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SEVENTH MEETING OF THE  
CONFERENCE OF THE PARTIES  
Bonn, 18-24 September 2002

INSTITUTIONAL ARRANGEMENTS: HEADQUARTERS AGREEMENT  
AND JURIDICAL PERSONALITY  
(Prepared by the Secretariat)

**A. Headquarters Agreement**

1. An agreement between the Government of the Federal Republic of Germany, the United Nations and the Secretariat of the Convention on the Conservation of Migratory Species of Wild Animals, concerning the Headquarters of the Convention Secretariat, and an exchange of notes, was finalised for signature between the respective parties during the course of 2002. Reference is made to the Secretariat's reports on the Headquarters Agreement to the fifth and sixth meetings of the Conference of Parties (UNEP/CMS/Conf.5.5.1 and UNEP/CMS/Conf.6.14.1) and to the reports of the 16<sup>th</sup>, 18<sup>th</sup>, 19<sup>th</sup>, 20<sup>th</sup>, 22<sup>nd</sup> and 23<sup>rd</sup> meetings of the Standing Committee.

2. At the time of writing (21 August 2002) the parties are identifying a date and venue to sign the agreement. The agreement will be submitted to the Conference of Parties for endorsement when it is signed by the three parties.

3. In summary, the Headquarters Agreement will *inter alia*:

- (a) grant persons on official business to CMS Headquarters with the same legal status as that provided to persons on official business to the headquarters of UNFCCC and UNCCD;
- (b) provide the Secretariat staff with the same legal status as that of other United Nations agencies in the Federal Republic of Germany;
- (c) supply the CMS Secretariat with the necessary legal capacity in the Federal Republic of Germany to contract, acquire and dispose of property and institute legal proceedings; and
- (d) extend, on their consent, the same rights to the Agreements concluded under CMS auspices whose Secretariats are co-located with the Convention Secretariat.

**Action requested:**

4. The Secretariat invites the Conference of Parties to:

- (i) acknowledge the result achieved;

- (ii) thank the UNEP Executive Director and the German Minister for Environment for their personal attention and action in the finalisation of the Headquarters Agreement;
- (iii) endorse formally the Headquarters Agreement; and
- (iv) recommend the implementation of article 2, paragraph 2, of the Headquarters Agreement to the responsible bodies of the Agreements whose secretariats have been administratively integrated with the Convention Secretariat.

## **B. Juridical Personality**

5. For a number of years the Convention Secretariat's juridical personality in the host country has been unclear. At the Sixth Meeting of the Conference of the Parties, it was noted that the United Nations Office for Legal Affairs and UNEP had advised, for the avoidance of any doubt, that a decision along the lines of other conventions (e.g., UNFCCC and UNCCD) should be expressly adopted by the respective competent body, that is the Standing Committee or the Conference of the Parties, to confer juridical personality and legal capacity on the Convention Secretariat. In Resolution 6.9, the COP decided that "The Convention Secretariat should possess in the host country such legal capacity as is necessary for the effective discharge of its functions under the Convention, in particular to contract, to acquire and dispose of movable and immovable property and to institute legal proceedings."

6. Article 4 (Legal Capacity) of the Headquarters Agreement provides that "(1) The Convention Secretariat shall possess in the host country the legal capacity to (a) contract; (b) acquire and dispose of movable and immovable property; and (c) institute legal proceedings. (2) For the purpose of this Article, the Convention Secretariat shall be represented by the Executive Secretary."

7. An outstanding issue not addressed by the Sixth Meeting of the Conference of the Parties was the international juridical personality of the Secretariat. In Resolution 6.9, the COP requested the Standing Committee "to clarify, with the assistance of the Secretariat, any relevant outstanding legal questions in consultation with the Legal Branch of the United Nations and the relevant United Nations conventions, to bestow the appropriate competence on the Secretariat and to report to the Conference of the Parties at its seventh meeting." In the discussions of the Conference of the Parties it was expressly noted that CMS should follow the examples of UNFCCC and UNCCD.

8. The CMS Secretariat has kept in close contact with both the UNFCCC and the UNCCD Secretariats. It has determined that neither UNFCCC nor UNCCD has concluded consideration of the international juridical personality issue. It is therefore recommended that the issue be deferred for consideration by the COP at its Eighth Meeting.

### **Action requested:**

The Conference of the Parties is invited to take note of the current situation and defer further consideration of the matter to its Eighth Meeting.