



## 12<sup>th</sup> Meeting of the Conference of the Parties to the Convention on Wetlands (Ramsar, Iran, 1971)

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### **Legal Brief: Opinion on the accommodation of Arabic and other UN languages into the Ramsar Convention**

#### **Note by the Secretariat**

This legal brief was prepared for the Secretariat by legal consultant the Centre for International Sustainable Development Law (CISDL) in response to Standing Committee Decision SC47-07 (f), which requested that the Secretariat “prepare a draft text for a Resolution in response to Resolution XI.1 for the consideration of SC48, addressing accommodation of the Arabic Language into the Convention, supported by:

- analysis of legal considerations in relation to the Convention text as well as COP Resolutions including the Rules of Procedure;
- options for a step-by-step introduction of Arabic into the work of the Convention, subject to the availability of resources.”

The views and opinions expressed in the report are those of the author and do not reflect those of the Ramsar Secretariat. The document is presented “as is” and has not been edited and formatted by the Secretariat.

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# Legal Brief

## Opinion on the accommodation of Arabic and other UN languages into the Ramsar Convention

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## LEGAL BRIEF: OPINION ON THE ACCOMMODATION OF ARABIC AND OTHER UN LANGUAGES INTO THE RAMSAR CONVENTION

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### I. INTRODUCTION

1. The Ramsar Convention Secretariat has requested clarification on legal issues addressing accommodation of Arabic language into the Convention.<sup>1</sup> Incorporation of a new language – in any form – has implications for the Convention. On legal matters, this brief provides an overview of key considerations garnered from Resolutions of the Conference of the Contracting Parties to the Ramsar Convention (COPP) and from the Ramsar Convention Rules of Procedure (ROP), and also a clarification of key terms that may be applied – including ‘official language,’ ‘working language,’ and ‘accommodation.’ Options for a phased approach can also be outlined and discussed.

### II. LEGAL CONSIDERATIONS

2. At the 5<sup>th</sup> Meeting of the Conference of the Contracting Parties (Kushiro, Japan 1993) **Resolution V.15** was passed, which recommended ensuring that adequate interpretation to and from the local vernacular language is available at future meetings of the Conference, called for a review of the implications, financial or otherwise, and requested Arabic-speaking Parties to provide assistance in seeking the necessary funding to “support the adoption of Arabic as a working language of the Conference.”<sup>1</sup>
3. At the 11<sup>th</sup> Meeting of the Conference of the Contracting Parties (Bucharest, Romania 2012), a further **Resolution XI.1** was passed, which principally addressed the hosting of the Ramsar Secretariat, while acknowledging the strong desire by Arab States to incorporate Arabic as an “official language” and the expression of openness by the COP, and instructs the Standing

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<sup>1</sup> Ramsar Convention, “Recommendation 5.15: Working Languages of the Conference of the Contracting Parties” COP 5, Kushiro, Japan, (9-16 June 1993), available at: [http://www.ramsar.org/cda/en/ramsar-documents-cops-cop5-recommendation-5-15/main/ramsar/1-31-58-130%5E23219\\_4000\\_0](http://www.ramsar.org/cda/en/ramsar-documents-cops-cop5-recommendation-5-15/main/ramsar/1-31-58-130%5E23219_4000_0).

Committee to develop a strategy to explore the “accommodation of UN Languages into the Convention.”<sup>2</sup>

4. The ROP for meetings of the Conference of the Parties (COP) adopted in 2012 raise further considerations.<sup>3</sup> Rule 52 establishes that English, French and Spanish are the “official and working” languages of the COP.<sup>4</sup> Rule 53 indicated that statements made in an official language will be interpreted into other official languages, with translation of non-official languages allowed but provided at the requesting Parties expense.<sup>5</sup> Rule 54 on documents indicates that: (i) meeting documents will be published in one official language, with translated copies provided in official languages, and (ii) documents provided in a non-working language are to be accompanied by a translation in a “working language.”<sup>6</sup>
5. Further, Rule 10 requires the provisional agenda to be distributed in the “official languages” three months prior to the COP.<sup>7</sup> Rule 18.6 indicates that if credentials are provided in a non-official language, they are to be accompanied by a translation in an official language.<sup>8</sup> Rule 35 outlines that new proposals may be handed to the Secretariat in “at least one of the official languages,” but that no discussion will ensue until the proposal has been translated into “the official languages” and provided a day prior to the session.<sup>9</sup>
6. The Secretariat has the responsibility to: (i) provide adequate interpretation for meetings, and (ii) produce, translate and distribute meeting and official documentation.<sup>10</sup> Rule 26.7 indicates that there is no requirement to provide interpretation in committee or working group sessions,<sup>11</sup> and according to the Parties since 2002 funding is earmarked for interpretation at plenary meetings of the Standing and Conference Committees,<sup>12</sup> but not for the working group.<sup>13</sup>

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<sup>2</sup> Ramsar Convention, Resolution XI.1: Institutional hosting of the Ramsar Secretariat” COP 11, Bucharest, Romania, (6-13 July 2012), available at: <http://www.ramsar.org/pdf/cop11/res/cop11-res01-e.pdf>. [Resolution XI.1]

<sup>3</sup> Ramsar Convention, “Rules of Procedure of the Conference of the Parties” COP 11, Bucharest, Romania, (7 July 2012), available at: <http://www.ramsar.org/pdf/rules-cop-2012-e.pdf>. [Rules of Procedure]

<sup>4</sup> *Ibid*, Rules of Procedure, Rule 52.

<sup>5</sup> *Ibid*, Rules of Procedure, Rule 53.

<sup>6</sup> *Ibid*, Rules of Procedure, Rule 54.

<sup>7</sup> *Ibid*, Rules of Procedure, Rule 10.

<sup>8</sup> *Ibid*, Rules of Procedure, Rule 18.6.

<sup>9</sup> *Ibid*, Rules of Procedure, Rule 35.1, 35.3.

<sup>10</sup> *Ibid*, Rules of Procedure, Rule 28(a-b).

<sup>11</sup> *Ibid*, Rules of Procedure, Rule 26.7(c).

<sup>12</sup> Ramsar Convention, “Resolution VIII.27: Financial and budgetary matters” COP 8, Valencia, Spain, (18-26 November 2002), annex I, available at: [http://www.ramsar.org/pdf/res/key\\_res\\_viii\\_27\\_e.pdf](http://www.ramsar.org/pdf/res/key_res_viii_27_e.pdf).

<sup>13</sup> Ramsar Convention, “Progress report: Subgroup to progress Resolution XI.1, 47<sup>th</sup> Meeting of the Standing Committee, Gland, Switzerland, (23-28 March 2014) DOC SC47-02, at para 43. [DOC SC47-02]

### III. COMPARISON OF KEY TERMS

7. It is important to differentiate key terms utilized to refer to translation into languages. The term “original language” refers simply to the language or languages in which the actual treaty text was authenticated in international law, with each version of the text being equally authoritative.<sup>14</sup> It is normally considered a historical fact, determined by the treaty text itself. In the case of the Ramsar Convention, the “original languages” were established as English, French, German and Russian, with official versions of the treaty text translated into Arabic, Chinese and Spanish.<sup>15</sup> While officially approved, the additional translations must be distinguished as non-authentic, and subsequently not carrying the same presumption of equality for the purposes of interpretation and authority, which the “original language” authenticated texts hold.<sup>16</sup> (For instance, for an original language, in cases of doubt, treaty interpreters may refer to other documents in the same language to determine the ordinary meaning of the terms in that language, to assist with interpretation).
8. While the terms “official” and “working” have no precise definition in international law, they are often defined in the ROP of the organization, with distinctions between them in practice often overlapping, or non-existent.<sup>17</sup> The United Nations originally selected “working” languages to: (i) align with the primary languages utilized in the institution, and (ii) save costs relating to staff, translation and interpretation.<sup>18</sup>
9. The UN General Assembly ROP were originally agreed in 1947, indicating five “official languages” (English, French, Spanish, Russian, and Chinese) and two “working languages (English and French).”<sup>19</sup> All resolutions, important documents and summary reports were to be translated into the “official languages”, while verbatim records, operational documents and the Journal

<sup>14</sup> United Nations, *Vienna Convention on the Law of Treaties*, (23 May 1969), Art 33(1), available at: <https://treaties.un.org/doc/Publication/UNTS/Volume%201155/volume-1155-I-18232-English.pdf>;

<sup>15</sup> International Conference on the Wetlands and Waterfowl, *Convention on Wetlands of International Importance especially as Waterfowl Habitat*, (Ramsar, Iran, 02.02.1971) *as amended* (1994), available at: [http://www.ramsar.org/cda/en/ramsar-documents-texts-convention-on/main/ramsar/1-31-38%5E20671\\_4000\\_0](http://www.ramsar.org/cda/en/ramsar-documents-texts-convention-on/main/ramsar/1-31-38%5E20671_4000_0) . [Ramsar Convention]

<sup>16</sup> O Dörr & K Schmalenbach, *Vienna Convention on the Law of Treaties: A Commentary* (Rockford MD, Springer: 2011) at 591-594. [Dörr & Schmalenbach]

<sup>17</sup> M Tabory, *Multilingualism in International Law and Institutions* (The Netherlands: Sijthoff & Noordhoff, 1980) at 21. [Tabory]

<sup>18</sup> *Ibid.*

<sup>19</sup> UN, *Provisional Rules of Procedure for the General Assembly*, A/ 71/Rev.1 (New York, April 1947), at Rule 52, available at: [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/71/REV.1&Lang=E](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/71/REV.1&Lang=E). [UNGA *Rules of Procedure 1947*] see Rule 52: Chinese, English, French, Russian and Spanish shall be the official languages of the General Assembly, English and French shall be the working languages.

were to be translated into “working languages.”<sup>20</sup> Simultaneous interpretation was adopted by the General Assembly in 1946 for all statements made in an “official languages”, with full consecutive interpretation provided at the conclusion in “working languages.”<sup>21</sup> The list of “working languages” has, however, gradually moved to mirror the “official languages”, with the inclusion of Spanish in 1948,<sup>22</sup> Russian in 1968,<sup>23</sup> and Chinese<sup>24</sup> and Arabic both in 1973,<sup>25</sup> and with the eventual formal alteration of the UNGA ROP making all “official languages” into “working languages” as well.<sup>26</sup> Inclusion of simultaneous interpretation led to the removal of many of the procedural differentiators between the two terms.<sup>27</sup>

10. Currently the Ramsar Convention ROP do not appear to make a procedural differentiation between the “official languages” and “working languages” of the Convention.<sup>28</sup>

#### IV. OPTIONS FOR ACCOMMODATION AND INTRODUCTION OF ARABIC INTO THE CONVENTION

11. Various options are available for the accommodation of Arabic into the work of the Convention. Each raises different financial and operational considerations, and any options may be implemented in phases. Based on advice from the Secretariat, institutional experience on this subject may inform four principal proposed options:

- I. Arabic can be introduced as both an “official language” and a “working language”,
- II. Arabic can be introduced as an “official language” only, leaving the “working languages” unaltered and creating a differentiation between them,
- III. Rules could be added to the ROP to accommodate Arabic some other way, under specific conditions.

#### “Official” and “Working”

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<sup>20</sup>*Supra*, Tabory at 7; see UNGA *Rules of Procedure 1947*, Rules 53-60; see generally, J. Grant & C. Barker *Encyclopedic Dictionary of International Law* (Oxford: Oxford University Press, 2009).

<sup>21</sup>*Ibid*, Tabory at 6-9.

<sup>22</sup> UN, GA Res 247 (III); UN, GA Res 262 (III), 11 Dec. 1948.

<sup>23</sup> UN, GA Res 2479 (XXIII); UN GA Res 2553 (XXIV) 12 Dec. 1969.

<sup>24</sup> UN, GA Res 3189 (XXVIII).

<sup>25</sup> UN, GA Res 3191 (XXVIII). [UN, GA Res 3191]

<sup>26</sup> *Ibid*; see Alterations to Rule 51, UN GA Rules of Procedure (2007), Rule 51: Official and Working Languages, available at: <http://www.unlanguage.org/pdf/RulesofProcedure.pdf>.

<sup>27</sup>*Supra*, Tabory at 9(see footnote 39), 40.

<sup>28</sup>*Supra* 26, Rules of Procedure, Rule 52.

12. Introduction of Arabic as both an “official” and “working” language is procedurally and practically straightforward. In integrating Arabic into the GA, the United Nations adopted an approach of granting concurrent status to Arabic,<sup>29</sup> with Arab states collectively pledging to defray the financial cost for the first three years.<sup>30</sup> However, the concurrent status was initially in form not function. Arabic was recognized as both an “official language” and a “working language” of the UNGA and its Main Committees, but procedural distinctions were implemented, including limiting translation of Arabic to the GA and Committees only,<sup>31</sup> excluding sub-committees, and restricting translation of verbatim records into Arabic for only plenary sessions of each body.<sup>32</sup> The UN ROPs were then, over time, amended to eliminate these differences.<sup>33</sup>
13. The Ramsar Convention COP has previously acknowledged a desire to incorporate Arabic as an “official” language, along with accommodation of other UN languages.<sup>34</sup> As one option, Arabic might be integrated without any limitations on the temporal scope and without any procedural distinctions. Financial implications of this sub-option might be significant, and even with corresponding resources, immediate compliance with the letter and spirit of the rules might be challenging. Alternatively, Arabic might be integrated into the RoP with limitations and procedural distinctions, which can later be removed once financial and institutional capacity increases sufficiently. Either scenario may imply financial strategy to support integration and build institutional capacity.

*“Official” or “Working”*

14. Introducing Arabic in a separate manner, be it as either an “official” or a “working” language, is procedurally more complicated, but not unprecedented. Under the Rome Statute of the International Criminal Court (ICC), the six UN languages are indicated as “official languages”, with only English and French as “working languages.”<sup>35</sup> Non Anglophone-Francophone interventions are permitted if adequately justified.<sup>36</sup> In contrast, the Food and Agriculture Organization (FAO) of the United Nations (FAO) establishes that: (i) the text of the Convention in the six UN languages (Arabic, Chinese, English, French, Russian and Spanish) is equally

<sup>29</sup> *Supra*, UN, GA Res 3191.

<sup>30</sup> *Supra*, Tabory at 11-13.

<sup>31</sup> *Supra*, UN, GA Res 3191, Rule 52.

<sup>32</sup> *Ibid*, UN, GA Res 3191, Rule 54.

<sup>33</sup> *Supra*, UN GA Rules of Procedure (2007), see Rules 52-57.

<sup>34</sup> *Supra*, Resolution XI.1, at para 10, 17(a).

<sup>35</sup> ICC, *Rome Statute of the International Criminal Court* (1998), at Art 50(1-2), available at: [http://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome\\_statute\\_english.pdf](http://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf). [Rome Statue]

<sup>36</sup> *Ibid*, Rome Statue, at Art 50(3).

authentic,<sup>37</sup> and (ii) the six UN languages are recognized as “official” languages of the organization.<sup>38</sup> However, certain FAO Commissions have established specialized ROP indicating “working languages” of only English, French and Spanish for their own Commissions,<sup>39</sup> and Arabic was originally established at the FAO as an “official” language and a “working” language for limited purposes.<sup>40</sup>

15. The introduction of Arabic in any less complex fashion, be it as an “official” or “working” language, may lessen the implications and institutional burdens for translation, interpretation, and publications. However, it may also create a two-tier language system, requiring a detailed refinement of the ROP to accommodate. Non-concurrent status may provide for a form of cost-sharing, for instance, if Arabic were classified as only a “working language”, as was done originally with Spanish.<sup>41</sup> The Secretariat may be charged with facilitating document translation,<sup>42</sup> while Parties retained the right to use a non-official language, with the Party in question required to provide interpretation.<sup>43</sup> Classification as an “official language” potentially limits the institutional burden to interpretation and translation of key documents for particular meetings, but would internalize certain costs within the Secretariat as well. Amendments would still be required to the ROP, to clarify the relationship between “official language” versus “working language.” More information and analysis can be provided on this point if requested.

#### *Accommodation of Arabic*

16. Where no change in the actual status of Arabic is made, Arabic may still be accommodated into the Convention, through refinement of the ROP. Accommodations can be creatively developed for the inclusion of Arabic into the work of the Convention in a scaled-down or gradually scaling-up fashion. For example, the Parties may determine the need to include a rule in the ROP allowing for any Party to request a part/or the whole of the verbatim record, or of specific documents, to be translated into a designated language, with the approval of the Parties and/or

<sup>37</sup>FAO, *Basic Texts of the Food and Agricultural Organization of the United Nations*, Vol I & II, (2013), at Article XXII, available at: <http://www.fao.org/docrep/meeting/022/k8024e.pdf>. [FAO General Rules]

<sup>38</sup>*Ibid*, FAO General Rules, at Rule XLVIII.

<sup>39</sup>FAO, *Constitution and Rules of Procedure of the International Rice Commission*, at Rule VI, available at: <http://www.fao.org/agriculture/crops/thematic-sitemap/theme/treaties/irc/constitution-and-rules-of-procedure/en/#c142773>.

<sup>40</sup>FAO, *Amendments to the FAO "Basic Texts"*(1971), Res 16/71, available at: <http://www.fao.org/docrep/c3592e/c3592e0c.htm>.

<sup>41</sup>FAO, Resolution 4.2“Working languages of the Conference of the Contracting Parties,” COP 4, Montreux, Switzerland, (27 June-4 July 1990), available at: [http://www.ramsar.org/cda/en/ramsar-documents-resolution-4-2-working/main/ramsar/1-31-107%5E23368\\_4000\\_0](http://www.ramsar.org/cda/en/ramsar-documents-resolution-4-2-working/main/ramsar/1-31-107%5E23368_4000_0).

<sup>42</sup>*Supra*, Rules of Procedure, Rule 28(a-b), 54(3).

<sup>43</sup>*Ibid*, Rules of Procedure, Rule 53(2).



the Chair. Similarly, the Parties may decide that certain tools and documents on the Ramsar Convention website should be translated and made available in Arabic, should necessary financial resources be made available, or should certain Parties agree to cover costs of translations. Alternatively, the practice of identifying specific components of the work of the Convention for translation into Arabic can be continued and expanded,<sup>44</sup> allowing for a “quasi-official language” status for Arabic, Chinese and Russian under designated parameters.

#### IV. CONCLUSIONS

17. Practical cost and human resources implications aside, full incorporation of Arabic as both an “official language” and “working language” of the Ramsar Convention is legally possible if desired by the Parties. Viable alternatives are also available, such as expanding the “official languages” alone for instance, or finding other ways to “accommodate” Arabic within the work program of the Convention. Each option or sub-option would likely imply a distinct change to the Ramsar Convention ROP. There are also potential implications for costs, institutional capacity and profile.
18. Accommodation of Arabic may benefit from being carried out in a coordinated manner with French and Spanish. Development of a Language Strategy may serve to identify phases and milestones of relevance, for instance:
  - I. Identification of institutional needs and barriers relating to translation and interpretation,
  - II. Classification of needs based on the impact on the work of the Convention,
  - III. Creation of a phased timeline for integration of procedural changes, key indicators, and milestones for all languages,
  - IV. Establishment of a review mechanism, e.g. interim and final reports
  - V. Developing a Party-supported fund to facilitate language integration.
19. Consideration and adoption of such a coordinated Strategy on Language Integration, with associated changes in the ROP, may permit future-focused and guided transitional integration of Arabic in concert with “official languages” while creating a framework to manage potential language expansions, as suggested in Resolution XI.1.

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<sup>44</sup>*Supra*, DOC SC47-02, at para 8.