



## Convention on Biological Diversity

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### CONFERENCE OF THE PARTIES TO THE CONVENTION ON BIOLOGICAL DIVERSITY

Tenth meeting

Nagoya, Japan, 18-29 October 2010

Item 7 of the provisional agenda\*

### **REPORT OF THE EXECUTIVE SECRETARY ON THE ADMINISTRATION OF THE CONVENTION AND THE BUDGET FOR THE TRUST FUND OF THE CONVENTION**

*Note by the Executive Secretary*

*Addendum*

### **REVISED ADMINISTRATIVE ARRANGEMENTS BETWEEN UNEP AND THE SECRETARIAT OF THE CONVENTION ON BIOLOGICAL DIVERSITY**

#### **I. INTRODUCTION**

1. At its seventh meeting, the Conference of the Parties in its decision VII/33 invited the Executive Director of the United Nations Environment Programme (UNEP) and the Executive Secretary of the Convention on Biological Diversity to review and revise the administrative arrangements between the United Nations Environment Programme and the Secretariat of the Convention and report thereon to the Conference of the Parties at its eighth meeting.
2. At that eighth meeting, the Conference of the Parties, in paragraph 13 of its decision VIII/10, invited the Executive Director of the United Nations Environment Programme and the Executive Secretary to finalize the revision of the administrative arrangements for its consideration at its ninth meeting.
3. In its decision IX/29, the Conference of the Parties at its ninth meeting urged the Executive Director of UNEP and the Executive Secretary to finalize the revision for consideration by the Conference of the Parties and at its tenth meeting, taking into account decisions IV/17, VII/33, and VIII/10, and requested the Executive Secretary to report to the President and the Bureau between its ninth and tenth meetings on progress on this matter. The Executive Secretary has kept the Bureau of the Conference of the Parties regularly informed on the status of the relation with UNEP, and relevant correspondence was made available to its members. The issue of programme support costs was raised by the Executive Secretary at almost all the meetings held by the Bureau in the period 2008-2010. In March 2010, the Executive Secretary submitted to the Bureau a detailed note on the issue of the 13 per cent programme support charge on all expenditures from the Parties' contributions to the Secretariat's trust funds.

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\* UNEP/CBD/COP/10/1.

4. The present note is intended to inform the Parties on the status of the implementation of the decisions of the Conference of the Parties.

## II. BACKGROUND

5. During the negotiation of the Convention on Biological Diversity from 1988 to 1992, UNEP acted as the secretariat of the Intergovernmental Negotiating Committee. The secretariat was serviced by the Biodiversity Unit of UNEP. In adopting the Convention, Article 40 of the Convention related to the secretariat requested the Executive Director of UNEP to provide the secretariat referred to by Article 24 on an interim basis for the period between the entry into force and the first meeting of the Conference of the Parties. With the financial support of Switzerland, an interim secretariat, distinct from the UNEP Biodiversity Unit, was established by the Executive Director of UNEP in Geneva from 1993 to 1995. Article 24 of the Convention states that at its first meeting, the Conference of the Parties should “designate the secretariat from amongst those existing competent international organizations which have signified their willingness to carry out the secretariat functions under this Convention.”

6. The issue of the selection of a competent organization to host the Permanent Secretariat was discussed at the first and second meetings of the Intergovernmental Committee on the Convention on Biological Diversity in 1994.<sup>1</sup> The Committee agreed on eleven criteria for the selection of the organization to provide secretariat support to the Convention, namely:<sup>2</sup>

- (a) Relevance of the mandate, general objectives and substantive activities of the organization to the purpose and objectives of the Convention;
- (b) Extent to which the organization could provide technical support to the substantive work to be undertaken under the Convention and coordinated by the Secretariat;
- (c) Past and/or current involvement in the process associated with the development or operation of the Convention, or other indicators of familiarity with the Convention;
- (d) Demonstrated effectiveness of the organization in its own sphere of activities;
- (e) The organization as a context for establishing effective working relationships with other conventions and their secretariats, especially those related to conservation of biological diversity and sustainable development;
- (f) Experience in providing secretariat functions to an intergovernmental process;
- (g) Existing organization infrastructure—information systems, communication instruments—and financial and administrative framework conducive to the discharge of the secretariat functions;
- (h) The extent to which the organization would ensure autonomy and independence of the secretariat, particularly in terms of governance and budget;
- (i) The expertise of the organization in matters of the conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of benefits arising from the utilization of genetic resources;
- (j) The organization’s ability to operate on the global, regional and national levels; the ease of its accessibility and collaboration with Governments and non-governmental organizations; the efficiency of its communications system and of its information gathering capacity;
- (k) The organization’s ability to accommodate any future decision by the Conference of the Parties as to the location of the Secretariat.

7. At its first meeting, held in Nassau in 1994, the Conference of the Parties had before it offers to host the permanent secretariat, either individually or as part of a consortium of organizations, from the

<sup>1</sup> See UNEP/CBD/COP/1/3 and 4.

<sup>2</sup> UNEP/CBD/COP/4, para. 122.

following six international organizations: the United Nations Educational, Scientific and Cultural Organization (UNESCO), IUCN, the United Nations Development Programme (UNDP), the Intergovernmental Oceanographic Commission (IOC) of UNESCO, the Food and Agriculture Organization of the United Nations (FAO), as well as UNEP. By its decision I/4, the Conference of the Parties “designated the United Nations Environment Programme to carry out the functions of the Secretariat of the Convention while ensuring its autonomy to discharge the functions referred to in Article 24”.

8. The decision had been taken based on the commitment by UNEP contained in the letter dated 4 July 1994 of Ms. Elizabeth Dowdeswell, the Executive Director of UNEP, to Ms. Angela Cropper, the Executive Secretary of the Interim Secretariat. The offer is contained in annex I and the appendix thereto of UNEP/CBD/COP/1/9 and copy is attached. On substantive matters, the offer of UNEP provided:

“2.2.5 The Secretariat to the Convention would have ready and privileged access to the expertise, capacity and products of these programme centres in support of its work.

(...)

“2.9.2. UNEP will continue to take all possible measures, within its competence, to assist in the implementation of the goals and objectives of the Convention on Biological Diversity.”

(...)

“3.1.1. UNEP stands ready to offer, within its own sphere of competence and abilities, any service and support that may be expected by the Conference of the Parties and requested by the secretariat in discharging its functions. The details of such support as and when requested will need to be agreed upon with the secretariat of the Convention.”

(...)

“3.1.2. ....such support could include technical inputs in the work of the secretariat, administrative support systems, data and information services, conference services, and temporary cash advances to guarantee the secretariat’s cash flow.”

9. On criteria related to how the organization would ensure “autonomy and independence” of the Secretariat, particularly in terms of governance and budget, UNEP committed itself to:

“2.8.1. The operational autonomy enjoyed by the Interim Secretariat of the CBD will be maintained as required by the COP. UNEP recognizes that the heads of convention secretariats are accountable to their respective Conference of the Parties for responses to their mandates and requests. It understands the role of the organization selected to provide a secretariat to a convention as providing a supportive framework to facilitate that secretariat in discharging its functions, principally through support and guidance in relation to personnel and administrative matters and financial management as required by the United Nations system. UNEP recognizes the need for flexibility in the application of its systems and practices when that is necessary to ensure efficiency and effectiveness of a secretariat in relation to the mandates and expectations of the Conference of the Parties.”

“3.2.1. The legal and formal distinction between UNEP and the Interim Secretariat of the Convention, though provided by UNEP, is recognized. This relationship will continue with the secretariat, especially as the governing bodies of the Convention will have been established. Thus maximum operational autonomy can be enjoyed by the secretariat in its response to the mandates, requests and needs of the Conference of the Parties. UNEP recognizes the executive role of the secretariat in advancing the Convention and the head of the secretariat as the chief executive in that process. The secretariat is therefore recognized as the principal executive body in matters relating to the Convention. This approach of UNEP has already been reflected in its establishment of the post of head of the Interim Secretariat at a senior level within the United Nations system. Bearing in mind the role of the Conference of the Parties as the governing body of the Convention, the head of

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the Secretariat will be directly accountable to the Conference of the Parties for his/her independent decisions on matters affecting the functioning of the Secretariat.”

## **II. ADMINISTRATIVE ARRANGEMENTS BETWEEN THE EXECUTIVE DIRECTOR OF UNEP AND THE EXECUTIVE SECRETARY**

10. In adopting its decision III/23, the Conference of the Parties at its third meeting invited the Executive Director of UNEP and the Executive Secretary to develop procedures, making an effort to conclude by 27 January 1997, with respect to the functioning of the Permanent Secretariat of the Convention on Biological Diversity, to clarify and make more effective their respective roles and responsibilities. It stressed that: “these procedures must provide for the managerial autonomy and efficiency of the Permanent Secretariat and its responsiveness to the needs of the Convention, and must ensure the administrative accountability of the Executive Secretary to the Conference of the Parties.” It further stressed that “the procedures must be in accordance with the United Nations financial and staff rules and regulations and with decision I/4 of the Conference of the Parties and should as far as possible, and where appropriate, follow the personnel, financial and common services arrangements agreed to between the United Nations and the Framework Convention on Climate Change”. It also requested the Executive Secretary to make available to the Parties copies of the agreed procedures on a timely basis and to report to the Conference of the Parties through its Bureau at its fourth meeting on the implementation of these arrangements.

11. As a result, the Administrative Arrangements between UNEP and the Secretariat of the Convention on Biological Diversity were signed on 30 June 1997 and was adopted by the Conference of the Parties in May 1998 in its decision IV/15. However many of the provisions and especially those related to the autonomy of the Secretariat remain to be implemented. In addition, the establishment of the United Nations Office at Nairobi (UNON) in 1996 has created a blurred line of responsibility between UNON and UNEP when it comes to accountability of the offer of UNEP to host the Secretariat. UNON is in charge of conference, administrative and financial services as well as security of UNEP; however no reference to the role of UNON is reflected in the 1997 Administrative Arrangements. The dissociation of the function of Director-General of UNON and the Executive Director of UNEP highlighted the need for clarifying also the distinct role and responsibility of UNON in implementing the UNEP commitment as the host of Secretariat.

12. Following the upgrade in 2002 of the post of the Executive Secretary to Assistant Secretary-General of the United Nations and the new procedure for staff recruitment decided by the United Nations General Assembly, the Conference of the Parties at its seventh meeting, held in Kuala Lumpur in February 2004, requested the revision of the administrative arrangements with UNEP.<sup>3</sup> This request has since been reiterated by the Conference of the Parties at its eighth and ninth meetings.<sup>4</sup>

## **III. NEGOTIATION ON THE REVISION OF THE ADMINISTRATIVE ARRANGEMENTS**

13. On 5 January 2006, the Executive Secretary of the Convention, upon assuming his assignment, forwarded to the Executive Director, decision VII/33 of the Conference of the Parties, as well as draft revised administrative arrangements. Owing to his imminent departure at that time, the former Executive Director had recommended that this issue should be left to his successor. At its eighth meeting, held in Curitiba in March 2006, the Conference of the Parties took note of the response of the Executive Director and, in paragraph 13 of its decision VIII/10 invited “the Executive Director of UNEP and the Executive Secretary to finalize the revision for consideration of the Conference of the Parties at its ninth meeting, taking into consideration decisions IV/17 and VII/33 and the need for a transparent and objective process for appointment of the Executive Secretary that involves the Conference of the Parties and its Bureau in a

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<sup>3</sup> Decision VII/33, para. 6.

<sup>4</sup> Decisions VIII/10, para. 13 and IX/29, para. 18.

manner consistent with paragraph 1 of decision IV/17, which refers to consultation with the Conference of the Parties through its Bureau before appointing the Executive Secretary and to the authority of the Conference of the Parties to determine the term of office of the Executive Secretary.”

14. Decision VIII/10 of the Conference of the Parties was brought to the attention of the Executive Director on 15 June 2006, immediately after his appointment. In his response, dated 10 July 2010, the Executive Director responded that UNEP was working on addressing the broader issues related to the administrative support to UNEP-administrated conventions. On 31 July 2006, the Executive Director informed the Executive Secretary that the draft administrative arrangements were under review. The need to finalize the revised administrative arrangements has been regularly raised by the Executive Secretary at almost all his bilateral meetings with the Executive Director. On 31 January 2008, a letter was addressed to the Executive Director reminding him on the need to finalize the revise arrangements before the ninth meeting of the Conference of the Parties, to be held in Bonn in May that year. In his response, dated 20 March 2008, the Executive Director said that a UNEP task force had been established to review the administrative arrangements with the multilateral environment agreements.

15. At its Bonn meeting, the Conference of the Parties, in paragraph 18 of decision IX/29, urged the Executive Director of UNEP and the Executive Secretary “to finalize the revision [of the administrative arrangements] for consideration by the Conference of the Parties at its tenth meeting, taking into consideration decisions IV/17, VII/33, and VIII/10”, and requested the Executive Secretary to report to the President and the Bureau between the ninth and tenth meetings of the Conference of the Parties on progress on the matter.

16. The request by the Conference of the Parties was forwarded officially to the Executive Director on 11 June 2008 and brought to his attention at most of the bilateral meetings between him and the Executive Secretary, starting with a meeting held in New York on 30 June 2008. Revised versions of the administrative arrangements were submitted to Executive Director on 14 July 2008 and 6 October 2008. It should be noted that the 2009 audit of the Secretariat by the Board of Auditors of the United Nations<sup>5</sup> requested the Executive Director of UNEP and the Executive Secretary to finalize the revised administrative arrangements.

17. The Bureau of Conference of the Parties was kept regularly informed. The issue of overhead charges was discussed at five meetings of the Bureau held during the interssessional period. A document containing a detailed analysis of the issue of the administrative overhead charges was submitted to the eleventh meeting, held in Cali in March 2010.

18. On 3 August 2010, the Executive Secretary received a draft delegation of authority from the Executive Director of UNEP. A revised version was received on 14 September 2010.

#### **IV. PROGRAMME SUPPORT COSTS (PSC)**

19. A number of studies have addressed the issue of the programme support costs charged by UNEP, including a report by the Office of Internal Oversight Services (OIOS) as well as a 2007 report of a Task Team established by the Executive Director and a report prepared by a consultant in 2009 on recovery, allocation and use of programme support costs by UNEP. In its paragraph 31, the report notes that widespread dissatisfaction was expressed, including by UNEP and the staff of multilateral environmental agreements, regarding the lack of transparency and the inconsistency of the management and allocation of programme support costs. Questions have been asked regarding the efficiency and effectiveness of UNEP as a provider of support services and frustration was voiced as regards the ability and or willingness of UNEP to explain its management and use of programme support costs, including to conferences of the parties to environmental convention. Interviews with staff from other multilateral environmental agreements (MEAs) revealed fewer concerns with the PSC rate than with the distribution of PSC resources between UNEP, UNON and the MEAs.

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<sup>5</sup> UNEP/CBD/COP/10/INF/9.

20. Upon taking up his assignment, the Executive Secretary took the initiative of discontinuing the practice of recruiting free-lance interpreters for servicing meetings under the Convention, which had been in place since 1999. He signed a two-year agreement with UNON (2008-2010) to provide such services as the service provider of the host organization. The decision of the United Nations General Assembly to establish a dedicated post of Director-General of the United Nations Office at Nairobi as contained in resolution 64/243 of 24 February 2010 requires a clarification on the role of UNON in providing conference-services support to the Convention on Biological Diversity.

21. The Executive Secretary has suggested to the Executive Director of UNEP to extend the CITES arrangements agreed upon in 2001 to the Convention Secretariat for its activities financed through voluntary contributions.

## V. CONCLUSION

22. Following extensive exchanges, including with the Executive Office of the Secretary General and the Office of Legal Affairs, the Executive Director of UNEP and the Executive Secretary have agreed to proceed on the basis of the revised administrative arrangements, and to include therein provisions on the delegation of authority and accountability mechanisms, that respect the autonomy of the Secretariat of the Convention and its institutional linkage to the United Nations Environment Programme. The Executive Director and the Executive Secretary have also agreed that the final revision of the administrative arrangements will take into account the administrative arrangements endorsed by the fourth meeting of the Conference of the Parties held in 1998 and fulfil the requirements of the relevant decisions of the Conference of the Parties and the UNEP Governing Council as well as relevant issuances of the Secretary General of the United Nations and resolutions of the General Assembly.

23. The Executive Director and the Executive Secretary regret that they were unable to meet the request of the Conference of the Parties to finalize the revision of the administrative arrangements by its tenth meeting, they undertake to do so as soon as possible and, in any event, no later than the eleventh meeting of the Conference of the Parties.

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