



# Convention on the Conservation of Migratory Species of Wild Animals

Distr.  
GENERAL

UNEP/CMS/Conf.6.14.1  
28 October 1999

ORIGINAL: ENGLISH

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## SIXTH MEETING OF THE CONFERENCE OF THE PARTIES

Cape Town, 10-16 November 1999

### INSTITUTIONAL ARRANGEMENTS: HEADQUARTERS AGREEMENT

1. A draft agreement among the United Nations, the Government of the Federal Republic of Germany and the Secretariat of the Convention on the Conservation of Migratory Species of Wild Animals, establishing a headquarters for the Convention Secretariat, was transmitted to the German Minister of Foreign Affairs, Hon. Joschka Fischer, on 25 October 1999.
2. The draft CMS/HQA has its basis in the headquarters agreement for the United Nations Volunteers and closely resembles the headquarters agreements already in existence for the secretariats of the United Nations Framework Convention on Climate Change (UNFCCC) and Convention to Combat Desertification (UNCCD), respectively. Finalisation of a CMS/HQA has suffered from a variety of unanticipated delays and every effort is now being made to bring the matter to conclusion.
3. It should be recalled that the Convention Secretariat has been hosted in the Federal Republic of Germany pursuant to a series of *Notes Verbale* that were initially exchanged between UNEP and the Government during 1984 and later amended during 1989. In addition to this unique background, a number of other special aspects regarding the Convention Secretariat have taken longer to clarify or resolve than expected. These include the: legal effect of the earlier exchange of letters between UNEP and the German Government regarding the Convention Secretariat; execution of a bilateral or tripartite agreement; questions about the juridical personality and legal competence of the Convention Secretariat; future applicability of the CMS/HQA to CMS Agreement Secretariats; permanent and rent-free tenure; retroactive application of the agreement; and possible necessity for an exchange of notes which supplements the draft CMS/HQA.
4. Recognizing that the Convention Secretariat has for a number of years enjoyed *de facto* legal personality on the national level, the United Nations Office for Legal Affairs and UNEP have advised, for the avoidance of any doubt, that a decision along the lines of other Conventions (e.g., UNFCCC and CCD) should be expressly adopted by the respective competent body, that is the Standing Committee or the Conference of the Parties, conferring juridical personality and legal capacity on the Convention Secretariat. For these reasons, a draft Resolution 6.8, "Juridical personality and privileges and immunities of the Convention Secretariat" has been prepared by the CMS Secretariat and is attached hereto.
5. Within that same draft resolution, the COP is requested to authorize the Convention Secretariat and the Executive Director of UNEP to take the action necessary to conclude and sign the headquarters agreement. The COP is further requested to authorize the Standing Committee to act on its behalf, in the event further input in relation to the headquarters agreement text is required.