

## **3<sup>d</sup> Meeting of the Sessional Committee of the CMS Scientific Council (ScC-SC3)**

*Bonn, Germany, 29 May – 1 June 2018*

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### **PROPOSED AMENDMENTS TO THE RULES OF PROCEDURE OF THE CMS SCIENTIFIC COUNCIL AND ITS SESSIONAL COMMITTEE**

*(Submitted by the Working Group on Institutional and Legal Matters)*

**Summary:**

Decision 12.2 requests the Scientific Council, in consultation with the Secretariat, to revise its Rules of Procedure in accordance with Resolution 12.4. Decision 12.3 mandates the Standing Committee to approve the revision.

The present document provides an update to the current Rules of Procedure following a comparative overview undertaken at the Second Meeting of the Sessional Committee of the Scientific Council. The document includes recommendations for changes to deal mainly with issues raised by the creation of the Sessional Committee.

## PROPOSED AMENDMENTS TO THE RULES OF PROCEDURE OF THE CMS SCIENTIFIC COUNCIL AND ITS SESSIONAL COMMITTEE

### Background

1. At the 11<sup>th</sup> Meeting of the Conference of the Parties to CMS, held in Quito, Ecuador in November 2014, a revision was agreed to the operational organization of the Scientific Council, which was documented in Resolution 11.4: *Restructuring of the Scientific Council*. In particular, Resolution 11.4 stipulates that, for each intersessional period between two consecutive meetings of the Conference of the Parties, a representative selection of the membership of the Scientific Council, to be named the Sessional Committee of the Scientific Council, should be identified. At the 12<sup>th</sup> Meeting of the Conference of the Parties, held in Manila, the Philippines in October 2017, Resolution 11.4 was revised and consolidated with previous resolutions concerning the Scientific Council to become Resolution 12.4.
2. Resolution 12.4 requests the Scientific Council, in consultation with the Secretariat, to revise its Rules of Procedure (RoP) in accordance with the resolution and mandates the Standing Committee to approve the revision.
3. At the 1<sup>st</sup> meeting of the Sessional Committee of the Scientific Council in April 2016 held in Bonn, Germany, members of the Sessional Committee agreed on a process for the revision of the RoP.
4. At the 2<sup>nd</sup> meeting of the Sessional Committee in July 2017 held in Bonn, Germany, a small working group of the Sessional Committee considered a comparative review of Rules of Procedure of CMS Family instruments and other MEAs prepared by the Secretariat. Based on that review, a number of amendments to the RoP were considered

### Discussion and analysis

5. The paper annexed to this note (Annex 1) builds on that comparative review and consolidates the proposals for revision of the RoP for the Scientific Council and its Sessional Committee. In this version of the paper the comparative review has been removed to make the document shorter and to make the flow of the document more straightforward.
6. This document makes recommendations for revised RoP to take account of the impact of the establishment of the Sessional Committee. Some rules will remain unchanged, some need minor changes to reflect changed nomenclature, and a few require extensive changes. The recommendations for more extensive amendment are indicated in **green text in cursive brackets** in the boxes under each section. Recommendations for more minor wording changes with individual existing rules are shown in track changes. The notation [XX] is used in the document in place of figures to indicate that the Working Group is not making a definite recommendation concerning that specific value and considers that the definition of that value requires further discussion.
7. Given that the proposed revised RoP will, if adopted, lead to the deletion of some of the existing rules, when the new rules are adopted it will be necessary to adjust the numbering of individual rules. A consolidated and renumbered set of rules, is therefore provided in Annex 2 so those reading the document can see what the new RoP would look like if the recommendations made are adopted.

Recommended actions

8. The Sessional Committee is recommended to:
  - a) Review and amend as appropriate the proposals for revision of the RoP included in the paper in Annex 1;
  - b) Finalize a proposal for the revision of the RoP to be submitted to the 48<sup>th</sup> Meeting of the Standing Committee for approval.

**Annex 1**

**PROPOSED AMENDMENTS TO THE RULES OF PROCEDURE OF  
THE CMS SCIENTIFIC COUNCIL AND ITS SESSIONAL COMMITTEE**

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\* Indicates that extensive amendments are proposed for the rule

## GLOSSARY

|          |   |
|----------|---|
| AEWA     | Agreement on the Conservation of African-Eurasian Migratory Waterbirds                                    |
| ASCOBANS | Agreement on the Conservation of Small Cetaceans in the Baltic, North East Atlantic, Irish and North Seas |
| CBD      | Convention on Biological Diversity  |
| CITES    | Convention on International Trade in Endangered Species of Wild Fauna and Flora                           |
| CMS      | Convention on the Conservation of Migratory Species of Wild Animals                                       |
| COP      | Conference of the Parties   |
| EUROBATS | Agreement on the Conservation of Populations of European Bats   |
| Ramsar   | Convention on Wetlands of International Importance  |
| Res      | Resolution  |
| RoP      | Rules of Procedure  |
| ToR      | Terms of Reference  |
| UNFCCC   | United Nations Framework Convention on Climate Change   |

**RULES OF PROCEDURE OF THE CMS SCIENTIFIC COUNCIL AND ITS SESSIONAL COMMITTEE**

**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 1,2**

**Issue:** Lacking clear distinction between Terms of References and Rules of Procedure

**Recommendation:** When defining the scope of the Terms of Reference versus that 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. In contrast, the Rules of Procedure were expected to deal with procedural matters, as it is already largely the case at the moment (See UNEP/CMS/ScC-SC1/Doc.3.2, Paragraph 4). Based on that decision, it is recommended to replace the current text for Rules 1 and 2 with a new rule to minimize overlap and create a clear distinction between the Terms of Reference and Rules of Procedure. The new rule is modeled on other Rules of Procedure reviewed by the working group at the 2<sup>nd</sup> meeting of the Sessional Committee, and aims to clarify the scope of application of the Rules of Procedure.

**Proposed Amendments:**

{Purpose}

**Rule 1**

{These rules of procedure shall apply to any meeting of the Scientific Council or of its Sessional Committee, convened in accordance with Article 8 of the Convention and Resolution 12.4, and any future revision adopted by the Conference of the Parties.}

**RULE 3 \***

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

**Issue:** Lacking clear distinction between Terms of References and Rules of Procedure.

**Recommendation:** Rule 3 of the Rules of Procedure overlaps with Terms of Reference 17 ("The Scientific Council should liaise, through its Chair or his/her nominated representative, with comparable bodies established under other relevant framework, such as, inter alia, those listed in Resolution 6.7. . . ."). Based on the same reason explained in the recommendation section for Rules 1 and 2, **it is recommended to delete Rule 3.**

## 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 Parties.*

*Parties are invited to nominate a permanent alternate Scientific Councillor, authorised to participate in meetings of the Council when the regular Councillor cannot attend.*

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

**Issue 1:** The number of COP Appointed Councillors. Is now nine, with one post shared between two people. There is no reason, with the creation of the Sessional Committee, why the number should stay at nine if further thematic expertise is decided to be necessary. It would just require a process for selection of which nine would serve on the Sessional Committee.

**Issue 2:** Appointing alternates. Alternates for individual scientific councillors seem not to be necessary since the creation of the Sessional Committee. The provisions on the Sessional Committee in Resolution 12.4 call for regional representation. If one Councillor resigns or becomes otherwise unable to complete his/her term of appointment, a regional alternate (if appointed) would be able to function *ad interim* until the next COP. Clarity on how the regional alternates should substitute is needed in the revised RoP.

**Recommendation:** Resolution 12.4 does not set limits to the number of COP-appointed Councillors in the Council, but there is a limit of nine COP-appointed Councillors in the Sessional Committee. **Recommend removal of the limit of eight COP appointed Councillors.**

With the establishment of the Sessional Committee, and the creation of the position of alternates for the regions, the identification of alternates for individual Party-appointed Councillors has lost its meaning, and they are no longer needed. **Adopting the “regional alternative” approach is recommended.**



**Proposed Amendments:**

Representation and Attendance

Rule 4

- a. {Any Party may appoint a qualified expert as a member of the Scientific Council who will have the right to participate in meetings of the Council.
- b. The membership of the Sessional Committee of the Scientific Council shall consist of the 15 regional representatives elected by the Conference of the Parties together with up to 9 COP-appointed Councillors.
- c. Sessional Committee members will be elected for a term of two triennia. Each ordinary meeting of the Conference of the Parties will decide on the renewal of half of the membership of the Sessional Committee.
- d. Regional representatives will be expected to represent their regions at meetings of the Committee.
- e. One regional alternate may be appointed by the Parties for each regional representative. The alternate must be from the same region as the representative, but will not be from the same country.
- f. It is expected that both regional representatives and alternates will attend the meetings of the Sessional Committee where possible, noting that financial support for those delegates eligible to receive such support will be prioritized to the Sessional Committee members first, so it may not be possible to also support alternates from countries that would otherwise be eligible for financial support if the appointed regional representatives are attending.
- g. The terms of office of the regional members and their alternates will commence at the close of the ordinary meeting at which they are elected and shall expire at the close of the second ordinary meeting thereafter. If a regional alternate is subsequently elected to the Sessional Committee, he/she will be eligible to serve for two triennia in their new capacity in addition to any term he/she may have already served as an alternate.
- h. If a regional representative is not able to attend a meeting or session, his/her regional alternate will be entitled to act in his/her place in his/her absence.
- i. If a member resigns, or is otherwise unable to complete the assigned term or the functions of a member, his/her regional alternate should serve as a substitute for the remaining term of office of that member, and a further alternate member should be selected by the region through the representatives of the region in the Standing Committee.}

**Commented [A1]:** To be considered whether this paragraph should be part of the RoP or of the ToR

**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.*

**Issue:** Overlapping of provisions addressing the appointment of COP-appointed Councillors in Terms of References and Rules of Procedure

**ToR section on appointment of members:**

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

**Recommendation:** Based on the same reason explained in the recommendation section for Rules 1 and 2, **it is recommended to delete Rule 5** and put the procedures for review of COP-appointed Councillors by the COP in the ToR.

#### **RULE 6**

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

**Commented [A2]:** Edit proposed throughout the RoP with a view to consistency with the RoP of the COP and of the Standing Committee

#### **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.

**Issue:** Observers are encouraged to take part in the meetings, as decided in Resolution 12.4, as well as in the Terms of References. However, given that the Sessional Committee is a much smaller body than the full Scientific Council, arranging logistics and facilitation of the meeting might be challenging without specific rules on the number of observers allowed and on procedure of invitation.

There are potentially six different types of observers:

1. Regional alternates of Sessional Committee members;
2. Party Appointed Councillors;
3. Party observers (not Scientific Councillors);
4. Representatives of other multilateral environmental agreements (MEAs), especially CMS family instruments and those within the 'biodiversity cluster';
5. Representatives of Intergovernmental organizations (IGOs);
6. Representatives of civil society (e.g. non-governmental organizations (NGOs), researchers, individuals).

Note that for reasons of space, and also to maintain the balance between Party representatives and non-Party representatives, it may be necessary to limit the number of observers who can attend meetings of the Sessional Committee – for example to one or two per organization.

#### **Provision of Resolution 12.4 on observers**

14. *Decides to formalise the involvement of the advisory bodies to CMS Agreements in the deliberations of the Scientific Council, by inviting them to participate as observers in the meetings of the Scientific Council;*

#### **ToR clauses on observers:**

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.*

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.*

**Recommendation: Amend Rule 7 to provide more detailed rules for observer participation.** This provision should provide the procedure of inviting observers and a right to restrict the numbers of observers per organization. This provision is drafted following the examples of Ramsar and ASCOBANS, while also adding a clause on the limitation of observer numbers for practical reasons. The decision of whether and how to limit the numbers should lie with the Secretariat, as this is established practice and helps for a smoother preparation of the meetings.

**Proposed Amendments:**

**Rule 7**

- a. {Members of the Scientific Council that do not serve in the Sessional Committee, and alternates to the regional representatives of the Sessional Committee, have the right to attend meetings of the Sessional Committee as observers. Party representatives also have the right to attend meetings of the Scientific Council or of the Sessional Committee as observers.
- b. Representatives of instruments within the 'CMS Family' or of multilateral environmental agreements within the 'biodiversity cluster', have the right to attend meetings of the Scientific Council or of the Sessional Committee as observers.
- c. Any agency or body, whether national or international, governmental or non-governmental, qualified in fields relating to the conservation and management of migratory species (including but not limited to those referred to within Resolution 12.4 and subsequent revisions), which has informed the Secretariat not less than [XX] days before the meeting of the Scientific Council or the Sessional Committee, or both, of its wish to be represented at the meeting by observers, may be represented by observers, unless at least one third of the members present at the meeting object. Bodies or agencies desiring to be represented at the meeting by observers should submit the names of these observers to the Convention Secretariat at least [XX] days prior to the opening of the meeting.
- d. All observers may, upon the invitation of the Secretariat, participate, but without the right to vote.
- e. The Secretariat may, for practical reasons, or to balance Party and non-Party representation, limit the number of observers, such as to a given number per organization.}

**Commented [A3]:** The wording of Res.12.4 suggests that these agencies or bodies can be considered permanent observers which would not need to go through an acceptance procedure. They could possibly be incorporated in para. b. above or made the object of a separate paragraph.

**Commented [A4]:** There should be consistency with the provisions concerning the announcement of a meeting (rule 16 in this document)

**Commented [A5]:** Most of the agencies and bodies attending ScC and ScC-SC meetings have memoranda of cooperation or similar partnership agreements with the Convention or the Secretariat. These memoranda/agreements normally provide for reciprocal invitation to relevant meetings. This type of observers might also deserve some special recognition.

**Commented [A6]:** This is in line with the normal practice of accepting observers at the opening of a meeting. An alternative could be to request the expression of objections before the meeting, so that an observer could spare travelling to the meeting venue if rejected. A provision along these lines exists in the RoP of the Advisory Committee of ASCOBANS.

**Commented [A7]:** This reflects what happens in practice. However there might be a potential contradiction with para. 16 of Res.12.4.

**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.*

**Issue:** With the establishment of the Sessional Committee, the question regarding the election of the Chair and Vice-Chair arises. The members of the Sessional Committee are chosen from the pool of members of the Scientific Council. The current procedure of electing the Chair and Vice-Chair needs to be modified because the membership of the Sessional Committee for the next intersessional period will be defined only at the meeting of the COP instead of before the meeting. It is helpful for the Secretariat to be able to discuss the agenda, key documents and organization of the meeting with the elected Chair and Vice-Chair before the first meeting of the Sessional Committee within a triennium. If the election is held at the first meeting of the Sessional Committee, the Secretariat would have to organize the meeting without a Chair and Vice-Chair with whom to consult. On the other hand, if the election is done through correspondence, more detailed rules about how such an election are carried out are needed. It is desirable that the Chair and Vice-Chair for the forthcoming triennium are established as

soon as possible. It is also practical, for the avoidance of doubt, that the Chair and Vice-Chair of the Sessional Committee are the *de facto* Chair and Vice-Chair of the Scientific Council as a whole.

**Recommendation:** Amend Rule 8 to enable the election of Chair and Vice-Chair by the Sessional Committee members. Amend Rule 8 allow for correspondence voting immediately after each regular meeting of the Conference of the Parties.

**Proposed Amendments:**

Rule 8

- a. (Following each regular meeting of the Conference of the Parties, the members of the Sessional Committee will elect its Chair and Vice-Chair from among themselves. The Chair and Vice-Chair of the Sessional Committee are also Chair and Vice-Chair of the Scientific Council.
- b. The Regional representatives, Regional alternates, and COP appointed Councillors who are members of the Sessional Committee will each have one vote for each of the Chair and Vice-Chair.
- c. The election of the Chair and Vice-Chair will be conducted by correspondence immediately following the conclusion of a Conference of the Parties.
- d. Any member of the Sessional Committee may propose another member as a candidate for the election within a time frame announced by the Secretariat. The Secretariat is required to send all proposals to the members of the Sessional Committee, who will be entitled to comment within 30 days of the communication of the proposal; any comments received by the Secretariat within this time limit must also be so communicated to the members.
- e. The election of the Chair and Vice-Chair will be carried out in accordance with Rules 11 – 13 (Elections). The first round of voting will be open for 15 working days starting from the date set by the Secretariat.
- f. The voting period for any subsequent round of voting as may be required will be specified by the Secretariat and will be no less than 10 working days.
- g. The Vice-Chair and Chair should be from different CMS regions.
- h. If the Chair resigns the Vice-Chair will become Chair for the rest of the triennium and a new Vice-Chair should be elected using the procedures in clauses c-g above.
- i. Subject to the rules on rotation of Sessional Committee Members, a Chair may be re-elected for a second triennium.
- j. The next Chair should not be from the same CMS Region as the previous chair.)

**Commented [A8]:** As regional alternates are agreed through COP, it is suggested they should also have the right to vote on the chair and vice-chair of the Sessional Committee / Scientific Council. There is an argument that this would disadvantage Regions which did not appoint alternates. The counterview is that this is an incentive for alternates to be appointed from all regions. And for regions with fewer Party members, it gives a greater proportion of those parties a chance to express their views.

**RULE 9**

*The Chairperson shall will preside at meetings of the Council or of the Sessional Committee, 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 or of the Sessional Committee. The Chairperson may represent the Council and Sessional Committee as required within the limits of the Council's mandate, and shall should carry out such other functions as may be entrusted by the Council or the Sessional Committee.*

**RULE 10**

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

## 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.*

Issue: Who is the presiding officer for elections? This isn't clear from the existing Rules of Procedure.

Recommendation: This logically seems to be a role for the most senior officer of the Convention Secretariat available – either the Executive Secretary, or the senior serving official if the Executive Secretary is not available.

#### **Proposed Amendments:**

##### **Rule 11**

**The Presiding Officer for elections will be either the Executive Secretary of the Convention, or, in his/her absence, the senior serving official of the Secretariat.** *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 ~~P~~presiding ~~O~~fficer ~~s~~hall ~~w~~ill 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 ~~s~~pecial 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 ~~s~~pecial 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 ~~P~~presiding ~~O~~fficer ~~s~~hall ~~w~~ill 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.*

Issue: Contradicts Art VIII (3) of the Convention and does not correspond to the established practice.

#### **Art VIII of the Convention:**

*3. The Scientific Council shall meet at the request of the Secretariat as required by the Conference of the Parties.*

Recommendation: Amend Rule 14 to fit Article VIII (3) of the Convention.

**Proposed Amendments:**

Rule 14

- a. {The Scientific Council or the Sessional Committee should meet at the request of the Secretariat.
- b. Meetings of the Scientific Council or Sessional Committee, shall be serviced by the Secretariat of the Convention.}

**RULE 15 \***

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

**Issue:** Call for meetings is dependent on availability of resources and necessity.

**Recommendation: Amend Rule 15.** A minimum of two meetings should be held per triennium. The first meeting is to be scheduled shortly after the COP where the Scientific Council was appointed. The second should be held shortly before the next COP to review draft resolutions, species listing proposals, etc. There should also be a possibility to hold additional meetings depending on needs and availability of resources.

**Proposed Amendments:**

Rule 15

- a. {The Sessional Committee of the Scientific Council shall meet at least once per triennium, and subject to available resources, should aim to meet more frequently.
- b. The time and venue of meetings shall be determined by the Secretariat, in consultation with the Chair and Vice-Chair.}

**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.*

**Issue:** The Rules of Procedure need further specifications in terms of deadlines for posting documents before meetings. The Standing Committee ROP have been revised recently and is an appropriate framework to follow. However, there is also a need to add flexibility to the rules, particularly in terms of document availability preceding the COP.

**Recommendations:** Amend Rule 16 by following the lines of the CMS Standing Committee procedures.

**Proposed Amendments:**

Rule 16

- a. {Notice of meetings, including the date and venue, shall be sent to all Parties by the Secretariat at least [XX] days in advance, or, in the case of extraordinary meetings, at least [XX] days in advance.
- b. The Secretariat should post documents for the meeting on its website, which shall be translated into the three working languages of the Convention, at least 40 days before each meeting, with exception to the Sessional Committee meeting immediately preceding the meeting of the Conference of the Parties. For such a meeting of the Sessional Committee, the Secretariat shall post documents following the Rules of Procedure of the Conference of the Parties.
- c. If documents are not posted according to the deadlines set in clause b they shall not be considered by the meeting except in exceptional circumstances (such as those covered by Resolution 10.02 on conservation emergencies). Late preparation of documents, whether by the Secretariat, Parties, or others will not be considered extraordinary circumstances.}

**Commented [A9]:** This value should be made consistent with other relevant provisions concerning e.g. documentation (this same rule) and requests to attend meetings as observers (Rule 7 above).

**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.*

**Issue 1:** Should remote participation in meetings be allowed? And if so, should it be counted when deciding whether a quorum is reached?

**Issue 2:** What should the quorum for be for working groups?

**Recommendations:** allow quorum to be attained through remote participation, but only of Sessional Committee members, and make sure that working groups include Sessional Committee members from at least two CMS regions to make sure that recommendations being passed to the Sessional Committee have the requisite level of support.

**Proposed Amendments:**

Rule 17

- a. {A quorum for a Sessional Committee or Scientific Council meeting shall consist of half of the members of the Council or Sessional Committee. For a working group meeting, members of the Sessional Committee from at least two CMS Regions must be present for a quorum to be reached.
- b. Sessional Committee Members may be present either in person or through telecommunication means to count toward the quorum.
- c. If neither the Chair nor the Vice-Chair are present at the meeting the members of the Sessional Committee may choose a Chair and Vice Chair amongst their members who are present in person.
- d. No decision shall be taken at a meeting in the absence of a quorum.
- e. The means of participating through telecommunication shall be announced by the Secretariat.}

**RULE 18**

*Decisions of the Council or the Sessional Committee shall will be taken by consensus unless a vote is requested by the Chairperson or by three members. If these members are Party-appointed Councillors they should be from at least two CMS Regions.*

#### **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.*

**Issue:** voting via remote participation

**Recommendations:** assuming remote participation of Sessional Committee members is allowed, it would be perverse to then not allow voting through remote participation.

#### **Proposed Amendments:**

##### **Rule 19**

**Decisions of the Council or Sessional Committee by voting (pursuant to Rule 18) shall be taken by a simple majority of the members present (either in person or by electronic means). In the case of a tie, the motion shall be considered as rejected.**

#### **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 CQP-enference-appointed Councillors.*

#### **RULE 21 \***

*The Council or the Sessional Committee shall will decide on the working languages of its meetings from within the official languages of the Convention. Simultaneous interpretation will be provided for Plenary Sessions whenever possible, but normally not for working groups.*

**Commented [A10]:** The possibility of providing simultaneous interpretation to working groups may not be completely excluded if conditions allow, but there should be no expectations for this service.

### **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 Parties.*

**Issue:** The constitution and practical operation of working groups, both those at meetings of the Sessional Committee, and intersessionally. Working groups are a major mechanism by which the Scientific Council and its Sessional Committee get work done. They may be during meetings, or operate between meetings, and can be both taxonomically, or thematically focused. In a number of cases working groups, particularly those working intersessionally, have in the past been made up more by external experts than from the membership of the Scientific Council. That is valuable in bringing in external expertise and help, but it raises a question of ownership of results and proposals from those working groups by the Scientific Council or its Sessional Committee. Given that, it seems appropriate that working groups should be chaired by one of the members of the Sessional Committee, and any results subject to review by the Sessional Committee at one of its meetings. In addition, consideration may need to be given to the composition of working groups – in particular the balance of Scientific Council membership vs external experts, and of decisions on what to put forward from a working group – which should clearly be supported by members.

**Recommendation:** Amend Rule 22 to make the role of Parties within working groups, and the Sessional Committee in approving their results, more explicit. All working groups (In session or intersessional) should be chaired by a Sessional Committee member, and results of working group discussions (whether during Sessional Committee / Scientific Council meetings, or as a result of intersessional discussions) should be subject to review, and if necessary amendment by members of



the Sessional Committee before they are adopted as outputs of the Sessional Committee or Scientific Council. In addition, it is recommended that all in-session working groups are facilitated by a member of the Secretariat staff, and that the Secretariat is a member of all intersessional working groups. Scientific Council members should constitute at least [XX] per cent of the membership of all working groups, and a working group should not adopt any proposals that have not been supported by members of the Scientific Council from at least two different CMS regions.

**Proposed Amendments:**

**Rule 22**

- a. Working groups of the Scientific Council or the Sessional Committee may be established in order to further the Council's work programme, taking into account the provisions of any relevant resolutions of the Conference of the Parties.
- b. The Secretariat should be a member of all working groups.
- c. Meetings of in-session working groups should be serviced by the Secretariat of the Convention. Servicing of intersessional working groups will depend on resources available to the Secretariat.
- d. All working groups (in-session or intersessional) must be chaired by a member of the Sessional Committee.
- e. The results of any working group must be reviewed, and as necessary amended, by a meeting of the Sessional Committee.
- f. Scientific Council Members should constitute at least [XX] per cent of the membership of all working group.
- g. All proposals from a working group must be supported by members of the Scientific Council from at least two different CMS regions.}

**Communication Procedure**

**RULE 23 \***

*The Secretariat, or ~~a~~Any three members of the Scientific Council or of the Sessional Committee, from at least two different CMS regions, ~~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.*

**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 or the Sessional Committee.*

### Other Functions

#### RULE 26

The Chairperson ~~shall~~ should 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 or the Sessional Committee shall will 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 or the Sessional Committee following their approval by the Conference of the Parties. ~~The rules may only be amended by decisions of the Standing Committee or of 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****RULES OF PROCEDURE OF THE CMS SCIENTIFIC COUNCIL  
AND ITS SESSIONAL COMMITTEE****Purpose**Rule 1

These rules of procedure shall apply to any meeting of the Scientific Council or of its Sessional Committee, convened in accordance with Article 8 of the Convention and Resolution 12.4, and any future revision adopted by the Conference of the Parties.

**Representation and Attendance**Rule 2

- a. Any Party may appoint a qualified expert as a member of the Scientific Council who will have the right to participate in meetings of the Council.
- b. The membership of the Sessional Committee of the Scientific Council shall consist of the 15 regional representatives elected by the Conference of the Parties together with up to 9 COP-appointed Councillors.
- c. Sessional Committee members will be elected for a term of two triennia. Each ordinary meeting of the Conference of the Parties will decide on the renewal of half of the membership of the Sessional Committee.
- d. Regional representatives will be expected to represent their regions at meetings of the Committee.
- e. One regional alternate may be appointed by the Parties for each regional representative. The alternate must be from the same region as the representative, but will not be from the same country.
- f. It is expected that both regional representatives and alternates will attend the meetings of the Sessional Committee where possible, noting that financial support for those delegates eligible to receive such support will be prioritized to the Sessional Committee members first, so it may not be possible to also support alternates from countries that would otherwise be eligible for financial support if the appointed regional representatives are attending.
- g. The terms of office of the regional members and their alternates will commence at the close of the ordinary meeting at which they are elected and shall expire at the close of the second ordinary meeting thereafter. If a regional alternate is subsequently elected to the Sessional Committee, he/she will be eligible to serve for two triennia in their new capacity in addition to any term he/she may have already served as an alternate.
- h. If a regional representative is not able to attend a meeting or session, his/her regional alternate will be entitled to act in his/her place in his/her absence.
- i. If a member resigns, or is otherwise unable to complete the assigned term or the functions of a member, his/her regional alternate should serve as a substitute for the remaining term of office of that member, and a further alternate member should be selected by the region through the representatives of the region in the Standing Committee.

**Rule 3**

The Chair of the Standing Committee will have the right to participate in meetings of the Council as an observer without the right to vote.

**Rule 4**

- a. Members of the Scientific Council who do not serve in the Sessional Committee, and alternates to the regional representatives of the Sessional Committee, have the right to attend meetings of the Sessional Committee as observers. Party representatives also have the right to attend meetings of the Scientific Council or of the Sessional Committee as observers.
- b. Representatives of instruments within the 'CMS family' or of multilateral environmental agreements within the 'biodiversity cluster', have the right to attend meetings of the Scientific Council or of the Sessional Committee as observers.
- c. Any agency or body, whether national or international, governmental or non-governmental, qualified in fields relating to the conservation and management of migratory species (including but not limited to those referred to within Resolution 12.4 and subsequent revisions), which has informed the Secretariat not less than [XX] days before the meeting of the Scientific Council or the Sessional Committee, or both, of its wish to be represented at the meeting by observers, may be represented by observers, unless at least one third of the members present at the meeting object. Bodies or agencies desiring to be represented at the meeting by observers should submit the names of these observers to the Convention Secretariat at least [XX] days prior to the opening of the meeting.
- d. All observers may, upon the invitation of the Secretariat, participate, but without the right to vote.
- e. The Secretariat may, for practical reasons, or to balance Party and non-Party representation, limit the number of observers, such as to a given number per organization.

**Officers****Rule 5**

- a. Following each regular meeting of the Conference of the Parties, the members of the Sessional Committee will elect its Chair and Vice-Chair from among themselves. The Chair and Vice-Chair of the Sessional Committee are also Chair and Vice-Chair of the Scientific Council.
- b. The Regional representatives, Regional alternates, and COP appointed Councillors who are members of the Sessional Committee will each have one vote for each of the Chair and Vice-Chair.
- c. The election of the Chair and Vice-Chair will be conducted by correspondence immediately following the conclusion of a Conference of the Parties.
- d. Any member of the Sessional Committee may propose another member as a candidate for the election within a time frame announced by the Secretariat. The Secretariat is required to send all proposals to the members of the Sessional Committee, who will be entitled to comment within 30 days of the communication of the proposal; any comments received by the Secretariat within this time limit must also be so communicated to the members.

- e. The election of the Chair and Vice-Chair will be carried out in accordance with Rules 11 – 13 (Elections). The first round of voting will be open for 15 working days starting from the date set by the Secretariat.
- f. The voting period for any subsequent round of voting as may be required will be specified by the Secretariat and will be no less than 10 working days.
- g. The Vice-Chair and Chair should be from different CMS regions.
- h. If the Chair resigns the Vice-Chair will become Chair for the rest of the triennium and a new Vice-Chair should be elected using the procedures in clauses c-g above.
- i. Subject to the rules on rotation of Sessional Committee Members, a Chair may be re-elected for a second triennium.
- j. The next Chair should not be from the same CMS Region as the previous chair.

#### Rule 6

The Chair will preside at meetings of the Council or of the Sessional Committee, 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 or of the Sessional Committee. The Chair may represent the Council and Sessional Committee as required within the limits of the Council's mandate, and should carry out such other functions as may be entrusted by the Council or the Sessional Committee.

#### Rule 7

The Vice-Chair is expected to assist in the execution of the Chair's functions, and to preside at meetings in the absence of the Chair.

### **Elections**

#### Rule 8

The Presiding Officer for elections will be either the Executive Secretary of the Convention, or, in his/her absence, the senior serving official of the Secretariat. 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 will decide between the candidates by drawing lots.

#### Rule 9

If in the first ballot there is a tie amongst candidates obtaining the second largest number of votes, a ballot shall be held amongst them for reducing the number of candidates to two.

#### Rule 10

In the case of a tie amongst three or more candidates obtaining the largest number of votes in the first ballot, a 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 will reduce the number to two by drawing lots, and a further ballot shall be held in accordance with Rule 11.

## Meetings

### Rule 11

- a. The Scientific Council or the Sessional Committee should meet at the request of the Secretariat.
- b. Meetings of the Scientific Council or Sessional Committee, shall be serviced by the Secretariat of the Convention.

### Rule 12

- a. The Sessional Committee of the Scientific Council shall meet at least once per triennium, and subject to available resources, should aim to meet more frequently.
- b. The time and venue of meetings shall be determined by the Secretariat, in consultation with the Chair and Vice-Chair.

### Rule 13

- a. Notice of meetings, including the date and venue, shall be sent to all Parties by the Secretariat at least [XX] days in advance, or, in the case of extraordinary meetings, at least [XX] days in advance.
- b. The Secretariat should post documents for the meeting on its website, which shall be translated into the three working languages of the Convention, at least 40 days before each meeting, with exception to the Sessional Committee meeting immediately preceding the meeting of the Conference of the Parties. For such a meeting of the Sessional Committee, the Secretariat shall post documents following the Rules of Procedure of the Conference of the Parties.
- c. If documents are not posted according to the deadlines set in clause b they shall not be considered by the meeting except in exceptional circumstances (such as those covered by Resolution 10.02 on conservation emergencies). Late preparation of documents, whether by the Secretariat, Parties, or others will not be considered extraordinary circumstances.

### Rule 14

- a. A quorum for a Sessional Committee or Scientific Council meeting shall consist of half of the members of the Council or Sessional Committee. For a working group meeting, members of the Sessional Committee from at least two CMS Regions must be present for a quorum to be reached.
- b. Sessional Committee Members may be present either in-person or through telecommunication means to count toward the quorum.
- c. If neither the Chair nor the Vice-Chair are present at the meeting the members of the Sessional Committee may choose a Chair and Vice Chair amongst their members who are present in person.
- d. No decision shall be taken at a meeting in the absence of a quorum.
- e. The means of participating through telecommunication shall be announced by the Secretariat.

### Rule 15

Decisions of the Council or the Sessional Committee will be taken by consensus unless a vote is requested by the Chair or by three members. If these members are Party-appointed Councillors they should be from at least two CMS Regions.

**Rule 16**

Decisions of the Council or Sessional Committee by voting (pursuant to Rule 15) shall be taken by a simple majority of the members present either in person or by electronic means. In the case of a tie, the motion shall be considered as rejected.

**Rule 17**

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

**Rule 18**

The Council or the Sessional Committee will decide on the working languages of its meetings from within the official languages of the Convention. Simultaneous interpretation will be provided for Plenary Sessions whenever possible, but normally not for working groups.

**Working Groups****Rule 19**

- a. Working groups of the Scientific Council or the Sessional Committee may be established in order to further the Council's work programme, taking into account the provisions of any relevant resolutions of the Conference of the Parties.
- b. The Secretariat should be a member of all working groups.
- c. Meetings of in-session working groups should be serviced by the Secretariat of the Convention. Servicing of intersessional working groups will depend on resources available to the Secretariat.
- d. All working groups (in-session or intersessional) must be chaired by a member of the Sessional Committee.
- e. The results of any working group must be reviewed, and as necessary amended, by a meeting of the Sessional Committee.
- f. Scientific Council Members should constitute at least [XX] per cent of the membership of all working group.
- g. All proposals from a working group must be supported by members of the Scientific Council from at least two different CMS regions.

**Communication Procedure****Rule 20**

The Secretariat, or any three members of the Scientific Council or of the Sessional Committee, from at least two different CMS regions, may make a proposal to the Chair 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.

**Rule 21**

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 22

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

**Other Functions**

Rule 23

The Chair should 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 24

The Council or the Sessional Committee will receive reports from other committees established under the Convention, as necessary.

**Final Provisions**

Rule 25

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 26

These Rules shall be applied at the first meeting of the Council or the Sessional Committee following their approval by the Conference of the Parties. The rules may only be amended by decisions of the Standing Committee or of the Conference of the Parties.