

CONVENTION ON WETLANDS (Ramsar, Iran, 1971)

**Meeting of the Standing Committee Subgroup on COP9
Gland, Switzerland, 7-10 March 2005**

DOC. COP9 SG-15

Agenda item 15

Use of the word “Secretariat” to replace “Bureau”

Action requested: The Subgroup on COP9 is requested to review the opinion of the IUCN Environmental Law Centre on the advisability and feasibility of adopting the word “Secretariat” to refer in future to the Ramsar Bureau, and to consider transmitting a draft Resolution to Ramsar COP9 to authorize such a change. A possible draft Resolution is appended.

Background

1. In his report to the Standing Committee meeting in January 2004 (DOC. SC30-2), the Secretary General proposed that the name of the Ramsar “Bureau” to describe the treaty secretariat, which has been used traditionally from the time of its use in the text of the Convention in 1971, should be changed to the “Secretariat” in order to bring it into line with the practice of more recent environmental conventions.
2. At SC30, several Parties spoke in favor of that suggestion, but questions were raised about the formal feasibility of changing a designation employed in the text of the convention itself. It was agreed that the Secretary General would seek the advice of IUCN’s Environmental Law Centre on the matter, and in the meantime, the word “secretariat” could be used informally but that “Bureau” should continue to be used in official communications until the SC had had the benefit of the ELC’s advice.
3. In light of the ELC’s determination that the word by which the Secretariat is known can be altered by a Resolution of the Conference of the Parties, without the necessity of an amendment to the treaty itself, and in light of the desirability of using the more familiar word “secretariat” in future, the Secretariat has prepared a draft Resolution for the Standing Committee’s consideration for taking forward to the COP.

The Environmental Law Centre’s opinion, June 2004

Dr Peter Bridgewater
Secretary General
Ramsar Convention

Dear Dr Bridgewater

We have been asked to advise on the procedure that needs to be followed to change the name of what is currently referred to as the ‘Ramsar Bureau’ to the ‘Ramsar Secretariat’. No change in the functions carried out by the unit is proposed. The change in name is intended to bring the nomenclature into line with other convention secretariats.

Source Materials

In preparing our opinion we have taken account of:

- the Ramsar Convention;
- *The Ramsar Convention on Wetlands: Its History and Development* by G.V.T. Matthews;
- various Resolutions of the Conferences of the Parties (COP) to the Convention and related memoranda of understanding regarding the functions of the ‘Ramsar Bureau’;
- secretariat arrangements for other conventions, including the Convention on Biological Diversity, Cartagena Protocol on Biosafety, and Framework Convention on Climate Change.

A Brief History

We do not set out the content of each of these source materials in this opinion. A brief summary of the history of the situation is as follows:

- Article 8 (1) of the Convention provides that IUCN “shall perform the continuing bureau duties under this Convention until such time as another organisation or government is appointed”. This article has not been amended and no other organization or government has been appointed, hence IUCN still carries out this function.
- Article 8 (2) describes the “continuing bureau duties”, which are the sorts of functions usually carried out by a convention secretariat. See for example Article 24 of the Convention on Biological Diversity.
- Article 10 bis (3) describes certain additional functions for “the organization or government performing the continuing bureau duties under the Convention”, which is thereafter referred to as “the Bureau”. The Convention itself does not establish a ‘Ramsar Bureau’ by that name, rather it identifies “continuing bureau duties” and designates IUCN as the organization to carry them out until another organization or government is appointed. The use of the precise term ‘Ramsar Bureau’ is the result of various COP resolutions and MOU, but this term has not always been used consistently.
- IUCN is “the Bureau” as defined in Article 10 bis (3), which is the shorthand description given to the organization carrying out the “continuing bureau duties under this Convention” in the Article.
- The duties described in Article 8 (2) are all secretariat functions, and the dilemma regarding how to ensure such duties were to be adequately carried out (and financed) was a matter of great concern during the development of the Convention, which concern carried through to its subsequent implementation. The desirability of drawing upon States involved with the development of the Convention, or a variety of interested international organizations, were all explored. The final result was Article 8 (1), with additional functions being added through the subsequent inclusion of Article 10 bis.

- The evolution of who would be responsible for carrying out of the continuing bureau duties is reflected in a number of decisions of the COP and a series of memoranda of understanding (MOU). Initially these duties were carried out by IUCN and IWRB. This evolved over time to the point where a separate ‘ring fenced’ unit, often referred to as the ‘Ramsar Bureau’ (and sometimes ‘Convention Bureau’), was created within IUCN Headquarters. This was complemented by the Director General of IUCN progressively delegating additional functions to the Secretary General. Today, the only matters demanding the direct involvement of the IUCN Director General are those requiring the exercise of legal personality. However, IUCN remains “the Bureau” as defined in Article 10 bis.
- The “Rules of Procedure for the Meetings of the Conference of Contracting Parties” refer to secretariat functions and define both “Bureau” and “Secretariat”. These definitions taken in isolation support the move towards using the nomenclature of the ‘Ramsar Secretariat’ for the unit within IUCN carrying out the continuing bureau functions, and “the Bureau” for IUCN. However, when read with Rule 27, these definitions could make the Director General of IUCN the Secretary General of the COP, which is clearly not the intention of the Parties. An amendment to the Rules is highly desirable to resolve this confusion.

Our Opinion

In our opinion there is nothing in the Convention itself that prohibits the use of the term ‘Ramsar Secretariat’ to describe the unit created within IUCN for carrying out the “continuing bureau duties” under the Convention. The “Bureau” as defined in the Convention is IUCN.

However, the term ‘Ramsar Bureau’ (and ‘Convention Bureau’) has found its way into many COP resolutions and MOUs. As such some action is required to formalise the change.

We recommend the following way forward:

- have the Convention’s Standing Committee resolve to endorse naming the unit within IUCN responsible for carrying out the continuing bureau duties, often referred to as the ‘Ramsar Bureau’, the ‘Ramsar Secretariat’.
- have the Convention’s Standing Committee develop a motion to present to the next COP recommending that:
 - the parties to the Convention note and endorse the decision of the Standing Committee to name the unit within IUCN responsible for carrying out the continuing bureau duties, often referred to as the ‘Ramsar Bureau’, the ‘Ramsar Secretariat’; and
 - to the extent of any inconsistency, the description of the unit within IUCN responsible for carrying out the continuing bureau duties as the ‘Ramsar Secretariat’ will prevail over any prior resolution of the COP.

In the meantime, whenever referring to the 'Ramsar Secretariat', you should footnote a reference that the 'Ramsar Secretariat', often referred to as the 'Ramsar Bureau', is the unit responsible for carrying out the continuing bureau duties under the Ramsar Convention.

Consideration should also be given to making specific amendments to the COP Procedures referred to above.

We remain happy to provide further assistance upon request.

Your sincerely

John Scanlon

Director, IUCN Environmental Law Centre
Head, IUCN Environmental Law Programme

June 2004

Cc: Achim Steiner, Bill Jackson, Jean-Yves Pirot, Giuseppe Zaccagnini

Draft Resolution on changing the name of the Bureau to "Secretariat", for consideration by Standing Committee

1. RECALLING that Article 10bis paragraph 3 of the Convention refers to "the Bureau" as an administrative unit performing the Convention's administrative functions;
2. NOTING the legal opinion of the IUCN Centre for Environmental Law that, in line with modern practice, the nomenclature "Bureau" is not satisfactory;
3. RECOGNISING that, for the Secretariat in its external relations, the nomenclature "Bureau" is not satisfactory;
4. RECOGNISING ALSO the need to allow the Secretariat to use a more suitable descriptor in such relations; and
5. AFFIRMING that this Resolution does not intend to amend the Convention text or to change the functions and status of the Bureau provided in the Convention and in related decisions and Resolutions of the Convention bodies;

THE CONFERENCE OF THE CONTRACTING PARTIES

6. DECIDES that in its external relations the Ramsar Bureau may use the descriptor "the Ramsar Secretariat" in its official statements and documents when such a descriptor is considered to be more suitable; and
7. REAFFIRMS that this use of the descriptor "Secretariat" shall not affect the Bureau's functions or status as provided in the Convention and in related decisions and Resolutions of the Convention bodies.