

Report of the Observer Status Working Group

Actions requested:

The Standing Committee is invited to:

- i. take note of the progress of the work of the Observer Status Working Group according to the mandate of the Standing Committee.
- ii. agree on the recommendation of the Working Group to continue its work and to report back at Standing Committee 60.

Background

1. In Decision SC55-12, the Standing Committee had instructed the Secretariat, with support from an informal group of interested Contracting Parties, to bring forward a structured proposal regarding the possibility of the Convention obtaining observer status at the United Nations General Assembly, taking into account the various options, for consideration at SC57.
2. The Secretariat contacted all Parties to determine if any were interested in pursuing the process. As a result a small informal group was convened, comprising Bolivia (Plurinational State of), Chad, Colombia, Guinea, the United States of America and Uruguay. Four of the members participated in a teleconference on 17 May 2019.
3. Bolivia (Plurinational State of) presented the report of the informal group at Standing Committee 57, with three recommendations for Standing Committee consideration for the way forward on the observer status.
4. Standing Committee 57 (Decision SC57-14) agreed the following way forward on the 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.¹

¹Through Decision SC57-47, the Standing Committee subsequently approved the allocation of CHF 15,000 from the 2018 core budget surplus to "Legal status analysis consultancy".

Summary of the process undertaken by the Working Group on the legal analysis

5. During 2020 and 2021 the group held four conference calls and prepared its work plan according to the mandate of the Standing Committee.
6. The working group agreed on a roadmap that includes the development of a legal analysis in compliance with its mandate of exploring different options and other options that might not yet have been explored, that best address the Secretariat's legal status, participation in international fora and visibility priorities.
7. The terms of reference for the consultancy agreed by the Working Group on the independent analysis on the legal status of the Secretariat included the following matters:
 - 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.
8. The Working Group also discussed the following options included in the report of the WG to SC57:
 - a. Observer status under the UN General Assembly (*background document: submission from Uruguay 11 August 2017 – Colombia joined as co-sponsor*)

In 2017, and following consultations within the Standing, Uruguay, as the Chair of the Committee, put forward a draft resolution to the General Assembly seeking observer status for the Secretariat of the Convention. After this draft resolution was discussed at the 72nd session of the General Assembly, it was postponed for further consideration at the 73rd session. At the 74th and 75th sessions the subject was postponed again as there was not yet consensus.

- b. Application for observer status with the Economic and Social Council (ECOSOC)

Pursuant to the decision of the Standing Committee (SC55-12) and the Working Group to seek a closer relationship with ECOSOC the Secretariat sent requests on 1 April and 10 December 2019 to obtain observer status as a significant step to achieve the objective of the Parties, to engage in the discussions on achievement of the Sustainable Development Goals, and other relevant discussions under the auspices of the United Nations. After sending the relevant documents for the application and sending multiple reminders ECOSOC has not provided yet a response to this request.

- c. The process of review of the HLPF

The General Assembly decided to review progress in implementation of resolution 70/290 "Follow-up and review of the 2030 Agenda for Sustainable Development at the global level" and resolution 67/290 on the format and organizational aspects of the High-Level Political Forum on sustainable development (HLPF) at its seventy-fourth session (2019-2020).

For the above process language similar to the one used for the World Summit on Sustainable Development in 2002 could be included, as the organization of sessions that include reference to this Summit allow the Ramsar Convention on Wetlands to participate as an observer (e.g. UN Oceans Conference).

The working group agreed on the importance of the review process of the HLPF and asked the Secretariat to follow up, including to identify members of the Friends of the Review of the HLPF and timelines. The Secretariat kept the group informed so that it can take the necessary actions with a view to engaging Contracting Parties on the relevant discussions. However, due to the COVID19 situation the in-depth review of the HLPF was postponed to 2021.

Virtual consultations were held on 31 March and 19 April 2021, for the HLPF/ECOSOC Review of a revised draft resolution based on the views and suggestions of delegations.

Summary of key findings of the legal consultancy with a link to the full report

9. The independent legal analysis concluded with five specific options to address the key concerns about the legal status of the Secretariat and its operation and three additional ones aimed at enhancing participation in UN high-level fora and processes under the UNGA, respectively the ECOSOC, in particular in the HLPF.
10. The sets of options analysed in the consultant's report can be seen as ranging from the highest to the lowest degree of independence vis-à-vis other international organizations, as follows:
 - a. Secretariats of **traditional IGOs** – either entirely “outside” of the UN system, or with some relationship to the UN, while not “institutionally linked” – (examples of the IWC, the WTO, or the ISA, Option **A1**);
 - b. Fully **independent treaty secretariats** not of traditional IGOs, but of intergovernmental treaties that follow the “COP model” (example of the ATT Secretariat, Option **A2**);
 - c. MEA secretariats with **largely independent** status whose arrangements are characterized by a specific “**institutional linkage**” to the UN (case of the UNFCCC and UNCCD secretariats, Option **A3**);
 - d. MEA secretariats that are **largely integrated** into the administrative structure of a UN programme (example of UNEP, Option **B1**) or a UN specialized agency (example of UNESCO, Option **B2**).
11. Additional possibilities, which are explored in the report (sections **C1-C3** of parts III and IV) and which are solely aimed at enhancing participation in UN high-level fora and processes under the UNGA, respectively the ECOSOC, in particular in the HLPF include:
 - a. Continuing with the (modified) request for the Ramsar *Convention* to be granted **observer status in the UNGA** (as an IGO) (“option” C1);
 - b. **Broadening of the possibilities to participate in UN processes** in the context of the reform of the modalities for participation in the HLPF (“option” C2);

- c. **Request to the ECOSOC** for designation of the Ramsar Convention to participate in deliberations of the ECOSOC and its functional commissions, which would include participation in HLPF meetings that are convened under the ECOSOC (“option” C3).
- 12. From the above five main options to address the key concerns about the legal status of the Secretariat and its operation the Working Group agreed to undertake an in-depth financial analysis of the selected options with consultant’s support that could be presented as part of the report of, and the recommendations from, the Working Group to SC59. The Working Group agreed the terms of reference for this consultancy.
- 13. The consultancy will prepare a comparative analysis of the three options identified by the Working Group as the most viable, plus the current arrangement of the Secretariat of the Ramsar Convention hosted by IUCN, as follows:
 - a. Secretariat of traditional IGOs (A1)
 - b. Multilateral environmental agreement (MEA), Institutional linkage to the UN (A3)
 - c. Part of UNEP (Option B1)
 - d. Current scenario with Secretariat of the Convention/IUCN – including a comparative analysis of salaries and benefits between IUCN and the UN System
- 14. It is important to note that in addition to the legal and financial analysis, as indicated above the Secretariat and the members of the group continue working on the request of the observer status to the UN General Assembly (C1) and ECOSOC (C3), as well as to seek participation in the high-level political forum (C2).
- 15. The Standing Committee approved intersessionally in March 2021, CHF 17,000 to conduct the financial and procedural analysis of the options identified in the “Independent analysis on the legal status of the Secretariat of the Convention on Wetlands”. The consultant selection process is currently underway.

Recommendations of the Working Group

- 16. Taken in consideration the status of progress of the Working Group on the mandate given by the Standing Committee, the Working Group recommends to continue its work until the completion of the financial analysis and the presentation of its findings with final recommendations on the observer status matters to Standing Committee 60.