

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA



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Administrative and financial matters

Administration of the Secretariat

SUMMARY OF HOSTING ARRANGEMENTS OF THE UNFCCC SECRETARIAT
AND THE INSTITUTIONAL LINKAGE OF THE UNFCCC SECRETARIAT TO
THE UNITED NATIONS (UNFCCC SECRETARIAT, 27 AUGUST 2014)

This information document has been prepared by the Secretariat in relation to the agenda item 9.3 on Report of the Working group on options for administrative hosting arrangements for the CITES Secretariat.

**Briefing note for the CITES Standing Committee
Working Group on Administrative Hosting Arrangements
(Prepared by the CITES Secretariat, August, 2015)**

Attachment 3

**Summary of Hosting Arrangements of the UNFCCC
Secretariat and the Institutional Linkage of the
UNFCCC Secretariat to the United Nations
(UNFCCC Secretariat, 27 August 2014)**



Annex

Hosting arrangements of the UNFCCC secretariat and the Institutional Linkage of the UNFCCC secretariat to the United Nations

27 August 2014

I. Hosting Arrangements for the UNFCCC secretariat

1. The mandate to negotiate a Framework Convention on Climate Change originated in the United Nations General Assembly (UNGA), with the adoption by the UNGA of Resolution 45/212 on 21 December 1990, entitled “Protection of global climate for the present and future generations of mankind”. This resolution established an Intergovernmental Negotiating Committee (INC) under the auspices of the UNGA. This resolution further requested the UN Secretary-General, in consultation with the Executive Director of the United Nations Environment Programme (UNEP) and the Secretary-General of the World Meteorological Organization (WMO), to establish an ad hoc secretariat comprising staff from UNEP and WMO, supplemented by staff from other bodies of the UN system, with the head of the ad hoc secretariat appointed by the UN Secretary-General. Throughout the negotiations conference services were provided by the Office of Conference Affairs at United Nations Headquarters in New York.

2. After the adoption of the Convention in 1992, secretariat services continued to be provided on an interim basis by the ad hoc secretariat established by the UN General Assembly, and conference services continued to be provided by the United Nations Headquarters (see Article 21 of the Convention and UN General Assembly Resolution 47/195).

3. After the entry into force of the Convention, conference-servicing facilities for the sessions of the COP and the subsidiary bodies were transferred to the United Nations Office in Geneva (UNOG).

4. The COP, at its first session (COP 1), accepted the offer of the Government of Germany to host the UNFCCC secretariat, to be located in Bonn, Germany (see decision 16/CP.1). Subsequently, on 20 June 1996, the United Nations, the Government of Germany and the UNFCCC secretariat concluded the Headquarters Agreement for the UNFCCC secretariat, which was approved by the COP (see decision 15/CP.2).¹ The Headquarters Agreement provides that in Germany, the host country, the secretariat possesses legal capacity and enjoys such privileges and immunities as are necessary for the effective discharge of its functions under the Convention and the Kyoto Protocol. The Agreement further provides that representatives of Parties and Observer States to the UNFCCC and the Kyoto Protocol, officials of the secretariat, and all persons invited to participate in the official business of the Convention and the Kyoto Protocol enjoy privileges and immunities.

II. Institutional linkage of the UNFCCC secretariat to the United Nations

5. After the entry into force of the Convention, the COP and the UN General Assembly decided to establish the institutional linkage between the UNFCCC secretariat and the United Nations. The institutional linkage was initially approved by the COP in April 1995, and the UN General Assembly in December 1995 (see COP decision 14/CP.1 and UNGA Resolution 50/115, respectively). Over the years, this linkage has been consistently reaffirmed and

¹ The Headquarters Agreement of the UNFCCC secretariat, as well as the Protocol amending the Headquarters Agreement date 7 December 2005, are available in the United Nations Treaty Series, at: <https://treaties.un.org>.

continued without changes by the COP and the UNGA (see relevant COP decisions and UN GA Resolutions in the appendix below).²

6. While the first three decisions and resolutions, respectively, of the COP and the UN General Assembly provided time limits for the institutional linkage, the COP in 2005, and the UN General Assembly in 2006, both decided that the institutional linkage will continue until such time as a review is deemed necessary by either the COP or the UN General Assembly (see UNGA Resolution A/RES/61/201 and COP decision 11/CP.11).

A. Nature of the institutional linkage

7. The INC, at its eleventh session, decided to recommend to the COP, taking into account, inter alia, the advice of the Secretary-General, that:

“...the Convention secretariat be institutionally linked to the United Nations, while not being fully integrated in the work programme and management structure of any particular department or programme.”³

8. The INC further recommended that such linkage be established for a definite duration and include a provision for its review, and invited the UN Secretary-General to recommend to COP 1:

“...an efficient arrangement for administrative support to the Convention secretariat that would ensure proper procedures, controls and accountability, while allowing for managerial autonomy, flexibility and full accountability to the Conference of the Parties”⁴.

9. The Note of the UN Secretary-General to COP 1 sets out in considerable detail the elements of this linkage as follows:⁵

- The UN Secretary-General shall appoint the head of the secretariat after consultation with the COP;
- The head of the secretariat shall be accountable:
 - a. To the COP for the implementation of the policies and programme of work approved by the Conference: and,
 - b. To the Secretary-General as the chief administrative officer of the UN, including for the observance of the Financial and Staff Regulations and Rules of the UN.

10. Both the INC and the UN Secretary-General underlined that the autonomy of the secretariat remained a paramount consideration. Thus, the capacities of relevant Departments and Programmes of the United Nations would be engaged *“without assigning supervision of the secretariat to any one of them.”*⁶ Further, the UN Secretary-General emphasized that the institutional arrangement should respect the distinct character of the Convention and provide for the autonomy, responsiveness and accountability of its secretariat.⁷

11. Although the UNFCCC secretariat is institutionally linked to the United Nations it is not

² See also FCCC/SBI/2005/15.

³ See A/AC.237/91, paragraphs 100-101.

⁴ See A/AC.237/91, paragraphs 100-101.

⁵ See FCCC/CP/1995/5/Add.4.

⁶ See A/AC.237/79/Add.5, paras. 2-6.

⁷ See A/AC.237/79/Add.1.

an organ of the United Nations. The secretariat is accordingly an autonomous and independent treaty body accountable, first and foremost, to the COP. The UN Office of Legal Affairs (OLA) has re-affirmed this in a memorandum to the Executive Secretary dated 30 June 2006, which stated that “*the bodies established under the UNFCCC and the Kyoto Protocol are not United Nations organs.*”⁸

12. Through its decision 14/CP.1, the COP decided that “*the Convention secretariat shall be institutionally linked to the United Nations, while not being fully integrated in the work programme and management structure of any particular department or programme.*” In paragraph 3 of that decision, the COP took note of, and provisionally accepted, the arrangements proposed by the UN Secretary-General for administrative support to the secretariat. By its Resolution 50/115 of 20 December 1995, the UNGA endorsed the institutional linkage between the Convention secretariat and the United Nations “*...as advised by the Secretary-General and adopted by the Conference of the Parties.*”

13. The COP and UNGA have periodically reviewed the framework for the institutional linkage, and have taken note of the changes in the responsibilities for the administration of the secretariat. As stated in the UN Secretary-General’s report to the General Assembly in 2001:

”...*the Executive Secretary functions within the scope of a broad delegation of authority, which, over the years, as reported to the Conference of the Parties at its fifth session, has adapted to changing circumstances and has resulted in a steadily greater assumption of administrative responsibility by the Convention secretariat.*”⁹

14. Similarly, the Executive Secretary reported to the COP in 2005 that, in agreement with the UN Department of Management, the Executive Secretary has taken over most of the responsibility for financial, procurement and personnel management of the secretariat.¹⁰

15. The COP and UNGA have recognized and accepted these changes, and have consistently reaffirmed and continued, without changes, the framework of the institutional linkage.

B. Key elements of the Institutional Linkage

16. In his report to the UN General Assembly in 2001 on the institutional linkage of the UNFCCC secretariat to the United Nations,¹¹ the UN Secretary-General re-affirmed the elements of the linkage established through decision 14/CP.1 and UN General Assembly Resolution 50/115 in the following terms:

- a. The Executive Secretary is appointed by the UN Secretary-General, in consultation with the COP through its Bureau;
- b. The Executive Secretary reports to the Secretary-General on administrative matters through the Under-Secretary-General for Management, and on substantive matters through the Under-Secretary-General for Economic and Social Affairs;
- c. The Executive Secretary benefits from the advice and policy support provided by the UN Department of Economic and Social Affairs, the UN Office of Legal Affairs, and other departments, programmes and agencies involved in contributing to work

⁸ See FCCC/SBI/2006/20. The United Nations Office of Legal Affairs further stated that as these bodies are not United Nations organs, the 1946 Convention on the Privileges and Immunities of the United Nations (General Convention) cannot be extended to individuals appointed or elected to bodies under the UNFCCC and the Kyoto Protocol, except for a decision by the UN General Assembly (UNGA) and subject to amendments to the General Convention and corresponding changes to the national legislation of States Parties to the General Convention to give effect to the decision of the UNGA. See also document UNFCCC/SBI/2006/6.

⁹ See A/56/385.

¹⁰ See FCCC/SBI/2005/15.

¹¹ See A/56/385; see also the FCCC/SBI/2001/5.

- d. on climate change and sustainable development within the international community; The secretariat is administered according to UN Financial and Staff Regulations and Rules with regard to personnel and financial matters;
- e. Administratively, the Executive Secretary functions within the scope of a broad delegation of authority which has over the years adapted to changing circumstances and has resulted in a steadily greater assumption of administrative responsibility by the Convention secretariat;
- f. Staff of the secretariat travel on official business under the authority of the United Nations Laissez-Passer;
- g. Application, mutatis mutandis, of the 1946 Convention on the Privileges and Immunities of the United Nations to sessions and meetings of the COP, CMP and subsidiary bodies convened and hosted by Governments outside of the headquarters of the secretariat;
- h. Financing for the conference-servicing costs for sessions of the COP, CMP and the subsidiary bodies from the regular programme budget of the United Nations (the actual service is provided by the UNOG, and includes services for documentation reproduction, translation, interpretation and security during the sessions);
- i. Establishment of trust funds under the Convention and the Kyoto Protocol by the UN Secretary-General, upon approval by the COP or CMP and at the request of the Executive Secretary;
- j. Provision of payroll, investment, treasury and support services by UNOG on a cost-per-service basis; and
- k. The accounts and financial management of all UNFCCC funds shall be subject to the internal and external audit process of the United Nations.

C. Delegation of Authority

17. The central premise of the framework of the institutional linkage is the need to provide an efficient arrangement for administrative support to the secretariat that would ensure proper procedures, controls and accountability, while allowing for managerial autonomy, flexibility and accountability to the COP.¹²

18. The framework for the institutional linkage therefore provided that the head of the secretariat would receive an “...*appropriate degree of delegated authority for financial and personnel management, consistent with the Financial and Staff Regulations and Rules of the United Nations*”.¹³

19. This delegation of authority ensures that the operations of the secretariat are in accordance with the UN Regulations, Rules and procedures, including those for oversight, audit, transparency and accountability. This avoids the need for the COP to develop separate rules and procedures, in particular oversight and other control measures, for the operations of the secretariat.¹⁴

(1) Personnel matters

20. The Executive Secretary has been delegated full authority on personnel matters, “...*subject to the retention by the Secretary-General of his authority to promulgate and interpret the UN Staff Regulations and Rules, and to take final decisions in appeals and disciplinary cases under the Staff Regulations and in compensation claims under Appendix D of the Staff Rules*”¹⁵, including:

¹² See A/AC.237/91, para. 101.

¹³ See FCCC/CP/1995/Add.4, Annex.

¹⁴ See FCCC/SBI/2005/15.

¹⁵ See FCCC/CP/1995/5/Add.4.

- a. Appointment and promotion of staff up to the D-2 level;
- b. Establishment of an Appointment and Promotion Board (now called Review Board);
- c. Termination of appointments, except for terminations under Article X of the Staff Regulations and appeals under Article XI of the UN Staff Regulations and Rules;
- d. Administration of UNFCCC staff “*in accordance with UN Staff Regulations and Rules and such special rules as may be established by the Head of the Convention Secretariat in agreement with the Secretary-General of the United Nations*”¹⁶.

(2) Financial matters

21. The authority and responsibility for the implementation of the UN Financial Regulations and Rules has been delegated to the Assistant-Secretary-General/Controller and to the Assistant-Secretary-General for Central Support Services.¹⁷ In accordance with the UN Regulations and Rules and within the framework of the institutional linkage, the ASG/Controller has delegated specific authority and responsibility to the UNFCCC Executive Secretary on financial matters. The COP further decided that the financial administration of the secretariat would be governed by the UNFCCC financial procedures and the UN Financial Regulations and Rules.¹⁸

22. The Executive Secretary, accordingly, has unlimited authority to administer secretariat funds in accordance with the UN Financial Regulations and Rules, and the financial procedures of the UNFCCC, which provide, *inter alia*, that:¹⁹

- a. The financial procedures shall govern the financial administration of the COP, its subsidiary bodies and its permanent secretariat;
- b. The Executive Secretary should prepare the administrative budget for the secretariat for approval by the COP;
- c. The contributions by Parties should be based on the scale of assessments of the United Nations, adjusted to ensure that no Party contributes less than 0.01 per cent of the total, and no Party contributes more than 24 per cent of the total, and that no contribution from least developed country Party exceeds 0.01 per cent of the total;
- d. Establishment of trust funds under the Convention and the Kyoto Protocol by the UN Secretary-General upon approval by the COP or CMP, and at the request of the Executive Secretary;
- e. Authority to make transfers within each of the main appropriation lines of the approved budget and between appropriation lines up to such limits as the COP may set from time to time;
- f. The accounts and financial management of all UNFCCC funds shall be subject to the internal and external audit process of the United Nations;
- g. The COP shall reimburse the United Nations for services provided to the COP and the secretariat.

23. The UNFCCC financial procedures do not establish any procedures and controls to ensure transparency and accountability, and, consequently, the UN Financial Regulations and Rules and processes apply.

III. Conclusion

24. The framework of the institutional linkage between the UNFCCC secretariat and the

¹⁶ See A/AC.237/79/Add.1.

¹⁷ See ST/AI/2004/1, entitled “Delegation of authority under Financial Regulations and Rules”.

¹⁸ See decision 15/CP.1, annex, para. 1, which provides that: “*Insofar as not specifically provided under these procedures, the Financial Regulations and Rules of the United Nations shall apply.*”

¹⁹ *Ibid.*

United Nations allows the secretariat and Parties to benefit from the United Nations institutional, programmatic, financial and administrative framework. This linkage has been consistently continued, unchanged, by the COP and the UN General Assembly; with the COP and the UN General Assembly deciding, in 2005 and 2006, respectively, that this institutional linkage will continue until a review is deemed necessary by either the COP or the UN General Assembly.

25. The central premise of this framework is to provide an efficient arrangement for administrative support to the secretariat that would ensure proper procedures, controls and accountability, while allowing for managerial autonomy, flexibility and accountability to the COP. This framework acknowledges the autonomy of the secretariat, and at the same time enables the secretariat to draw upon the advice and support of the departments, programmes and agencies of the United Nations and to benefit from close working relations with, and the support of, the United Nations.

26. Over the years, the Executive Secretary has gradually assumed greater responsibility and autonomy for the administration and operation of the secretariat, which the COP and the UN General Assembly have recognized and accepted, while at the same time, maintaining the core elements of the institutional linkage.

Appendix

UNFCCC secretariat Institutional Linkage to the United Nations: COP Decisions and UNGA Resolutions

UNFCCC COP Decisions				UNGA Resolutions			
Date	Decision No.	Title	Extends Institutional Linkage:	Date	Resolution No.	Title	Extends Institutional Linkage:
07/04/1995	14/CP.1	Institutional linkage of the Convention secretariat to the UN	4 years (until 31/12/1999)	20/12/1995	A/RES/50/115	Protection of global climate for present and future generations of mankind	4 years (until 31/12/1999)
25/10/1999	22/CP.5	Institutional linkage of the Convention secretariat to the UN	2 years (until 31/12/2001)	22/12/1999	A/RES/54/222	Protection of global climate for present and future generations of mankind	2 years (until 31/12/2001)
27/07/2001	6/CP.6	Institutional linkage of the Convention secretariat to the UN	5 years (until 31/12/2006)	21/12/2001	A/RES/56/199	Protection of global climate for present and future generations of mankind	5 years (until 31/12/2006)
9-10/12/2005	11/CP.11	Institutional linkage of the Convention secretariat to the UN	Until a review is deemed necessary	20/12/2006	A/RES/61/201	Protection of global climate for present and future generations of mankind	Until a review is deemed necessary