

**Questions Relating to
Responses to Highly Pathogenic Avian Influenza and
Transboundary Wetlands
(Federal States of Aves v. Republic of Renac)**

RECORD
**Twenty-Second Annual
Stetson International Environmental
Moot Court Competition
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STETSON LAW

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NOTIFICATION, DATED 10 JULY 2017, ADDRESSED TO
THE MINISTER OF FOREIGN AFFAIRS OF THE FEDERAL STATES OF AVES
AND
THE MINISTER OF FOREIGN AFFAIRS OF THE REPUBLIC OF RENAC

The Hague, 10 July 2017.

On behalf of the International Court of Justice, and in accordance with Article 26 of the Rules of Court, I have the honor to acknowledge receipt of the joint notification dated 4 July 2017. I have the further honor to inform you that the case of Questions Relating to Responses to Highly Pathogenic Avian Influenza and Transboundary Wetlands (Federal States of Aves v. Republic of Renac) has been entered as 2017 General List No. 220. The written proceedings shall consist of memorials to be submitted to the Court by 17 November 2017. Oral proceedings are scheduled for 22–24 March 2018.

/s/

Registrar
International Court of Justice

JOINT NOTIFICATION, DATED 4 JULY 2017, ADDRESSED TO
THE REGISTRAR OF THE COURT

The Hague, 4 July 2017.

On behalf of the Federal States of Aves and the Republic of Renac, and in accordance with Article 40, paragraph 1, of the Statute of the International Court of Justice, we have the honor to transmit to you an original copy of the English texts of the Special Agreement Between the Federal States of Aves and the Republic of Renac for Submission to the International Court of Justice of Differences Between Them Concerning Questions Relating to Responses to Highly Pathogenic Avian Influenza and Transboundary Wetlands, signed at Cape Town, South Africa on 4 July 2017.

For the Federal States of Aves:

/s/

Carie N. Gramio
Minister of Foreign Affairs

For the Republic of Renac:

/s/

Lance D. Sharlin
Minister of Foreign Affairs

SPECIAL AGREEMENT
BETWEEN
THE FEDERAL STATES OF AVES
AND
THE REPUBLIC OF RENAC
FOR SUBMISSION TO THE
INTERNATIONAL COURT OF JUSTICE OF DIFFERENCES
BETWEEN THEM CONCERNING
QUESTIONS RELATING TO
RESPONSES TO HIGHLY PATHOGENIC AVIAN INFLUENZA
AND TRANSBOUNDARY WETLANDS

The Federal States of Aves and the Republic of Renac,

Recalling that the Federal States of Aves and the Republic of Renac are Members of the United Nations and that the Charter of the United Nations calls on Members to settle international disputes by peaceful means,

Observing that wetlands provide multiple benefits to humans and other species,

Further observing that highly pathogenic avian influenza may have serious negative effects on domestic poultry and human health, as well as wild birds,

Recognizing that differences have arisen between the Federal States of Aves and the Republic of Renac concerning the appropriate responses to outbreaks of highly pathogenic avian influenza and a transboundary wetland,

Noting that the Federal States of Aves and the Republic of Renac have been unable to settle their differences through negotiation,

Desiring that the International Court of Justice, hereinafter referred to as “the Court,” consider these differences,

Desiring further to define the issues to be submitted to the Court,

Have agreed as follows:

Article I

The Federal States of Aves and the Republic of Renac, hereinafter referred to as “the Parties,” shall submit the questions contained in Annex A of this Special Agreement to the Court pursuant to Article 40, paragraph 1, of the Statute of the International Court of Justice. The Parties agree that the Court has jurisdiction to decide this matter.

Article II

1. The Parties shall request the Court to decide this matter on the basis of the rules and principles of general international law, as well as any applicable treaties.
2. The Parties also shall request the Court to decide this matter based on the Agreed Statement of Facts, attached as Annex A, which is an integral part of this Agreement.
3. The Parties also shall request the Court to determine the legal consequences, including the rights and obligations of the Parties, arising from any judgment on the questions presented in this matter.

Article III

1. The proceedings shall consist of written pleadings and oral arguments.
2. The written pleadings shall consist of memorials to be submitted simultaneously to the Court by the Parties.
3. The written pleadings shall be consistent with the Rules for the 2017–2018 Stetson International Environmental Moot Court Competition (International Finals).
4. No changes may be made to any written pleading once it has been submitted to a Regional or National Round. A written pleading submitted to the International Finals must be an exact copy of the written pleading submitted to the Regional or National Round.

Article IV

1. The Parties shall accept the Judgment of the Court as final and binding upon them and shall execute it in its entirety and in good faith.
2. Immediately after the transmission of the Judgment, the Parties shall enter into negotiations on the modalities for its execution.
3. If the Parties are unable to reach agreement within six months, either Party may request the Court to render an additional Judgment to determine the modalities for executing its Judgment.

Article V

This Special Agreement shall enter into force upon signature.

DONE at Cape Town, South Africa, this 4th day of July 2017, in two copies, each in the English language, and each being equally authentic.

For the Federal States of Aves:

For the Republic of Renac:

/s/ _____

Carie N. Gramio
Minister of Foreign Affairs

/s/ _____

Lance D. Sharlin
Minister of Foreign Affairs

ANNEX A

1. The Federal States of Aves and the Republic of Renac are neighboring sovereign states. Aves is considered a recently developed country, and Renac is considered a developing country. Both countries' economies are based primarily on agriculture, particularly poultry production. Ecotourism also is popular in both states. Aves is approximately 300,000 km² and has a per capita GDP of US \$17,500. Renac is approximately 250,000 km² and has a per capita GDP of US \$1,500.
2. Aves and Renac are Members of the United Nations and are Parties to the Statute of the International Court of Justice.
3. Aves and Renac are members of the Food and Agriculture Organization of the United Nations (FAO) and the World Organisation for Animal Health (OIE).
4. Aves and Renac are Parties to the Vienna Convention on the Law of Treaties (VCLT).
5. Aves and Renac are Contracting Parties to the Convention on Biological Diversity (CBD).
6. Aves and Renac are Contracting Parties to the Convention on the Conservation of Migratory Species of Wild Animals (CMS). Both states also are Contracting Parties to the Agreement on the Conservation of African-Eurasian Migratory Waterbirds (AEWA), and both states are located within the Agreement Area of AEWA.
7. Aves and Renac are Contracting Parties to the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention).
8. High-level representatives from Aves and Renac attended and fully participated in the 1972 United Nations Conference on the Human Environment at Stockholm; the 1992 United Nations Conference on Environment and Development at Rio de Janeiro; the 2002 World Summit on Sustainable Development at Johannesburg; and the 2012 Rio+20 Conference at Rio de Janeiro.
9. Aves and Renac share a 20,000-hectare transboundary wetland, the Adeguri Marsh, which is a shallow freshwater wetland. Approximately half of the Adeguri Marsh is located in each state. In 2000, Aves and Renac each designated their respective portion of the Adeguri Marsh as a Wetland of International Importance (Ramsar Site) under the Ramsar Convention, and in 2008, Aves and Renac jointly listed the Adeguri Marsh as a Transboundary Ramsar Site. Aves and Renac cooperatively manage the Adeguri Marsh Transboundary Ramsar Site on an ad hoc, informal basis.
10. Several large, privately owned commercial poultry facilities and hundreds of small-scale, privately owned subsistence poultry farms are located near the Adeguri Marsh in both Aves and Renac. Poultry is an important protein source for the people of Renac, and Aves and Renac engage in commercial trade in poultry and poultry products.

11. The Adeguri Marsh is rich in biodiversity and provides important habitat for fish and waterbirds, including migratory waterbirds. Numerous ducks, geese, swans, cormorants, cranes, and other waterbirds, some of which are rare or threatened, use the wetland. Birdwatching and ecotourism are popular activities in both countries at the Adeguri Marsh, which is open to the public.
12. When Aves and Renac designated their respective portions of the Adeguri Marsh as a Ramsar Site, they reported that the Adeguri Marsh satisfies four of the nine criteria for identifying Wetlands of International Importance, including Criterion 2 (“supports vulnerable, endangered, or critically endangered species or threatened ecological communities”), Criterion 4 (“supports plant and/or animal species at a critical stage in their life cycles, or provides refuge during adverse conditions”), Criterion 5 (“regularly supports 20,000 or more waterbirds”), and Criterion 6 (“regularly supports 1% of the individuals in a population of one species or subspecies of waterbird”).
13. The blue-crowned crane (*Balearica azulia*) is a migratory species that winters in the Adeguri Marsh. The species is similar in size and appearance to the grey-crowned crane (*Balearica regulorum*), except the blue-crowned crane has a distinctive blue head. Around 2,250 blue-crowned cranes remain in the wild, and the blue-crowned crane is listed as Endangered on the IUCN Red List of Threatened Species, on Appendices I and II of CMS, and on Annex 2 and Table 1 (Column A; Category 1a, 1b, 1c) of AEW. Aves and Renac are Range States under CMS for the blue-crowned crane.
14. Although the blue-crowned crane is found in both Aves and Renac, the species is of particular cultural importance in Aves. The blue-crowned crane is the national bird of Aves and is a popular subject in myths, stories, music, and art in Aves (see Annex B). Each winter, a large weeklong festival celebrating the blue-crowned crane is held in Aves near the Adeguri Marsh.
15. In 2009 and 2012, Aves and Renac experienced outbreaks of highly pathogenic avian influenza (H5N1).¹ Both outbreaks were localized to the domestic poultry facilities in the area around the Adeguri Marsh. Aves and Renac culled hundreds of thousands of domestic chickens in their efforts to contain the outbreaks. The source of the outbreaks was unknown, and there were no reported human infections or reported effects on wild waterbirds in either state as a result of the outbreaks in 2009 or 2012.
16. In late December 2013, Aves reported an outbreak of highly pathogenic avian influenza in a commercial poultry facility, the source of which was unclear. Three weeks later in early January 2014, Renac experienced a severe outbreak of highly pathogenic avian influenza, which infected domestic poultry in Renac. The outbreak is believed to have originated from the poultry facility in Aves and to have been transferred to Renac through cross-infection between domestic poultry and wild waterbirds near the Adeguri Marsh. Several large commercial poultry facilities and at least ten small poultry farms in Renac

¹ See generally Ruth Cromie et al., *Responding to Emerging Challenges: Multilateral Environmental Agreements and Highly Pathogenic Avian Influenza H5N1*, 14 J. INT’L WILDLIFE L. & POL’Y 206 (2011), available at <http://www.tandfonline.com/doi/full/10.1080/13880292.2011.626711>.

were infected, and approximately 500 wild waterbirds, including around 150 blue-crowned cranes out of an estimated flock of 600 blue-crowned cranes, were found dead near the Adeguri Marsh. Of the dead wild birds, 20, including several blue-crowned cranes, were subsequently tested and were found to be infected.

17. Shortly after the outbreak in Renac was discovered, government officials in Renac notified government officials in Aves that Renac planned to cull domestic chickens in the poultry facilities and farms near the Adeguri Marsh in Renac. Renac also planned to cull the potentially infected wild waterbirds, including the remaining blue-crowned cranes in the flock (approximately 450), in and around Renac's portion of the Adeguri Marsh. On 20 January 2014, the following diplomatic note was forwarded to the Government of the Republic of Renac:

The Embassy of the Federal States of Aves presents its compliments to the Government of the Republic of Renac and wishes to convey its sincere concern over Renac's planned culling of wild waterbirds near the Adeguri Marsh, a precious resource shared between our countries. The Government of Aves appreciates the gravity and urgency of the situation and understands the need to contain the outbreak of highly pathogenic avian influenza before it spreads further. It is Aves's position, however, that the appropriate course of action would be for Renac to cull only the affected domestic poultry as necessary and work to improve agricultural practices in Renac to prevent future outbreaks.

Renac's plan to cull the wild waterbirds is ill advised and would violate international law, including, *inter alia*, Renac's obligations under CBD, CMS, AEWA, and the Ramsar Convention. According to several international organizations, including the FAO and the OIE, culling wild waterbirds is not an appropriate or necessary response to highly pathogenic avian influenza outbreaks. Attempting to cull the wild waterbirds could actually lead to greater geographic dispersal of the birds, which could spread the virus elsewhere. Aves is particularly concerned about Renac's plan to cull the infected blue-crowned cranes, an endangered species. The Government of Aves urges the Government of Renac to reconsider its planned response to this outbreak and act in accordance with international law and guidance.

Please accept the assurance of my highest consideration.

/s/

Ken S. Chic
Ambassador

18. On 30 January 2014, the following diplomatic note was forwarded to the Government of the Federal States of Aves:

The Embassy of the Republic of Renac presents its compliments to the Government of Aves and has the honor to acknowledge receipt of the diplomatic note dated 20 January 2014.

The Government of Renac appreciates the concerns of the Government of Aves, but Renac believes the best way to combat this outbreak is to cull the infected domestic poultry, as well as the likely infected wild waterbirds. Renac must contain this outbreak to protect the health, safety, and well-being of its citizens. As Aves is aware, Renac's economy relies heavily on poultry production, and this outbreak of highly pathogenic avian influenza, if not properly contained, could have devastating effects on Renac's economy, food safety, and its people. Many of Renac's citizens use the Adeguri Marsh for recreation and as a source of water; therefore, it is important to cull infected wild waterbirds to decrease the likelihood that Renac's citizens could be exposed to the virus. It is Renac's position that culling both the infected poultry and the infected wild waterbirds will ensure the outbreak does not spread. Further, as a sovereign state, Renac has the right to do what is necessary to protect its citizens, and Renac's decision will not violate international law.

Please accept the assurance of my highest consideration.

/s/

Annie Z. Flanuvia
Ambassador

19. On 2 February 2014, Renac culled the infected domestic poultry and many hundreds of potentially infected wild waterbirds, including the remaining approximately 450 blue-crowned cranes that were in and around Renac's portion of the Adeguri Marsh, as planned, and the outbreak was contained. Several poultry facilities and farms in Renac were temporarily closed due to the outbreak, and the culling caused financial losses for the commercial facilities and food shortages for the subsistence farmers and their families. Infection with the highly pathogenic avian influenza virus was confirmed in four people in Renac, two of whom recovered and two of whom died of their infection.
20. In early February 2015, a small outbreak of highly pathogenic avian influenza occurred in poultry in Aves but was quickly contained. Shortly thereafter, another severe outbreak of highly pathogenic avian influenza occurred in Renac. The virus was believed to have spread to Renac following drainage from Aves's poultry facilities contaminating the wetland and subsequent cross-infection between waterbirds in and around the Adeguri Marsh and Renac poultry facilities and farms. The outbreak affected several of the large commercial poultry facilities and at least 15 small local farms, as well as likely being responsible for around 250 wild waterbird deaths, including approximately 50 blue-

crowned cranes, part of a flock that had recently migrated to the wetland. A sample of dead wild birds subsequently tested positive for the influenza virus.

21. Concerned that another severe outbreak had occurred only a little over a year after the previous outbreak, Renac decided to intensify its response. Renac notified Aves that Renac planned to cull the infected domestic chickens, cull potentially infected wild waterbirds (including blue-crowned cranes), and dispense disinfectants, such as chlorine, into the Adeguri Marsh to fight the virus and help prevent its spread.
22. On 9 February 2015, the Government of Aves sent a diplomatic note to the Government of Renac that stated in part:

The Government of Aves wishes to convey its serious concern about the Government of Renac's plan to again cull wild waterbirds and to dump potentially harmful disinfectants into the Adeguri Marsh, an ecologically sensitive shared resource. Renac's planned response could harm the wetland and its biodiversity and would be in violation of international law. Among other things, Renac's planned response would violate customary international law, including the duty not to cause transboundary harm. Renac's plan also would violate the Ramsar Convention, CMS, AEWA, and CBD. In particular, such a response would violate Ramsar Articles 3 and 5 and Resolutions IX.23 and X.21; CMS Article III and Resolutions 8.27 and 9.8; AEWA Articles II and III and Resolutions 3.18 and 4.15; and CBD Articles 5 and 8.

The Government of Aves encourages the Government of Renac to review and follow the recommendations in *Ramsar Technical Report 7: Ramsar Wetland Disease Manual*, as well as *Ramsar Handbook 4: Avian influenza and wetlands* and other international publications on highly pathogenic avian influenza. This outbreak is indeed unfortunate, but it does not give Renac the right to violate international law and negatively impact the Adeguri Marsh and the rare blue-crowned crane. Renac's proposed actions constitute anything but "wise use" of the wetland. Looking ahead, Aves hopes that Renac will consider improving biosecurity at its agricultural facilities (e.g., by housing poultry indoors to prevent contact with wild birds), as well as closing or relocating the agricultural facilities near the Adeguri Marsh and other wetlands.

23. On 11 February 2015, the Government of Renac sent a diplomatic note to the Government of Aves that stated in part:

The Government of Renac understands the Government of Aves's concerns, but Renac will implement its planned response, including culling the infected poultry and wild waterbirds and dispensing disinfectants into the Adeguri Marsh to fight the highly pathogenic avian influenza outbreak.

Renac's planned response is in accordance with international law. Renac's response will not cause transboundary harm; to the contrary, Renac is acting to prevent transboundary harm by reducing the spread of this deadly virus. Renac's planned response also will not violate the Ramsar Convention, CMS, AEWA, or CBD. Preventing the spread of highly pathogenic avian influenza will promote the conservation of the Adeguri Marsh, as required by the Ramsar Convention. CMS Article III contains limiting language, such as "Parties . . . shall endeavour," and CMS Article III includes an exception for extraordinary circumstances like this situation. Renac is trying to prevent the spread of the virus and help maintain the populations of blue-crowned cranes and other waterbirds, which accords with AEWA. Furthermore, AEWA includes an exemption for "the interests of . . . public health and public safety, or for other imperative reasons of overriding public interest." To the extent that CBD even applies to this situation, CBD contains limiting language, such as "as far as possible and as appropriate." Additionally, Renac's plan aligns with the resolutions referred to by Aves, and to the extent that it does not, the referenced resolutions are non-binding anyway.

While Renac appreciates Aves's suggestion that Renac could improve biosecurity and close or relocate certain agricultural facilities, Renac is a developing country that does not have the financial means to implement such measures. Renac also would like to point out that although Aves has the financial means to improve biosecurity at the agricultural facilities in Aves near the Adeguri Marsh, Aves has failed to do so. The 2014 and 2015 outbreaks in Renac are believed to have been due to cross-infection between domestic poultry in Aves and wild waterbirds and drainage from Aves poultry farms, and if Aves had implemented more stringent biosecurity measures itself, these outbreaks in Renac likely would not have occurred in the first place.

24. On 12–14 February 2015, Renac dispensed disinfectants into the Adeguri Marsh and culled the infected domestic poultry and wild waterbirds (including approximately 100 blue-crowned cranes) as planned. Again, some of the poultry facilities and farms were temporarily closed, and the culling caused financial losses and food shortages for the subsistence farmers. Eight people in Renac were reported with highly pathogenic avian influenza infection; five recovered fully, and three died as a result of the virus. The outbreak did not spread further, and Renac has not experienced another outbreak of highly pathogenic avian influenza since February 2015.
25. Aves began monitoring the ecology of the Adeguri Marsh in February 2015 but has been unable to determine exactly what effects the disinfectants may have had on the wetland. It does not appear that there has been any significant degradation of the water quality in the Adeguri Marsh in Aves, but the average numbers of wild waterbirds, including the blue-crowned crane, at the wetland have decreased since February 2015 by a third.

26. Shortly after Renac contained the outbreak in February 2015, Renac immediately started to explore and consider inexpensive ways in which it could prevent future outbreaks of highly pathogenic avian influenza in the area. Given the number of outbreaks that had occurred near the Adeguri Marsh over the past several years, Renac began to consider delisting the wetland as a Ramsar Site to give Renac more flexibility (e.g., possibly draining areas near farms, putting up bird scarers, etc.) in terms of how it could prevent and respond to highly pathogenic avian influenza outbreaks in the area.
27. In April 2015, Renac informed the Ramsar Convention Secretariat, the Ramsar Contracting Parties, and Aves that Renac was considering whether to delist the Adeguri Marsh as a Ramsar Site. The Secretariat and several Contracting Parties, including Aves, expressed concerns, provided feedback, and urged Renac not to delist the Adeguri Marsh.
28. In late 2015, the Government of Renac conducted an extensive environmental impact assessment regarding the potential delisting of the Adeguri Marsh as a Ramsar Site. Renac involved relevant stakeholders, including Aves citizens and the Government of Aves, in the environmental impact assessment process.²
29. On 3 March 2016, Renac notified the Ramsar Convention Secretariat, the Ramsar Contracting Parties, and the Government of Aves that Renac planned to delist the Adeguri Marsh due to urgent national interests in accordance with Ramsar Article 2.5. In the notification, Renac proposed that it would immediately enhance and preserve as a protected area a rural 17,000-hectare coastal salt marsh about 300 miles from the Adeguri Marsh as compensation, in accordance with Ramsar Article 4.2, for delisting the Adeguri Marsh. The coastal salt marsh provides habitat for some wild waterbirds but not blue-crowned cranes. Renac also suggested that it would consider whether to propose the coastal salt marsh for designation as a Ramsar Site.
30. On 22 March 2016, the Government of Aves sent a diplomatic note to the Government of Renac that stated in part:

The Government of Aves urges the Government of Renac to reconsider its plan to delist the Adeguri Marsh as a Ramsar Site and as a Transboundary Ramsar Site. Aves has a significant interest in the fate of the shared wetland, and if Renac were to delist the wetland, it would negatively affect Aves's rights and interests in protecting and using the site. For years, Aves and Renac have cooperatively managed the wetland, and citizens in both countries enjoy using the wetland for birdwatching, recreational activities, livelihoods, and ecotourism.

Renac's plan to delist the site jeopardizes the wetland's future and could be disastrous for the fish and wild waterbird species that depend on it. Aves again wishes to highlight the importance of the Adeguri Marsh as a wintering site for blue-crowned cranes, whose situation is even more perilous after Renac culled many of the blue-crowned cranes in 2014 and

² Aves and Renac agree that the environmental impact assessment process was sufficient.

2015. The Adeguri Marsh's designation as a Ramsar Site helps to protect the wetland and the blue-crowned cranes and other species that use it. Renac does not have a valid reason to delist the site, and the planned delisting would violate international law, including, *inter alia*, the Ramsar Convention and the general duty not to cause transboundary harm.

31. On 7 April 2016, the Government of Renac sent a diplomatic note to the Government of Aves that stated in part:

The Government of Renac appreciates the Government of Aves's interest in the Adeguri Marsh, but Renac strongly disagrees that delisting the site would violate international law. It is Renac's sovereign right to delist the site due to Renac's urgent national interests in protecting its citizens. As Aves knows, Renac has experienced multiple severe outbreaks of highly pathogenic avian influenza in the area around the Adeguri Marsh since 2009. At least two of those outbreaks are believed to have been caused by cross-infection between domestic poultry and wild waterbirds at the Adeguri Marsh.

Renac must protect the health and safety of its citizens against future outbreaks of this deadly virus, and delisting the site will give Renac the flexibility to modify or impact the wetland as needed to prevent future outbreaks. The recent outbreaks have taken a toll on Renac's citizens and its economy, which depends largely on poultry production. Poultry facilities suffered devastating financial losses, and local farmers and other Renac citizens experienced trying food shortages during the outbreaks. This is an urgent issue—another outbreak could happen at any moment.

Renac understands the gravity of this decision and has generously offered to compensate for delisting the Adeguri Marsh by enhancing and preserving a 17,000-acre coastal salt marsh. Renac also hopes to propose that the coastal salt marsh be designated as a Ramsar Site. This more than compensates for delisting the Adeguri Marsh.

32. On 10 May 2016, the Government of Aves sent a diplomatic note to the Government of Renac that stated in part:

The Government of Aves respectfully requests that the Government of Renac reconsider. This planned delisting would violate international law, including the duty not to cause transboundary harm to Aves. Further, under the Ramsar Convention, Renac would violate the requirement of international cooperation, Renac's stated reasons do not constitute sufficient "urgent national interests," and Renac's proposed "compensation" is woefully inadequate. Renac's plan to delist the site is contrary to the conservation and wise use of the Adeguri Marsh, as required by the Ramsar Convention.

Regarding international cooperation, Renac's plan would violate Ramsar Article 5 and Resolution VII.19. Additionally, Renac's claimed urgent national interests and proposed compensation are insufficient under Ramsar Articles 2.5 and 4.2, Resolution VIII.20, and Ramsar DOC.SC25-8. Aves encourages Renac to consult *Ramsar Handbook 20: International cooperation*, as well as *Ramsar Handbook 19: Addressing change in wetland ecological character*, for guidance on its obligations with respect to international cooperation, urgent national interests, and compensation.

33. On 22 May 2016, the Government of Renac sent a diplomatic note to the Government of Aves that stated in part:

Renac's planned delisting of the Adeguri Marsh would not violate international law. Delisting the site would not cause any transboundary harm to Aves, and Renac's decision is consistent with the Ramsar Convention. Renac has fully satisfied the requirement of international cooperation; Renac notified and consulted with the Ramsar Convention Secretariat and Ramsar Contracting Parties, including Aves. Renac also conducted an extensive environmental impact assessment, and Aves citizens and government officials participated in the process.

Ramsar Articles 2.3 and 2.5 support Renac's position that it has the sovereign right to delist this site due to its urgent national interests, and the considerations provided for in Ramsar Resolution VIII.20 weigh in favor of Renac's decision to delist the site. Renac also has proposed more than adequate compensation in accordance with Ramsar Article 4.2 and Resolution VIII.20. To the extent that Aves believes Renac's decision to be contrary to any Ramsar Resolution, Technical Report, or Handbook, Renac would like to remind Aves that these are non-binding guidance documents. Renac's actions are in accordance with international law, including the Ramsar Convention, and Renac will delist the Adeguri Marsh as a Ramsar Site and as a Transboundary Ramsar Site.

34. On 4 October 2016, after following the required process and citing urgent national interests (including, *inter alia*, the necessity to protect human health, human safety, and Renac's economy from imminent outbreaks of highly pathogenic avian influenza), the Republic of Renac officially delisted the Adeguri Marsh as a Ramsar Site and as a Transboundary Ramsar Site.
35. Additional negotiations between the Federal States of Aves and the Republic of Renac failed to resolve the dispute, and the Federal States of Aves instituted proceedings against the Republic of Renac in the International Court of Justice (ICJ).

36. The Federal States of Aves seeks an order from the ICJ declaring that (1) the Republic of Renac violated international law with respect to its responses³ to the 2014 and 2015 outbreaks of highly pathogenic avian influenza, and (2) the Republic of Renac violated international law by delisting the Adeguri Marsh as a Ramsar Site and as a Transboundary Ramsar Site, and by failing to provide adequate compensation.
37. The Republic of Renac opposes the claims in paragraph 36 above and seeks an order from the ICJ declaring that (1) the Republic of Renac did not violate international law with respect to its responses to the 2014 and 2015 outbreaks of highly pathogenic avian influenza, and (2) the Republic of Renac did not violate international law by delisting the Adeguri Marsh as a Ramsar Site and as a Transboundary Ramsar Site, and the proposed compensation was adequate.

³ Aves and Renac agree that Renac's culling of domestic poultry was appropriate but disagree as to Renac's culling of wild waterbirds and dispensing disinfectants into the Adeguri Marsh.

ANNEX B

