



Convention on the Conservation of Migratory Species of Wild Animals

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REVISION OF THE RULES OF PROCEDURE OF THE CMS SCIENTIFIC COUNCIL

(Prepared by the Secretariat)

Summary

Resolution 11.4 requests the Scientific Council, with advice from the Secretariat, to develop and establish a revision of its Rules of Procedure in accordance with the resolution, and mandates the Standing Committee to approve the revised Rules of Procedure.

The present document includes a preliminary analysis of the current Rules of Procedure aimed at identifying those sections of the Rules that will require revision in the light of Res. 11.4, as well as other previous relevant decisions of the COP (Annex 1).

The document also contains the Terms of Reference for the Scientific Council provisionally adopted by the Standing Committee at its 44th meeting (Annex 2).

For reasons of economy, this document is printed in a limited number, and will not be distributed at the meeting. Delegates are kindly requested to bring their copy to the meeting and not to request additional copies.

REVISION OF THE RULES OF PROCEDURE OF THE CMS SCIENTIFIC COUNCIL

(Prepared by the Secretariat)

1. Resolution 11.4, adopted by the Conference of the Parties (COP) to CMS at its 11th meeting, provides for several organizational changes for the Scientific Council. In particular, it provides that, for each intersessional period between two consecutive meetings of the COP, a representative selection of the membership of the Scientific Council, to be named the Sessional Committee of the Scientific Council, should be identified, composed of COP-appointed Councillors and Party-appointed Councillors selected regionally, to be appointed at each ordinary meeting of the COP.

2. In relation to these changes, the resolution requests the Scientific Council, with advice from the Secretariat, to develop and establish a revision of its Rules of Procedure in accordance with the resolution, and mandates the Standing Committee to approve the revised Rules of Procedure.

3. With a view to supporting the Sessional Committee in the revision of the Rules of Procedure, the Secretariat has undertaken a preliminary analysis of the current Rules of Procedure aimed at identifying those sections of the Rules that will require revision in the light of Res. 11.4, as well as other previous relevant decisions of the COP. The outcomes of the analysis are summarized in Annex 1 to this document, in the form of comments on individual rules or specific parts of individual rules.

4. An additional element to be considered in the revision of the Rules of Procedure is their complementary with the Terms of Reference for the Scientific Council, which have been provisionally adopted by the Standing Committee at its 44th meeting. They are contained in Annex 2 to this document. In defining the scope of the Terms of Reference versus the one of the Rules of Procedure, it was decided to focus the Terms of Reference on (i) the functions of the Scientific Council and the Sessional Committee; (ii) the appointment of their members; (iii) the role of the individual members; (iv) the interaction of the Scientific Council with other frameworks/organizations, while the Rules of Procedure were expected to deal with procedural matters, as it is already largely the case at the moment.

Action requested:

The Sessional Committee of the Scientific Council is invited to

- i) Take note of the preliminary analysis of the current Rules of Procedure undertaken by the Secretariat;
- ii) Agree on a process for the revision of the Rules of Procedure, with a view to the submission of the revised version to the Standing Committee for approval.

Annex 1

ANNOTATIONS TO THE RULES OF PROCEDURES OF THE CMS SCIENTIFIC COUNCIL WITH A VIEW TO THEIR REVISION

RULES OF PROCEDURE OF THE CMS SCIENTIFIC COUNCIL

(Adopted by the Scientific Council on 8 April 1997 and approved by the Conference of the Parties on 15 April 1997)

General Functions

Rule 1

The Scientific Council, established in accordance with Article VIII of the Convention, provides scientific and technical advice to, inter alia, the Conference of the Parties, the Secretariat, and to any Party to the Convention. Its functions are defined in Article VIII, paragraph 5 of the Convention, supplemented from time to time by instructions included in resolutions or recommendations adopted by the Conference of the Parties.

Rule 2

In particular, it advises, between the meetings of the Conference of the Parties, on the development and implementation of the Convention's work programme from a scientific and technical standpoint, and advises on the priorities for sponsorship of conservation activities.

Rule 3

The Scientific Council shall liaise, through its Chairperson or a member or members nominated for this purpose, with other comparable bodies established under other Conventions¹.

Representation and Attendance

Rule 4

Any Party may appoint a qualified expert as a member of the Scientific Council who shall have the right to participate in meetings of the Council. In addition, the Scientific Council shall include as members no more than eight qualified experts selected and appointed by the Conference of the Parties². Parties are invited to nominate a permanent alternate Scientific Councillor, authorised to participate in meetings of the Council when the regular Councillor cannot attend³. Except as

¹ Such as the Scientific and Technical Review Panel of the Ramsar Convention on Wetlands, and the Subsidiary Body on Scientific, Technical and Technological Advice of the Convention on Biological Diversity.

² Resolution 1.4 of the first meeting of the Conference of the Parties (Bonn, October 1985), p.45 of meeting report. As indicated in the report of the third meeting of the Conference of the Parties (Geneva, September 1991), paragraph 21, for financial reasons the number of experts has generally been restricted to fewer than eight. Report of the 13th Meeting of the Scientific Council (Nairobi, 16-18 November 2005).

³ Resolution 4.5 of the fourth meeting of the Conference of the Parties (Nairobi, June 1994), p.76 ff. of the proceedings.

Commented [CMS1]: The revised Rules of Procedure should be applicable also to the Sessional Committee. On the example of the Terms of Reference of the Scientific Council adopted by StC44, the inclusion of a clause on the scope of the Rules of Procedure could be considered

Commented [CMS2]: The functions of the Scientific Council are developed in much greater detail in clause 7 of the Terms of Reference. It should be considered whether maintaining these provisions also in the Rules of Procedure, and in case harmonize them with the Terms of Reference.

Commented [CMS3]: Liaison with the advisory bodies of other conventions is covered also by clauses 16 and 17 of the Terms of Reference. It should be considered whether maintaining these provisions also in the Rules of Procedure, and in case harmonize them with the Terms of Reference

Commented [CMS4]: This provision is obsolete in the light of the provisions of Res.11.4 concerning the composition of the Sessional Committee

Commented [CMS5]: This provision is likely to have very limited applicability in practice, considering that, with the establishment of the Sessional Committee, the likelihood of the convening of meetings of the full Scientific Council is very low. On the other hand, the possibility of appointing alternate members for the members of the Sessional Committee could be explored.

provided for in Rule 7, attendance at meetings of the Scientific Council shall be limited to members of the Scientific Council or their alternates.

Rule 5

Other than those experts appointed directly by the Parties, membership of the specialists appointed to the Council shall be reviewed at each ordinary meeting of the Conference of the Parties.

Rule 6

The Chairperson of the Standing Committee shall have the right to participate in meetings of the Council as an observer without the right to vote⁴.

Rule 7

The Chairperson may invite any person or representative of any Party, non-Party State or organization to participate in meetings of the Council as an observer without the right to vote, and shall inform the Secretariat accordingly.

Officers

Rule 8

The members of the Council shall elect from among the Party-appointed Councillors, for intervals corresponding to those of the meetings of the Conference of the Parties, a Chairperson and Vice-Chairperson. This election will normally take place immediately before the meeting of the Conference of the Parties, and the newly elected officers shall assume their functions at the conclusion of the corresponding meeting of the Conference of the Parties.

Rule 9

The Chairperson shall preside at meetings of the Council, approve for circulation the provisional agenda prepared by the Secretariat, and liaise with other committees and with the Standing Committee between meetings of the Council. The Chairperson may represent the Council as required within the limits of the Council's mandate, and shall carry out such other functions as may be entrusted by the Council.

Rule 10

The Vice-Chairperson shall assist in the execution of the Chairperson's functions, and shall preside at meetings in the absence of the Chairperson.

Commented [CMS6]: The Terms of Reference include a section on the appointment of members of the Scientific Council and the Sessional Committee. It should be considered whether maintaining these provisions also in the Rules of Procedure, and in case harmonize them with the Terms of Reference

Commented [CMS7]: The section of the Rules of Procedure concerning the participation of observers deserves to be reconsidered, in the light of the establishment of the Sessional Committee, clauses 16-18 of the Terms of Reference and relevant COP Resolutions, notably Res. 6.7 and Res. 7.12

Commented [CMS8]: In the assumption that the officers of the Scientific Council and of the Sessional Committee should be the same, the procedure for the election of the officers have to be modified, in light of the fact that the membership of the Sessional Committee will be defined only at the meeting of the COP for the next intersessional period

⁴ Ibid.

Elections

Rule 11

If in an election to fill one place no candidate obtains an overall 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.

Rule 12

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 for reducing the number of candidates to two.

Rule 13

In the case of a tie amongst three or more candidates obtaining the largest number of votes in the first ballot, a special ballot shall be held amongst them for reducing 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 Rule 11.

Meetings

Rule 14

Meetings of the Council shall be convened at the request of the Chairperson or, in exceptional cases, of at least one-third of the members, in both cases in consultation with the Secretariat. Meetings of the Scientific Council and any working groups established thereunder shall be serviced by the Secretariat of the Convention.

Commented [CMS9]: This provision seems to contradict to some extent Art. VIII para. 3 of the Convention, and does not correspond anyway to the established practice

Rule 15

The Council should meet at least once between ordinary meetings of the Conference of the Parties⁵. The time and venue of meetings shall be determined by the Chairperson, in consultation with the Secretariat.

Commented [CMS10]: This provision does not correspond to the established practice

Rule 16

Notice of meetings, including the date and venue, shall be sent to all Parties by the Secretariat at least 45 days in advance and, in the case of extraordinary meetings, at least 14 days in advance.

⁵ Ibid.

Rule 17

A quorum for a meeting shall consist of half of the members of the Council. No decision shall be taken at a meeting in the absence of a quorum.

Commented [CMS11]: The rule might want to clarify how remote participation should be accounted in relation to the attainment of a quorum

Rule 18

Decisions of the Council shall be taken by consensus unless a vote is requested by the Chairperson or by three members.

Rule 19

Decisions of the Council by voting (pursuant to Rule 18) shall be taken by a simple majority of the members present. In the case of a tie, the motion shall be considered as rejected.

Commented [CMS12]: The rule might want to clarify how remote participation should be accounted in relation to voting

Rule 20

A summary record of each meeting shall be prepared by the Secretariat as soon as possible and shall be communicated to all Party- and Conference-appointed Councillors.

Rule 21

The Council shall decide on the working languages of its meetings. Simultaneous interpretation will be provided whenever possible.

Working groups

Rule 22

Working groups of the Scientific Council may be established in order to further the Council's work programme intersessionally, taking into account the provisions of any relevant resolutions of the Conference of the Parties⁶.

Communication Procedure

Rule 23

Any member or the Secretariat may make a proposal to the Chairperson for a decision by postal procedure. The Secretariat shall communicate the proposal to the members for comments within 60 days of the date of communication; any comments received within these limits shall also be so communicated.

⁶ Notably, Resolution 1.5 (Bonn, 1985), paragraphs 4(b), 5(b) and 5(c).

Rule 24

If, by the date on which comments on a proposal were due to be communicated, the Secretariat has not received any objection from a Party-appointed member, the proposal shall be considered as adopted, and notice of the adoption shall be given to all members.

Rule 25

If any member objects to a proposal within the applicable time limit, the proposal shall be referred to the next meeting of the Council.

Other functions

Rule 26

The Chairperson shall submit to each ordinary meeting of the Conference of the Parties a written report on the Council's work since the previous ordinary meeting.

Rule 27

The Council shall receive reports from other committees established under the Convention, as necessary.

Final Provisions

Rule 28

In matters not covered by the present Rules, the Rules of Procedure as adopted by the last regular meeting of the Conference of the Parties shall be applied *mutatis mutandis*.

Rule 29

These Rules shall be applied at the first meeting of the Council following their approval by the Conference of the Parties, and may be amended by the Council as required, in accordance with the provisions of the Convention and decisions of the Conference of the Parties.

Annex 2

TERMS OF REFERENCE FOR THE CMS SCIENTIFIC COUNCIL

(As provisionally adopted by the CMS Standing Committee at its 44th Meeting)

Scope of the Terms of Reference

1. The Terms of Reference apply to the Scientific Council of CMS and, mutatis mutandis, the Sessional Committee of the Scientific Council, unless stated otherwise in the Terms of Reference.

General Functions of the Scientific Council

2. The Scientific Council, established in accordance with Article VIII of the Convention, provides scientific and technical advice to, inter alia, the Conference of the Parties, the Secretariat, any other body set up under the Convention or any Party.

General Functions of the Sessional Committee

3. Between consecutive ordinary meetings of the Conference of the Parties, a representative selection of the Scientific Council, called the Sessional Committee of the Scientific Council, should be identified, in accordance with Resolution 11.4 of the Conference of the Parties. The Sessional Committee is primarily responsible for the implementation of the mandate assigned to the Scientific Council by the Conference of the Parties for the intersessional period. All outputs of the Sessional Committee are considered outputs of the Scientific Council.

Operating Principles

4. The Scientific Council, in carrying out its functions, should support the implementation of the Convention in a manner consistent with other internationally agreed goals relevant to the objectives of the Convention.

5. The Scientific Council should endeavour constantly to improve the quality of its scientific advice by improving scientific input into debate at and work of its meetings and meetings of the Sessional Committee.

6. The Scientific Council may formulate its advice or recommendations in the form of options or alternatives, where appropriate.

Functions

7. The Scientific Council should fulfill the functions assigned to it in Article VIII of the Convention and subsequently assigned to it by the Conference of the Parties. These functions include:

- a. advising, between meetings of the Conference of the Parties, on the development and implementation of the Convention's work programme from a scientific and technical standpoint;

- b. making recommendations to the Conference of the Parties as to the migratory species to be included in Appendices I and II, together with an indication of range of such migratory species, and keeping under review the composition of these Appendices;
- c. assessing proposals for the amendment of Appendices I and II from a scientific and technical standpoint, and providing advice to the Conference of the Parties regarding proposed amendments;
- d. identifying, recommending and coordinating research on migratory species, evaluating the results of such research in order to ascertain the conservation status of migratory species, especially those that are listed in the Appendices or candidates for such listing, and reporting to the Conference of the Parties on such status and measures for its improvement;
- e. making recommendations to the Conference of the Parties as to the migratory species to be included in the list of species designated for Concerted Actions¹, and keeping this list under review;
- f. advising on specific conservation and management measures for the conservation of Appendices I and II species and their priorities, to be included in Concerted Actions or other mechanisms for the conservation of migratory species undertaken within the framework of the Convention;
- g. bringing to the attention of the Conference of the Parties any new and emerging issues relating to the conservation and management of migratory species;
- h. advising on priorities for the development of new Agreements by evaluating proposals for new Agreements against the criteria set by the Conference of the Parties, including those detailed in Resolution 11.12;
- i. making recommendations as to specific conservation and management measures to be included in Agreements on migratory species being negotiated within the framework of the Convention;
- j. advising on the priorities for sponsorship of conservation activities relating to migratory species, and on selecting, monitoring and evaluating small-scale pilot projects which will promote the implementation of the Convention;
- k. recommending to the Conference of the Parties solutions to problems relating to the scientific aspects of the implementation of the Convention, in particular with regard to the habitats of migratory species;

¹ Until COP12, this provision should concern also species designated for Cooperative Actions. In accordance with Resolution 11.13, from COP12 onwards the Concerted Actions and Cooperative Actions mechanisms should be consolidated, and all future designations would be made for Concerted Actions only. The Concerted Actions mechanism would be applicable to both Appendix I and Appendix II species, and its scope would broaden to include all of the kinds of activity previously pursued through Cooperative Actions, as well as those normally pursued through Concerted Actions. The Cooperative Actions mechanism itself would cease to exist.

1. providing information, channelled through the Secretariat, to all Range States of particular species, with a view to encouraging non-party Range States to become Parties of the Convention and to participate in its implementation.

Appointment of Members

8. The Scientific Council is composed of members appointed by individual Parties (Party-appointed Councillors) and members appointed by the Conference of the Parties (COP-appointed Councillors).

9. Any Party may appoint a qualified expert as a member of the Scientific Council. Party-appointed Councillors remain in office until such time as they resign or are replaced by the Party that appointed them.

10. Party-appointed Councillors do not represent the Party that appointed them, but contribute to the workings of the Scientific Council in their expert capacity.

11. COP-appointed Councillors are designated by each ordinary meeting of the Conference of the Parties for the subsequent intersessional period.

12. Members of the Sessional Committee are selected from COP- and Party-appointed Councillors. The composition of the Sessional Committee is as follows:

- a. Nine COP-appointed Councillors with expertise in taxonomic and thematic issues; and
- b. Fifteen Party-appointed Councillors selected within the Standing Committee geographic regions, as follows: three from Africa, three from Asia, three from Europe, three from Oceania, three from South and Central America and the Caribbean.

Responsibilities of the Scientific Council Members

13. Scientific Councillors should, to the best of their abilities, act as impartially as possible and endeavour to base their judgements and opinions upon an objective, scientific assessment of the best available evidence.

14. Sessional Committee members, that are Party-appointed Councillors, should maintain regular communication with the other members in their region.

15. Scientific Councillors that are not Sessional Committee members are encouraged to contribute to the work of the Scientific Council, coordinate with the Sessional Committee members and participate in working groups, including through meetings and the interactive tools available to the Scientific Council, as well as to pursue activities at the national level.

Cooperation of Other Relevant Inter-governmental Bodies

16. The Scientific Council should cooperate with other advisory bodies set up by Agreements and MOUs under the Convention by, inter alia, inviting them to participate as observers in the meetings of the Scientific Council and of the Sessional Committee.

17. The Scientific Council should liaise, through its Chair or his/her nominated representative, with comparable bodies established under other relevant frameworks, such as, inter alia, those listed

in Resolution 6.7. This would include, where appropriate and resource permitting, attendance of the Chair of the Scientific Council, or his/her nominated representative, at meetings of these bodies.

Contribution of Non-Governmental Organizations

18. The scientific contribution of non-governmental organizations to the fulfilment of the role of the Scientific Council is strongly encouraged in accordance with the relevant provisions of the Convention, decisions of the Conference of the Parties and Rules of Procedures of the Scientific Council. This includes inviting them to participate as observers in the meetings of the Scientific Council and Sessional Committee, and establishing and maintaining working cooperation on matters of common interest with organizations such as, inter alia, those listed in Resolution 6.7.

Rules of Procedure

19. The Scientific Council will establish its own Rules of Procedure which will be subject to the approval of the Conference of the Parties.