

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE STANDING COMMITTEE OF THE CONFERENCE OF THE PARTIES TO THE CONVENTION ON
INTERNATIONAL TRADE IN ENDANGERED SPECIES OF WILD FAUNA AND FLORA

AND

THE EXECUTIVE DIRECTOR OF THE UNITED NATIONS ENVIRONMENT PROGRAMME
CONCERNING SECRETARIAT SERVICES TO AND SUPPORT OF THE CONVENTION

The Standing Committee of the Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (the "Standing Committee") and the Executive Director of the United Nations Environment Programme (the "Executive Director"):

Recalling paragraph 3 of Article XI of the Convention, which provides that the Parties may "make such provision as may be necessary to enable the Secretariat to carry out its duties, and adopt financial provisions" and paragraph 1 of Article XII of the Convention, which provides that "a Secretariat shall be provided by the Executive Director of the United Nations Environment Programme";

Recalling also that the Governing Council of the United Nations Environment Programme (UNEP), in paragraph 31 of its decision 1 (I) of 22 June 1973, authorized the Executive Director "to provide secretariat services for the implementation of the Convention on International Trade in Endangered Species of Wild Fauna and Flora in accordance with Article XII";

Noting that the Conference of the Parties to the Convention, in its Resolution Conf.11.1 (Rev. CoP15) adopted at its 11th meeting and revised at its 12th, 13th, 14th and 15th meetings, resolved to re-establish the Standing Committee with the terms of reference, *inter alia*, to provide, within the policy agreed to by the Conference of the Parties, general policy and general operational direction to the Secretariat concerning the implementation of the Convention;

Conscious of the need to maintain flexibility and adaptability in the management of the Secretariat of the Convention and in the provision of services to the Parties to the Convention, taking fully into account the United Nations and UNEP rules and regulations;

Recognizing that the decisions of the Conference of the Parties alone guide the implementation of the Convention and its programme of work and direct the management of its Secretariat on all substantive issues;

Aware that the responsibilities and functions of the Standing Committee, the Executive Director and the Secretary-General of the Convention with regard to the implementation of Articles XI and XII of the Convention would benefit from being further clarified;

Further recognizing that the primary objective of CITES is the protection of wild fauna and flora against over-exploitation for international trade, but also acknowledging that the Convention contributes to broader environmental objectives and to significantly reducing the rate of biodiversity loss, including by coordination and collaboration with other multilateral processes;

Desiring to further improve the relationship between the Convention and the United Nations Environment Programme in the provision of secretariat services and to also recognise and further promote the mutual benefits of appropriate programmatic support; and

Recognizing that the Standing Committee at its 47th meeting (Santiago, 2002) recommended that the Agreement between the Standing Committee and the Executive Director, signed on 20 June 1997, be revised;

Recalling that the Governing Council of UNEP [at its 26th Session], in paragraph 18 of its decision 26/9 requested the Executive Director, in consultation with the relevant multilateral environmental agreement secretariats, the United Nations Board of Auditors, the Office of Legal Affairs and all relevant bodies, to prepare for presentation to the Governing Council at its twelfth special session a progress report that includes input and commentary from the multilateral environmental agreements and addresses the issues of accountability and the financial and administrative arrangements, including their legal bases, between UNEP and the multilateral environmental agreements that it administers;

HAVE DECIDED THE FOLLOWING:

Basic principles

1. The Executive Director will provide the Secretariat for the Convention as provided for in Article XII, paragraph 1, of the Convention and paragraph 31 of decision 1(II) of 22 June 1973 adopted by the Governing Council of the United Nations Environment Programme.
2. The Standing Committee acknowledges that, in requesting the Executive Director to provide a secretariat, the relevant rules and regulations of the United Nations and UNEP apply to the operation of that secretariat.
3. The Executive Director acknowledges that Article XII of the Convention establishes a Secretariat which will carry out certain listed functions for the Conference of the Parties, including any functions entrusted to it by the Parties, and that all action undertaken pursuant to this MOU may not be contrary to applicable international law, including the Convention.
4. The Executive Director will work with the Secretary-General to determine the Convention's administrative service requirements and to identify the most efficient means by which to ensure that the Convention receives the administrative support that it needs.
5. The Standing Committee, the Secretary-General, and the Executive Director will take full account of each others' views on any significant action they intend within their respective mandates that may affect the interests of the Parties, the Secretariat, or UNEP, or the efficient and effective administration of the Convention or of the rules and regulations of the United Nations and UNEP. The Executive Director or Secretariat is likely to be present when the Standing Committee considers and decides on a course of action, but the Standing Committee is not necessarily present when the Executive Director or Secretariat do so, and so it is of particular importance for the Secretary-General and the Executive Director to consult with the Standing Committee in advance of such action on their part. In the event of differing opinions, the Standing Committee, the Secretary-General, and the Executive Director should seek to develop a course of action that is mutually acceptable in advance of taking action.
6. The Executive Director recognises the legal autonomy of the Convention in relation to UNEP and the role and function of the Secretariat to serve the interests of the Convention and its Parties.
7. The Standing Committee acknowledges that its Chairman is expected to keep the members of the Standing Committee, and through them as appropriate all of the Parties to the Convention, apprised of his or her interaction with the Executive Director on behalf of the Standing Committee.

Secretary-General and staff of the Secretariat

8. The Executive Director will arrange for the recruitment of the Secretary-General (the head of the Secretariat of the Convention) who will be selected and appointed as a UNEP staff member by the Secretary-General of the United Nations in accordance with the United Nations staff rules and regulations.
9. The Executive Director will consult with the Standing Committee through its Chairman on the recruitment, selection, and appointment of the Secretary-General and will make every effort to recommend a Secretary-General who is acceptable to the Standing Committee, while recognizing that the United Nations personnel rules will govern the recruitment, selection, and appointment.
10. The Executive Director will invite the Standing Committee, through the Chairman or, alternatively, the Vice Chairman or Alternative Vice-Chairman, to review and offer the Committee's comments on candidates for the post, including the short-listing of candidates for the post and comments on the selection of final candidates from any such short list, and to join the assessment panel established by the Executive Director for the identification and recommendation of suitably qualified candidates for the position of Secretary-General.
11. The Executive Director will extend or discontinue the contract of the Secretary-General in accordance with the United Nations rules and regulations. To the extent possible within his powers, the Executive Director will consult with the Standing Committee through its Chairman as appropriate at all stages of this process.

12. The Executive Director will provide the necessary administrative support to ensure that any vacancies occurring among the senior professional staff of the Secretariat should be filled in accordance with the United Nations rules and regulations as soon as possible, and preferably within six months after the advertisement of the post, noting the knowledge, experience and expertise required for such posts. The Executive Director will ensure, to the maximum extent permitted by the United Nations regulations and rules, that appointment decisions for the professional staff of the Secretariat are vested in the Secretary-General.
13. The Executive Director will ensure that requests by the CITES Secretariat for Junior Professional Officers (JPO's) are fully included, without prioritization by UNEP, in the list that UNEP annually shares with donor governments supporting JPOs
14. The Executive Director or the Secretary-General, as appropriate, will advise the Standing Committee of any unforeseen delays in filling any posts, recruiting gratis personnel or JPO's or related matters. The Executive Director understands the importance of explaining any such delays in writing to the Standing Committee, through its Chairman, upon the Chairman's written request.

Delegation of authority

15. The Executive Director will delegate all necessary authority to the Secretary-General on administrative and financial matters to enable the Secretary-General to manage and represent the Secretariat with the maximum level of autonomy possible while maintaining the efficient and effective operation of the Secretariat. Such a delegation should cover, *inter alia*: programme management; financial and physical resources management, including of the CITES bank account; human resources management and any other related matters. The Executive Director is to ensure that the Secretary-General exercises any delegated authority in accordance with the rules and regulations of the United Nations and UNEP and the Executive Director's commitments in this MOU.
16. The Standing Committee through its Chairman, will work with the Executive Director in developing this delegation, recognising the flexibilities under and applicability of the United Nations and UNEP rules and regulations. In the event of a disagreement, the Standing Committee and the Executive Director should make every effort to develop a mutually acceptable delegation of authority before it is finalised.

Administrative support and programme support costs

17. The Executive Director will allocate an appropriate share (which shall normally be 67%) of the annual Programme Support Costs (PSC) income attributable to all of the trust funds of the Convention to the Secretariat upon receipt of an annual cost plan that demonstrates that these funds will be used efficiently and effectively in support of Convention activities. The Executive Director will allocate an appropriate share (which shall normally be 33%) of the PSC income attributable to all of the trust funds of the Convention to finance central administrative functions, including those performed by UNON and the UN's Office of Internal Oversight Services (OIOS) and the Board of Auditors.
18. The Executive Director will provide full transparency in respect of the allocation of PSC between the Secretariat and central administrative functions and will provide an annual financial statement pertaining to UNEP's Special Account for Programme Support Costs.

Financial matters and budgets

19. The financial operations of the Convention shall be recorded in trust funds established in accordance with Article V of the General Procedures Governing the Operations of the Fund of UNEP. [The following trust funds have been established in this regard:
 - i. *Trust Fund for the Convention on International Trade in Endangered Species of Wild Fauna and Flora (the "CITES Trust Fund")*. The core administrative costs of the Secretariat, the Conference of the Parties and its subsidiary bodies, the Standing Committee and the other permanent committees, are financed from the CITES Trust Fund. This Trust Fund is replenished from contributions from the Parties to the Convention. The CITES Trust Fund was established pursuant to Decision 7/14 E, adopted by the UNEP Governing Council on 3 May 1979, and following the adoption of the amendment of Article XI, paragraph 3(a), the UN Controller on behalf of the Secretary-General of the United Nations established in September 1979 a Trust Fund for the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

- ii. *The African Elephant Fund* is a multi-donor, technical cooperation trust fund that has been established for receiving and accounting of voluntary contributions to fund environment related activities for the implementation of the African Elephant Action Plan. It is open to donations of any amount from any party, be it governments, intergovernmental organizations, non-governmental organizations or private individuals. The creation of this trust fund for the conservation of the African elephant is mandated by Decision 14.79 (Rev. CoP15) adopted at the 15th meeting of the Conference of the Parties to CITES (Doha, March 2010).]
20. The biennial Report of the Board of Auditors of the United Nations on the UNEP Environment Fund and its associated trust funds, including the trust funds of the Convention, will be provided to the Standing Committee, for transmission to all Parties to the Convention. Any matters identified by the Board of Auditors of specific relevance to the trust funds of the Convention will be brought to the attention of the Standing Committee.
 21. The Parties to the Convention, including through the Standing Committee, will oversee the development and execution of the Secretariat budget as derived from the trust funds of the Convention and other sources.
 22. The Executive Director will comply with, and ensure that the Secretary-General complies with, the specific Resolutions established at each meeting of the Conference of the Parties, including with respect to matters related to the financing and budgeting of the Secretariat, taking into account the availability of resources and in accordance with the Financial Regulations and Rules of the United Nations and UNEP.
 23. The Standing Committee understands that a copy of the draft Secretariat budget will be shared with the Executive Director for review and comments in respect of any matters of direct relevance to the role and functions of the Executive Director before the final proposed budget is submitted by the Secretary-General for consideration by the Conference of the Parties.
 24. The Executive Director, in accordance with Decision 19/L.47 of the Governing Council of the UNEP, will provide to the Parties detailed information on administration services provided to the Convention through the Annual Report referred to in paragraph 34, with the understanding that the level of detail will be consistent with the needs of the Parties.
 25. In accordance with Rule 104.4 of the Financial Regulations and Rules of the United Nations, the Controller has designated a bank account in Geneva for the transaction of Convention business. The operation of this bank account is subject to terms and conditions set forth in the delegation of authority referred to in paragraphs 15 and 16 above.

Performance evaluation and management review

26. Evaluation of the performance of the staff and other relevant personnel of the Secretariat will be conducted in accordance with the relevant rules and regulations of the United Nations as applied to the United Nations Environment Programme.
27. The performance of all staff of the Secretariat will be managed by the Secretary-General, and the Executive Director will appraise the performance of the Secretary-General, in both cases through the United Nations electronic performance appraisal system (e-PAS).
28. The Executive Director will ensure the Standing Committee has access to information regarding the applicable criteria for performance appraisal under the United Nations e-PAS system.
29. In case of appraising the programmatic performance of the Secretary-General, and his/her subordinate staff, the Executive Director acknowledges that the substantive work programme of the Secretariat is determined by the Conference of the Parties and the Standing Committee alone. The Executive Director will invite the Standing Committee, through its Chairman, to provide comments regarding the performance of the Secretary-General prior to commencing the Secretary-General's performance appraisal.
30. The Executive Director will ensure that the Secretary-General acts in conformity with the provisions of the Convention and in particular with its Articles XI and XII and the rules and regulations of the United Nations on these and other substantive functions as may be entrusted to the Secretariat by the Parties.

31. The Executive Director will ensure that the Secretary-General implements the policy guidance of the Conference of the Parties and, between the meetings of the Conference of the Parties, the policy guidance of the Standing Committee in exercising the functions of the Secretariat in accordance with the Convention, including any such functions as may be entrusted to the Secretariat by the Parties.
32. The Executive Director is expected to consult with the Standing Committee on any matter with respect to the performance of the Secretary-General, and the Standing Committee may, through its Chairman, submit to the Executive Director its comments on the performance of the Secretary-General on an annual basis or as the Standing Committee deems necessary.
33. At the request of the Executive Director or by his own initiative, the Secretary-General may, in consultation with the Standing Committee or at its request, commission an independent management review of the Secretariat and its functions, with a view to promoting cost efficiency, transparency and furthering the goals and implementation of the Convention. Such reviews are not audits or investigations and will not therefore impinge upon the prerogatives of the Board of Auditors, OIOS and the UN's information disclosure policies. The Secretary-General will keep the Standing Committee and the Executive Director fully informed of any such reviews that are undertaken.

Annual report

34. The Executive Director will submit to each regular meeting of the Conference of the Parties, and to one meeting of the Standing Committee each year, a report concerning the provision of and support to the Secretariat, including as appropriate the implementation of this Memorandum of Understanding. At a minimum, such reports should contain information on personnel actions at the Secretariat, the allocation of PSC between the Secretariat and central administrative functions, activities conducted under the UNEP Medium-term Strategy that pertain to the Convention, and any other UNEP activities that pertain to the Convention, either specifically or as they may pertain to all multilateral agreements or processes.

Programmatic relationship

35. The Standing Committee understands that the Convention may provide a context for implementation of certain aspects of the UNEP Medium-term Strategy, through its Costed Programme of Work, subject to the approval of the Conference of the Parties and to the extent consistent with the Convention.
36. The Executive Director understands that UNEP can provide a tool for implementation of certain aspects of the Convention and its Parties' resolutions and decisions subject to the approval of the Governing Council and to the extent consistent with UNEP's mandate.
37. The Executive Director will consult with the Secretary-General, who will consult with the Standing Committee, through its Chairman, on activities which UNEP could undertake in providing programmatic support to the Convention, and the Secretary-General will consult with the Executive Director and Standing Committee, through its Chairman, on activities which could be undertaken within the framework and mandate of the Convention for implementation of certain aspects of the UNEP Medium-term Strategy.
38. The Executive Director will consult with, and fully involve the Secretary-General in, any projects and programmes that relate to the implementation of the Convention and in any joint funding arrangements that include implementing the Convention which are, or are proposed to be, arranged with donors. The Executive Director, directly or through the Secretary-General, is expected to consult with the Standing Committee, through its Chairman, regarding projects or programmes that would affect the implementation or relate to the financing of the Convention.
39. The Executive Director may call meetings of Secretariats of multilateral environmental agreements, as well as joint meetings of all senior staff employed through UNEP, and invite the Secretary-General to participate in those meetings. The Executive Director will meet the costs of travel and other expenses related to the Secretary-General's participation in any such meetings that are not expected to primarily benefit the work of the Convention or the management and administration of the Secretariat. The Executive Director, through the Secretary-General, will ensure that the Standing Committee, through its Chairman, is regularly informed about the outcomes of such meetings.

40. The Standing Committee, through its Chairman, will be fully consulted by the Secretary-General regarding all proposals relating to programmatic support referred to in paragraph 37 and about the outcome of meetings referred to in paragraph 39.

Ongoing consultations in implementation

41. The Standing Committee and the Executive Director will hold consultations on a regular basis, and as needed, on all issues related to the implementation of the present Memorandum of Understanding. These consultations will be conducted through the Chairman of the Standing Committee, who will seek the views of the Parties and reflect these during the consultation, or may be conducted as otherwise mutually determined by the Standing Committee and the Executive Director.
42. On specific issues, the Chairman may designate the Vice-Chairman or Alternate Vice-Chairman of the Standing Committee to conduct such consultations, and the Executive Director, in his/her absence, may be represented by a designated senior representative, or consultations may take place as otherwise mutually determined by the Standing Committee and the Executive Director.
43. Any difference of opinion regarding the implementation of the Convention is to be resolved to the satisfaction of the Parties, including through the Standing Committee, as they deem appropriate; for differences of opinion regarding implementation or interpretation of this Memorandum of Understanding, the Executive Director will consult with the Standing Committee and make every effort to reach a mutually acceptable outcome.

Final provisions

44. This Memorandum of Understanding does not impose, nor is it intended to impose, any legally binding commitments.
45. This Memorandum of Understanding becomes operative on the date on which both the Standing Committee, represented by its Chairman, and the Executive Director have signed.
46. This Memorandum of Understanding replaces the Agreement between the Standing Committee and the Executive Director dated 20 June 1997 upon its becoming operative, and the 1997 Agreement then ceases to be in effect.
47. This Memorandum of Understanding may, at the request of either party, be reviewed at any time. Such a request will be made at least four months in advance, and will then be addressed at the next meeting of the Standing Committee. In any event, this Memorandum of Understanding will be reviewed after each meeting of the Conference of the Parties to determine whether any modifications are needed. Any modifications to the Memorandum of Understanding will be mutually determined in writing.

For the United Nations Environment Programme

Achim Steiner

Executive Director
United Nations Environment Programme

Date: _____

For the CITES Standing Committee

Øystein Størkersen

Chairman
CITES Standing Committee

Date: _____