



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

*“Healthy wetlands, healthy people”*

Changwon, Republic of Korea,  
28 October-4 November 2008

Agenda item XII

Ramsar COP10 DOC. 20

## Review of Ramsar Secretariat legal status options

### Introduction

1. This paper provides a briefing on progress and issues related to options for the future legal status of the Ramsar Secretariat, following the instructions and request from the Contracting Parties in Resolution IX.10 (2005):
  - “9. INSTRUCTS the Secretary General to engage in a consultative process with appropriate bodies such as IUCN and UNESCO, as well as the government of the host country and other interested organizations and governments, regarding the options, as well as legal and practical implications, for the transformation of the status of the Ramsar Secretariat towards an International Organization or other status whilst still recognizing and maintaining its links with IUCN and the host country; and
  10. REQUESTS the Secretary General to report on the outcome of these consultations through the Standing Committee to COP10.”
2. Since COP9 the Secretariat and Standing Committee have undertaken significant work on this matter, following on from the Secretariat’s review of issues and difficulties concerning the efficiency and effectiveness of day-to-day operations under current institutional arrangements, whereby IUCN, through a long-standing arrangement embodied in the Convention text, provides the legal identify for the Secretariat for financial, employment, and administrative purposes.
3. Review work has focused on three possible options, and the costs and benefits of each, for future status:
  - i) the status quo, or a an enhanced status quo, with IUCN and the Swiss host government;
  - ii) gaining formal International Organisation status in Switzerland; and
  - ii) becoming part of the UN system, operating under the framework of either UNEP or another UN body.

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4. There has been significant progress in understanding the implications of each of these options, as well as substantive discussion of them during Standing Committee meetings during this triennium. The relevant briefing documents prepared by the Secretariat for the Standing Committee are:

for the 34<sup>th</sup> meeting of the Standing Committee (2006), DOC. SC34-10 available on:

[http://www.ramsar.org/sc/34/key\\_sc34\\_agenda\\_papers.htm](http://www.ramsar.org/sc/34/key_sc34_agenda_papers.htm);

for the 35<sup>th</sup> meeting of the Standing Committee (2007), DOC. SC35-18 available on:

[http://www.ramsar.org/sc/35/key\\_sc35\\_agenda\\_papers.htm](http://www.ramsar.org/sc/35/key_sc35_agenda_papers.htm);

for the 36<sup>th</sup> meeting of the Standing Committee (February 2008), DOC. SC36-15, available on: [http://www.ramsar.org/sc/36/key\\_sc36\\_agenda\\_papers.htm](http://www.ramsar.org/sc/36/key_sc36_agenda_papers.htm); and

for the 37<sup>th</sup> meeting of the Standing Committee (June 2008), DOC. SC37-2, available on:

[http://www.ramsar.org/sc/37/key\\_sc37\\_agenda\\_papers.htm](http://www.ramsar.org/sc/37/key_sc37_agenda_papers.htm)

5. At its 37<sup>th</sup> meeting, in June 2008, the Standing Committee decided the following:

**Decision SC37-2:** The Standing Committee instructed the Secretariat to continue more focused discussions on all three options to the extent possible as far as funding is available.

**Decision SC37-16:** The Standing Committee requested the Secretariat to discuss opportunities with those Parties and others who might be in a position to make a voluntary contribution to facilitate work prior to COP10 concerning the issue of the legal status of the Secretariat, recognizing that:

- a) the Secretariat may need further independent legal advice and financial analysis in relation to further discussions with IUCN and Switzerland about Option 1;
- b) Option 2 appears to require an amendment to the text of the Convention and would have funding implications; and
- c) in the light of the further information received from UNEP during SC37 concerning Option 3 on acquiring UN-related status.

The Standing Committee further requests the Secretariat to keep these matters under review and to report to COP10 if there may be a need to budget for further expert advice.

6. It should be noted that the implications of the point made in Decision SC37-16 b) concerning independent international organization status requiring an amendment to the Convention would necessitate a request for a COP by 1/3 of the Parties, adoption of the amendment by 2/3 of the Parties, and subsequent ratification by 2/3 of the Parties, before such a change would come into effect (Article 10 *bis* of the Convention).
7. Following SC37 and Decision SC37-16, the Secretary General has
- i) had further discussions with IUCN and the government of Switzerland concerning specific issues relating to option 1; and
  - ii) met in Nairobi with UNEP Executive Director Achim Steiner and UNEP colleagues to further discuss issues relating to option 3.

8. It is a pleasure to report that UNEP has generously agreed to provide funds to the Secretariat for this purpose, so that the Secretariat has now been able to engage an independent legal advisor to help progress consideration of the legal issues of the three options under review.
9. At the time of preparation of this Information Paper, this work is now underway, and an outline of the anticipated report contents is provided here as an Annex. The consultant's report is expected to be delivered in late September 2008, and it is anticipated that the Secretariat will be able to provide COP10 with a further Information Paper on these matters shortly before COP.

## **Annex**

### **Outline of independent legal advice report: The legal status of the Ramsar Secretariat**

- 1) **Background – What is the issue?**
- 2) **Need to address the legal status of the Ramsar Convention Secretariat (RCS)**
  - a) **Outline challenges experienced by the RCS** and group these having regard to institutional/legal links to:
    - i) Parties to the convention
    - ii) Convention bodies (COP/Standing Committee)
    - iii) IUCN,
    - iv) Government of Switzerland
    - v) UN system, in particular UNEP. The challenge is how to get UN/UNEP's assistance while the Ramsar Convention is not administered by the UN/UNEP? Is it possible to find an option that can facilitate assistance from UNEP to elevate the profile of the Convention and improve the effectiveness of the Secretariat? For instance, while there is no professional lawyer on secretariat staff, is it possible to have legal assistance from UN/UNEP? Is it possible to have assistance from UNEP's Communication Division to elevate the profile of wetlands in the environmental global debate?
  - b) **Action taken so far to address these issues**
    - i) Decisions of the Standing Committee
    - ii) Brief outline of the three options being considered
      - (a) Strengthening existing "legal status" of the RCS
      - (b) Independent international organization
      - (c) Independent UN body
        - (i) Independent UN secretariat
        - (ii) UNEP-administered secretariat
        - (iii) Secretariat administered by other UN body.
    - iii) Consultations on the issue of legal status with:
      - (a) IUCN
      - (b) Government of Switzerland

- (c) UN headquarters (as for UNFCCC and UNCCD)?
- (d) UNEP
- (e) UNESCO
- (f) Other Convention Secretariats

**3) Current legal status of the RCS**

- a) **Scope and content of the law relating to the legal status of a convention Secretariat in:**
  - i) International law
  - ii) National law
- b) **Current legal status of the RCS as determined by:**
  - i) Text of the Convention
  - ii) Decisions of the Conference of Parties
  - iii) Decisions of the Standing Committee
  - iv) Agreements with IUCN
    - (a) Letter from IUCN/ DG to Standing Committee of June 1987
    - (b) MOU between DG/IUCN and Chairman, SC of 7 November 1991
    - (c) Delegation of authority to Secretary general RCS by DG/IUCN dated 29 January 1993
    - (d) Other documents/ communications between IUCN and RCS
- c) **Conclusions on the legal status of the RSC in the context of the above analysis**

**4) Possible approaches to addressing the challenges faced by the RSC based on the above analysis**

**5) Examination of three options (1 Improved Status quo, 2 independent international organization, and Option 3 becoming a secretariat administered by a UN organization/body, in particular, UNEP)**

- a) Legal/ financial and other consequences (pros & cons) of each option
- b) Legal procedures for transforming the RCS into
  - i) An independent international organization
  - ii) Secretariat administered by a UN organization/ body, in particular, UNEP

**6) Analysis of the next steps**

**7) Conclusions**