

## Legal status of Ramsar Regional Initiatives

### Actions requested:

The Standing Committee is invited to take note of the contents of this document.

1. This document has been prepared by the Legal Advisor with input from the Secretariat and the Working Group.

### Background

2. Decision SC57-29 requested the Secretariat to seek further guidance from the Convention's Legal Advisor on the legal status of Ramsar Regional Initiatives (**RRIs**) and report back to SC58. The advice provided by the Legal Advisor is set out in **Annex 1** of this document.
3. As SC57-29 is very general in nature, it has been interpreted broadly so as to provide the Contracting Parties with as much relevant information as possible. To that, the advice includes an analysis of the implications for the Convention on Wetlands (**Convention**) should one or more RRI adopt a formal legal structure under national or state laws,<sup>1</sup> which in turn confers legal personality. For the sake of completeness, it also considers the implications for the Convention of a RRI becoming formally recognised as an international organisation and obtaining international legal personality, or becoming a member of, or being granted observer status to, an international organisation.
4. To clarify, it was beyond the scope of the advice and the expertise of the Legal Advisor to analyse the laws concerning corporate structure and legal personality in each relevant jurisdiction and to provide advice as to a suitable structure for the RRIs located within these jurisdictions. If such advice is deemed necessary and appropriate by Contracting Parties, those Parties should consider engaging a local lawyer with suitable expertise in these matters.
5. However, the advice does draw on general principles concerning legal personality to illustrate the possible implications for the Convention of RRIs being formally accorded this status under relevant national or state laws.<sup>2</sup>
6. This legal advice is independent and does not seek to advance a particular view as to whether RRIs should adopt a legal structure or otherwise. Rather, it is intended to provide the Contracting Parties with sufficient information so that they can contemplate the nature and governance of RRIs.

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<sup>1</sup> In a federated nation state, corporate structure (which in turn affects legal personality) may be regulated at the state (or provincial), rather than national, level.

<sup>2</sup> Ibid.

## Annex 1

1. This advice is divided into six parts:

- **Part 1: Executive Summary**
- **Part 2: Relevant Recommendations, Resolutions and Decisions**
- **Part 3: Current status of RRIs under the Convention**
- **Part 4: Legal personality: the fundamentals**
- **Part 5: The implications for the Convention of RRIs being granted legal personality**
- **Part 6: Considerations**

### Part 1: Executive Summary

2. In order to complete this advice, the Recommendations and Resolutions of the Conference of the Parties (**Recommendations and Resolutions**) and Standing Committee Decisions (**SC Decisions**) set out in **Appendix 1** of this document were identified as relevant and accordingly analysed.
3. There are currently 19 RRIs that have been endorsed by the Conference of the Parties (**COP**) as operating within the framework of the Convention. These RRIs vary in their nature and structure, but can be broadly divided into two categories: networks for regional cooperation and centres, respectively.<sup>3</sup> Some are hosted by organisations,<sup>4</sup> others are coordinated by a rotating ‘chair’,<sup>5</sup> amongst other formats.
4. The endorsement of these 19 RRIs does not in and of itself confer any particular legal status at the national level. However, I have been instructed that one RRI has been recognised under the relevant national law in Panama as an international organisation,<sup>6</sup> while the secretariats established by two other RRIs have legal status in France<sup>7</sup> and the Republic of Korea,<sup>8</sup> respectively.
5. The most recently adopted Revised Operational Guidelines and Resolution XIII.9 do not authorise RRIs to adopt a formal legal structure under relevant national laws that would in turn confer legal personality. Similarly, historic Operational Guidelines and Resolutions concerning RRIs have not authorised RRIs to adopt a formal legal structure under national laws that would confer legal personality. However, they have not prohibited RRIs from doing so, either.
6. In endorsing the one RRI that has been accorded formal legal status within its host nation as operating within the framework of the Convention (CREHO), it is arguable that the Contracting Parties have implicitly approved its structure and legal status.<sup>9</sup>

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<sup>3</sup> <https://www.ramsar.org/activity/ramsar-regional-initiatives> (accessed 23 March 2020).

<sup>4</sup> For example, the Indo-Burma Ramsar Regional Initiative (**IBRRI**) which is hosted by IUCN Asia.

<sup>5</sup> For example, NorBalWet. I am instructed that Contracting Parties take turns acting as chair (with the role being held for one to two years).

<sup>6</sup> Ramsar Regional Centre for Training and Research in the Western Hemisphere (**CREHO**).

<sup>7</sup> MedWet.

<sup>8</sup> East Asian-Australasian Flyway Partnership (**EAAFP**).

<sup>9</sup> In its Annual Report for 2015-16 (submitted in 2015), it refers to the ‘[n]uevo estatus de Misión Internacional del CREHO.’ See: [https://www.ramsar.org/sites/default/files/documents/library/ri\\_report2015\\_plan2016\\_centre\\_western\\_hemisphere.pdf](https://www.ramsar.org/sites/default/files/documents/library/ri_report2015_plan2016_centre_western_hemisphere.pdf) (Accessed 23 March 2020). I note that CREHO has been endorsed as operating within the framework of the Convention twice since this report was submitted. Note that it only appears in Spanish on the Ramsar website.

7. MedWet and the EAAFP have each established a secretariat which has been granted formal legal status under relevant national laws in France and the Republic of Korea, respectively. It is unclear whether the COP, in formally endorsing these two RRIs as operating within the framework of the Convention, was also (implicitly or explicitly) endorsing the legal status of their respective secretariats. This is something that the Contracting Parties may wish to consider when drafting future Resolutions concerning RRIs.
8. The precise implications of a RRI adopting a legal structure that confers domestic legal personality varies from jurisdiction to jurisdiction. However, as a general rule, such entities have far greater capacity to operate as autonomous, financially independent organisations (and may, depending on local laws, be eligible to be granted tax deductible status).<sup>10</sup> Such entities may also be able to apply for membership of an international non-governmental organisation (**international NGO**) or become accredited with the United Nations Environment Program.
9. The implications of a RRI being formally recognised as an international organisation with international legal personality may include: entering into formal agreements with other international organisations and/or nation states;<sup>11</sup> becoming party to a treaty;<sup>12</sup> becoming a permanent observer to the General Assembly of the United Nations (**UNGA**);<sup>13</sup> and enjoying privileges and immunities (including immunity from being sued under national laws).<sup>14</sup>
10. Part 5 sets out some of the possible legal and reputational implications and risks for the Convention if RRIs obtain either domestic legal personality or international legal personality. Part 6 sets out a series of considerations which may assist Contracting Parties in their assessment of these risks.

## Part 2: Relevant Recommendations, Resolutions and SC Decisions

11. Part 2 of this advice will provide an overview of the genesis, evolution and current framework for endorsing RRIs. To clarify, it will not discuss each Recommendation, Resolution and Decision set out in **Appendix 1** to this advice. Rather, it will focus on those that illustrate the development of the framework governing these initiatives, and any associated legal structure conferred by relevant Resolutions and SC Decisions (or lack thereof).
12. The genesis of what are now known as RRIs can be traced to **Recommendation 5.14:** Collaboration for Mediterranean Wetlands (COP5, 1993). This Recommendation, *inter alia*, noted that ‘this initiative is carried out jointly by the Governments of France, Greece, Italy, Portugal and Spain, the Commission of the European Communities, the Ramsar Bureau, Fondation de la Tour du Valat, IWRB and WWF-International.’ It went on to welcome ‘this regional collaboration activity’, which it considered to be ‘a very promising approach to wetland conservation at an

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<sup>10</sup> Or may be required to pay value-added tax (VAT).

<sup>11</sup> This may depend on the terms of its charter/originating treaty.

<sup>12</sup> Ibid.

<sup>13</sup> Subject to complying with UN Decision 49/426 of 9 December 1994, and the Sixth Committee of the United Nations recommending to the United Nations General Assembly accept the IGO’s request to become a permanent observer.

<sup>14</sup> See for example Article 105 of the *United Nations Charter* provides that ‘the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes and that representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization’. The *Convention on the Privileges and Immunities of the United Nations* was subsequently adopted to reflect Article 105.

international level’ and requested ‘the MedWet partners to present a full report on progress of the MedWet initiative at the Sixth Meeting of the Conference of the Contracting Parties in 1996.’

13. This was followed by **Recommendation 6.11**: Continuing Collaboration for Mediterranean Wetlands (COP6, 1996). This Recommendation, *inter alia*, welcomed ‘this form of concerted and integrated collaboration between government and non-government partners for the conservation and wise use of Mediterranean wetlands’ which it considered to be ‘a promising model for wetland activities in other regions.’ Relevantly, the Recommendation did not include any clear guidance regarding the formal corporate structure to be adopted by MedWet, or its legal status. Rather, it described the initiative as a ‘collaboration’. Furthermore, while the Recommendation did not formally authorise the creation of other entities (in the mould of MedWet), it did encourage the Contracting Parties to consider the value of cooperating in a similar manner at the regional level.
14. **Resolution VII.22**: Collaborative structure for Mediterranean Wetlands (COP7, 1999), formally approved the ‘establishment of the Mediterranean Wetlands Committee (MedWet/Com) within the framework of the Convention, as a forum for collaboration on wetland issues in the Mediterranean and as an advisor to the Convention in this region.’ MedWet and the Committee appear to be effectively one and the same entity. This implies that the COP was yet again endorsing a collaborative framework (as suggested by the title of the Resolution), rather than a formal corporate structure with any particular legal status or personality.
15. **Resolution VIII.30**: Regional initiatives for the further implementation of the Convention (COP8, 2002), marked a turning point insofar as it was the first time the COP had formally developed and endorsed general guidelines concerning RRI. Entitled ‘Guidance for the development of Regional Initiatives in the framework of the Convention on Wetlands’ (**Guidance Document**), it set out a simple set of principles divided into four areas: ‘Aim’; ‘Substantive Elements’; ‘Financial and other Support’; and ‘Governance’. Relevantly, the Guidance Document states that the ‘overall aim of regional initiatives should be to promote the objectives of the Convention in general and to implement the Ramsar Strategic Plan in particular...’. Furthermore, RRI should establish their own advisory mechanism, involving all of the stakeholders, and shall report to the COP (through the Bureau).
16. In summary, the Guidance Document did not stipulate any specific legal structure for regional initiatives and did not provide for the creation of entities with legal personality. Rather, it appears to be endorsing an informal structure to facilitate cooperation between relevant stakeholders (including Administrative Authorities) so as to enhance implementation of the Convention and its Strategic Plan in regional areas. Additional details regarding the contents of this Resolution are contained in **Appendix 2**.
17. **Resolution IX.7**: Regional initiatives in the framework of the Ramsar Convention (COP9, 2005), formally endorsed the RRI listed in Annex I.A as being within the framework of the Convention and further recognised the potential for the RRI listed in Annex I.B to become operative within the framework of the Convention. The initiatives listed in Annex I.A were divided into two categories: regional and subregional networks for capacity building and cooperation and regional and subregional centres for training and capacity building, respectively. Neither of these descriptions suggests a need for the RRI in question to adopt any sort of formal legal structure which would in turn<sup>15</sup> confer legal personality. Rather, the Resolution simply recognised these

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<sup>15</sup> Initially known as the ‘Coordination Unit’.

‘networks’ and ‘centres’ as operating ‘within the framework of the Convention’. That is, it did not endorse or stipulate any particular formal legal structure conferring legal personality.

18. I understand that the Secretariat of MedWet was recognised under Greek law as a legally independent, not-for-profit association sometime after COP9. To that end, MedWet’s report to that COP noted that the Greek Government had agreed to pass a parliamentary decree establishing its ‘Coordination Unit’ as a foundation, but that the legal process had not yet been finalised.<sup>16</sup> I have assumed that this status would have conferred legal personality,<sup>17</sup> although this needs to be confirmed. In any case, this Resolution endorsed the continuation of MedWet, thanked the Greek Government for ‘hosting the MedWet Coordination Unit in Athens’ and accepted the government’s offer to ‘continue providing office facilities and financial support during the triennium 2006-2008...’. Further details regarding this Resolution are contained in **Appendix 2**.
19. **Resolution X.6: Regional Initiatives 2009-2012** in the framework of the Ramsar Convention (COP10, 2008) replaced the Guidance Document with the ‘Operational Guidelines 2009-2012 for regional initiatives in the framework of the Convention on Wetlands’ (**Operational Guidelines 2009-12**). The Operational Guidelines 2009-12 were divided into six areas: the aim of regional initiatives; coordination between regional initiatives and the Secretariat; governance of initiatives; substantive elements of initiatives; financial and other support; and reporting and evaluation.
20. The Operational Guidelines 2009-12 stipulated that RRI are intended as an ‘operational means to provide effective support for an improved implementation of the objectives of the Convention and its Strategic Plan in specific geographical regions, through international cooperation on wetland-related issues of common concern.’ They further clarified that RRI must establish their own governance and advisory mechanisms, for which the support of a host country or host intergovernmental organisation is ‘essential’.
21. In summary, the Operational Guidelines 2009-12, while more detailed than the Guidance Document, did not stipulate a specific legal structure or provide for the creation of entities with legal personality. Rather, they again provided for the creation of a ‘mechanism’ underpinned by support from a host Contracting Party or a host intergovernmental organisation. Further, they reinforced the need for RRI to become financially independent<sup>18</sup> and to report to the Secretariat. It was implied<sup>19</sup> that RRI must furnish satisfactory reports to continue to be endorsed as operating within the framework of the Convention and to continue to receive funding from the core budget. Additional details regarding this Resolution are contained in **Appendix 2**.
22. **SC 40 Decisions 15 and 16** adopted ‘evaluation criteria for regional initiatives operating in the framework of the Ramsar Convention 2009-2012’ and a ‘format for annual financial and work

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<sup>16</sup> [https://www.ramsar.org/sites/default/files/documents/pdf/cop9/cop9\\_doc08\\_e.pdf](https://www.ramsar.org/sites/default/files/documents/pdf/cop9/cop9_doc08_e.pdf) (Accessed 25 March 2020). MedWet was next endorsed as operating within the framework of the Convention in SC 40-18.

<sup>17</sup> Without legal personality, the Secretariat would have been unable to enter into contracts, hire staff etc. in its own name.

<sup>18</sup> Specifically, paragraph 25 states: ‘Regional initiatives need to generate their own resources and become financially self-sufficient after an initial start-up phase and in the long term.’

<sup>19</sup> When read in conjunction with X:6, paragraph 12. This paragraph ‘INSTRUCTS all initiatives under the present Resolution, and particularly those funded from the core budget, to submit to the Standing Committee annual reports on progress and operations of the initiatives concerned, **and specifically on their success in fulfilling the Operational Guidelines** (my emphasis).’

plan reporting by regional initiatives', respectively.<sup>20</sup> The 29 evaluation criteria were taken from the Operational Guidelines 2009-12.

23. **Resolution XI.5:** Regional Initiatives 2013-15 in the framework of the Ramsar Convention (COP11, 2012), approved the continued validity of the Operational Guidelines 2009-12 for the period 2013-15. In summary: funding continues to be contingent on satisfactory reporting and compliance with the Operational Guidelines 2009-12; emphasis continues to be placed on RRIs becoming financially independent; and RRIs are to identify themselves as independent entities (which is not tantamount to requiring a formal legal structure and legal personality). Further details regarding this Resolution can be found in **Appendix 2**.
24. **SC Decision 46-28** adopted revised Operational Guidelines for 2013-15 (**Operational Guidelines 2013-15**). The Operational Guidelines 2013-15 are divided into the same six categories as the Operational Guidelines 2009-12 and their contents are largely the same. To that extent, there were no (new) directions regarding the creation of entities with a formal legal structure and legal personality.<sup>21</sup>
25. **Resolution XII.8:** Regional initiatives 2016-2018 in the framework of the Ramsar Convention (COP12, 2015), approved the validity and use of the Operational Guidelines 2013-15 for the period 2016-18, until the 'amendments requested are adopted by the Standing Committee.' Relevantly, the Standing Committee was instructed to undertake a review of these Operational Guidelines, taking into account, *inter alia*, 'issues...of governance, capacity, fundraising, and programmatic approach in alignment with the Ramsar Strategic Plan, and adopt the necessary amendments no later than the 52<sup>nd</sup> meeting of the Standing Committee (SC52).'
26. **SC Decision 52-16** adopted the revised Operational Guidelines submitted by the Standing Committee by the Working Group for the Ramsar Regional Initiatives as 'Operational Guidelines for Ramsar Regional Initiatives to support the implementation of the Convention' (**Revised Operational Guidelines 2016-18**). The Revised Operational Guidelines 2016-18 (which remain valid)<sup>22</sup> are divided into eight chapters. These eight chapters are as follows: the aim and scope of RRIs; governance and functioning of the RRIs; status of the RRIs; participation in RRIs; relations between the Ramsar Secretariat and the RRIs; the role of the RRIs to implement the Ramsar Strategic Plan; financing of the RRIs; and reporting and evaluation of the RRIs. They do not explicitly authorise RRIs to adopt a particular legal structure and obtain legal personality, but do continue to emphasise the importance of RRIs being operationally independent, having their own identity and becoming financially sustainable.<sup>23</sup> The significance of this is discussed in Part 2.
27. **Resolution XIII.9:** Ramsar Regional Initiatives 2019 – 2021 (COP13, 2018), provided that RRIs 'should comply' with a list of 7 principles (**7 Principles**)<sup>24</sup> in order to maintain their formal recognition as a RRI and that the Revised Operational Guidelines 2016-18 'can be applied as appropriate for each RRI'.<sup>25</sup> This Resolution has accordingly altered the status of the Revised

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<sup>20</sup> As stipulated in Resolution X.6 at paragraphs 15 and 16.

<sup>21</sup> It is worth noting that the evaluation criteria approved in SC Decision 40-15 were tied to the Operational Guidelines 2009-12. As such, they technically ceased to be relevant upon endorsement of the Operational Guidelines 2013-15. By way of contrast, the reporting format adopted in SC Decision 41-21 was approved and to that extent maintained its relevance.

<sup>22</sup> Reaffirmed by Resolution XIII.9 at paragraph 6. They will be revised at COP14.

<sup>23</sup> See paras 16, 17, 33.

<sup>24</sup> These are set out in **Appendix 2**.

<sup>25</sup> Paragraph 6 (with 7 principles set out in paragraph 8). It is worth noting that paragraph 8 employ stronger wording in relation to the applicability of the 7 Principles, stating that to 'maintain their formal recognition as an RRI, [they] have to be in line with the following principles:...'.

Operational Guidelines; while they remain valid, they need only be applied on a discretionary basis ('as appropriate') to each respective RRI. By way of contrast, RRIs should operate in accordance with the 7 Principles to ensure their ongoing recognition under the Convention. To clarify, Resolution XIII.9 does not authorise RRIs to adopt a particular legal structure that confers legal personality.

28. While Resolution XIII.9 rendered the Revised Operational Guidelines 2016-18 discretionary (and essentially subordinate to the 7 Principles), they nonetheless remain valid until COP14. Their focus on financial sustainability<sup>26</sup> and the creation of entities with separate identities is potentially at odds with the fact that the COP has not unambiguously authorised RRIs to adopt a formal legal structure at the national level (with or without legal personality).<sup>27</sup> This in turn gives rise to an internal tension which should be resolved. To that end, Part 6 will *inter alia* recommend that the Contracting Parties clarify this matter.

### Part 3: Current status of RRIs under the Convention

29. There are currently 19 RRIs endorsed as operating within the framework of the Convention. These RRIs were most recently endorsed at COP13 in Resolution XIII.9. Further details regarding these RRIs can be found in **Appendix 3**.
30. As noted in Part 2 of this advice, the relevant Resolutions and SC Decisions have not explicitly required or authorised RRIs to adopt any sort of formal legal structure which would in turn confer legal personality. Conversely, they have not explicitly prohibited such conduct. Relevantly, I have been instructed that three RRIs (or their secretariats) have been recognised under relevant national laws.
31. First, MedWet established what was originally known as a 'Coordination Unit', which obtained formal legal recognition as a not-for-profit association under Greek law sometime after 2005<sup>28</sup> and French law in 2014 (with the latter being current). This status under French law confers legal personality upon its secretariat.<sup>29</sup> MedWet itself (which is separate from its secretariat) has been continuously endorsed as operating within the framework of the Convention.
32. Second, the EAAFP established a secretariat in the Republic of Korea in 2009. It is hosted under a renewable Memorandum of Understanding (**MoU**) with Incheon Metropolitan Government and the Ministry of Environment Korea.<sup>30</sup> Relevantly, it is registered in the Republic of Korea as a

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<sup>26</sup> Relevantly, Resolution XIII.9 (at para 25) encourages the 'Contracting Parties concerned to take the necessary steps to achieve the financial sustainability of the RRIs, preferably through financial support from a variety of sources, to establish mechanisms and procedures to ensure their sustainability beyond specific project periods, and to try to avoid RRIs becoming dependent on a single major donor, in order to promote the financial stability of the RRI';.

<sup>27</sup> This is because it is common for financially and operationally independent entities with their own identity to have some sort of formal legal status and legal personality.

<sup>28</sup> [https://www.ramsar.org/sites/default/files/documents/pdf/cop9/cop9\\_doc08\\_e.pdf](https://www.ramsar.org/sites/default/files/documents/pdf/cop9/cop9_doc08_e.pdf) (Accessed 25 March 2020).

<sup>29</sup> The MedWet secretariat is physically hosted by the Tour du Valet Foundation. The secretariat is registered pursuant to the 'Associations loi du 1<sup>ère</sup> juillet 1901'. This law confers legal personality upon the resulting association as soon as a public notice regarding its creation is placed in the 'journal officiel': (L. 1<sup>er</sup> juill. 1901, art. 5 al. 4). This occurred on the 22 February 2014.

<sup>30</sup> The most recent MoU was entered into in May 2019 and expires in May 2024.

‘Non-profit Corporation/Government Organisation’<sup>31</sup> and operates independently of its hosts.<sup>32</sup> It is unclear whether the EAAFP Secretariat has separate legal personality under Korean law, or relies on the legal personality of one of its government hosts.<sup>33</sup> In any case, the RRI itself (which is separate from its secretariat) has been continuously endorsed as operating within the framework of the Convention.<sup>34</sup>

33. It is unclear whether the COP, in formally endorsing these two RRIs as operating within the framework of the Convention, was also implicitly endorsing the legal status of their respective secretariats. In making this comment, I note MedWet did indicate in its report to COP9 that its ‘Coordination Unit’ was in the process of obtaining formal legal status under Greek law. I further note that in formal correspondence from the French Government to the Secretary-General of the Convention dated 27 June 2013, the French Government indicated that it would be arranging for MedWet’s secretariat to obtain formal status under French law (as an ‘association de droit français’). That is, the proposed change in legal status was in both instances communicated to the Convention (albeit through different channels in each instance). I have been unable to determine whether the establishment of the Secretariat of the EAAFP as a legal entity in 2009 was formally communicated to the Convention through one of the available channels before or after this change in status occurred.<sup>35</sup>
34. It may be that Contracting Parties were not aware that they were endorsing a separate secretariat with legal personality. Again, the legal significance of this is not entirely clear (particularly as there is no explicit prohibition on RRIs establishing secretariats with legal personality). This highlights a lack of clarity in relation to what, exactly, the Contracting Parties were endorsing (which is something that Contracting Parties may wish to discuss moving forward).
35. In any case, the secretariats are ultimately answerable to their governance bodies and required to operate within the terms of relevant national laws and policies and any other legally binding agreements. Relevantly, the Terms of Reference for MedWet indicate that it is required to operate within the framework of the Convention and relevant Resolutions and SC Decisions.<sup>36</sup> The Terms of Reference for the Secretariat of the EAAFP do not refer to Ramsar obligations,<sup>37</sup> although there is no suggestion that it is operating outside of the framework of the Convention.

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<sup>31</sup> The certificate of business registration indicates that it was first registered in this capacity in 2009.

<sup>32</sup> However, the Secretariat does have two full-time seconded staff from Icheon Government who oversee the finances and local compliance administration of the Secretariat.

<sup>33</sup> Under para 5A of the MoU, the ‘Host Government Partner’ (the Ministry of Environment) is responsible for establishing a separate bank account for the Secretariat of the EAAFP, which could suggest that it lacks the necessary legal personality to do so itself.

<sup>34</sup> The EAAFP is subject to a Partnership Document (version 15). Paragraph 1 of the Document defines its legal status as ‘an informal and voluntary initiative of the Partners.’

<sup>35</sup> I note that in its ‘Annual Summary Report 2009 and Plan for 2010’, the EAAFP indicated that it had established a ‘Secretariat Office’ in Icheon. It does not include any reference to its legal status, though. [https://www.ramsar.org/sites/default/files/documents/pdf/sc/41/sc41\\_doc13\\_app06.pdf](https://www.ramsar.org/sites/default/files/documents/pdf/sc/41/sc41_doc13_app06.pdf) (Accessed 27 March 2020).

<sup>36</sup> <https://medwet.org/wp-content/uploads/2018/05/EN-Terms-of-Reference-of-Mediterranean-Wetlands-Initiative.pdf> (Accessed 26 March 2020).

<sup>37</sup> As adopted at the 5<sup>th</sup> meeting of the Partners, December 2010. [http://eaaflyway.net/documents/key/internal/EAAFP\\_Secretariat\\_ToR\\_as-adopted.pdf](http://eaaflyway.net/documents/key/internal/EAAFP_Secretariat_ToR_as-adopted.pdf) (Accessed 27 March 2020).

36. Finally, CREHO is recognised as an international organisation (and has full legal personality) under the relevant law in Panama.<sup>38</sup> The continued endorsement of this RRI is arguably tantamount to implicitly approving this legal structure and the legal personality that it confers upon the RRI. To that end – and while I have not been instructed as to whether all Contracting Parties were aware of this change in status prior formally endorsing CREHO – I note that in its Annual Report for 2015-16 (submitted in 2015), it refers to the '[n]uevo estatus de Misión Internacional del CREHO'.<sup>39</sup>
37. I have not received any further instructions regarding the specific legal status of the remaining RRIs under relevant national laws. I have therefore assumed that they have not formally acquired a legal or corporate structure and do not have legal personality.<sup>40</sup> On that basis, I can only advise that they have been endorsed as operating within the framework of the Convention, which means that they continue to be eligible – subject to ongoing approval by the COP and/or Standing Committee – to receive funding and to identify themselves as RRIs. However, and to clarify, this does not confer any particular legal status at the national level as this is dependent on recognition under relevant national or state laws.

#### **Part 4: Legal personality: the fundamentals**

##### ***Legal personality pursuant to national law***

38. The law governing the formation of entities either possessing or lacking legal personality varies from jurisdiction to jurisdiction (that is, from country to country). Similarly, the implications of an entity operating with or conversely without legal personality vary from jurisdiction to jurisdiction. However, for the purposes of this advice, the concept of legal personality may be reasonably described as legal status that confers upon its beneficiary:
- the right to sue and be sued;
  - the capacity to enter into contracts and agreements, hold assets and hire staff (rather than relying on a host organisation to do so on their behalf or pursuant to a legally recognised instrument of delegation).
39. The entity may also be entitled to acquire tax deductibility status under relevant national or state laws, and may be subject to rigorous financial and other reporting requirements. Furthermore, office bearers or members of a corporate entity (or association) with legal personality may be shielded from liability. Conversely, the members of an association lacking legal personality may be found to be personally liable (for any outstanding debts or for breach of contract, for example).

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<sup>38</sup> This recognition was conferred in 2015.

<sup>39</sup> [https://www.ramsar.org/sites/default/files/documents/pdf/cop9/cop9\\_doc08\\_e.pdf](https://www.ramsar.org/sites/default/files/documents/pdf/cop9/cop9_doc08_e.pdf) (Accessed 25 March 2020).  
[https://www.ramsar.org/sites/default/files/documents/library/ri\\_report2015\\_plan2016\\_centre\\_western\\_hemisphere.pdf](https://www.ramsar.org/sites/default/files/documents/library/ri_report2015_plan2016_centre_western_hemisphere.pdf) (Accessed 23 March 2020). I note that CREHO has been endorsed as operating within the framework of the Convention twice since this report was submitted. Note that it only appears in Spanish on the Ramsar website.

<sup>40</sup> This is also consistent with SC52-Inf.Doc.04, 'Ramsar Regional Initiatives: An assessment of their achievements at 2015'. Page 12 of this document includes a section entitled 'Legal Status of Ramsar Regional Initiatives' and indicates that only MedWet, CREHO and EAAFP have 'legal status' (although no further details are provided). I was instructed by the Secretariat of the Convention that the legal status of the remaining RRIs has not changed (that is, they do not possess any formal legal status or personality under national laws). To clarify, this includes the four RRIs that were endorsed after SC52-Inf.Doc.04 was published.

40. The choice of whether to form an association or organisation that possesses or lacks legal personality therefore depends on a variety of factors, including: the objectives of the association or entity; whether it intends to employ staff; whether it intends to enter into contracts; whether it intends to hold assets; and the benefits and risks associated with either choice (noting that these will vary from jurisdiction to jurisdiction).

### ***International legal personality***

41. There is no one, codified definition of ‘international legal personality’.<sup>41</sup> Rather, there are several theories which attempt to describe the circumstances in which it may exist.<sup>42</sup> Significantly, most international lawyers acknowledge that the concept of international legal personality is problematic precisely because it is nebulous and subject to a variety of interpretations.<sup>43</sup> However, ‘[i]n general, most authorities agree that an international legal person is an entity with a certain capacity for international rights and obligations.’ However, there is debate as to what these ‘rights and obligations’ actually amount to.<sup>44</sup>
42. It is widely acknowledged that nation states and intergovernmental (IGO) or international organisations possess international legal personality.<sup>45</sup> The most ‘orthodox’ definition of an IGO is probably captured in the Draft Articles on the Responsibility of International Organizations 2011. These Articles define an IGO as ‘an organization established by a treaty or other instrument governed by international law and possessing its own international legal personality. International organizations may include as members, in addition to States, other entities.’<sup>46</sup> It is also generally argued that IGOs possess a degree of autonomy.<sup>47</sup>
43. The significance of domestic legal personality and international legal personality for RRI and the Convention will be elaborated upon in Part 5 of this advice.

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<sup>41</sup> There is no ‘formal criteria’ for international legal personality: Klabbers, Jan, *International Law*. Cambridge University Press, 2013, p. 68. Cambridge Books Online. See also: See Roland Portmann, *Legal Personality In International Law*, Cambridge University Press, 2010.

<sup>42</sup> The ‘Reparations for Injuries Suffered in the Service of the United Nations’ (‘Reparations case’) was an advisory opinion issued by the International Court of Justice in 1949. Two core theories regarding the notion of international legal personality (subjective v objective) emerged from this case. However, there does not appear to be any consensus amongst international lawyers and scholars regarding which of these two theories takes precedence. For further discussion see: Sognnaes, Cecilia, *International legal personality - an assessment of the International Committee of the Red Cross and its legal status*, UiO: Det juridiske fakultet, 2014.

<sup>43</sup> See for example: Worster, William Thomas, *Relative International Legal Personality of Non-State Actors*, (October 28, 2015), pp. 1-2. Available at SSRN: <https://ssrn.com/abstract=2682444> or <http://dx.doi.org/10.2139/ssrn.2682444> (Accessed 02 October 2017).

<sup>44</sup> Ibid, pp. 1-2.

<sup>45</sup> The ‘Reparations for Injuries Suffered in the Service of the United Nations’ (‘Reparations case’) established that an IGO – in this instance the United Nations - could have international legal personality. Note that the terms ‘international organisation’ and ‘intergovernmental organisation’ tend to be used interchangeably. See Vienna Convention on the law of treaties, Article (2)(1)(i).

<sup>46</sup> Drafted by the International Law Commission. Available online: [http://legal.un.org/ilc/texts/instruments/english/draft\\_articles/9\\_11\\_2011.pdf](http://legal.un.org/ilc/texts/instruments/english/draft_articles/9_11_2011.pdf) (Accessed 02 October 2017).

<sup>47</sup> Collins, Richard, White, Nigel, *International Organizations and the Idea of Autonomy: Institutional Independence in the International Legal Order*, Routledge, 2011, P. 121

## Part 5: The implications for the Convention of RRIs being granted legal personality

### *Legal personality under national laws*

44. As noted in Part 4, the precise implications of adopting a legal structure that confers domestic legal personality varies from jurisdiction to jurisdiction. However, as a general rule, such entities have far greater capacity to operate as autonomous, financially independent organisations.

Additionally, such entities:

- may also be able to apply for membership of an international NGO, although this would depend on the charter or treaty of the international NGO, as well as the charter or constitution of the RRI;
- may be eligible to be granted observer status to an international convention. To that end, I understand that MedWet participated in COP21 of the Barcelona Convention as an observer;<sup>48</sup>
- may be eligible to be accredited with the United Nations Environment Program, which in turn allows participation in the United Nations Environment Assembly.<sup>49</sup>

45. The implications for the Convention of one or more RRI being able to function in this manner would depend on a range of factors. I will present two basic scenarios to illustrate this point.

46. First, a RRI with a formal legal structure and legal personality under national law that complies with the requirements of Resolution XIII.9, and to that extent continues to be formally endorsed by the COP or Standing Committee, would arguably not pose any significant reputational or legal threat to the Convention. This is particularly true if reporting by the RRI is sufficiently detailed to ensure that the COP or Standing Committee is properly apprised of all financial, fundraising and partnership arrangements, and any proposed agreements between the RRI and Secretariat are scrutinised by a lawyer before being signed and entering into force.<sup>50</sup> Part 6 will accordingly include considerations regarding these matters.

47. Notwithstanding this general observation, it is worth considering whether a RRI that is a member of an international NGO will in all circumstances be able to discharge its Ramsar obligations and any obligations set out in resolutions or decisions adopted by the international NGO. Specifically, this may be an issue where there is some degree of conflict between the two sets of obligations. In the absence of a factual scenario, it is difficult to advise as to which set of obligations would prevail, or the most appropriate course of action. However, one possible option would be for the

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<sup>48</sup> <https://medwet.org/2019/12/medwet-presence-at-the-barcelona-convention-cop-21/> (Accessed 25 March 2020).

<sup>49</sup> Subject to meeting the stipulated criteria:

<http://wedocs.unep.org/bitstream/handle/20.500.11822/20737/Accreditation%20modalities%20%20Flyer2.pdf?sequence=1&isAllowed=y>

<sup>50</sup> Note that this is simply a consideration *in the event that* the Ramsar Secretariat enters into an agreement with a RRI. As legal advisor to the Convention, I am obliged to envisage the possibility of such an occurrence so that I can suggest options to mitigate any risk that may arise in such circumstances. Further and to clarify, clause I(B) of the Delegation of Authority to the Secretary-General of the Ramsar Convention authorises the Secretary-General to enter into contracts. To that end, I have reviewed copies of several agreements between the Secretariat of the Ramsar Convention and another party. Some of these have been signed by the Secretary-General (on behalf of the Secretariat); others have been signed by both the Secretary-General (on behalf of the Secretariat) and the Director-General (on behalf of the IUCN). It is beyond the scope of this advice to examine this issue in detail, however I would be happy to do so if required (in consultation with the legal advisor to the IUCN).

RRI to place a reservation on any resolution (or part thereof) adopted by the international NGO that conflicts with Ramsar obligations.

48. Second and conversely, a RRI with a formal legal structure and legal personality under national law that does not comply with the Operational Guidelines and is not endorsed as operating within the framework of the Convention could *potentially* pose such a threat. This is largely because, even devoid of any formal status under the Convention, it may continue to operate under the relevant national law and under the direction of its governance body or bodies.<sup>51</sup> In the event that it expressed views or undertook projects that were not consistent with the Convention, it would be legally difficult for the Convention to hold it to account. A formal agreement between any such RRI and the Secretariat of the Convention could assist in this regard,<sup>52</sup> although it is important to note that transboundary agreements can be difficult to enforce in the event of an alleged breach.
49. The Ramsar name and logo is protected under Article 6ter of the Paris Convention for the Protection of Industrial Property.<sup>53</sup> Further, Resolution XIII.9 explicitly states that an RRI may only use its own logo (this being introduced as one of the 7 Principles). However, if the Ramsar logo were to be used unlawfully by a RRI with legal personality, the Ramsar Secretariat (or the IUCN on its behalf) may be required to take legal action, or to request that the relevant host nation take action on its behalf. While this would be an undesirable outcome, it is important to note that it is a worst-case scenario.
50. Similarly, a RRI that has failed to comply with the Operational Guidelines and which has not been endorsed as operating within the framework of the Convention would nonetheless be able to maintain its membership of an IGO or international NGO (barring any agreement between the IGO or International NGO and RRI to the contrary). While this may not pose any specific legal threat to the Convention, the desirability or otherwise of such a scenario is ultimately to be determined by the Contracting Parties. Specifically, the Contracting Parties may wish to consider possible reputational risks to the Convention.
51. It is also important to note that a RRI with a formal legal structure and legal personality can sue and be sued. This could *generally*<sup>54</sup> be expected to protect a host country or individual members of the RRI from incurring liability as a result of the RRI breaching a contract or acting negligently. This is because an entity with legal personality can be held legally liable, which in theory removes the need for any wronged party to sue a host country (or any other related entity with legal personality). Conversely, a RRI that does not have any legal personality that engages in unlawful activity cannot be sued. Thus – and as a general rule – liability may fall to a third party that sits behind the RRI (a host organisation or government, for example). Note that this is general advice and not a substitute for more specific advice about a particular RRI and issues surrounding liability.
52. As there are 19 RRIs, each with their own structure and relationship with the Secretariat, it would be worth assessing each of them individually to determine if they could subject the Secretariat and its staff to any form of legal liability. In making this recommendation, I note that

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<sup>51</sup> Unless, for example, its constitution indicates otherwise.

<sup>52</sup> See note 37 regarding the power of the Secretary-General of the Convention to enter into agreements. Note 37 also highlights the fact that where necessary, both the Secretary-General of the Convention and the Director-General of the IUCN act as co-signatories to certain agreements.

<sup>53</sup> See: <https://www.ramsar.org/resources/logo-and-name-of-the-ramsar-convention-on-wetlands>

<sup>54</sup> This is a general statement that does not take into account the particularities of any given contractual arrangement or situation.

the Delegation of Authority from the Director-General of the IUCN to the Secretary-General of the Ramsar Convention (**Delegation of Authority**) makes it clear that the IUCN ‘retains ultimate legally liability for the actions of the Secretary-General.’ It also notes that the Secretary-General is to ‘ensure that potential risks of legal or financial liability are, to the maximum extent practicable, covered by insurance....’<sup>55</sup> It would therefore be prudent to ensure that current insurance policies are sufficient to cover any possible legal liability that may arise in connection to one or more RRI. Furthermore, these matters ought to be discussed with the IUCN (and its legal advisor).

53. To reiterate, as I am not an expert in the national and state laws of each Contracting Party, I can only provide general advice about such matters. Additional advice from an appropriately qualified, domestic lawyer should therefore be sought by the relevant Contracting Parties if steps are taken to grant formal legal status and legal personality to a RRI or its secretariat under national laws. This matter is also touched on in the considerations set out in Part 6.

### ***International legal personality***

54. It is necessary to briefly consider the implications for the Convention of a RRI becoming a legally recognised IGO and subsequently acquiring international legal personality and being subject to international law. By way of background – and as a general rule – an IGO is formed when a treaty is entered into between two or more nation states and/or other IGOs. An IGO may also be eligible in some jurisdictions to obtain formal, legal recognition as an IGO under national or state laws. As noted above, I have been instructed that this is the case with respect to CREHO, the RRI located in Panama.
55. A RRI that is legally recognised as an IGO may be able to, *inter alia*: enter into formal agreements with other IGOs and/or nation states;<sup>56</sup> become party to a treaty;<sup>57</sup> become a permanent observer to the UNGA;<sup>58</sup> bring and receive claims in international tribunals;<sup>59</sup> and establish permanent missions with states and other international organisations (*jus missionis*).<sup>60</sup>
56. It is also worth noting that under international law, IGOs generally enjoy a range of privileges and immunities<sup>61</sup> which are necessary for the fulfilment of the organisation’s purpose.<sup>62</sup> These include, for example, immunity from jurisdiction (which means that IGOs cannot be sued in domestic courts, unless the IGO waives immunity). However, some countries (such as the United Kingdom) ‘adopt a dualistic theory to international law and require enabling legislation to give

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<sup>55</sup> Delegation of Authority, Supplementary Note, subsection (c).

<sup>56</sup> This may depend on the terms of its charter/originating treaty.

<sup>57</sup> Ibid.

<sup>58</sup> Subject to complying with UN Decision 49/426 of 9 December 1994, and the Sixth Committee of the United Nations recommending to the United Nations General Assembly accept the IGO’s request to become a permanent observer.

<sup>59</sup> Above, note 33 (Reparations Case).

<sup>60</sup> The existence of the *jus missionis* is reflected in the conclusion of the Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character (1975).

<sup>61</sup> Harris, *Cases and materials on international law*, 7<sup>th</sup> ed., Sweet & Maxwell, United Kingdom, 2010, p. 125.

<sup>62</sup> See for example Article 105 of the *United Nations Charter* provides that ‘the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes and that representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization’. The *Convention on the Privileges and Immunities of the United Nations* was subsequently adopted to reflect Article 105.

domestic legal force to international treaty rights and obligations.’ This means that domestic legal personality can be conferred upon IGOs in certain circumstances, which in turn would allow the IGO to be sued.<sup>63</sup>

57. It is important to note that none of these outcomes would *prima facie* affect the legal status of the Convention, its Resolutions or SC Decisions under international law. However, they could have some impact on the reputation of the Convention, among other possibilities.<sup>64</sup> Notably, neither the Secretariat nor the Convention would have any enforceable legal authority to ‘shut down’ a IGO-RRI that was acting inconsistently with the Convention. The Convention could refuse to endorse an RRI in such circumstances, but this would not prevent the RRI from continuing to operate within the confines of relevant laws.
58. Again, the Contracting Parties will need to contemplate the desirability – or otherwise – of a RRI potentially being able to enter into such arrangements, accorded such status in an international forum or benefitting from certain privileges and immunities. The Contracting Parties will also need to consider the desirability – or otherwise – of a RRI being viewed (rightly or wrongly) as a general representative of the Convention within such contexts.

## **Part 6: Considerations**

59. I have devised a series of considerations for Contracting Parties to contemplate. These considerations are based on the analysis undertaken for, and specified in, this advice. To clarify, they are not to be construed as endorsing a particular model for RRIs.<sup>65</sup> Rather, it is for the Contracting Parties to determine whether it is appropriate or otherwise for RRIs to have legal personality.
60. First, if the Contracting Parties wish to authorise one or more RRI to adopt a formal legal structure under relevant national laws (which in turn confers legal personality), they may wish to consider whether this ought to be clearly articulated in a Resolution to avoid any confusion at a later date.<sup>66</sup> They may also wish to undertake a risk-benefit analysis (including of legal issues) in relation to each RRI implicated prior to adopting any such Resolution.
61. Second and conversely, should the Convention wish to prohibit one or more RRI from adopting a formal legal structure and legal personality under national laws, they may wish to consider whether this ought to be clearly articulated in a Resolution.<sup>67</sup>
62. Third, the Contracting Parties may wish to consider the possibility that additional RRIs may seek to establish secretariats that have some sort of independent legal status and legal personality under relevant national laws. The Contracting Parties may accordingly wish to consider whether this issue ought to be contemplated in either the text of a COP resolution or the revised version of the Operational Guidelines (to be presented at COP14).

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<sup>63</sup> See for example section 1(2) of the *International Organisations Act 1968*

(UK), which provides that the ‘legal capacities of a body corporate’ may be conferred on an international organisation of which the UK is a member or host state by an Order in Council.

<sup>64</sup> There are many different hypothetical situations that could arise should a RRI become an IGO and in turn become active in international fora. It is beyond the scope of this advice to attempt to grapple with all of these.

<sup>65</sup> This is reflected in the use of the conditional tense throughout (‘should’, ‘may’, ‘could’).

<sup>66</sup> Refer to Part 2, which describes the ambiguous nature of the Operational Guidelines 2016-18 with respect to the nature of the structure that may be adopted by a RRI.

<sup>67</sup> Ibid.

63. Fourth, the COP could impose more specific and stringent reporting and auditing requirements, particularly in relation to financial matters. This would be particularly prudent in the event that the COP decides to formally authorise one or more RRI to adopt a formal legal structure and legal personality. Advice should be sought from a suitably qualified accountant or auditor regarding this matter.
64. Fifth, the Contracting Parties may wish to consider the implications of encouraging RRIs lacking a formal legal structure and personality to become financially independent.<sup>68</sup> For example, in some jurisdictions it is necessary for an entity to adopt a particular legal structure before it can be granted tax deductible status. Relevantly, failure to obtain tax deductible status may in certain circumstances affect the ability of a RRI to fundraise and in turn become financially independent.
65. Sixth and as noted in Part 5 of this advice, the Contracting Parties should be mindful of the fact that a RRI that is an IGO may be eligible to:
- be granted observer status in the UNGA;
  - enter into agreements with States or IGOs;<sup>69</sup>
  - be accredited with the United Nations Environment Program, which in turn allows participation in the United Nations Environment Assembly;<sup>70</sup>
  - obtain membership of an international NGO (if it is a NGO under national law);
  - bring and receive claims in international tribunals;<sup>71</sup>
  - establish permanent missions with states and other international organisations (*jus missionis*);<sup>72</sup> and
  - enjoy privileges and immunities (including immunity from being sued under domestic laws).<sup>73</sup>
66. Seventh, the Contracting Parties should also be mindful of the fact that a RRI that has legal status under national laws may be eligible to be granted observer status to the COP of another environmental convention.
67. The Contracting Parties may wish to consider whether the outcomes specified in paragraphs 65 and 66 are consistent with the purpose of RRIs. They may also wish to consider the following matters: who is entitled to speak on behalf of the Convention in international fora; consistency of messaging regarding the Convention in international fora;<sup>74</sup> and any inconsistency between

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<sup>68</sup> Refer to Part 2 of this advice, which sets out the various Resolutions which encourage RRIs to become financially sustainable and/or independent. For example, the Operational Guidelines 2009-12 state at paragraph 25 that 'Regional initiatives need to generate their own resources and become financially self-sufficient after an initial start-up phase and in the long term.'

<sup>69</sup> If it obtains the status of an IGO.

<sup>70</sup> If it is a NGO under national law.

<sup>71</sup> Above, note 33 (Reparations Case).

<sup>72</sup> The existence of the *jus missionis* is reflected in the conclusion of the Vienna Convention on the Representation of States in their Relations with International Organizations of a Universal Character (1975).

<sup>73</sup> See for example Article 105 of the *United Nations Charter* provides that 'the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes and that representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization'. The *Convention on the Privileges and Immunities of the United Nations* was subsequently adopted to reflect Article 105.

<sup>74</sup> Where, for example, both the Secretariat and a RRI are granted observer status to another environmental Convention.

Ramsar obligations and obligations arising out of membership of an international organisation (for example).

68. To clarify, it is my obligation as legal advisor to alert the Contracting Parties to the fact that any RRI that obtains domestic or international legal personality could potentially enjoy the benefits outlined in paragraph 65 and 66. It is not to be construed as an endorsement of a RRI doing such things. Indeed, it is up to the Contracting Parties to determine whether they consider it appropriate or not in the circumstances for a RRI to be eligible – by virtue of the fact that it is an IGO – to be granted observer status in the UNGA (for example). I do note, however, that the circumstances include the fact that the Secretariat of the Convention may not be eligible to be granted such status.
69. Eighth, the Secretariat should refrain from entering into any agreements<sup>75</sup> with RRIs or host countries or organisations without first obtaining legal advice regarding the implications for the Secretariat and the Convention of entering into the agreement in question (including in relation to transboundary enforcement).
70. Ninth, the Secretariat enters into funding agreements with RRIs, including those that lack legal personality. I note that the funding agreements that I have cited require disputes, claims, breaches etc. to be settled via arbitration in Gland in accordance with UNCITRAL Arbitration Rules. If necessary, the Secretariat may wish to seek further advice from the legal advisor to the IUCN regarding legal issues that could arise during any such arbitration as a consequence of the RRI that is party to the dispute lacking legal personality (noting that only entities with legal personality can sue or be sued).

Please do not hesitate to contact me if you have any questions regarding this advice.

Kind Regards,



Dr Emma Carmody  
Legal Advisor

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<sup>75</sup> Excluding funding agreements.

## Appendix 1

- 2018- COP13 Res. XIII.9:** Endorses 19 RRI as operating within the framework of the Convention; Introduces the 7 Principles; states that the Revised Operational Guidelines 2016-18 may be applied on a discretionary basis to RRI; re-establishes the RRI Working Group to draft new operational guidelines to be presented at SC58 and COP14; requests the legal advisor to review all relevant SC Decisions and COP Resolutions to determine which are no longer relevant
- 2018 - SC54-30:** Instructs the Secretariat to undertake a review of the legal status of RRI and the implications for the Convention, and to edit the draft resolution for consideration at COP13
- 2017 - SC53-37/38:** Allocation of budget
- 2017 - SC53-12:** Asks the Secretariat to prepare a draft resolution, taking into account information in the report by the working group, for COP13
- 2017 - SC53-11:** Notes that some Parties would continue implement the Operational Guidelines in effect as of COP12 (cf. SC46-28 – Guidelines to 2015)
- 2017 - SC53-09:** allocates core budget funds to 4 new RRI for their activities in 2017
- 2016 - SC52-20:** endorses 4 new RRI operating in the framework of the Convention (cf. in the table below)
- 2016 - SC52-19:** Asked Working Group with help of Secretariat to present a summary report of any issues re. RRI and any related proposals
- 2016 - SC52-18:** Asked Working Group to assess applicability of Operational Guidelines as approved before SC53
- 2016 - SC52-17:** Endorses 15 ongoing RRI operating in the framework of the Convention in 2016-2018 (cf. in the table below)
- 2016 - SC52-16:** Adopted Operational Guidelines
- 2015 - SC51-14:** Asked proposed new RRI to submit relevant information for consideration by SC52
- 2015 - SC51-13:** Asks a workshop to revise the Operational Guidelines immediately before SC52
- 2015 - SC51-12:** Asks the Secretariat to complete the assessment of existing RRI and to support a common communications strategy
- 2015 - SC51-11:** Establishes a working group to examine implications of proposed new Operational Guidelines for RRI
- 2015-COP12 Res. XII.8:** Defines an operational framework for RRI during 2016-2018, instructs SC to review the *Operational Guidelines* adopted through Decision SC46-28, no later than SC52

<b>2015 - SC48-25:</b>	Approves the draft resolution on RRIIs to be submitted to COP12
<b>2014 - SC47-26:</b>	Endorses 15 ongoing RRIIs operating in the framework of the Convention 2013-2015 and asked Secretariat to help RRIIs to develop ties with regional conventions to strengthen local rootedness etc.
<b>2014 - SC47-10:</b>	Allocates core budget funds to 6 RRIIs for their activities in 2014
<b>2013 - SC46-28:</b>	Adopts revised <i>Operational Guidelines 2013-2015</i> for RRIIs
<b>2013 - SC46-23:</b>	Allocates core budget funds to 6 RRIIs for their activities in 2013
<b>2013 - SC46-13:</b>	Endorses 15 ongoing RRIIs operating in the framework of the Convention during 2013, and highlights shortcomings
<b>2012-COP11 Res. XI.5:</b>	Defines an operational framework for RRIIs during 2013-2015, approves continued validity of the Operational Guidelines 2009-12 for 2013-2015
<b>2011 - SC43-11:</b>	Asks for an independent assessment of the Ramsar Centres in Asia and Africa, and its results to be incorporated in the draft resolution for COP11
<b>2011 - SC42-20:</b>	Endorses ongoing 11 RRIIs operating in the framework of the Convention in 2011 and withdraws 3 inactive initiatives
<b>2010 - SC41-23:</b>	Endorses 3 new RRIIs operating in the framework of the Convention
<b>2010 - SC41-22:</b>	Welcomes the “letter of agreement” for disbursement of annual Ramsar core budget allocations to RRIIs. See DOC. SC41-13, annex II, which is model contract or ‘letter of agreement’.
<b>2010 - SC41-21:</b>	Approves the ‘combined format for annual reporting and forward planning’ for RRIIs
<b>2010 - SC41-20:</b>	Allows accrual of unallocated funds for RRIIs to 2011
<b>2010 - SC41-19:</b>	Allocates Ramsar core budget funds to 10 RRIIs
<b>2009 - SC40-18:</b>	Endorses 10 ongoing RRIIs for 2009-2012 as meeting OGs (and 3 RRIIs provisionally for one year. CF SC41-23)
<b>2009 - SC40-15:</b>	Adopted Evaluation Criteria to ensure operating in framework of the Convention CF Annex I of DOC. SC40-10
<b>2009 - SC40-16:</b>	‘Format for annual financial and work plan reporting’, to be used by Regional Initiatives when reporting annually to the Secretariat
<b>2008-COP10 Res. X.6:</b>	Defines an operational framework for RRIIs and provides <i>Operational Guidelines for 2009-2012</i>
<b>2008 - SC37-07:</b>	Approves the amended draft resolution on RRIIs for transmission to COP10

- 2008 - SC36-19:** Instructs the Management Working Group to make a proposal to SC37 on 'umbrella' RRIs
- 2008 - SC36-13:** Approves Ramsar core budget allocations to 6 RRIs
- 2007 - SC35-7/8:** Budget and directs Secretariat to prepare overview for each SC meeting.
- 2006 - SC34-21:** Regulates Ramsar core budget funding to eligible RRIs
- 2005-COP9 Res. IX.7:** Endorses 9 RRIs for 2006-2008, recognizes 4 potentially new RRIs, decides on Ramsar budget support for 2006 to 4 RRIs, approves MedWet budget 2006-08
- 2005 - SC31-24:** Provides instructions how to finalise the draft resolution on RRI for submission to COP9 (consistently with recommendations of Sub Group on Finance)
- 2004 - SC30-18:** Welcomes the bringing to life of CREHO
- 2003 - SC29-04:** Endorses "proposed agreement" between Panama and the Secretariat on the establishment of CREHO.
- 2002-COP8 Res. VIII.41:** Approves the proposal to establish RRC-CWA, a Ramsar Regional Centre for Training and Research on Wetlands in Central and West Asia
- 2002-COP8 Res. VIII.30:** Establishes Ramsar budget line for RRIs, adopts Guidance for the development of RRIs, approves MedWet budget 2003-05
- 1999-COP7 Res. VII.26:** Approves the establishment of CREHO, the Regional Ramsar Centre for Training and Research on Wetlands in the Western Hemisphere
- 1999-COP7 Res. VII.22:** Approves the establishment of MedWet, i.e. the Mediterranean Wetlands Committee
- 1999-COP7 Res. VII.19:** Provides Guidelines for international cooperation as a framework for collaboration between CPs and other partners
- 1996-COP6 Rec. 6.11:** Welcomes the MedWet collaboration between government and non-government partners and requests a report to COP7
- 1993-COP5 Rec. 5.14:** Welcomes the MedWet initiative as a promising approach and requests it to report on progress to COP6

## Appendix 2

Resolution re. RRI	Key points
<b>Resolution VIII.30:</b> Guidance Document	<ul style="list-style-type: none"> <li>• A regional initiative should from the start include the participation of the Administrative Authorities, as well as all other relevant stakeholders including ministries responsible for environmental and water issues, intergovernmental bodies, NGOs, academia and economic actors.</li> <li>• 'The strategic and operational targets of a regional initiative should be fully aligned with the Strategic Plan of the Convention by means of policy and site technical work and activities.'</li> <li>• Specific arrangements regarding the coordination between a regional initiative and the Convention should be worked out by the Bureau under the guidance of the Standing Committee (with the COP ultimately approving such arrangements).</li> </ul>
<b>Resolution X.6:</b> Operational Guidelines 2009-12	<ul style="list-style-type: none"> <li>• RRI are intended to provide 'lasting, structural and operational support to facilitating and improving the implementation of the Ramsar Convention...'. Accordingly, 'it is important to make sure that there is support from all participating Contracting Parties or a significant number of Contracting Parties in the regions concerned.'</li> <li>• The Secretariat must receive regular reports from RRI to enable it to report to the Standing Committee and COP as required.</li> <li>• Contracting Parties or other members participating in a RRI need to provide professional staff to ensure a minimum level of coordination between members of the RRI.</li> <li>• The strategic and operational targets of the RRI should be fully aligned with the Strategic Plan of the Convention.</li> <li>• RRI need to raise the visibility of the Convention and general awareness of Ramsar objectives.</li> <li>• After an initial period of support, RRI should become financially independent.</li> <li>• RRI that are recognised as operating within the framework of the Convention must submit progress reports to the Secretariat to allow time for it to report to the following COP. Further, RRI requesting funding from the Ramsar core budget must submit annual reports of progress and financial status to the Secretariat in time for the following Standing Committee meeting.</li> <li>• RRI are to be subject to periodic assessment and review processes, to be coordinated by the Secretariat. These are to ensure that RRI are operating within the framework of agreed work plans and following the approaches approved pursuant to Resolutions.</li> <li>• This Resolution further authorised the Standing Committee to examine and approve, between meetings of the COP, new RRI which fully meet the Operational Guidelines 2009-12, and to develop evaluation criteria against which to assess whether RRI operating within the framework of the Convention.</li> </ul>

<p><b>Resolution IX.7:</b> Regional initiatives in the framework of the Ramsar Convention</p>	<ul style="list-style-type: none"> <li>• Authorised the Secretary-General to conclude MoUs with relevant governments and bodies with regard to the specific financial and institutional arrangements for the initiatives listed in the Annex.</li> <li>• Instructed all initiatives under the Resolution to submit to the Standing Committee a progress report, including their success on complying with the Guidance Document and ‘actions taken to replace Ramsar funds with alternative sustainable funds.’</li> </ul>
<p><b>Resolution XI.5:</b> Regional Initiatives 2013-15 in the framework of the Ramsar Convention</p>	<ul style="list-style-type: none"> <li>• Instructs RRIs to provide the Standing Committee with annual reports on their progress and operations and specifically their success in fulfilling the Operational Guidelines.</li> <li>• Instructs the Standing Committee to revise the ‘guidelines on Regional Initiatives’<sup>76</sup> so that a precise evaluation of their activities and their administration and financial management and long-term sustainability is possible and to use these new guidelines to determine the level of support (financial and otherwise) in the coming triennium.</li> <li>• Agrees to provide core budget funding to RRI that are determined by the Standing Committee to fully meet the Operational Guidelines.</li> <li>• Strongly urges RRIs that receive financial support from the core budget to strengthen their financial sustainability.</li> <li>• Decides that RRI Centres that meet the Operational Guidelines can be funded for up to six years.</li> <li>• Instructs RRI Centres and Networks operating in the framework of the Convention to ‘describe themselves as an operational means to provide support for the implementation of the objectives of the Ramsar Convention, but to present themselves with their own independent and individual identities to the public and other partners...’. This is to avoid any confusion between the different roles of RRIs, Administrative Authorities at the national level and Secretariat at the international level.</li> </ul>
<p><b>SC Decision 52-16:</b> Revised Operational Guidelines 2016-18</p>	<ul style="list-style-type: none"> <li>• The complementary role of RRIs and the Secretariat may be defined in written arrangements.</li> <li>• Equitable and transparent governance and coordination structures should be laid down in a set of operational procedures to be made public and shared with the Secretariat.</li> <li>• RRIs are intended to provide lasting structural and operational support to facilitate and improve the implementation of the Convention in the relevant region. Support of participating Contracting Parties is required.</li> <li>• To be eligible for funding from the Convention, a letter of support from the relevant Administrative Authorities is required.</li> <li>• It is the responsibility of the involved stakeholders, in particular the heads of the Administrative Authorities which engage in the governance of RRIs, to develop and coordinate RRIs.</li> <li>• Each RRI is encouraged to have professional staff involved to supervise or coordinate regional projects and programs.</li> </ul>

<sup>76</sup> This is presumably a reference to the Operational Guidelines 2009-12.

	<ul style="list-style-type: none"> <li>• When a RRI is hosted by an institution, a hosting agreement should recognise the specific status of the initiative and its operational independence with regard to the host institution, following the format adopted by the Standing Committee.</li> <li>• RRIs are approved by the COP and/or Standing Committee, provided that their establishment is justified as a response to the needs of the regions and that they comply with the Operational Guidelines.</li> <li>• RRIs should be aligned with the Strategic Plan.</li> <li>• The work program of RRIs improves the visibility of the Convention and general awareness of the objectives of its Strategic Plan.</li> <li>• RRIs generate their own resources and should take the necessary measures to establish financial sustainability.</li> <li>• RRIs are to report annually to the Secretariat.</li> <li>• RRIs that satisfy the Operational Guidelines are approved by the Standing Committee as operating within the framework of the Convention for the period between two meetings of the COP, and receive the status of RRI.</li> <li>• All RRIs that do not report on their activities to the Secretariat in time will have their status as a RRI withdrawn by the Standing Committee.</li> </ul>
<b>Resolution XIII.9: 7 Principles</b>	<ul style="list-style-type: none"> <li>• RRIs must be endorsed by the Conference of the Contracting Parties, or intersessionally by the Standing Committee if they are new;</li> <li>• RRIs must be subject to review by the Contracting Parties at each meeting of the Conference of the Parties;</li> <li>• RRIs must develop terms of reference, which cover their own rules of procedure, structure, governance and membership, including the status of the Convention Secretariat's participation in the RRI, and which should be consistent with the Resolutions and Recommendations of the Conference of the Parties;</li> <li>• RRIs must be financially accountable;</li> <li>• RRIs should undertake tasks related to the implementation of the Convention in their region and can speak in their own name only, using their own logo only;</li> <li>• RRIs must submit to the Secretariat, according to the format approved by the Standing Committee, an annual report of progress on their work and a financial summary at the end of each year, together with a work plan and budget for the following year; and</li> <li>• RRIs that have been established for fewer than six years and that want to apply for start-up financial support from the Ramsar Convention core budget must request it in their budget submitted for the following year;</li> </ul>

### Appendix 3

Ramsar Regional Initiative (RRI) and year of initial endorsement	Endorsement by COP or Standing Committee as operating within the framework of the Convention
Ramsar Centre for Eastern Africa (RAMCEA) <b>2009 (SC40)</b>	Res. XIII.9: endorses until COP14 SC52-17: endorses for 2016-2018 SC47-26: endorses for 2013-2015 SC46-13: endorses for 2013 SC42-20: endorses for 2011 SC40-18: <b>endorses for 2009-2012</b>
Ramsar Regional Centre for Training and Research in the Western Hemisphere (CREHO) <b>1999 (COP7)</b>	Res. XIII.9: endorses until COP14 SC52-17: endorses for 2016-2018 SC47-26: endorses for 2013-2015 SC46-13: endorses for 2013 SC42-20: endorses for 2011 SC40-18: endorses for 2009-2012 SC30-18: welcomed new developments in bringing this Centre to life. Res. IX.7: endorses for 2006-2008 Res. VII.26: <b>endorses this new RRI 1999</b>
Ramsar Regional Centre – Central and West Asia (RRC-CWA) <b>2002 (COP8)</b>	Res. XIII.9: endorses until COP14 SC52-17: endorses for 2016-2018 SC47-26: endorses for 2013-2015 SC46-13: endorses for 2013 SC42-20: endorses for 2011 SC40-18: endorses for 2009-2012 Res. IX.7: endorses for 2006-2008 Res. VIII.41: <b>endorses this new RRI 2002</b>
Ramsar Regional Centre – East Asia (RRC-EA) <b>2009 (SC40)</b>	Res. XIII.9: endorses until COP14 SC52-17: endorses for 2016-2018 SC47-26: endorses for 2013-2015 SC46-13: endorses for 2013 SC40-18: endorses for 2009-2012
RRI for West African Coastal Zone Wetlands (WaCoWet) <b>2005 (COP9)</b>	Res. XIII.9: endorses until COP14 SC52-17: endorses for 2016-2018 SC47-26: endorses for 2013-2015 SC46-13: endorses for 2013 SC42-20: endorses for 2011 Res. IX.7: <b>endorses for 2006-2008</b>
RRI for the Niger River Basin (NigerWet) <b>2005 (COP9)</b>	Res. XIII.9: endorses until COP14 SC52-17: endorses for 2016-2018 SC47-26: endorses for 2013-2015 SC46-13: endorses for 2013 C42-20: endorses for 2011 Res. IX.7: <b>endorses for 2006-2008</b>

RRI for the Senegal River Basin <b>2016 (SC52)</b>	Res. XIII.9: endorses until COP14 SC52-20: <b>endorses this new RRI 2016</b>
RRI for the Conservation and Wise Use of High Andean Wetlands <b>2005 (COP9)</b>	Res. XIII.9: endorses until COP14 SC52-17: endorses for 2016-2018 SC47-26: endorses for 2013-2015 SC46-13: endorses for 2013 SC42-20: endorses for 2011 SC40-18: endorsement 2009-2012 Res. IX.7: <b>endorses for 2006-2008</b>
RRI for the Conservation and Wise Use of the Plata River Basin <b>2009 (SC40)</b>	Res. XIII.9: endorses until COP14 SC52-17: endorsement 2016-2018 SC47-26: endorses for 2013-2015 SC46-13: endorses for 2013 SC42-20: endorsement 2011 SC40-18: <b>endorses for 2009-2012</b>
Caribbean Wetlands RRI (CariWet) <b>2010 (SC41)</b>	Res. XIII.9: endorses until COP14 SC52-17: endorsement 2016-2018 SC47-26: endorses for 2013-2015 SC46-13: endorses for 2013 SC42-20: endorsement 2011 SC41-23: <b>endorses this new RRI 2010</b>
RRI for the Conservation and Wise Use of Mangroves and Coral Reefs <b>2010 (SC41)</b>	Res. XIII.9: endorses until COP14 SC52-17: endorsement 2016-2018 SC47-26: endorses for 2013-2015 SC46-13: endorses for 2013 SC42-20: endorsement 2011 SC41-23: <b>endorses this new RRI 2010</b>
RRI for the Amazon River Basin <b>2016 (SC52)</b>	Res. XIII.9: endorses until COP14 SC52-20: <b>endorses this new RRI 2016</b>
East-Asian Australasian Flyway Partnership <b>2005 (COP9)</b>	Res. XIII.9: endorses until COP14 SC52-17: endorsement 2016-2018 SC47-26: endorses for 2013-2015 SC46-13: endorses for 2013 SC40-18: endorsement 2009-2012 Res. IX.7: <b>endorses for 2006-2008</b>
RRI for Central Asia <b>2016 (SC52)</b>	Res. XIII.9: endorses until COP14 SC52-20: <b>endorses this new RRI 2016</b>
Indo-Burma RRI <b>2016 (SC52)</b>	Res. XIII.9: endorses until COP14 SC52-20: <b>endorses this new RRI 2016</b>

Mediterranean Wetlands RRI (MedWet) <b>1999 (COP7)</b>	Res. XIII.9: endorses until COP14 SC52-17: endorses for 2016-2018 SC47-26: endorses for 2013-2015 SC46-13: endorses for 2013 SC40-18: endorses for 2009-2012 Res. IX.7: endorses for 2006-2008 Res. VII.22: <b>endorses this new RRI 1999</b>
Carpathian Wetland RRI (CWI) <b>2009 (SC49)</b>	Res. XIII.9: endorses until COP14 SC52-17: endorsement 2016-2018 SC47-26: endorses for 2013-2015 SC46-13: endorses for 2013 SC42-20: endorsement 2011 SC40-18: <b>endorses for 2009-2012</b>
Nordic-Baltic Wetlands RRI (NorBalWet) <b>2009 (SC40)</b>	Res. XIII.9: endorses until COP14 SC52-17: endorsement 2016-2018 SC47-26: endorses for 2013-2015 SC46-13: endorses for 2013 SC40-18: <b>endorses for 2009-2012</b>
RRI on Black and Azov Seas Coastal Wetlands (BlackSeaWet) <b>2010 (SC41)</b>	Res. XIII.9: endorses until COP14 SC52-17: endorsement 2016-2018 SC47-26: endorses for 2013-2015 SC46-13: endorses for 2013 C42-20: endorsement 2011 SC41-23: <b>endorses this new RRI 2010</b>