



CONVENTION ON MIGRATORY SPECIES

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11th MEETING OF THE CONFERENCE OF THE PARTIES

Quito, Ecuador, 4-9 November 2014

Agenda Item 4

RULES OF PROCEDURE

Summary:

This document includes the Rules of Procedure as adopted by the Parties at their Tenth Meeting of the Conference of the Parties. These Rules of Procedure, which remain in effect, are included in Annex 1.

This document also includes amendments to the Rules of Procedure for Meetings of the Conference of the Parties, as proposed by the Standing Committee. These proposed amendments are included in Annex 2.

The Secretariat has identified a number of technical issues and implications arising from the amendments proposed by the Standing Committee. It has also reviewed the proposed Rules of Procedure in light of several issues that arose during the 18th Meeting of the Scientific Council. These issues, and suggested amendments to the Rules of Procedure as proposed by the Standing Committee, are included in Annex 3.

The Conference of the Parties is invited to consider these proposed amendments for adoption.

RULES OF PROCEDURE

(Prepared by the UNEP/CMS Secretariat on behalf of the Standing Committee)

1. This document includes the Rules of Procedure as adopted by the Parties at their Tenth Meeting of the Conference of the Parties. These Rules of Procedure, which remain in effect, are included in Annex 1.
2. At its 40th Meeting in November 2012, the Standing Committee established a Working Group to consider amendments to the Rules of Procedure for Meetings of the Conference of the Parties. The Working Group submitted its proposed amendments to the Standing Committee in UNEP/CMS/StC41/11/Annex II. The Standing Committee accepted these proposed amendments, which are included in Annex 2 of this document.
3. The main amendments to the Rules of Procedure proposed by the Standing Committee are the following:
 - 3.1 For the sake of consistency, the term “delegate” has been replaced throughout the text by the term “Representative”.
 - 3.2 Rule 3 concerning Credentials has been redrafted to address the discrepancies that became apparent at COP10 in Bergen.
 - 3.3 Rules 5 and 6 of the Rules of Procedure adopted at the Tenth Meeting of the Conference of the Parties on the election of officers have been merged into one rule (Rule 5).
 - 3.4 Rule 6 concerning the Bureau has extended its composition to include the members of the Standing Committee.
 - 3.5 Rule 8 on seating arrangements includes a new provision whereby the representatives of the European Union should not be seated alphabetically but adjacent to the country holding the EU Presidency.
 - 3.6 Rule 9 regarding the right to speak has been redrafted and includes provisions for the precedence of speakers, the order normally being: Party Representatives; non-Party States, intergovernmental organizations and nongovernmental organizations unless the Presiding Officer judges an exception to be appropriate. It includes the provision previously contained in a separate rule concerning arrangements for debate (Rule 14 as adopted at COP10).
 - 3.7 Rules 11 and 12 of the Rules of Procedure adopted at COP10 on deadlines for submission of proposals for amendment of the Convention and of Resolutions and Recommendations have been redrafted as proposed Rules 21 and 22. The proposed rules include new provisions regarding the right of proponents of amendments to the Convention or its Appendices to amend or withdraw their proposals. They also increase the deadline for submission of Resolutions or Recommendations from 60 to 150 days.
 - 3.8 In Rule 13 on methods of voting, the provision concerning procedures in the event of a tied vote has been deleted.

3.9 Rule 14 includes the exhortation that Parties make every effort to reach agreement by consensus.

3.10 Rule 18 contains a new paragraph concerning the limited availability of simultaneous translation at committees and working groups (other than the Committee of the Whole).

4. The Secretariat would like to remind delegates of the provisions of Rule 15(2) of the Rules of Procedure adopted at COP10 and Rule 13(2) of the proposed amendments to the Rules of Procedure relating to non-payment of subscriptions by Parties that are three or more years behind in paying their subscriptions. These Parties shall not be eligible to vote, except under exceptional and unavoidable circumstances.

5. In addition to the invitation letters sent earlier to all Parties informing them about COP11, the Secretariat has sent individual letters to Parties with unpaid subscriptions of three or more years, as well as reminders about Rule 15(2). The exact amounts of arrears and their breakdown were communicated by the Secretariat. Since then, a number of Parties have paid outstanding subscriptions. The chart on page 4 of this document provides further details concerning those Parties in arrears of three or more years.

6. In addition, the Secretariat has reviewed the Standing Committee's proposed amendments to Rules of Procedure. It has identified a number of technical issues. Some of these issues involve minor corrections to grammar or spacing. Other issues are more substantive, such as the voting majority required for adopting amendments to the Rules of Procedure. The Secretariat has attached an explanation of these issues with proposed revisions to the Rules of Procedure in Annex 3.

7. The Secretariat has also reviewed the proposed amendments to the Rules of Procedure in light of several issues and implications that arose during the 18th Meeting of the Scientific Council. These issues relate to concerns over the ability of the Secretariat to schedule meetings of the Convention's subsidiary bodies and meet the deadlines for production of documents. Another issue relates to changes to the practice in CMS of allowing proponents of proposals to include a species in Appendix II to amend the proposal so as to include the species in Appendix I. These concerns are also explained in Annex 3.

8. If any amendments are adopted at the 11th Meeting of the Conference of the Parties, they would apply from the end of the 11th Meeting.

Action requested:

The Conference of the Parties is invited to:

- (a) Consider for adoption the amended Rules of Procedure, as proposed by the Standing Committee, included in Annex 2.
- (b) Consider for adoption the additional amendments to the Rules of Procedure as proposed by the Secretariat, included in Annex 3.

List of Parties with arrears of more than 3 years to the CMS Trust Fund

25.07.2014

	Parties	UNPAID PLEDGES IN EURO																		Number of Years in arrears	
		1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013		Total
1	Dem. Rep. Congo	95	237	225	295	225	196	238	109	122	138	123	130	165	119	133	161	130	138	2.978	18
2	Guinea Bissau	180	237	225	295	225	28	34	27	31	35	41	43	55	40	44	54	43	46	1.684	18
3	Niger	138	237	225	295	225	56	68	27	31	35	41	43	55	40	44	54	87	92	1.793	18
4	Somalia	180	237	225	295	225	28	34	27	31	35	41	43	55	40	44	54	43	46	1.684	18
5	Chad				171	225	28	34	27	31	35	41	43	55	40	44	54	87	92	1.007	15
6	Sao Tome Principe						3	33	27	31	35	41	43	55	40	44	54	43	46	494	13
7	Guinea								82	91	104	123	130	165	40	44	54	87	92	1.011	11
8	Libya								1.823	2.037	2.309	5.403	5.722	7.267	2.461	2.751	3.320	5.596	5.947	44.636	11
9	Djibouti										35	41	43	55	40	44	54	43	46	401	9
10	Mauritania										11	41	43	55	40	44	54	43	46	377	9
11	Cook Islands											17	43	55	40	44	54	43	46	342	8
12	Cuba													2.168	2.143	2.396	2.892	3.080	3.273	15.952	6
13	Gabon													206	317	355	428	607	645	2.558	6
14	Palau													50	40	44	54	43	46	277	6
15	Uzbekistan								257	334		573				355	434	461		2.414	6
16	Tunisia								817			826	1.207	1.762		94				4.706	5
17	Equatorial Guinea															37	107	347	369	860	4
18	The FYR of Macedonia															222	268	304	323	1.117	4
19	Iran															289	9.639	10.107	10.742	30.777	4
20	Liberia															30	54	43	46	173	4
	Total	593	949	901	1.351	1.126	338	441	3.224	2.736	2.770	7.352	7.533	12.223	5.440	7.102	17.843	21.237	22.081	115.241	

Annex 1**RULES OF PROCEDURE
FOR THE TENTH MEETING OF THE CONFERENCE OF THE PARTIES**

(as adopted by COP10)

Part IDelegates, Observers, SecretariatRule 1 – Delegates

(1) A Party to the Convention (hereafter referred to as a "Party")¹ shall be entitled to be represented at the meeting by a delegation consisting of a Representative and such Alternative Representatives and Advisers as the Party may deem necessary.

(2) Without prejudice to the provisions of Rule 14, paragraph 2, the Representative of a Party shall exercise the voting rights of that Party. In their absence, an Alternative Representative of that Party shall act in their place over the full range of their functions.

(3) Logistic and other limitations may require that no more than four delegates of any Party be present at a plenary session and sessions of the Committee of the Whole established under Rule 23. The Secretariat shall notify Parties, observers and other participants of any such limitations in advance of the meeting.

Rule 2 – Observers

(1) The United Nations, its Specialized Agencies, the International Atomic Energy Agency and any State not a Party to the Convention may be represented at the meeting by observers who shall have the right to participate but not to vote².

(2) Any body or agency technically qualified in protection, conservation and management of migratory species which is either:

- (a) an international agency or body, either governmental or non-governmental, or a national governmental agency or body; or
- (b) a national non-governmental agency or body which has been approved for this purpose by the State in which it is located;

and which has informed the Secretariat of the Convention of its desire to be represented at the meeting by observers, shall be permitted to be represented unless at least one-third of the Parties present object. Once admitted, these observers shall have the right to participate but not to vote³.

¹ See Articles I, paragraph 1 (k), and XVIII of the Convention. A Party is a State which has deposited with the Government of the Federal Republic of Germany its instrument of ratification, acceptance, approval or accession by 31 August 2011.

² See Convention, Article VII, paragraph 8.

³ See Convention, Article VII, paragraph 9.

(3) Bodies and agencies desiring to be represented at the meeting by observers shall submit the names of their representatives (and in the case of bodies and agencies referred to in paragraph (2) (b) of this Rule, evidence of the approval of the State in which they are located) to the Secretariat of the Convention prior to the opening of the meeting.

(4) Logistic and other limitations may require that no more than two observers from any non-Party State, body or agency be present at a plenary session or a session of the Committee of the Whole of the meeting. The Secretariat shall notify Parties, observers and other participants of any such limitations in advance of the meeting.

(5) The standard participation fee for all non-governmental organisations is fixed by the Standing Committee and announced in the letter of invitation. Greater contributions are appreciated.

Rule 3 - Credentials

(1) The Representative or any Alternative Representative of a Party shall, before exercising the voting rights of the Party, have been granted powers by, or on behalf of, a proper authority, such as the Head of State, the Head of Government or the Minister of Foreign Affairs or the head of an executive body of any regional economic organisation or as mentioned in footnote 1 above enabling them to represent the Party at the meeting and to vote.

(2) Such credentials shall be submitted to the Secretariat of the Convention.

(3) A Credentials Committee of not more than five Representatives shall examine the credentials and shall report thereon to the meeting. Pending a decision on their credentials, delegates may participate provisionally in the meeting.

Rule 4 - Secretariat

The Secretariat of the Convention shall service and act as secretariat for the meeting.⁴

Part II

Officers

Rule 5 - Chairpersons

(1) The Chairperson of the Standing Committee shall act as temporary Chairperson of the meeting until the meeting elects a Chairperson in accordance with Rule 5, paragraph 2.

(2) The Conference in its inaugural session shall elect from among the representatives of the Parties a Chairperson and a Chairperson of the Committee of the Whole. The latter shall also serve as Vice-Chairperson of the Conference.

(3) The Conference shall also elect, from among the representatives of the Parties, a Vice-Chairperson of the Committee of the Whole. If the Chairperson of the Committee of the Whole is absent or is unable to discharge the duties of Chairperson, the Vice-Chairperson shall deputize.

⁴ See Convention, Article IX, paragraph 4 (a).

Rule 6 - Presiding Officer

- (1) The Chairperson shall preside at all plenary sessions of the meeting.
- (2) If the Chairperson is absent or is unable to discharge the duties of Presiding Officer, the Chairperson of the Committee of the Whole shall deputize.
- (3) The Presiding Officer shall not vote but may designate an Alternative Representative from the same delegation.

Rule 7 - Bureau

- (1) The Presiding Officer, the Chairperson and Vice-Chairperson of the Committee of the Whole, and the Chairpersons of the Scientific Council and the Standing Committee, and the Secretariat shall constitute the Bureau of the Conference with the general duty of forwarding the business of the meeting including, where appropriate, altering the timetable and structure of the meeting and specifying time limits for debates.
- (2) The Presiding Officer shall preside over the Bureau.

Part III

Rules of Order and DebateRule 8 - Powers of Presiding Officer

- (1) In addition to exercising powers conferred elsewhere in these Rules, the Presiding Officer shall at plenary sessions of the meeting:
 - (a) open and close the session;
 - (b) direct the discussions;
 - (c) ensure the observance of these Rules;
 - (d) accord the right to speak;
 - (e) put questions to the vote and announce decisions;
 - (f) rule on points of order; and
 - (g) subject to these Rules, have complete control of the proceedings of the meeting and the maintenance of order.
- (2) The Presiding Officer may, in the course of discussion at a plenary session of the meeting, propose to the Conference:
 - (a) time limits for speakers;
 - (b) limitation of the number of times the members of a delegation or the observers from a State not a Party, body or agency may speak on any question;
 - (c) the closure of the list of speakers;
 - (d) the adjournment or the closure of the debate on the particular subject or question under discussion; and
 - (e) the suspensions or adjournment of the session.

Rule 9 - Seating, Quorum

- (1) Delegations shall be seated in accordance with the alphabetical order of the names of the Parties in the English language.
- (2) A quorum for plenary sessions and sessions of the Committee of the Whole of the meeting shall consist of one-half of the Parties having delegations at the meeting. No plenary session or session of the Committee of the Whole shall take place in the absence of a quorum.

Rule 10 - Right to Speak

- (1) The Presiding Officer shall call upon speakers in the order in which they signify their desire to speak, with precedence given to the delegates.
- (2) A delegate or observer may speak only if called upon by the Presiding Officer, who may call a speaker to order if the remarks are not relevant to the subject under discussion.
- (3) A speaker shall not be interrupted except on a point of order. The speaker may, however, with the permission of the Presiding Officer, give way during their speech to allow any delegate or observer to request elucidation on a particular point in that speech.
- (4) The Chairperson of a committee or working group may be accorded precedence for the purpose of explaining the conclusions arrived at by that committee or working group.

Rule 11 - Submission of Proposals for Amendment of the Convention and its Appendices

- (1) As a general rule proposals shall, subject to any provisions of the Convention itself, have been communicated at least 150 days before the meeting to the Secretariat, which shall have circulated them to all Parties in the working languages of the meeting. Proposals arising out of discussion of the foregoing may be discussed at any plenary session of the meeting provided copies of them have been circulated to all delegations not later than the day preceding the session. The Presiding Officer may also permit the discussion and consideration of urgent proposals arising after the period prescribed above in the first sentence of this Rule provided that they relate to proposed amendments which have been circulated in accordance with the second sentence of this Rule and that their consideration will not unduly inhibit the proceedings of the Conference. The Presiding Officer may, in addition, permit the discussion of motions as to procedures, even though such motions have not been circulated previously.
- (2) After a proposal has been adopted or rejected by the Conference it shall not be reconsidered unless a two-thirds majority of the Representatives participating in the meeting so decide. Permission to speak on a motion to reconsider a proposal shall be accorded only to a delegate from each of two Parties wishing to speak against the motion, after which the motion shall immediately be put to the vote.

Rule 12 - Submission of Resolutions or Recommendations

As a general rule Resolutions or Recommendations shall have been communicated at least 60 days before the meeting to the Secretariat who shall circulate them to all Parties in the working languages in the meeting. The remaining provisions of Rule 11 shall also apply *mutatis mutandis* to the treatment of Resolutions and Recommendations.

Rule 13 - Procedural Motions

- (1) During the discussion of any matter, a delegate may rise to make a point of order, and the point of order shall be immediately decided by the Presiding Officer in accordance with these Rules. A delegate may appeal against any ruling of the Presiding Officer. The appeal shall immediately be put to the vote, and the Presiding Officer's ruling shall stand unless a majority of the Representatives present and voting otherwise decide. A delegate rising to a point of order may not speak on the substance of the matter under discussion.
- (2) The following motions shall have precedence in the following order over all other proposals or motions before the Conference:
 - (a) to suspend the session;
 - (b) to adjourn the session;
 - (c) to adjourn the debate on the particular subject or question under discussion; and
 - (d) to close the debate on the particular subject or question under discussion.

Rule 14 - Arrangements for Debate

- (1) The Conference may, on a proposal by the Presiding Officer or by a delegate, limit the time to be allowed to each speaker and the number of times delegates or observers may speak on any question. When the debate is subject to such limits, and a speaker has spoken for the allotted time, the Presiding Officer shall call the speaker to order without delay.
- (2) During the course of a debate the Presiding Officer may announce the list of speakers and, with the consent of the meeting, declare the list closed. The Presiding Officer may, however, accord the right of reply to any delegate if a speech delivered after the list has been declared closed makes this desirable.
- (3) During the discussion of any matter, a delegate may move the adjournment of the debate on the particular subject or question under discussion. In addition to the proposer of the motion, a delegate may speak in favour of, and a delegate of each of two Parties may speak against the motion, after which the motion shall immediately be put to the vote. The Presiding Officer may limit the time to be allowed to speakers under this Rule.
- (4) A delegate may at any time move the closure of the debate on the particular subject or question under discussion, whether or not any other delegate has signified the wish to speak. Permission to speak on the motion for closure of the debate shall be accorded only to a delegate from each of two Parties wishing to speak against the motion, after which the motion shall immediately be put to the vote. The Presiding Officer may limit the time to be allowed to speakers under this Rule.
- (5) During the discussion of any matter a delegate may move the suspension or the adjournment of the session. Such motions shall not be debated but shall immediately be put to the vote. The Presiding Officer may limit the time allowed to the speaker moving the suspension or adjournment of the session.
- (6) Whenever the Conference considers a recommendation originating from the Committee of the Whole, where the discussion of the recommendation has been conducted with interpretation in

the three working languages of the session, there shall be no further discussion on the recommendation, and it shall immediately be decided upon, subject to the second paragraph.

(7) However, any delegate, if seconded by another delegate of another Party, may present a motion for the opening of debate on any recommendation. Permission to speak on the motion for opening the debate shall be granted only to the delegate presenting the motion and the secondary, and to a delegate of each of two Parties wishing to speak against, after which the motion shall immediately be put to the vote. A motion to open the debate shall be granted if, on a show of hands, one third of the voting Representatives support the motion. While speaking on a motion to open the debate a delegate may not speak on the substance of the recommendation itself.

Part IV

Voting

Rule 15 - Methods of Voting

(1) Without prejudice to the provisions of Rule 1, paragraph 2, each representative duly accredited according to Rule 3 shall have one vote. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with the number of votes equal to the number of their member States which are Parties. In such case, the member States of such organizations shall not exercise their right individually⁵.

(2) Representatives of Parties which are three or more years behind in paying their subscriptions on the date of the opening session of the meeting of the Conference of the Parties shall not be eligible to vote. However, the Conference of the Parties may allow such Parties to exercise their right to vote if it is satisfied that the delay in payment arises from exceptional and unavoidable circumstances, and shall receive advice in this regard from the Standing Committee.

(3) The Conference shall normally vote by show of hands, but any Representative may request a roll-call vote. The roll-call vote shall be taken in the seating order of the delegations. The Presiding Officer may require a roll-call vote on the advice of the tellers where they are in doubt as to the actual number of votes cast and this is likely to be critical to the outcome.

(4) All votes in respect of the election of officers or of prospective host countries shall be by secret ballot and, although it shall not normally be used, any Representative may request a secret ballot for other matters. If seconded, the question of whether a secret ballot should be held shall immediately be voted upon. The motion for a secret ballot may not be conducted by secret ballot.

(5) Voting by roll-call or by secret ballot shall be expressed by "Yes", "No" or "Abstain". Only affirmative and negative votes shall be counted in calculating the number of votes cast.

(6) If votes are equal, the motion or amendment shall not be carried.

(7) The Presiding Officer shall be responsible for the counting of the votes and shall announce the result. The Presiding Officer may be assisted by tellers appointed by the Secretariat.

⁵ See Convention, Article 1, paragraph 2.

(8) After the Presiding Officer has announced the beginning of the vote, it shall not be interrupted except by a Representative on a point of order in connection with the actual conduct of the voting. The Presiding Officer may permit Representatives to explain their votes either before or after the voting, and may limit the time to be allowed for such explanations.

Rule 16 - Majority

Except where otherwise provided for under the provisions of the Convention, these Rules or the Terms of Reference for the Administration of the Trust Fund, all votes on procedural matters relating to the forwarding of the business of the meeting shall be decided by a simple majority of votes cast, while all other decisions shall be taken by a two-thirds majority of votes cast.

Rule 17 - Procedure for Voting on Motions and Amendments

(1) A delegate may move that parts of a proposal or of an amendment be voted on separately. If objection is made to the request for such division, the motion for division shall be voted upon first. Permission to speak on the motion for division shall be accorded only to a delegate from each of two Parties wishing to speak in favour of and a delegate from each of two Parties wishing to speak against the motion. If the motion for division is carried, those parts of the proposal or amendment which are subsequently approved shall be put to the vote as a whole. If all operative parts of the proposal of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

(2) When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Conference shall vote first on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on until all amendments have been put to the vote. When, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes or revises part of that proposal.

(3) If two or more proposals relate to the same question, the Conference shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Conference may, after voting on a proposal, decide whether to vote on the next proposal.

Rule 18 - Elections

(1) If in an election to fill one place no candidate obtains the required majority in the first ballot, a second ballot shall be taken restricted to the two candidates obtaining the largest number of votes. If in the second ballot the votes are equally divided, the Presiding Officer shall decide between the candidates by drawing lots.

(2) If in the first ballot there is a tie amongst candidates obtaining the second largest number of votes, a special ballot shall be held amongst them to reduce the number of candidates to two.

(3) In the case of tie amongst three or more candidates obtaining the largest number of votes in the first ballot, a special ballot shall be held amongst them to reduce the number of candidates to two. If a tie then results amongst two or more candidates, the Presiding Officer shall reduce the number to two by drawing lots, and a further ballot shall be held in accordance with paragraph 1 of this Rule.

Part V

Languages and Records

Rule 19 - Official and Working Languages

- (1) English, French and Spanish shall be the official and working languages of the meeting.
- (2) Speeches made in any of the working languages shall be interpreted into the other working languages.
- (3) The official documents of the meeting shall be distributed in the working languages.

Rule 20 - Other Languages

- (1) A delegate may speak in a language other than a working language. They shall be responsible for providing interpretation into a working language, and interpretation by the Secretariat into the other working languages may be based upon that interpretation.
- (2) Any document submitted to the Secretariat in any language other than a working language shall be accompanied by a translation into one of the working languages.

Rule 21 - Summary Records

- (1) Summary records of the meeting shall be circulated to all Parties in the official languages of the meeting.
- (2) Committees and working groups shall decide upon the form in which their records shall be prepared.

Part VI

Publicity of Debates

Rule 22 - Plenary Sessions

All plenary sessions of the meeting shall be open to the public, except that in exceptional circumstances the Conference may decide, by a two-thirds majority of Representatives present and voting, that any single session be closed to the public.

Rule 23 - Sessions of Committees and Working Groups

As a general rule, sessions of committees and working groups other than the Committee of the Whole shall be limited to the delegates and to observers invited by the Chairpersons of the committees or working groups.

Part VII

Committees and Working Groups

Rule 24 - Establishment of Committees and Working Groups

- (1) In addition to the Credentials Committee, the Conference of the Parties shall establish a committee to forward the business of the meeting. This committee shall be called the Committee of the Whole. It shall be responsible for making recommendations to the Conference on any matter of a scientific or technical nature, including proposals to amend the Appendices of the Convention, as well as recommendations concerning financial, administrative and any other matter to be decided upon by the Conference.
- (2) The Conference and the Committee of the Whole may establish such working groups as may be necessary to enable them to carry out their functions. They shall define the terms of reference and composition of each working group, the size of which shall be limited according to the number of places available in assembly rooms.
- (3) The Credentials Committee and each working group shall elect their own officers.

Rule 25 - Procedure

Insofar as they are applicable, these Rules shall apply *mutatis mutandis* to the proceedings of committees and working groups; however, with the exception of the Committee of the Whole, interpretation may not be provided in sessions of the committees and working groups.

Part VIII

Amendment

Rule 26

These rules may be amended as required by decision of the Conference.

**CONFERENCE OF THE PARTIES TO THE CONVENTION
ON THE CONSERVATION OF MIGRATORY SPECIES OF WILD ANIMALS**

Amendments to the Rules of Procedure Proposed by the Standing committee

Part I: Representatives, Observers, Secretariat

Rule 1 - Representatives

- (1) A Party to the Convention (hereafter referred to as a "Party") shall be entitled to be represented at the meeting by a delegation consisting of a Representative and such Alternative Representatives and Advisers as the Party may deem necessary.
- (2) Without prejudice to the provisions of Rule 13, paragraph 2, the Representative of a Party shall exercise the voting rights of that Party. In their absence, an Alternative Representative of that Party shall act in their place over the full range of their functions.
- (3) Logistics and other limitations may require that no more than four Representatives of any Party be present at a plenary session and sessions of the Committee of the Whole established under Rule 17. The Secretariat shall notify Parties of any such limitations in advance of the meeting.

Rule 2 - Observers

- (1) The United Nations, its Specialized Agencies, the International Atomic Energy Agency and any State not a Party to the Convention may be represented at the meeting by observers who shall have the right to participate but not to vote.
- (2) Any body or agency technically qualified in protection, conservation and management of migratory species, which is either:
 - (a) an international agency or body, either governmental or non-governmental, or a national governmental agency or body; or
 - (b) a national non-governmental agency or body that has been approved for this purpose by the State in which it is located and that has informed the Secretariat of the Convention of its desire to be represented at the meeting by observers, shall be permitted to be represented unless at least one-third of the Parties present object. Once admitted, these observers shall have the right to participate but not to vote.
- (3) Bodies and agencies desiring to be represented at the meeting by observers shall submit the names of their representatives (and in the case of bodies and agencies referred to in paragraph (2) (b) of this Rule, evidence of the approval of the State in which they are located) to the Secretariat of the Convention prior to the opening of the meeting.

(4) Logistics and other limitations may require that no more than two observers from any non-Party State, body or agency be present at a plenary session or a session of the Committee of the Whole of the meeting. The Secretariat shall notify observers and other participants of any such limitations in advance of the meeting.

(5) The standard participation fee for all non-governmental organizations is fixed by the Standing Committee and announced in the letter of invitation.

Rule 3 - Credentials

(1) Before exercising voting rights of the Party, the Representative or any Alternative Representative of a Party shall have been granted powers by, or on behalf of, a proper authority, that is to say: the Head of State, the Head of Government, or the Minister of Foreign Affairs or the head of an executive body of any regional economic organization enabling them to represent the Party at the meeting.

(2) All credentials shall be submitted to the Secretariat of the Convention in their original form, together with a translation into English, French or Spanish if they are not in one of these languages.

(3) A Credentials Committee of not more than five Representatives from at least three regions shall examine submitted credentials and shall report thereon to the meeting.

(4) Pending a decision on their credentials, representatives may participate provisionally in the meeting, but not vote. If their Credentials are not accepted, representatives of a Party are able to participate in the meeting but not vote.

(5) Representatives are encouraged to submit their credentials prior to the meeting to allow efficient processing by the Secretariat and Credentials Committee.

Rule 4 - Secretariat

The Secretariat of the Convention shall service and act as secretariat for the meeting and the Bureau of the Conference of the Parties.

Part II: Officers

Rule 5 - Election and Duties of Chair

(1) The Chair of the Standing Committee shall act as temporary Chair of the meeting until the meeting elects a Chair in accordance with Rule 5, paragraph 2 (a).

- (2) The Conference in its first session shall elect from among the representatives of the Parties:
- (a) a Chair of the Conference
 - (b) a Chair of the Committee of the Whole, who shall also serve as Vice-Chair of the Conference
 - (c) a Vice-Chair of the Committee of the Whole

(3) The Chair of the Conference and the Chair of the Committee of the Whole shall preside over sessions of the Plenary and the Committee of the Whole respectively in the capacity of Presiding Officer and shall have no voting power.

(4) If the Chair of the Conference or the Chair of the Committee of the Whole is absent or is unable to discharge his/her duties, the respective Vice-Chair shall deputize for him/her as Presiding Officer.

Rule 6 - Bureau

(1) The Officers listed in Rule 5 (2) together with the Chairs of the Scientific Council and the Standing Committee, and, members of the Standing Committee shall constitute the Bureau of the Conference with the general duty of ensuring the effective enforcement of the Rules of Procedure and forwarding the business of the meeting including, where appropriate, altering the timetable and structure of the meeting and specifying time limits for debates.

(2) The Chair of the Conference shall preside over the Bureau.

(3) If the Chair of the Conference is absent or is unable to discharge his/her duties, the Chair of the Committee of the Whole shall deputize for him/her. If the Chair of the Conference and the Chair of the Committee of the Whole are both unavailable, the Vice-Chair of the Committee of the Whole shall deputize for him/her.

Part III: Rules of Order and Debate

Rule 7 - Powers of the Presiding Officer

(1) In addition to exercising powers conferred elsewhere in these Rules, the Presiding Officer shall at plenary sessions of the meeting:

- (a) open and close the session;
- (b) direct the discussion;
- (c) ensure the observance of these Rules;
- (d) accord the right to speak;
- (e) put questions to a vote and announce decisions;
- (f) rule on points of order; and
- (g) subject to these Rules, have complete control of the proceedings and the maintenance of order.

(2) The Presiding Officer may, in the course of discussion at a plenary session of the meeting, propose to the Conference:

- (a) time limits for speakers;
- (b) limitation of the number of times the members of a delegation or the observers from a State not a Party, body or agency may speak on any question;
- (c) the closure of the list of speakers;
- (d) the adjournment or the closure of the debate on the particular subject or question under discussion; and
- (e) the suspensions or adjournment of the session.

Rule 8 - Seating and Quorum for the Plenary and Committee of the Whole

- (1) Delegations shall be seated in accordance with the alphabetical order of the names of the Parties in the English language except that the European Union shall be seated next to the State holding the rotating Presidency of the European Union.
- (2) A quorum for plenary sessions and sessions of the Committee of the Whole of the meeting shall consist of one-half of the Parties having delegations at the meeting. No plenary session or session of the Committee of the Whole shall take place in the absence of a quorum.

Rule 9 - Right to Speak

- (1) The right to speak shall extend to Party Representatives, Alternative Representatives and Advisers whose credentials are under consideration or have been accepted, and to observers who have been admitted to the meeting in accordance with Rule 2, as well as to the Secretariat.
- (2) The Presiding Officer shall call upon speakers in the order in which they signify their desire to speak, with precedence given to Party Representatives. Amongst observers, precedence shall be given to non-Party States, intergovernmental organizations and non-governmental organizations, in this order. However, the Presiding Officer may depart from this general rule and call on speakers in the order that the Presiding Officer judges appropriate to ensure the timely progress of the debate.
- (3) A Representative or observer may speak only if called upon by the Presiding Officer, who may call a speaker to order if the remarks are not relevant to the subject under discussion.
- (4) A speaker shall not be interrupted except on a point of order. The speaker may, however, with the permission of the Presiding Officer, give way during their speech to allow any Representative or observer to request elucidation on a particular point in that speech.
- (5) The Chair of a committee or working group may be accorded precedence for the purpose of explaining the conclusions arrived at by that committee or working group.
- (6) The Conference and Committee of the Whole may, on a proposal by the Presiding Officer or by a Representative, limit the time to be allowed to each speaker and the number of times the members of a delegation or the observers either from a State not a Party, or from an agency or body may speak on any question. When the debate is subject to such limits, and a speaker has spoken for the speakers allotted time, the Presiding Officer shall call the speaker to order without delay.
- (7) During the course of a debate the Presiding Officer may announce the list of speakers and, with the consent of the Conference or Committee, declare the list closed. The Presiding Officer may, however, accord the right of reply to any Representative or observer if an intervention delivered after the Presiding Officer has declared the list closed makes this desirable.

Rule 10 - Procedural Motions

- (1) During the discussion of any matter, a Representative may rise to make a point of order, and the point of order shall be immediately decided by the Presiding Officer. A Representative may appeal against the ruling of the Presiding Officer. The appeal shall be immediately put to the vote, and the Presiding Officer's ruling shall stand unless a simple majority of the Representatives

present and voting otherwise decides. In such instances, a Representative rising to a point of order may not speak on the substance of the matter under discussion.

(2) The following motions shall have precedence in the following order over all other proposals or motions before the Conference:

- (a) to suspend the session;
- (b) to adjourn the session;
- (c) to adjourn the debate on the particular subject or question under discussion; and
- (d) to close the debate on the particular subject or question under discussion.

(3) In addition to the proposer of the motion in (2) above, a Representative may speak in favour of the motion and a Representative of each of two Parties may speak against it, after which the motion shall be immediately put to a vote. The Presiding Officer may limit the time to be allowed to the speakers.

Rule 11 - Motions to open and reopen debates in Conference sessions

(1) Whenever the Conference considers a recommendation originating from the Committee of the Whole, where the discussion of the recommendation has been conducted with interpretation in the three working languages, there shall be no further discussion on the recommendation, and it shall immediately be decided upon, subject to the second paragraph.

(2) However, any Representative, if seconded by a Representative of another Party, may present a motion for the opening of debate on any recommendation. Permission to speak on the motion for opening the debate shall be granted only to the Representative presenting the motion and a seconder, and to a Representative of each of two Parties wishing to speak against, after which the motion shall immediately be put to the vote. A motion to open the debate shall be granted if, on a show of hands, one-third of the Representatives present and voting support the motion. While speaking on a motion to open the debate a Representative may not speak on the substance of the recommendation itself.

Rule 12 - Publicity of Debates

(1) All plenary sessions of the meeting shall be open to the public, except that in exceptional circumstances the Conference may decide, by a two-thirds majority of Representatives present and voting, that any single session be closed to the public.

(2) As a general rule, sessions of committees and working groups other than the Committee of the Whole shall be limited to Representatives and observers invited by the Chairs of the committees or working groups.

Part IV: Voting

Rule 13 - Methods of Voting

(1) Without prejudice to the provisions of Rule 1, paragraph 2, each Representative duly accredited according to Rule 3 shall have one vote. Regional economic integration organizations,

in matters within their competence, shall exercise their right to vote with the number of votes equal to the number of their member States that are Parties. In such case, the member States of such organizations shall not exercise their right individually.

(2) Representatives of Parties that are three or more years in arrears in the payment of its assessed contributions on the date of the opening session of the meeting of the Conference of the Parties shall not be eligible to vote. However, the Conference of the Parties may allow such Parties to exercise their right to vote if it is satisfied that the delay in payment arises from exceptional and unavoidable circumstances, and shall receive advice in this regard from the Standing Committee.

(3) The Conference shall normally vote by show of hands, but any Representative may request a roll-call vote. The roll-call vote shall be taken in the seating order of the delegations. The Presiding Officer may require a roll-call vote on the advice of the tellers where they are in doubt as to the actual number of votes cast and this is likely to be critical to the outcome.

(4) All votes in respect of the election of Officers or of prospective host countries shall be by secret ballot and, although it shall not normally be used, any Representative may request a secret ballot for other matters. If seconded, the question of whether a secret ballot should be held shall immediately be voted upon and decided by simple majority. The motion for a secret ballot may not be conducted by secret ballot.

(5) Voting by roll-call or by secret ballot shall be expressed by "Yes", "No" or "Abstain". Only affirmative and negative votes shall be counted in calculating the number of votes cast.

(6) The Presiding Officer shall be responsible for the counting of the votes and shall announce the result. The Presiding Officer may be assisted by tellers appointed by the Secretariat.

(7) After the Presiding Officer has announced the beginning of the vote, it shall not be interrupted except by a Representative on a point of order in connection with the actual conduct of the voting. The Presiding Officer may permit Representatives to explain their votes either before or after the voting, and may limit the time to be allowed for such explanations.

Rule 14 - Majority

(1) The Parties shall make every effort to reach agreement on all matters by consensus.

(2) Except where otherwise provided for under the provisions of the Convention, these Rules or the Terms of Reference for the Administration of the Trust Fund, all votes on procedural matters relating to the forwarding of the business of the meeting shall be decided by a simple majority of votes cast (in the event of a tie, the decision is considered rejected), while all other decisions shall be taken by a two-thirds majority of votes cast.

Rule 15 - Procedure for Voting on Motions and Amendments

(1) A Representative may move that parts of a proposal or of an amendment be voted on separately. If objection is made to the request for such division, the motion for division shall be voted upon first. Permission to speak on the motion for division shall be accorded only to a Representative from each of two Parties wishing to speak in favour of and a Representative from

each of two Parties wishing to speak against the motion. If the motion for division is carried, those parts of the proposal or amendment that are subsequently approved shall be put to the vote as a whole. If all operative parts of the proposal or the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

(2) When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Conference shall vote first on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on until all amendments have been put to the vote. When, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes or revises part of that proposal.

(3) If two or more proposals relate to the same question, the Conference shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Conference may, after voting on a proposal, decide whether to vote on the next proposal.

(4) After a proposal has been adopted or rejected by the Conference it shall not be reconsidered unless a two-thirds majority of the Representatives participating in the meeting so decide. Permission to speak on a motion to reconsider a proposal shall be accorded only to a Representative from each of two Parties wishing to speak against the motion, after which the motion shall immediately be put to the vote.

Rule 16 - Elections

(1) If in an election to fill one place no candidate obtains the required majority in the first ballot, a second ballot shall be taken restricted to the two candidates obtaining the largest number of votes. If in the second ballot the votes are equally divided, the Presiding Officer shall decide between the candidates by drawing lots.

(2) If in the first ballot there is a tie amongst candidates obtaining the second largest number of votes, a special ballot shall be held amongst them to reduce the number of candidates to two.

(3) In the case of tie amongst three or more candidates obtaining the largest number of votes in the first ballot, a special ballot shall be held amongst them to reduce the number of candidates to two. If a tie then results amongst two or more candidates, the Presiding Officer shall reduce the number to two by drawing lots, and a further ballot shall be held in accordance with paragraph 1 of this Rule.

Part V: Committees and working groups

Rule 17 - Establishment of Committees and Working Groups

(1) In addition to the Credentials Committee, the Conference of the Parties shall establish a committee to forward the business of the meeting. This committee shall be called the Committee of the Whole. It shall be responsible for making recommendations to the Conference on any matter of a scientific or technical nature, including proposals to amend the Appendices of the

Convention, as well as recommendations concerning financial, administrative and any other matter to be decided upon by the Conference.

(2) The Conference and the Committee of the Whole may establish such working groups as may be necessary to enable them to carry out their functions. They shall define the terms of reference and composition of each working group, the size of which shall be limited according to the number of places available in assembly rooms.

(3) The Credentials Committee and each working group shall elect their own officers.

Part VI: Languages and Records

Rule 18 - Official and Working Languages

(1) English, French and Spanish shall be the official and working languages of the meeting.

(2) Speeches made in any of the working languages shall be simultaneously interpreted into the other working languages.

(3) The official documents of the meeting shall be distributed in the working languages.

(4) With the exception of the Committee of the Whole, where simultaneous interpretation will be provided, simultaneous interpretation in sessions of other committees and working groups will not normally be available.

Rule 19 - Other Languages

(1) A Representative may speak in a language other than a working language. They shall be responsible for providing interpretation into a working language, and interpretation by the Secretariat into the other working languages may be based upon that interpretation.

(2) Any document submitted to the Secretariat in any language other than a working language shall be accompanied by a translation into one of the working languages.

Rule 20 - Summary Records

(1) Summary records of the meeting shall be circulated to all Parties in the official languages of the meeting.

(2) Committees and working groups shall decide upon the form in which their records shall be prepared.

Part VII: Submission of documents

Rule 21- Submission of Proposals for Amendment of the Convention and its Appendices

(1) As a general rule, proposals for amendment of the Convention and its Appendices shall, subject to any provisions of the Convention itself, have been communicated at least 150 days

before the meeting to the Secretariat, which shall circulate them to all Parties in the working languages of the meeting as soon as possible after receipt.

(2) The Representative of the Party that has submitted a proposal for amendment of Appendices I and II may, at anytime, withdraw the proposal or amend it to reduce its scope or to make it more precise. Once a proposal has been withdrawn, it may not be re-submitted during the meeting. Once a proposal has been amended to reduce its scope, it may not be reamended, during the meeting, to increase the scope of the amended proposal.

(3) After a proposal has been adopted or rejected by the Conference it shall not be reconsidered unless a two-thirds majority of the Representatives participating in the meeting so decide. Permission to speak on a motion to reconsider a proposal shall be accorded only to a Representative from each of two Parties wishing to speak against the motion, after which the motion shall immediately be put to the vote.

Rule 22 - Submission of Resolutions and Recommendations

(1) All proposed Resolutions and Recommendations shall be submitted to the Executive Secretary at least 150 days prior to the commencement of the meeting.

(2) All proposed Resolutions and Recommendations shall be submitted by the Executive Secretary to the Scientific Council for scrutiny of their scientific and technical accuracy at least 120 days prior to the commencement of the meeting. The Scientific Council shall provide appropriate advice to the Standing Committee on all proposed Resolutions and Recommendations.

(3) All proposed Resolutions and Recommendations shall be submitted by the Executive Secretary to the Standing Committee along with the advice of the Scientific Council at least 90 days prior to the meeting. The Standing Committee shall examine all Resolutions and Recommendations for consistency with the Convention and its processes and procedures, and shall transmit the documents to the Conference of the Parties at least 60 days before the meeting.

(4) Urgent Resolutions and Recommendations may be discussed at any plenary session of the meeting provided copies of them have been circulated to all delegations not later than the day preceding the session. The Presiding Officer may also permit the discussion and consideration of urgent proposals arising after the period prescribed above provided that they relate to proposed amendments which have been circulated and that their consideration will not unduly inhibit the proceedings of the Conference.

Part VIII: Rules of Procedure of committees and working groups

Rule 23 - Procedure

Insofar as they are applicable, these Rules shall apply *mutatis mutandis* to the proceedings of committees and working groups.

Part IX: Amendment to the Rules of Procedure

Rule 24 - Amendment

These rules may be amended by decision of the Conference.

Annex 3

Secretariat Note on Issues concerning the Proposed Amendments to the Rules of Procedure

1. The Secretariat has reviewed the Standing Committee's proposed amendments to the Rules of Procedure. The Secretariat has identified a number of technical issues, as well as some substantive issues, for consideration by the Conference of the Parties. The Secretariat has also reviewed the proposed Rules of Procedure in light of several issues that arose during the 18th Scientific Council Meeting. These issues relate to concerns over the ability of the Secretariat to schedule meetings of the Convention's subsidiary bodies and meet the deadlines for production of documents. Another issue relates to changes to the practice in CMS of allowing proponents of proposals to include a species in Appendix II to amend the proposal, in light of advice from the Scientific Council, so as to include the species in Appendix I. These issues are described below.

2. In this Annex, text that the Secretariat proposes to add is underlined; text that the Secretariat proposes to delete is ~~struckthrough~~.

3. *Rule 2.* Paragraph 2(b) includes text beginning with the phrase "and that has informed the Secretariat ..." and ending with the phrase "but not vote." This text, however, includes limitations that apply to all types of agencies and bodies identified in paragraphs (a) and (b) that wish to participate in meetings of the Conference of Parties. Consistent with Article VII, paragraph 9, of the Convention, that phrase should be decoupled from paragraph (b) of proposed Rule 2. The Secretariat proposes amending Rule 2(2) as follows:

(2) Any body or agency technically qualified in protection, conservation and management of migratory species, which is either:

(a) an international agency or body, either governmental or non-governmental, or a national governmental agency or body; or

(b) a national non-governmental agency or body that has been approved for this purpose by the State in which it is located; ~~and that has informed the Secretariat of the Convention of its desire to be represented at the meeting by observers, shall be permitted to be represented unless at least one-third of the Parties present object. Once admitted, these observers shall have the right to participate but not to vote.~~

and that has informed the Secretariat of the Convention of its desire to be represented at the meeting by observers, shall be permitted to be represented unless at least one-third of the Parties present object. Once admitted, these observers shall have the right to participate but not to vote.

4. *Rule 3.* Paragraph 1 begins by referring to any representative or Alternative Representative in the singular. It later includes a reference to "them", a plural pronoun. The Secretariat recommends replacing the word "them" with "him/her" to maintain the singular form of the subject of the sentence. The Secretariat proposes amending Rule 3(1) as follows:

(1) Before exercising voting rights of the Party, the Representative or any Alternative Representative of a Party shall have been granted powers by, or on behalf of, a proper authority, that is to say: the Head of State, the Head of Government, or the Minister of Foreign Affairs or the head of an executive body of any regional economic organization enabling ~~them~~him/her to represent the Party at the meeting.

5. *Rule 3.* The Secretariat has encountered many problems with respect to credentials. As a consequence, it may be worth stating, in paragraph 2, that the credentials must be on letterhead and that photocopies, scans and faxes are invalid. The Secretariat proposes amending Rule 3(2) as follows:

(2) All credentials shall be submitted to the Secretariat of the Convention in their original form, on letterhead of the official enabling the Representative to participate at the meeting, together with a translation into English, French or Spanish if they are not in one of these languages. Photocopies, scans and faxes of the original letter are invalid.

6. *Rule 10.* Paragraph 3 establishes rules for speaking for and against the motions listed in paragraph 2. The rule appears to limit the number of Parties speaking in favor of the motion, but it does not clearly do so. The Secretariat proposes amending Rule 10(3) as follows:

(3) In addition to the proposer of the motion in (2) above, a Representative from one other Party may speak in favour of the motion and a Representative of each of two Parties may speak against it, after which the motion shall be immediately put to a vote. The Presiding Officer may limit the time to be allowed to the speakers.

7. *Rule 11.* Rule 11 is titled “Motions to open and reopen debates in conference sessions.” However, it includes rules only for opening debate originating from the Committee of the Whole. It does not include rules for reopening debate originating from an earlier Plenary session. Either the phrase “and reopen” should be deleted from the title or, if the Parties want the possibility to reopen debates originating in Plenary, then they should adopt a Rule to do so. If the Parties choose to adopt a new rule to reopen debates originating in Plenary, the Parties are invited to consider the following text:

(3) Whenever the Conference considers a recommendation originating in plenary session, where the discussion of the recommendation has been conducted with interpretation in the three working languages, it may be reconsidered during the meeting only under the following circumstances.

Any Representative, if seconded by a Representative of another Party, may present a motion for the reopening of debate. Permission to speak on the motion shall be granted only to the Representative presenting it and the seconder, and to a Representative of each of two Parties wishing to speak against the motion, after which the motion shall immediately be put to a vote. A motion to reopen the debate shall be granted if two-thirds of the Representatives present and voting support the motion. While speaking on a motion to reopen the debate, a Representative may not speak on the substance of the decision itself.

8. *Rule 15.* For clarity, the Secretariat proposes to amend Rule 15(1), in the fifth line below, to add the words “the motion”:

(1) A Representative may move that parts of a proposal or of an amendment be voted on separately. If objection is made to the request for such division, the motion for division shall be voted upon first. Permission to speak on the motion for division shall be accorded only to a Representative from each of two Parties wishing to speak in favour of the motion and a Representative from each of two Parties wishing to speak against the motion. If the motion for division is carried, those parts of the proposal or amendment that are subsequently approved shall be put to the vote as a whole. If all operative parts of the proposal or the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

9. *Rule 21.* In paragraph 2, a space should be inserted between “any” and “time.” The Secretariat proposes amending Rule 21(2) as follows:

(2) The Representative of the Party that has submitted a proposal for amendment of Appendices I and II may, at ~~anytime~~ any time, withdraw the proposal or amend it to reduce its scope or to make it more precise. Once a proposal has been withdrawn, it may not be re-submitted during the meeting. Once a proposal has been amended to reduce its scope, it may not be reamended, during the meeting, to increase the scope of the amended proposal.

10. *Rule 24.* Rule 24 provides for amendment of the Rules of Procedure, but it does not specify the voting majority required for amendment. Similarly, neither the Convention nor the Rules of Procedure specify the voting majority for adopting the Rules. In addition, neither this Rule nor any other Rule specifies which, if any, Rules of Procedure apply pending adoption of the Rules of Procedure at a meeting of the Conference of the Parties. In fact, unless these Rules of Procedure apply between meetings of the Conference of the Parties, then certain Rules, such as those relating to the submission of Resolutions and Recommendations, cannot be enforced.

10.1 The Secretariat notes that these issues have presented problems within the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). For example, the CITES Conference of the Parties spent considerable time at its 17th Meeting trying to determine whether amendments to the Rules were “procedural”, and subject to a simple majority vote, or “substantive”, and thus subject to a two-thirds majority vote. The Parties to this Convention could face a similar situation because proposed Rule 14 offers the same two choices: votes on procedural or substantive issues. The Secretariat notes that the UN Rules of Procedure do not identify whether amendments to Rules of Procedure are “procedural” or “substantive”. Instead, the UN Rules simply state that such amendments shall be taken by a simple majority of votes cast. The Secretariat recommends that the Parties adopt the approach of the UN Rules of Procedure.

10.2 To address the issues discussed in this paragraph, the Secretariat proposes to amend Rule 24 as follows:

(1) These Rules are established by the Conference of the Parties and shall remain valid for each meeting of the Conference unless they are amended by decision of the Conference.

(2) These Rules may be amended by a decision of the Conference. Amendments to these Rules shall be decided by a simple majority of votes cast.

11. *Rule 21.* Rule 21 proposes a new rule to limit amendments to proposals for amending the Appendices to those that “reduce [the proposal’s] scope” or “make it more precise.” This proposed rule raises two issues.

11.1 First, one consequence of the proposed rule would be to preclude a Party from amending a proposal to include a species in Appendix II to a proposal to include that species in Appendix I. The Secretariat notes that this rule would reverse the practice of the Convention through which the Scientific Council gives such advice. For example, the Fish Working Group at the 18th Scientific Council Meeting reviewed the proposal of Ecuador and Costa Rica to list the Scalloped hammerhead (*Sphyrna lewini*) and the Great hammerhead (*Sphyrna mokarran*) in CMS Appendix II. The Working Group noted that both species would also meet the criteria for listing in Appendix I and asked the Parties to consider amending the proposal in this regard. The Parties may decide, of course, that this change in Convention practice is acceptable because it gives them sufficient time to review the proposal. To the extent that Parties want to retain this practice but also ensure that they have sufficient time to review an amended proposal, the Parties could require any amended proposal that would “increase the proposal’s scope” to be resubmitted no later than, for example, 90 days before the meeting of the Conference of the Parties.

11.2 Second, the Secretariat also notes that the phrase “reduce its scope” is not entirely clear in the CMS context. The phrase, borrowed from the CITES Rules of Procedure, has a more precise meaning in CITES because more stringent trade controls apply to Appendix I than Appendix II species. In addition, a species (or subspecies) may be included in only one CITES Appendix. In the CMS context, a species may be included in both Appendices. In addition, a species included in Appendix II may be subject to the same prohibitions as those that apply to Appendix I species, although such prohibitions require a subsequent AGREEMENT or agreement under Article IV. To eliminate any possible confusion, the Parties may wish to clarify the phrase “reduce its scope” with a footnote that describes what the phrase is intended to accomplish. The Secretariat recommends the following footnote:

The phrase “reduce its scope” is intended to cover the following types of situation: amending a proposal to include a species in Appendix I to include that same species in Appendix II and amending a proposal to include fewer populations. It does not include the following situations: amending a proposal to include a species in Appendix II to include that same species in Appendix I and amending a proposal to add populations to the proposal or include different populations in the proposal.

12. *Rule 22.* Rule 22 establishes a number of deadlines for the submission of Resolutions and Recommendations for Meetings of the Conference of the Parties. Paragraph 1 establishes a 150-day deadline for the submission of all proposed Resolutions and Recommendations to the Executive Secretary. Paragraph 2 then establishes a 120-day deadline for the submission of all proposed Resolutions and Recommendations to the Scientific Council for scrutiny of their scientific and technical accuracy. Paragraph 3 then establishes a 90-day deadline for the submission of all proposed Resolutions and Recommendations to the Standing Committee. The Standing Committee must then transmit the documents to the Conference of the Parties at least 60 days before the meeting. These deadlines may have a number of significant implications.

- 12.1 Paragraph 1 establishes a 150-day deadline for the submission of all Resolutions and Recommendations. This 150-day requirement for submission of draft Resolutions and Recommendations may limit the ability of Parties to submit Resolutions and Recommendations because they are unable to coordinate among relevant agencies so far in advance of a Meeting of the Conference of the Parties. As a consequence, Parties may be prevented from addressing issues of significance. Due to the three-year interval between meetings of the Conference of the Parties, issues of considerable importance that may not rise to the level of “urgent” concern (the exception to the 150-day rule included in paragraph 4 may go unresolved for a significant period of time.

The Secretariat notes that CITES also has a 150-day rule, but that this does not apply to documents originating with the Secretariat. In addition, the Secretariat notes that the 60-day deadline included in the Rules of Procedure adopted at COP10 is consistent with the practice in other multilateral environmental agreements (e.g., Ramsar Convention, Basel Convention, and International Whaling Commission). The Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade and the Stockholm Convention on Persistent Organic Pollutants have deadlines of six weeks for submission of proposed resolutions.

However, with the Scientific Council meetings decoupled from the meetings of the Conference of the Parties, some deadline is probably appropriate if the Parties wish the Scientific Council to have a role in reviewing Resolutions and Recommendations. Perhaps one way to provide Parties with some flexibility is to establish a general rule. This could be accomplished by stating that Parties “shall endeavour” to submit Resolutions and Recommendations 150 days before the commencement of the Meeting of the Conference of the Parties. This may be particularly appropriate while the Parties define the new organizational structure for the Scientific Council, which could alter when the Scientific Council meets.

- 12.2 Paragraph 2 establishes a non-discretionary duty to submit all Resolutions and Recommendations, regardless of content, to the Scientific Council. The Scientific Council then uses its discretion to provide its advice on the scientific and technical aspects of the documents. The Secretariat questions the value of submitting, for example, financial resolutions and other non-scientific matters to the Scientific Council for its advice. An alternative approach may be to direct the Executive Secretary to submit all Resolutions and Recommendations with scientific elements to the Scientific Council for scrutiny of their scientific and technical accuracy. The paragraph could be rewritten as follows:

All proposed Resolutions and Recommendations with a scientific element to them shall be submitted by the Executive Secretary to the Scientific Council for scrutiny of their scientific and technical accuracy

...

- 12.3 Paragraph 2 affords no exception to the 120-day deadline for proposed Resolutions and Recommendations originating from the Secretariat. The Secretariat understands the need to give Parties and Councillors time to consider issues presented in proposed Resolutions and Recommendations. However, it will be very difficult for the Secretariat to ensure that all documents submitted by Parties, including proposals to amend the Appendices, are translated and ready for distribution at the Scientific Council meeting and, at the same

time, produce documents that the Secretariat is required to prepare for meetings of the Scientific Council, Standing Committee, and Conference of the Parties. Due to resource constraints, the Secretariat is unsure whether it will be able to fulfill the mandate that this Rule imposes.

12.4 Paragraph 3 provides that all Resolutions and Recommendations must be submitted by the Secretariat to the Standing Committee 90 days before the Meeting of the Conference of the Parties. If this deadline is adopted, the following activities must occur within approximately 30 days:

1. The Scientific Council must be given adequate time to review documents;
2. The Scientific Council must meet;
3. After its meeting, the Scientific Council must be given time to finalize its advice; and
4. Secretariat must translate all advice from the Scientific Council into the two other working languages of the Convention and submit these documents to the Standing Committee.

The Secretariat believes that these activities cannot be accomplished within 30 days. The need to translate all proposed amendments to the Appendices as well as all Resolutions and Recommendations means that a Scientific Council meeting cannot reasonably be scheduled for at least 40 to 50 days after receiving them. The Secretariat notes that several Councillors at their most recent meeting complained that they did not have documents early enough to inform themselves adequately of the issues. That meeting took place 25 days after the 150-day deadline for submission of proposals to amend Appendices I and II of the Convention. That indicates that more than 25 to 30 days are needed from the time documents are received to the commencement of the meeting.

If the Scientific Council meeting is not scheduled until 40 days after the 150-day deadline, then only 20 days would remain to complete the meeting, receive advice from the Scientific Council, and translate any advice into the two other working languages of the Convention. This does not appear to be a sufficient period of time to accomplish these tasks. If the requirement to submit Resolutions and Recommendations to the Standing Committee is eliminated, then the Secretariat and the Scientific Council would have more time to complete their tasks.

12.5 Paragraph 3 provides that the Standing Committee shall transmit documents to the Parties 60 days before commencement of the Meeting. The Secretariat first notes that perhaps the Secretariat should transmit the documents to the Parties. More substantively, the Secretariat also notes that it will be extremely difficult to meet this deadline. If this deadline is adopted, the following activities must occur within approximately 30 days

1. The Secretariat must submit all Resolutions and Recommendations, along with advice of the Scientific Council, to the Standing Committee;
2. The Standing Committee must be given sufficient time to review the Resolutions and Recommendations;
3. The Standing Committee, either collectively or as individual members, may submit comments to the Secretariat; and
4. The Secretariat must translate these comments and any changes to the Resolutions and Recommendations into the working languages of the Convention.

The Secretariat believes that it will be extremely difficult to accomplish all these activities in 30 days with current resources. The Scientific Council has traditionally proposed amendments to Resolutions and Recommendations. If that practice continues, then it will take another period of time to translate the new documents, in addition to any other advice the Scientific Council provides, into the two other working languages of the Convention. That will delay the period in which the Secretariat can submit the documents to the Standing Committee.

In addition, the Standing Committee needs sufficient time to provide advice. If the Standing Committee wants to coordinate a response, then it will need additional time to do so. Then, once comments are received, the Secretariat would need to translate any comments, including any changes to the Resolutions and Recommendations.

12.6 Paragraph 4 only allows discussion of Resolutions and Recommendations that are not submitted in accordance with these deadlines if they are “urgent.” However, many issues may arise that are not urgent but which warrant a Resolution or Recommendation. For example, the Parties may not believe a proposal to include a species in Appendix II meets relevant criteria but they nonetheless want to adopt a Resolution or Recommendation to monitor and study the species. The issues may not be “urgent” but still important.

13. On the basis of the explanations provided above, the Secretariat recommends that the Conference of the Parties adopt the following amendments to the Rules of Procedure. As indicated above, the Standing Committee has proposed its own changes. For clarity, the Secretariat shows the Standing Committee’s proposed changes alongside the changes proposed by the Secretariat.

Rule 22 – Submission of Resolutions and Recommendations

Changes Proposed by the Standing Committee	Changes Proposed by the Secretariat
(1) All proposed Resolutions and Recommendations shall be submitted to the Executive Secretary at least 150 days prior to the commencement of the meeting.	(1) As a general rule, Parties shall endeavour to submit proposed Resolutions and Recommendations that include a scientific element to the Executive Secretary at least 150 days prior to the commencement of meeting.
(2) All proposed Resolutions and Recommendations shall be submitted by the Executive Secretary to the Scientific Council for scrutiny of their scientific and technical accuracy at least 120 days prior to the commencement of the meeting. The Scientific Council shall provide appropriate advice to the Standing Committee on all proposed Resolutions and Recommendations.	(2) The Executive Secretary shall submit all proposed Resolutions and Recommendations received from Parties and that include a scientific element to the Scientific Council for scrutiny of their scientific and technical accuracy at least 120 days prior to the commencement of the meeting. The Executive Secretary shall submit all proposed Resolutions and Recommendations originating from the Secretariat that include a scientific element to the Scientific Council as early as possible so that the Scientific Council has sufficient time to review the document.

Changes Proposed by the Standing Committee	Changes Proposed by the Secretariat
	The Scientific Council shall provide appropriate advice to the Standing Committee on these Resolutions and Recommendations.
(3) All proposed Resolutions and Recommendations shall be submitted by the Executive Secretary to the Standing Committee along with the advice of the Scientific Council at least 90 days prior to the meeting. The Standing Committee shall examine all Resolutions and Recommendations for consistency with the Convention and its processes and procedures, and shall transmit the documents to the Conference of the Parties at least 60 days before the meeting.	(3) The Executive Secretary shall transmit all the Resolutions and Recommendations to the Conference of the Parties at least 60 days before the meeting.
(4) Urgent Resolutions and Recommendations may be discussed at any plenary session of the meeting provided copies of them have been circulated to all delegations not later than the day preceding the session. The Presiding Officer may also permit the discussion and consideration of urgent proposals arising after the period prescribed above provided that they relate to proposed amendments which have been circulated and that their consideration will not unduly inhibit the proceedings of the Conference.	<p>(4) The following Resolutions and Recommendations may be discussed at any plenary session of the meeting provided copies of them have been circulated to all delegations not later than the day preceding the session:</p> <ul style="list-style-type: none"> (a) Urgent Resolutions and Recommendations; (b) Resolutions and Recommendations arising out of documents submitted in accordance with the Rules of Procedure; and (c) Resolutions and Recommendations arising out of proposals submitted in accordance with Article XI, paragraph 3, of the Convention. <p>The Presiding Officer may also permit the discussion and consideration of urgent proposals arising after the period prescribed above provided that they relate to proposed amendments which have been circulated and that their consideration will not unduly inhibit the proceedings of the Conference.</p>