entitled to legitimization cards, rather than B or C permits, which creates some issues for the staff. This issue was recently addressed by the Swiss government<sup>90</sup>. They explained that under the FDFA's legitimization card system (since 2017), for the recruitment of foreign employees domiciled abroad, at the simple request of the employer, these employees receive an employment visa from the Swiss representation abroad and, on their arrival in Switzerland, a type "R" FDFA legitimization card. The same facilities (visa and legitimization card) apply to accompanying family members. For the recruitment of foreign employees who already live in Switzerland with an ordinary Swiss permit, these persons keep their permit which is not exchanged for an FDFA legitimization card<sup>91</sup>. Only foreign employees hired from abroad receive a FDFA legitimization card. In accordance with the Agreement on the Free Movement of Persons (ALCP), family members who are nationals of the European Union (EU) or the European Free Trade Association (EFTA) may choose between being issued with a FDFA legitimization card or a B permit<sup>92</sup>.

92. All persons subject to the visa requirement in Switzerland, depending on their nationality, must enter Switzerland with a visa, whether they have an ordinary permit or a FDFA legitimization card. Visas and legitimization cards are issued free of charge to staff members of international organizations and their family members, contrary to the rules of ordinary Swiss law which provides for visas and permits to be paid for. Family members who entered Switzerland before the age of 21 and who hold a FDFA legitimization card, when domiciled in Switzerland, have access to the Swiss labor market under the simplified permit Ci<sup>93</sup>, permit procedure, regardless of their nationality or qualifications. The granting of the Ci permit is not subject to the ordinary Swiss rules and the persons concerned are not subject to foreign labor quotas or labor market regulations.

93. **Non-Swiss staff after leaving IUCN are not allowed to take up any work offered in Switzerland and have to apply again to obtain a new Swiss or resident permit.** Additionally, new staff members and their dependents from non-EU/EFTA countries may be required to obtain an entry visa for Switzerland. The situation would be similar under the UN. This creates a feeling of unequal treatment among staff<sup>94</sup>.

94. Another staff-related issue is the **difficulty in obtaining travel visas for staff without an IO legitimization**. In the past, securing visas has been described as cumbersome and time-consuming, leading to a sense of unequal treatment among staff members. The root cause has been attributed to insufficient information-sharing between Administrative Authorities, and consulates were urged to recognize the importance of the Convention. As Secretariat staff holds residence permits in Switzerland for the contract duration, they can travel to other Schengen countries without additional visas. However, challenges may persist for non-EU countries like Australia and the UK<sup>95</sup>. Following COP-

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<sup>89</sup> Minutes of the meeting of interesting CPs on the consultation process for the preparation of the report on institutional strengthening of the Secretariat, 25 April 2023, p. 7; Written contribution of Switzerland, 20 February 2024.

<sup>90</sup> Internal note of Swiss Federal Department of Foreign Affairs, 20 February 2024.

<sup>91</sup> Article 17, paragraph 1, letter b, OLEH and point 2 of [Lignes directrices on the issue of FDFA legitimization cards](#).

<sup>92</sup> See point 2.2 of the above-mentioned guidelines.

<sup>93</sup> Visit [this webpage](#) for more details on permit Ci.

<sup>94</sup> SC62 DOC. 11.

<sup>95</sup> Report of the 1st meeting of the WGAR, Gland, 3 December 2009 (WG-AR1-1), p 6.

10, the SG requested assistance from CPs, especially through their Missions in Geneva and relevant ministries such as the Ministry of Foreign Affairs. While some improvements occurred, challenges persisted for staff from certain countries, leading to lengthy and costly visa processes. It was emphasized that joining the UN or enhancing coordination between the Secretariat and CPs could address this issue. Suggestions included staff applying for visas earlier, exercising foresight, and including letters from authorities in their application. The complexity of obtaining visas was acknowledged, noting that even UN staff also needs visas sometimes, too.<sup>96</sup>

## B5. High-Level representation and visibility

95. The question of the visibility of the Convention on Wetlands' objectives, its participation in major international meetings and synergies with other MEAs has been a major component of the debates that occurred in the past decades. In comparison, other Conventions such as the Rio Conventions were signed by summits of Head of States which gave them a high profile, while the Convention on Wetlands started from the ground and was first promoted by INGOs before 18 nations put their signature on the text of the Convention. Also, the Convention was signed before UNEP was created.<sup>97</sup> While joining the UN has been described as crucial in order to attain the objective of improving the current state of visibility by some CPs, others considered that the Secretariat is sufficiently represented except in a limited number of fora such as the HLPF, the ECOSOC<sup>98</sup>. This challenge was already discussed during the WGAR where the CPs pointed out challenges in terms of enhancing the visibility of the Convention due to the difficulties in taking part in global debates such as in the Commission on Sustainable Development (CSD), Global Environment Facility (GEF) and UN inter-agency coordination mechanisms contexts. It was agreed that the SG would request assistance from the CPs in securing the Secretariat Permanent Observer status at the GEF Council and ECOSOC<sup>99</sup>.

96. Hence, there is a challenge in obtaining recognition for Secretariat's delegation at major international meetings, leading to an issue of limited visibility of the Convention in UN processes and meetings. Challenges related to synergies with other conventions and fora have also been highlighted. It is worth noting that the visibility and synergies issues, have been discussed in other groups than the WGAR, OSWG and ISWG.

97. After these issues were initially raised, a proposal was made among CPs at to adopt a Resolution at COP-10 requesting CPs to recognize Wetlands delegations as representing an intergovernmental Secretariat when organizing meetings. The proposed draft resolution called on CPs hosting such meetings to facilitate the registration of Secretariat staff and formally recognize them as representing the Secretariat of the Convention on Wetlands<sup>100</sup>. The SG took actions and consequently several UN agencies and other IOs have facilitated the participation of WS in their major meetings, including high-level meetings<sup>101</sup>. Other actions included concluding partnerships within the UN remit; organizing training workshops on the Convention in the CPs to raise awareness; talking with meetings organizers way in advance. However, after these initiatives the Secretariat staff was still experiencing cases where the Secretariat delegation was classified as an NGO when attending major meetings, which was felt as frustrating by the staff and not helpful for the profile of the Convention<sup>102</sup>. Some argued that protocols in UN meetings presented challenges, with the Convention often coming last and having fewer chances

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<sup>96</sup> Report of the 4<sup>th</sup> meeting of the WGAR, 26 January 2010, p. 3-5.

<sup>97</sup> Report of the 3<sup>rd</sup> meeting of the WGAR, Gland, 3 December 2009, p. 5.

<sup>98</sup> Minutes Conference call, OSWG 17 October 2019, SC62 DOC. 11.

<sup>99</sup> Report of the 2<sup>nd</sup> meeting of the WGAR, Gland, 3 December 2009, p. 5.

<sup>100</sup> DOC. SC37-3 Rev.1, "Facilitating the work of the Ramsar Secretariat at international level".

<sup>101</sup> These organizations are listed in the Report of the 1<sup>st</sup> meeting of the WGAR, Gland, 3 December 2009 : UNEP, FAO, CBD, UNFCCC, UNCCD, WMO, Un-Water, World Water Week.

<sup>102</sup> DOC SC37-2, Legal status of the Ramsar Convention Secretariat (incl. comments from Switzerland), p. 9.

to be heard. While challenges persisted in the CSD, the Convention maintained good relationships with the GEF and the UNEP. A CP highlighted the need for creative solutions, as a recent legal review had concluded that treaty secretariats do not qualify as IGOs and were therefore not eligible for Permanent Observer Status at UNGA. She noted that IUCN expressed commitment to the Secretariat's continuing participation in the IUCN delegation. This CP clarified that the issue was unrelated to the hosting institution of any particular MEA<sup>103</sup>.

98. More recently at SC62, while some CPs considered that these issues will be solved when the administrative arrangements are solved, others suggested to advance Uruguay's proposal to obtain observer status at UNGA through a meeting of missions from New York and Geneva (Part VII : Solutions or options).

## **B6. Conclusion on remaining challenges**

99. In conclusion, the ongoing process has provided clarity regarding the Secretariat's ability to enter into contracts at the domestic level. However, it has been recommended that this authority be clarified through a draft resolution, which could also address the Secretariat's ability to enter into binding international arrangements. Additional concerns have arisen on this topic, particularly in response to recent IUCN requests of additional requirements for project management related contracts. The challenge of limited staff access to UN logistical and security assistance seems to persist, but has been little documented in recent reports. It is worth noting that paying contributions to a secretariat hosted by IUCN which is perceived as an NGO in some jurisdiction has not been mentioned as a challenge in the most recent discussions. Current discussions on institutional strengthening have introduced new topics, including information management (governance), the need for an updated procedure for selecting a new SG and the need to actively manage the risks associated with outstanding arrears. HR challenges persist and have evolved from concerns about HR competitiveness and retention which, although still relevant today, have now expanded to encompass concerns related to HR independence. Unequal treatment among staff remains a perceived issue, particularly concerning visa and permit issuance. Although visibility concerns have seen improvement over the years, challenges persist, notably since the status of the Secretariat as a permanent observer at the UNGA is yet to be resolved.

## **Part VI : Goals and objectives**

### **A. Goal ISWG**

100. The main goal of the work of the ISWG is to achieve organizational robustness to support the implementation of the Convention on Wetlands, including through the preparation of a draft resolution. To attain this overall goal, several objectives have been identified throughout the process, including before the establishment of the ISWG. These objectives have been synthesized in this part and grouped under a number of categories.

### **B. Objectives**

101. The overall goal described in the previous paragraph responds to various objectives that have been put forward throughout the consultative process on institutional strengthening. To proceed in reverse chronological order, the recent efforts of the ISWG to identify what they expect from a strengthened institutional framework under the Convention resulted in the identification of a number of objectives through the Jamboard process. Previous resolutions and decisions, given their consensual

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<sup>103</sup> Report and decisions of the 54<sup>th</sup> meeting of the Standing Committee, p13.

nature, also give important insights to identifying the objectives of the process and often came with precise mandates on the way forward to attain these objectives. The minutes of WG or SC meetings, also proved to be useful in synthesizing the objectives of this process.

102. All of these objectives have been carefully collected and grouped under the following categories: Independence, Improving current operations of the Secretariat, Implementation of the Convention, Raising the visibility of the Convention, Reinforcing synergies with MEAs and the UN.

103. The objective of reaching more **independence** was referred to during the ISWG discussions and was described through different formulations and degrees of required independence. References were made to agreeing on a new path for the Convention with greater independence; having a wider independence on a process to recruit its SG; reaching full administrative independency, competitive recruitment and independent legal status; enabling the Secretariat to represent the CPs and fulfill its mandate by itself and not as part of an organization; enabling the Secretariat to enter into contractual arrangements autonomously from IUCN<sup>104</sup>. Resolution X.5 stated in 2008 that the Secretariat should serve the interests of the CPs<sup>105</sup>.

104. The objective of **improving current operations of the Secretariat** was recently described through Jamboard with an emphasis on two different aspects<sup>106</sup>. The first concerns effective fundraising and includes for instance, the fact that the Secretariat should have the ability and authority to do quick and effective fundraising from donors funder; have acceptable working contributions from member countries, grants, partnerships, and donations; ensure budget allocation to ensure responsible use of financial resources; have diversified sources of funding to support the convention's activities, including contributions, grants, partnerships, and donations. The second concerns information management, and CPs during the first ISWG meetings insisted that the Secretariat should apply good information management, including of Resolutions and ensuring that RIS updates are approved and uploaded by the Secretariat promptly; that it must consider the current information available and define specific improvements actions and create a benefit for the institution. Resolution XI.1 in 2012 mentioned that the goal was to improve current operations of the Secretariat<sup>107</sup>. This consideration also appeared in 1990 in the Resolution on Secretariat matters, which mentioned the effective functioning of the Secretariat for the implementation of programme priorities<sup>108</sup>.

105. With regards to the objective of ensuring proper **implementation of the Convention**, CPs referred to a Secretariat with optimal services to support them in their implementation of the Convention at the domestic level ; an increased confidence that encourages nomination of new sites, protection of more wetlands; a Convention with such a working setup that all CPs and partners / stakeholders want to come together for joint activities to enhance the concrete implementation; and tools for effective, efficient and sustainable management and implementation of the Convention<sup>109</sup>. This implementation objective had already been mentioned in quite numerous occasions, including recently through the terms of reference for this consultancy<sup>110</sup>, Resolution XIV.16 in 2022<sup>111</sup>, Resolution XI.1 in 2012<sup>112</sup>,

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<sup>104</sup> Minutes of the 1st meeting of ISWG, 11 october 2023, Annex 1 Jamboard results.

<sup>105</sup> Resolution X.5, Facilitating the work of the Ramsar Secretariat, COP10 (held 28 october – 4 November 2008), para 2.

<sup>106</sup> Minutes of the 1st meeting of ISWG, 11 october 2023, Annex 1 Jamboard results.

<sup>107</sup> Resolution XI.1, Institutional hosting of the [Wetlands] Convention, COP11 (held 5-13 July 2012), para 3.

<sup>108</sup> Annex to DOC C.4.15: Resolution on Secretariat matters (1990).

<sup>109</sup> Minutes of the 1st meeting of ISWG, 11 october 2023, Annex 1 Jamboard results.

<sup>110</sup> Terms of Reference for a Preparation of a Governance Synthesis Report, 2023.

<sup>111</sup> Resolution XIV.16 para 22, see FN 2.

<sup>112</sup> Resolution XI.1, Institutional hosting of the [Wetlands] Convention, COP11 (held 5-13 July 2012).

Resolution X.5 in 2008 that mentioned the implementation of the Convention explicitly as an objective for the WGAR<sup>113</sup>.

106. In terms of **raising the visibility of the Convention**, which has also been identified as a challenge and has been the topic of lengthy discussions, the Jamboard results mentioned that the Convention could have more advocacy power and awareness in or with the other MEAs, together with a larger recognition and awareness by the general public. The visibility objective was also targeted by Resolutions XIV.6 and XI.1 which mentioned the need to increase the Convention's visibility and stature, and by the Report to SC-41<sup>114</sup>.

107. As regards to raising **synergies with other MEAs and the UN**, this topic was also a topic for challenges with the conclusion that this area should be improved continuously. Members of the ISWG referred in the Jamboard to a stronger accountability of the Secretariat to CPs, similar international and/or administrative standards as comparable conventions and an unimpaired access to the UN system; a like-to-like status with other MEAs to facilitate synergies; and that the Secretariat staff should be recognized as diplomats. These objectives had already been identified in previous documents through various formulations: Resolutions XIV.6 and XI.1 referred to the enhancement of synergies with MEAs and other international entities including through regional initiatives, and the increased involvement in the initiatives of the UNEP. The report to SC 41 (para 35)<sup>115</sup> expressed the need for the Convention to play a greater role in international environmental agreements.

108. To implement these objectives and respond to these challenges, a number of options and solutions have been discussed by CPs throughout the previous and existing WGs, SC and COP discussions. They are synthesized in the next Part.

## Part VII : Solutions or options

### A. Methodology

109. In the course of the entire process, a multitude of options and solutions have been developed to address various challenges. Initially, an attempt was made to categorize all options according to the Resolution XIV.6 categories. However, this approach proved challenging and obscured clarity for the reader, as certain options could be applicable to multiple categories. For example, options A1-2 and B1-3 simultaneously tackle administrative arrangements, visibility, and HR independency. Additionally, some challenges were associated with options proposed by the CPs prior to the adoption of COP Resolution XIV.16, which defined the framework for different categories.

110. To enhance readability and comprehension, a decision was made to introduce the options in chronological order. To further aid in the preparation of an 'Option document,' summary tables are included. Each option is cross-referenced with today's categories under Annex I, recognizing that certain options may span multiple categories. Moreover, consideration is given to the short-term or long-term nature of potential solutions. This table outlines related challenges for each option, specifies

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<sup>113</sup> Resolution X.5, Facilitating the work of the Ramsar Secretariat, COP10 (held 28 October – 4 November 2008), para 2.

<sup>114</sup> Minutes of the 1st meeting of ISWG, 11 October 2023, Annex 1 Jamboard results; Resolution XI.1, Institutional hosting of the [Wetlands] Convention, COP11 (held 5-13 July 2012); Resolution XIV.16 para 22, see FN 2; Report of the 41st meeting of the SC (held Kobuleti, Georgia, 26 April – 1 May 2010), para 21.

<sup>115</sup> Minutes of the 1st meeting of ISWG, 11 October 2023, Annex 1 Jamboard results; Resolution XI.1, Institutional hosting of the [Wetlands] Convention, COP11 (held 5-13 July 2012); Resolution XIV.16 para 22, see FN 2; Report of the 41st meeting of the SC (held Kobuleti, Georgia, 26 April – 1 May 2010), para 35.

the short-term/long-term character of the proposed solution, and indicates the category to which it belongs. This revised structure aims to provide a clear and organized working document for efficient reference and future work. Annex II provide details on the risks and benefits of each of the main options detailed under the 2020 legal analysis and 2022 financial analysis, with the aim of synthesizing the detailed information and analysis provided in these two reports.

111. Under each category the options and solutions are introduced following a similar template to make it comparable. Firstly, each option or option elements provides an identification of the related challenge, a brief description of the option, an identification of the risks and benefits, a description of what has been done so far to implement this option, the remaining issues and potential opportunities. **Where this has not been provided, the report does not add to the SharePoint documents content and identifies this option as needing further refinement.**

## A1. Initial 3 Options (WGAR)

112. These three options were introduced in the early stages of preliminary discussions before the establishment of the WGAR, where they underwent thorough discussion. They served as the foundation for presenting more refined alternatives during the subsequent OSWG. The primary objective of these options was to address challenges identified at the onset of discussions, specifically focusing on the initial nine issues such as visas, staff security, concluding contracts and international agreements, Convention visibility, IUCN financial and other procedures, liability, and the two challenges that have been resolved related to the working permits of staff spouses, and the loss of privileges on non-Swiss staff in Swiss communes.

113. Option 1 was documented in the Legal analysis 2008, Part 3, and discussed during the course of the WGAR (2009-2011), although it received less attention than the next two options<sup>116</sup>. Under Option 1, the proposal is that **IUCN continue to host the Secretariat, with significant improvements**<sup>117</sup>. These improvements aim to clarify and confirm the legal personality of the Secretariat through COP resolutions or alternative arrangements.

114. Implementing this option may involve a modification of the DoA. Alternatively, IUCN's DG could be invited to engage in negotiations with the Wetlands SG to formalize a new cooperative arrangement better suited to current and future needs. Another avenue could involve authorizing the SC, in consultation with the SG, to negotiate a complementary host country MoU with the Swiss government, specifically covering matters of special interest to the Secretariat. In 2009 the LoA underwent renegotiation, incorporating more details guidance governing the relationship between IUCN and the Secretariat. Some CPs perceived that the Convention would maintain its independence under this option<sup>118</sup>. Under this option the Secretariat would be advised to conclude MoUs rather than binding international agreements – with States or intergovernmental bodies.

115. Remaining challenges include for some CPs, the fact that as a non-IGO the IUCN would not enjoy the benefits of the Vienna Convention on diplomatic relations and related privileges and immunities,

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<sup>116</sup> Option 1 has also been more recently documented through a comparative table in the 2020 Independent legal analysis, see Table 1 p. x and Appendix 9 p. 120.

<sup>117</sup> A first idea of option was already present in 2007 although less comprehensively documented. In Doc SC36-15 the Secretariat suggested to obtain significant improvements of the conditions under IUCN management, including legitimate and authoritative credentials regarding the Secretariat; for instance, obtaining recognition as an international organization by UNGA, ECOSOC.

<sup>118</sup> For detailed discussions on option 1, see Report of the 3<sup>rd</sup> and 4<sup>th</sup> meeting of the WGAR, Gland, 3 December 2009, and DOC SC41-33, Report of the WGAR to the 41<sup>st</sup> meeting of the SC (held Kobuleti, Georgia, 26 April-1 May 2010).

nor institutional advantages of the UN system. Additionally, during the WGAR discussions, some CPs expressed skepticism about the potential significant improvement in the Convention's visibility under this option. The 2008 and 2020 legal audits recommended the adoption of COP resolutions to address these matters. Option 1 does not entail any specific additional costs.<sup>119</sup>

116. Under **Option 2 the Secretariat would be registered as a legal international, intergovernmental organization**<sup>120</sup>. As an independent IGO in the traditional sense, a "Wetlands IGO" could be explicitly endowed with international legal personality and such legal capacity as is necessary to effectively perform its functions, explicitly or based on its "implied powers". In addition, for the purpose of the Secretariat having capacity to engage in contractual arrangements in the host country, the domestic legal capacity of the "Wetlands IGO" would need to be specifically recognized in a Headquarters Agreement<sup>121</sup>. Administrative and other services currently provided by the IUCN would need to be designed, elaborated and enacted independently. Recruitment and other administrative aspects would be taken care of by the IGO and the Secretariat on their own<sup>122</sup>.

117. This could be expected to increase the competitiveness of the Secretariat if the salary scale and other benefits would be more attractive than those applicable in the current IUCN situation. The possible improvements of the situation on privileges and immunities for the Secretariat and its staff may also increase the competitiveness and attractiveness of the Secretariat. This option is expected to enhance the visibility of the Convention and the possibility to participate to UN processes and events, and the possibility to obtain observer status at the UNGA. However, this option would be very costly and administratively cumbersome, with serious financial and legal consequences<sup>123</sup>. The 2008 legal audit specified that this option is one of last resort, and should not be considered until all other possibilities have been exhausted<sup>124</sup>.

118. Under **Option 3 the Secretariat would be administered by a UN agency such as UNEP**<sup>125</sup>. This option would not require an amendment if it follows the UNEP hosting model. The key characteristics of the intended arrangements would be articulated in a COP decision and further details could be elaborated in supplementary documents. The organization would need to accept the role of providing the Secretariat for the Convention through a preparatory process. In this scenario the Secretariat would retain a level of legal autonomy akin to the current arrangement with IUCN. This autonomy would extend to entering into contractual arrangements, including donor contracts, with third parties, and notably, without the mandatory involvement of UNEP as a party to these arrangements. The Secretariat would certainly benefit from a DoA, including for entering into contractual arrangements, via the DAFP that applies to all MEAs secretariats provided by UNEP. The administrative arrangements and the degree of autonomy of the Secretariat vis-à-vis UNEP could also be further specified in the conclusion of a LoA and MoUs between the Convention and UNEP in similar terms as for other secretariats. The administrative and other services currently provided by the IUCN would be provided by the new host to the extent proposed by the latter and as agreed in the arrangements endorsed by

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<sup>119</sup> See 2008 legal analysis, p. 35ss, cited FN 4.

<sup>120</sup> A first idea of option was already present in 2007 although less comprehensively documented. In Doc SC36-15 the Secretariat suggested to obtain recognition by Switzerland as an international organization seated in this country.

<sup>121</sup> The Swiss LEH 2008 allows Switzerland to conclude with the Wetlands Convention a "host agreement" and provide diplomatic privileges immunities, and specific diplomatic instruments. See Independent analysis on the legal status of the Secretariat of the Convention on Wetlands, 15 July 2020, p. 11

<sup>122</sup> It could potentially be decided that the rules and regulations of another IGO apply mutadis mutandis or that rules and regulations be elaborated in a manner that is based substantially on those of another IGO.

<sup>123</sup> See 2008 legal analysis, Annex 4, cited FN 4.

<sup>124</sup> *Idem*, p. 37.

<sup>125</sup> A first idea of option was already present in 2007 although less comprehensively documented. In Doc SC36-15 the Secretariat suggested to join the UN system in some way.



the COP and by the governing body of the host organization. The Swiss Headquarter Agreement with the UN<sup>126</sup> would be applicable and therefore privileges and immunities would be applicable.

119. Option 3 would likely enhance the competitiveness of the Secretariat. Recruitment and many other administrative aspects would be governed by the relevant UN regulations and rules. The possibilities of the Secretariat to participate in UN fora and events would be expected to increase compared to the current situation. The degree of visibility of the Convention, vis à vis UNEP, may depend on the practical circumstances of the relevant conferences and events. In processes and events of high-level character, participation in its own name may not always be possible, notably in HLPF meetings. If the Convention were to join UNEP the staff posts would have to be advertised and the present staff would have to apply for these posts. While some CPs strongly supported this option, other CPs cautioned that under this option the Secretariat and the Convention as a whole may lose some independence<sup>127</sup>.

120. Regarding financial implications, under this option, a trust fund would be established at UNEP to oversee all funds received by the Secretariat. The management of this fund would be entrusted to the ED of UNEP in accordance to UN rules and regulations. Staff would be recruited by the UNEP ED and existing staff would become UN staff, subject to the UN staff rules and regulations, and entitled to the UN privileges and immunities and to a pension. An administrative fee of 13% would be charged to the Trust Fund to meet the administrative expenses that UNEP may charge, and there may be other charges<sup>128</sup>.

## A2. Options A1-3, B1-2, C1-3 (OSWG)

121. These options respond to the challenges raised during the OSWG discussions, i.e. some continuing limitations due to the lack of legal personality of the Secretariat (administrative arrangements); the visibility of the Convention on Wetlands (HL participation and visibility); the limitations of the Secretariat's competitiveness compared with UN conditions and benefits (HR matters); difficulties in the management of projects and capacity to sign contracts; and recent concerns on the risk that CP's arrears represent for the Convention (administrative arrangements).

122. The 2020 independent legal analysis mandated by the OSWG concluded with five specific options to address the key concerns about the legal status of the Secretariat and its operation and three additional ones aimed at enhancing participation in UN high-level fora and processes under the UNGA, respectively the ECOSOC, in particular the HLPF. The set of options in the report can be seen as ranging from the highest to the lowest degree of independence vis-à-vis other international organizations, as follows:

- Option A1 analyses what we may call **traditional IGOs and their secretariats**: Secretariats of traditional IGOs – either entirely “outside” of the UN system, or with some relationship to the UN, while not “institutionally linked”. Examples include the International Whaling Commission (IWC), the International Seabed Authority (ISA), and the World Trade Organization (WTO).

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<sup>126</sup> Agreement between the United Nations and the Swiss Confederation on the Ariana Site, 11 June 1946, Bern

<sup>127</sup> For detailed discussions on option 3, see Report of the 3<sup>rd</sup> and 4<sup>th</sup> meeting of the WGAR, Gland, 3 December 2009, and DOC SC41-33, Report of the WGAR to the 41<sup>st</sup> meeting of the SC (held Kobuleti, Georgia, 26 April-1 May 2010).

<sup>128</sup> For more information on the financial implications of this option, see Reports of the 3<sup>rd</sup> and 4<sup>th</sup> meeting of the WGAR, Gland, 3 December 2009, especially UNEP contributions. The Financial analysis of the legal status of the Secretariat (May 2022, cited FN 26) provides more recent information.

- Option A2: deals with **fully independent** treaty secretariats not of traditional IGOs but of intergovernmental treaties that follow the “**COP Model**”. The example of the Arms Trade Treaty is analyzed in the report.
- Option A3 looks at MEA secretariats that enjoy a **large degree of independence**, but, at the same time, are connected with the UN through an “institutional linkage”. Examples are the UN FCCC and UNCCD.
- Options B1 explores MEA secretariats that are **largely integrated into the administrative structure of UN programmes** (UNEP), which are part of the UN system. Examples include global MEAs secretariats for which UNEP provides the secretariat.
- Option B2: MEAs secretariats that are **largely integrated into a UN specialized agency** (UNESCO) with the example of the secretariat of the World Heritage Convention (UNESCO).

123. Achieving **Option A1** would require amending the Convention. While it is anticipated that Option A1 would likely secure IGO observer status under the UNGA, providing a heightened independent visibility, it leaves the matter of membership in most UN system inter-agency coordination mechanisms unresolved for a “Wetlands IGO” that remains outside the UN system. Option A1 would also solve any difficulties related to the legal capacity, be expected to result in higher competitiveness if attractive salary scales and benefit schemes are chosen. However, option A1 would require an amendment which takes a long time to achieve<sup>129</sup>. The costs associated with this process would include staffing costs; travel; and legal advice. It is difficult to estimate the staffing costs and salary scales and a deeper financial analysis is recommended to estimate transition costs<sup>130</sup>.

124. Option B1 would, on its own, not improve the issue of legal capacity, but likely improve all participation aspects (including UN inter-agency coordination). Overall, Option B1 is anticipated to improve participation in UN processes, primarily through UNEP. Such participation could be, at times, visibly in the name of the Convention, and at other times limited to participation as part of the UNEP delegation or mere representation through UNEP. Option B1 would probably not enhance the Secretariat’s autonomy vis-à-vis the “host organization” regarding legal capacity to sign contracts, since this capacity would be subject to the UNEP DoA Policy and Framework. This option would be expected to solve issues of competitiveness regarding recruitment, as the Secretariat staff would be UNEP staff under UN regulations and rules, with UN salaries and benefits, as applicable to UNEP. Legally, UNEP could be appointed as new host organization through a COP Resolution after the necessary preparatory process<sup>131</sup>. Under this option the Secretariat could negotiate with UNEP the services to be provided. Staffing costs under the UN salary system would not necessarily be higher than under current IUCN salaries<sup>132</sup>.

125. Overall, option A2 would not significantly improve chances for obtaining observer status in the UNGA, nor would it resolve the issue of participation in the UN system inter-agency coordination mechanism, although the Convention would likely have higher independent visibility. It would likely solve the issues relating to legal capacity, be expected to result in higher competitiveness if attractive salary scales and benefit schemes are chosen. However, the option may only be attractive if CPs could agree, by consensus, that Article 8.1 may allow for making the Secretariat independent from any other organization. Otherwise, CPs would need to use the amendment procedure<sup>133</sup>.

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<sup>129</sup> See 2020 legal analysis, p. 77, cited FN 3.

<sup>130</sup> 2022 Financial analysis, p.19, cited FN 26.

<sup>131</sup> See 2020 legal analysis, p. 85, cited FN 3.

<sup>132</sup> 2022 Financial analysis, p.47, cited FN 26.

<sup>133</sup> See 2020 legal analysis, p. 80, cited FN 3.

126. Option A3 could possibly be the best combination of independence and UN linkage. However, it seems uncertain whether the UN would be ready to “replicate” the UNFCCC and UNCCD model again. Whether participation in the UNGA / HLPF and inter-agency coordination is improved would also depend on the preparatory consultations with the UN on the arrangements of the “linkage”. Overall, Option A3 would likely enhance the possibility of participation in UN processes and fora such as the HLPF and inter-agency coordination mechanisms, as well as likely improve visibility as an independent Secretariat that is part of the wider UN system. The Secretariat, under this model, would not be fully integrated into a UN programme, but still be institutionally linked to the UN through specific arrangements<sup>134</sup>. It would likely enhance the situation related to the legal capacity to sign contracts, because being “institutionally linked” to the UN, but not integrated into the management structure of any of its programmes, would likely improve chances of recognition of its international legal personality and legal capacity, and possibly also allow concluding a Headquarters Agreement on its own. It would also be expected to result in increased competitiveness as staff would hold UN contracts under UN regulations with UN salaries and benefits. Under this option the financial analysis concluded that although the costs may not be the lowest of all options, the Secretariat could have some control on which services to request. Staffing costs under the UN salary system would not necessarily be higher than under current IUCN salaries<sup>135</sup>.

127. Option B2 may result in less improvements compared to the other options. While it may improve participation, problems around legal capacity and autonomy would probably be worse than today. Overall, Option B2 would possibly improve participation in UN fora and processes, primarily through UNESCO. As can be expected for all other options, it would be expected to solve the issue of competitiveness, as the Secretariat would be UNESCO staff under UN staff regulations and rules. Legally it would be possible through a COP Resolution<sup>136</sup>.

128. In conclusion, these five options constitute an evolution of the previously discussed options, namely Options 2 and 3, with intricate details being provided in the 2020 legal analysis. Some of the above-mentioned options have significant legal implications, notably undergoing an **amendment process**, with a spectrum ranging from Option A1 (amendment clearly needed) to Options B1/B2 (amendment clearly not needed). Options A1, A2 and probably A3, would need, and allow for, a **Headquarters Agreement**, while B1/B2 would not need one. Overall, Options A1 and B1 would solve most of the three above-mentioned clusters of issues (administrative arrangements, visibility, high-level representation), either fully or to a large extent – while both are fundamentally different. In the case of Options A2, A3 and B1, possible action by the COP to clarify the issue of international legal personality would be helpful, in addition to choosing any of these options. A comparative table at the end of this report provides a summary of the challenges and opportunities of each of these options against the Resolution XIV.16 categories (Annexes).

129. The 2022 financial analysis<sup>137</sup> provides a comparative analysis of the three options identified by the WG as the most viable (Options A1, A3 and B1), plus the current arrangement of the Secretariat of the Convention hosted by IUCN. The comparative analysis encompassed costs of operation and administrative service arrangements (including fees required by the hosting organization in exchange for the fees when applicable); staff costs and benefits implications; and the steps and approximate time of each option.

130. Concerning costs of each option the report notes that in 2008, an analysis of the financial implications of the Secretariat joining UNEP or becoming an independent international organization

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<sup>134</sup> See 2020 legal analysis, p. 81, cited FN 3.

<sup>135</sup> 2022 Financial analysis, p.47, cited FN 26.).

<sup>136</sup> See 2020 legal analysis, p. 85, cited FN 3.

<sup>137</sup> 2022 Financial analysis, p.19, cited FN 26, provides more recent information.

concluded that joining UNEP would imply an increase of at least 24% of the annual budget. At that time, the main difference was in staff costs, but today this difference seems to be much lower.

131. The report also shows that under options A1, A3 and B1, it would be important to consider the cost of the meetings of the subsidiary bodies, while under IUCN, the Convention does not need to pay to rent spaces or equipment for the meetings of the subsidiary bodies; under the other options, assuming that the Secretariat remains in Switzerland, the Convention may need to pay to rent the necessary space and equipment for meetings. The report concluded that the calculation of these costs would need further consideration<sup>138</sup>.

132. **Additional possibilities**, which are explored in the 2020 legal analysis and which are solely aimed at enhancing participation in UN high-level fora and processes under the UNGA, respectively the ECOSOC, in particular the HLPF, include:

- **Option C1:** Continuing with a “modified” request for the Ramsar *Convention* to be granted observer status in the UNGA (as an IGO);
- **Option C2:** Broadening of the possibilities to participate in UN processes in the context of the reform of the modalities for participation in the HLPF;
- **Option C3:** request to the ECOSOC for designation of the Convention to participate in deliberations of the ECOSOC and its functional commissions, which would include participation in HLPF meetings that are convened under the ECOSOC.

133. These options would not solve the other issues related to administrative arrangements (capacity to sign contracts and aspects relating to recruitment and competitiveness), nor would they enable participation in UN system inter-agency coordination mechanisms. These solutions could be pursued under the current status quo or could be complementary to choosing and implementing any of the Options A1-B2 above. As these possibilities do not entail any institutional changes on the side of the Secretariat and its current arrangements, there would be no legal implications in terms of amendments or a procedure under Article 8.1 of the Convention, and no significant costs attached.

### A3. Options SC62 Doc 11

134. Doc SC62 Doc 11 responded to a request from COP Resolution XIV.16 para 22 which instructed the Secretariat to prepare an institutional strengthening report. This was supposed to include recommendations including related to administrative arrangements, governance, leadership, HR independency, HL political engagement and the Convention’s visibility objectives. Those categories have been used in the preparation of the report, to structure the recommendations. The Secretariat organized two meetings of interested CPs on 24 April and 13 July 2023 to discuss the preparation of the report of the Secretariat to SC62. At the 13 July meeting the CPs agreed on the prioritization of opportunities to strengthen the Secretariat, assigning the priority as shown in the above table.

135. The list of options in the document are summarized below as follows:

Topic	Options	Priority
Administrative arrangements	<ul style="list-style-type: none"> <li>• Establish a WG;</li> <li>• Full transition of the Secretariat to the UN system;</li> <li>• Renegotiation of the LoA with IUCN or similar dialogue;</li> <li>• Explore a revised procedure with IUCN for project management;</li> </ul>	High priority (5)

<sup>138</sup> SC59 (held Gland, 23-27 May 2022), Report of the OSWG SC59/2022 Doc.14

	<ul style="list-style-type: none"> <li>• CPs consultations;</li> <li>• Involvement of the MWG and Subgroup on Finance;</li> <li>• Discussions with the host country;</li> <li>• Possible agreements with countries in arrear;</li> <li>• Explore with the new Auditor possible alternative approaches to managing the risks due to the non-payment of contributions</li> <li>• Continue to invite Parties with outstanding contributions to agree on a payment plan in line with Decision SC58-15</li> <li>• Revisit the experiences of other conventions in facilitating payment contributions based on document SC58 Doc. 8.3</li> </ul>	
Governance	<ul style="list-style-type: none"> <li>• Foster collaboration between CPs by improving communication channels</li> <li>• Strengthening training tools</li> </ul>	Low priority (1)
Leadership	<ul style="list-style-type: none"> <li>• Support MWG in the process of drafting a new DR that establishes the process for recruiting a new SG</li> </ul>	Medium priority (3)
HR independency	<ul style="list-style-type: none"> <li>• Prepare comparison tables to understand the limitations on competitiveness</li> <li>• Discuss with IUCN how the competitiveness of IUCN contracts can be enhanced</li> <li>• Request IUCN to identify clear-cut equivalencies between IUCN and UN positions</li> </ul>	Medium priority (3)
HL representation and visibility	<ul style="list-style-type: none"> <li>• Promote a meeting of missions from NY, Geneva and capitals in order to coordinate efforts to advance approval of Uruguay's proposal</li> </ul>	High priority (5)

136. Under the category **Administrative arrangements**, a spectrum of recommendations was delineated, extending beyond the consideration of joining the UN as already extensively documented in preceding materials. The document presented several alternatives, more short-term options, responding specifically to the challenges and their corresponding objectives outlined in this report. These challenges primarily encompassed **improving the DoA and LoA, solve the issue of unpaid contributions**, and addressing the issue of **staff access when on mission to UN logistical and security assistance**. The establishment of the ISWG was conceived as part of the envisaged solutions and has since been implemented. The proposal for the renegotiation of the LoA and fostering dialogue with IUCN emerged as valuable, shorter-term options, endorsed by both CPs and the Secretariat. It was emphasized that consultations among CPs outside the group would be essential to gather diverse perspectives and formulate effective solutions. The CPs suggested to involve the MWG and Subgroup on Finance to assess the feasibility of the Secretariat directly contracting donors and partners for the implementation of projects. Additionally, the Secretariat suggested to explore the development with IUCN of a revised procedure including project appraisal and contract review, adapted for the Convention Secretariat in the context of the existing DoA/LoA.

137. Regarding unpaid contributions several recommendations have been put forward including through dialogue with the Swiss government and with the new auditor in search for solutions; continue to invite Parties with outstanding contributions to agree on a payment plan in line with Decision SC58-15; possible agreements with countries in arrears for the payment of contributions and to look at experiences of other conventions such as the BRS Conventions, based on document SC58 Doc 8.3.

138. No particular solution has been submitted with regards to staff access to UN logistical and security assistance.

139. Under the category **High-level representation and Convention's visibility objectives**, recommendations from document SC62 Doc. 11 notably relate to the difficulties in participating as member in UN system inter-agency coordination mechanism and to the lack of visibility of the Convention in UN processes and meetings. While some CPs considered that these issues relate closely to the administrative arrangements and could be solved when this issue is solved, other suggestions pertained to the promotion of a meeting of missions from New York, Geneva and capitals in order to coordinate efforts to advance approval of the Uruguay's proposal in the 78<sup>th</sup> UNGA agenda to obtain observer status, following a similar process as was carried out for the UN World Wetlands Day Resolution.

140. Under the category **Human Resources independency**, the recommendations responded to the foreseen challenges related to limited competitiveness of Secretariat staff, staff recruitment and retention strategies, the replacement of staff permits B and C by legitimation cards and the lack of clarity related to IUCN and UN staff equivalencies. To commence efforts on these fronts, it has been proposed to develop comprehensive comparison tables, providing insights into the limitations on competitiveness, including data on staff turnover. Concurrently, engaging in discussions with the host country to explore potential short-term solutions is deemed crucial. Discussions with IUCN on enhancing the competitiveness of IUCN contracts would also be relevant, including a request to IUCN to identify clear-cut equivalencies between IUCN and UN positions. As regards the working permits, joining the UN would not change anything since under the UN legitimation cards are also granted in lieu et place of working permits.

141. Under the category **Leadership** the recent discussions briefly mentioned that a process for recruiting a new SG was ongoing and had not been completed yet, and that the MWG should be requested to prepare a draft resolution on this topic for the consideration of SC63 that establishes the process for recruiting a new SG, to respond to decision SC59-40. The Secretariat could support the preparation of such a draft resolution.

142. Under the category **Governance** the document refers to Resolution XIV.3 on the effectiveness and efficiency of the Convention. The recommendations respond to the challenge of developing new approaches and possible online systems to enhance collaboration between CPs intersessionally. The CPs suggested to involve the MWG and Subgroup on Finance in the development of solutions, to continue to work on strong communication tools by providing platforms for Parties to work together intersessionally, exchanging ideas and submitting comments on draft resolutions, strengthening training tools and materials. The role of the Secretariat in strengthening training tools has been emphasized, such as virtual workshops and training materials. These efforts are designed to effectively support CPs to ensure that the Convention is adequately implemented at the national level.

## A4. Other options pertaining to the legal status / personality of the Secretariat

143. Regarding legal status issues specifically, the 2020 legal analysis recommended to clarify remaining doubts or ambiguity. In doing so, by way of a resolution, the COP could:

- Explicitly state that the Secretariat possesses international legal capacity and has such legal capacity as is necessary for the exercise of its functions;
- Invite the CPs to recognize legal personality of the Secretariat, as necessary and appropriate, at the domestic level;
- Explicitly recognize that the Secretariat has, based on the terms of the 1993 DoA, the capacity to enter into contractual arrangements in a manner that is autonomous from IUCN<sup>139</sup>.

144. Additional solutions to explore related to the legal status and legal personality of the Secretariat pertained to obtaining recognition by Switzerland of the Secretariat as an intergovernmental organization seated in its country; the SG to be empowered to approach the DG of IUCN about the Secretariat accompanying the IUCN delegation to international meetings at which it has observer status, with the understanding that the staff would be permitted to speak in the name of the Convention and not for IUCN.

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<sup>139</sup> See 2020 legal analysis, p. 25, cited FN 3.

## Conclusion and way forward

145. The Convention on Wetlands was signed before the negotiation and conclusion of the Rio Conventions, and before a stable practice of hosting MEAs under the aegis of UNEP had emerged. The institutional set-up of the Convention has also been elaborated before the need for synergies in environmental governance was expressed. It was also pointed early on in the institutional strengthening process, that the Convention on Wetlands had not been signed by summits of Head of state, unlike the Rio Conventions, which therefore enjoyed immediate high visibility. As a consequence, the visibility and high-level representation of the Convention have been called into question. In addition, an overarching concern of unequal treatment among Secretariat staff has surfaced in the last decades, underscoring the need for a comprehensive and equitable solution.

146. Since the beginning of the consultative process on the institutional strengthening of the Secretariat of the Convention on Wetlands, the list of challenges has evolved. Nonetheless, one central element to the debate - the legal status of the Secretariat and its ability to act both nationally and internationally - remains to be clarified. A number of proposals were made in this direction, converging on the proposal for a COP resolution. Otherwise, the debate widened to include other issues such as contribution arrears, the efficiency of communications between Parties and the training tools made available by the Secretariat. These themes, like that of synergies, touch on the activities of other working groups under the Convention. This is why, among the recent options, coordination between the groups is favored.

147. The identification of possible solutions to address these challenges have evolve since the conclusion of the WGAR and the OSWG. Solutions pertaining to the legal status of the Secretariat has been identified, and notably, increased domestic cooperation emerges as a key element in addressing these challenges. Ideas were also raised on the possibility of modifying the request for permanent observer status at UNGA, although the chances of success are highly uncertain, as is the case for the participation of the Convention and Secretariat in HLPF and ECOSOC. At subsequent meetings - prior to the creation of ISWG, and although no reforms were undertaken, more specific challenges and short-term solutions were identified as part of the process of strengthening the secretariat organization.

148. The ISWG is to take this process of institutional strengthening forward, including trough the preparation of a draft resolution for the consideration of SC63. In doing so, consideration should be given both to benefits from improved implementation of the Convention and to potential risks. The ISWG is also to further refine the options tabled in SC62 for strengthening administrative arrangements, HR independency, HL political engagements, and the convention's visibility objectives. The terms of reference of the ISWG state that efforts should be made to promote country engagement and that the ISWG is expected to provide in the course of its work for an options summary with the aim to propose solutions and options related to administrative arrangements, as well as HL political engagement and the Convention's visibility objectives.



## Annexes

**Annex I. Synthesis table of Options and Related Challenges**

Option	Related Challenge	ST/MT/LT <sup>140</sup>	Related topics
<b>Administrative Arrangements</b>			
<b>Option 1</b> IUCN to continue hosting the Secretariat, with significant improvements	International and domestic legal personality Legal liability of IUCN for the Convention's actions IUCN controls the Secretariat's financial procedures Difficulties in the management / implementation of projects Lack of accession mission to logistical / security assistance	LT	HL representation and visibility, HR independency
<b>Option 2</b> Secretariat would be registered as a legal international, intergovernmental organization	International and domestic legal personality Legal liability of IUCN for the Convention's actions IUCN controls the Secretariat's financial procedures Difficulties in the management / implementation of projects Lack of accession mission to logistical / security assistance	LT	HL representation and visibility, HR independency
<b>Option 3</b> Secretariat would be administered by a UN agency such as UNEP	International and domestic legal personality Legal liability of IUCN for the Convention's actions IUCN controls the Secretariat's financial procedures Difficulties in the management / implementation of projects	LT	HL representation and visibility, HR independency

<sup>140</sup> Short Term / Medium Term / Long Term

	Lack of accession mission to logistical / security assistance		
<b>Option A1</b> Traditional IGO	International and domestic legal personality Legal liability of IUCN for the Convention's actions IUCN controls the Secretariat's financial procedures Difficulties in the management / implementation of projects Lack of accession mission to logistical / security assistance	LT	HL representation and visibility, HR independency
<b>Option A2</b> Fully independent COP-Model	International and domestic legal personality Legal liability of IUCN for the Convention's actions IUCN controls the Secretariat's financial procedures Difficulties in the management / implementation of projects Lack of accession mission to logistical / security assistance	LT	HL representation and visibility, HR independency
<b>Option A3</b> Independent Secretariat with UN Linkage	International and domestic legal personality Legal liability of IUCN for the Convention's actions IUCN controls the Secretariat's financial procedures Difficulties in the management / implementation of projects Lack of accession mission to logistical / security assistance	LT	HL representation and visibility, HR independency
<b>Option B1/B2</b> Integrated Secretariat (UN programme or agency)	International and domestic legal personality Legal liability of IUCN for the Convention's actions IUCN controls the Secretariat's financial procedures Difficulties in the management / implementation of projects Lack of accession mission to logistical / security assistance	LT	HL representation and visibility, HR independency
<b>COP Resolution to clarify legal status</b>	International and domestic legal personality	ST	None
<b>Establish a ISWG</b>	International and domestic legal personality	ST (done)	All

	Legal liability of IUCN for the Convention's actions IUCN controls the Secretariat's financial procedures Difficulties in the management / implementation of projects Lack of accession mission to logistical / security assistance		
<b>Full transition of the Secretariat to the UN system</b>	International and domestic legal personality Legal liability of IUCN for the Convention's actions IUCN controls the Secretariat's financial procedures Lack of accession mission to logistical / security assistance	LT	HL representation and visibility
<b>Renegotiation of the LoA with IUCN or similar dialogue</b>	Domestic legal personality IUCN controls the Secretariat's financial procedures Difficulties in the management / implementation of projects	MT	None
<b>Explore revised procedure with IUCN for project management</b>	Difficulties in the management / implementation of projects	MT	None
<b>CPs consultations</b>	All	ST	All
<b>Involvement of MWG and Subgroup on finance</b>	Difficulties in the management / implementation of projects	ST	None
<b>Discussions with the host country</b>	Unpaid contributions Obtaining recognition by Switzerland of the Secretariat as an intergovernmental organization seated in its country.	ST	HR representation and visibilities
<b>Explore with new auditor possible alternative approaches to managing the risks due to non-payment of contributions</b>	Unpaid contributions	ST	None
<b>Continue to invite Parties with outstanding contributions to agree on a payment plan in line with Decision SC58-15</b>	Unpaid contributions	ST	None

<b>Revisit the experiences of other conventions in facilitating payment of contributions</b>	Unpaid contributions	ST	None
<b>Governance</b>			
<b>Fostering collaboration between CPs by improving communication channels</b>	Following the pandemic the challenge of effective governance under any circumstances has been pointed out	ST	None
<b>Strengthening training tools</b>	Following the pandemic the challenge of effective governance under any circumstances has been pointed out	ST	None
<b>Leadership</b>			
<b>Support MWG in the process of drafting a new DR that establishes the process for recruiting a new SG</b>	The procedure for selecting a SG under UNEP would reduce the SC's role in convention governance;	ST	None
<b>HR Independency</b>			
<b>Options 2, 3, A1-3, B1-2</b>	The recruitment and reduction of the turnover rate of Secretariat staff, as compared with other MEAs Limited competitiveness and equivalencies Visas and permits for staff	LT	Administrative arrangements
<b>Prepare comparison tables to understand the limitations on competitiveness</b>	The recruitment and reduction of the turnover rate of Secretariat staff, as compared with other MEAs Limited competitiveness and equivalencies	ST	None
<b>Discuss with IUCN how the competitiveness of IUCN contracts can be enhanced</b>	The recruitment and reduction of the turnover rate of Secretariat staff, as compared with other MEAs Limited competitiveness and equivalencies	ST	None
<b>Discussions with host country</b>	Limitations experienced by the Secretariat due to the lack of legal personality: limited competitiveness in the recruitment of staff compared with UN conditions and benefits; staff recruitment and retention issues.	ST	Administrative arrangements
<b>Request IUCN to identify clear-cut equivalencies between IUCN and UN positions</b>	The recruitment and reduction of the turnover rate of Secretariat staff, as compared with other MEAs Limited competitiveness and equivalencies	ST	None

HL representation & Visibility			
<b>Option C1</b> Continuing with the “modified” request for the Ramsar <i>Convention</i> to be granted observer status in the UNGA	Limited visibility of the Convention in UN processes and meetings	MT	None
<b>Option C2</b> Broadening of the possibilities to participate in UN processes in the context of the reform of the modalities for participation in the HLPF	Limited visibility of the Convention in UN processes and meetings	MT	None
<b>Option C3</b> Request to the ECOSOC for participation	Limited visibility of the Convention in UN processes and meetings	MT	None
<b>Promote a meeting of missions from NY, Geneva and capitals in order to coordinate efforts to advance approval of Uruguay's proposal</b>	Difficulties in participating as member in UN system inter-agency coordination mechanisms; Lack of visibility of the Convention’s objectives.	ST	None
<b>SG to be empowered to approach the DFG of IUCN about the Secretariat accompanying IUCN delegation to international meetings, speaking in the name of the Convention</b>	Limited visibility of the Convention in UN processes and meetings	ST	None

**Annex II: Challenges and opportunities of Options A1-B2 & C1-3, against Res. XIV.6 categories**

<b>Option Description</b>	<b>Admin arrangements (Legal personality)</b>	<b>HL Participation and visibility</b>	<b>Human Resources</b>	<b>Risks and benefits</b>
<b>Option 1</b> IUCN hosting with substantial improvements	Challenges improved through additional / reinforced administrative arrangements	Remaining challenges and related options to be identified	Status quo	Costs of re-discussing current hosting arrangements Many of the challenges can be improved thus not resolved and creative new solutions can be worked on. Short / Midterm solution, realistic outcomes.
<b>Option A1</b> Traditional IGO	Challenges fully solved	Would solve issue of obs. Status in UNGA Remain outside UN	Improved competitiveness  Improved independency	Independence and visibility may be improved. Very risky option in terms of costs and uncertainty. Heavy and lengthy.
<b>Option A2</b> “COP-model” IGO	Challenges fully solved	Issue of obs. Status in UNGA unchanged Remain outside UN – issue of UN system inter-agency coordination unchanged	Improved competitiveness  Improved independency	Independence and visibility may be improved. Very risky option in terms of costs and uncertainty. Heavy, long term.
<b>Option A3</b> Independent UN MEA secretariat	New arrangements, more independence as status quo, institutional linkage with UN	Would improve issue of obs. Status in UNGA Remain outside UN – issue of UN system inter-agency coordination unchanged	Improved competitiveness  Reduced independency	Good balance between independence and benefit of UN-related advantages Very unlikely that the UN would accept to engage in this option. Requires negotiations with UN.
<b>Option B1</b> Integrated UNEP MEA secretariat	New arrangements, same independence as status quo, institutional linkage with UN	Would improve issue of obs. Status in UNGA Would enable participation in UN system inter-agency coordination	Improved competitiveness  Reduced independency	Competitiveness and visibility would improve. Uncertainty in terms of costs and the Secretariat staff would have to terminate their contract and reapply

				through UN system – Reduced independence. Long-term option, requires negotiations with UNEP.
<b>Option B2</b> Integrated UNESCO MEA secretariat	New arrangements, less independence as status quo, institutional linkage with UN	Would improve issue of obs. Status in UNGA Would enable participation in UN system inter-agency coordination	Improved competitiveness  Reduced independency	Competitiveness and visibility would improve but not as an independent treaty. Uncertainty in terms of costs and the Secretariat staff would have to terminate their contract and reapply through UN system – Reduced independence. Requires negotiations with UNESCO.
<b>Option C1</b> Continuing with the “modified” request for the Ramsar <i>Convention</i> to be granted observer status in the UNGA	X	Improved	X	Very uncertain outcome, small costs.
<b>Option C2</b> Broadening of the possibilities to participate in UN processes in the context of the reform of the modalities for participation in the HLPF	X	Improved	X	Very uncertain and needs further research on the new modalities of the functioning of HLPF and ECOSOC.
<b>Option C3</b> Request to the ECOSOC for participation	X	Improved	X	Very uncertain and needs further research on the new modalities of the functioning of HLPF and ECOSOC.