

Terms of reference

Independent analysis on the legal status of the Secretariat of the Convention on Wetlands

1. Background

The Convention on Wetlands is an intergovernmental treaty, which provides the framework for national action and international cooperation for the conservation and sustainable use of wetland biodiversity and services. It was the first of the modern global multilateral environmental agreements and remains the only one devoted to a specific critical ecosystem.

The Secretariat of the Convention on Wetlands has its headquarters in Gland, Switzerland where the International Union for Conservation of Nature (IUCN), provides some administrative services for the operations of the Secretariat.

The Standing Committee discussed the issue of Observer Status at its 54th and 55th meetings (SC54, April 2018 and SC55, Dubai October 2018). At these meetings, several Contracting Parties stressed the importance of better engagement for the Convention in the environment-related processes that take place within fora of the United Nations.

At SC55 the Chair reported on the steps taken so far and noted that this matter had been further postponed for consideration at the 74th session of the UNGA, in 2019, since there was still no consensus among Member States, and in 2019 it was deferred again until 2020. The Secretariat recalled the various options that had been pursued to try to raise the visibility of the Convention within the UNGA.

Following a discussion, SC55 adopted the following decision:

Decision SC55-12: The Standing Committee instructed the Secretariat, with support from an informal group of interested Contracting Parties, to bring forward a structured proposal, taking into account the various options, for consideration at SC57.

At SC57 (Decision SC57-14) the Standing Committee agreed the following way forward on Observer Status:

- a. Endorsement by SC57 of the continuity of the Observer Status Working Group (previously informal group) with the inclusion of Mexico, the Russian Federation and Switzerland;
- b. Analysis of the different options and other options that might not yet have been addressed including the inputs from the Legal Adviser and the ones received from Parties during the meeting;
- c. Allocation of funds from the surplus for the independent analysis to be presented at the 58th meeting of the Standing Committee.

The Observer Status Working Group on its call on 17 October 2019, agreed that the terms of reference for independent legal analysis should include:

- a. Analysis of the different options identified by the Working Group and review and update the existing relevant documents (e.g. Doc COP10-35).

- b. To look at other examples of MEA Secretariats including possible options such as independent organizations (e.g. the International Whaling Commission).
- c. For each one of the options analyse how they would be implemented, including any legal implication such as treaty modification.

The Working Group also agreed that the Secretariat draft the TORs for a consultancy to undertake the legal analysis using the input above from the Group and to share it with the Group for its feedback.

In line with the above decisions, the Secretariat requires a consultant to undertake the independent analysis on the legal status of the Secretariat of the Convention on Wetlands to be presented at the 58th meeting of the Standing Committee.

2. Work to be undertaken

The consultant will undertake the following tasks:

1. Analysis of the different options identified by the Working Group such as:
 - a. Independent legal status (Secretariat as an independent International Organization or Intergovernmental Organization). This would include looking at examples of MEA Secretariats (CBD, CMS, CITES UNCCD, UNFCCC) including possible options such as independent organizations (e.g the International Whaling Commission, WTO).
 - b. Ramsar Secretariat as part of the United Nation system (UNEP, UNESCO)
2. For each one of the options analyse how they would be implemented, including the complete analysis of any legal implication such as treaty modification.

Sources: The consultant should review, inter alia, the updated information from Switzerland on its position regarding the legal personality of the Secretariat based on the letter from the Secretariat with concrete questions from the Working Group, existing relevant documents (e.g. Doc COP10-35 "Report on the Legal Personality of the Convention on Wetlands Secretariat", documents of the Ad Hoc Working Group on Administrative Reform (e.g Document COP10 Doc.20 Addendum, Document SC37-02, COP11 Doc17), as well as other relevant documents from SC and COP meetings where this matter was discussed.

3. Consultant deliverables and time frame

The consultancy is to commence as soon as possible in 2020 and will conclude upon satisfactory and timely completion of all tasks to be undertaken, but not later than 30 April 2020.

The main deliverables according to item 2 are as follows:

Report that includes

1. Background
2. Methodology

- a. Brief summary review of the existing relevant documents (e.g. Doc COP10-35 “Report on the Legal Personality of the Convention on Wetlands Secretariat”, documents of the Ad Hoc Working Group on Administrative Reform (e.g Document COP10 Doc.20 Addendum, Document SC37-02, COP11 Doc17).
- b. Brief summary review of different examples of hosting arrangements and legal independence/status of MEA Secretariats (CBD, CMS, CITES UNCCD, UNFCCC) and independent organizations (e.g the International Whaling Commission, WTO).
- c. Brief summary review of relevant international instruments (UN policies, UN Charter, 1946 Agreement on the Privileges and Immunities of the United Nations)

The report will be shared with the Working Group for its feedback.

3. Analysis of Options

- a. Independent legal status (Secretariat as an independent International Organization, Intergovernmental Organization, Independent UN body (UNFCCC, UNCCD, UN WTO).
 - b. Ramsar Secretariat as part of the United Nation system (UNEP, UNESCO)
4. For each one of the options analyse how they would be implemented, including the complete analysis of any legal implication such as treaty modification, administration matters for each option and any other relevant issues.

5. Conclusions

Prepare a set of conclusions based on the findings of the independent analysis on the legal status of the Secretariat of the Convention on Wetlands.

4. Expertise and profile of the consultant

The consultant should have the following experience and profile:

- Education
 - Graduate degree in international law.
- Experience Required
 - Minimum 10 years of experience in professional legal work providing legal advice on issues of public international law, including institutional frameworks pertaining to international treaties and international administrative law as practiced in international organizations.
 - Good knowledge of multilateral environmental agreements including the context of the Convention on Wetlands
 - Good knowledge of the UN system, in particular, UN bodies hosting environmental conventions and providing their Secretariats
 - Experience having undertaken a similar project/consultation is also desirable
- Skills Required
 - Analytical skills

- Writing skills
- Ability to read, write, and communicate in English. Fluency in spoken and written English is required, and another Convention language (French and or Spanish) is also desirable.
- Knowledge of various legal research sources, including electronic, and ability to conduct research and analyse information on a wide range of legal issues.
- Ability to apply good legal judgment in the context of assignments given.

Note: Candidates must submit a proposal that includes a detail work plan of activities and estimated budget by email to applications@ramsar.org by the deadline of 14 February 2020 (extended).