

CONVENTION ON INTERNATIONAL TRADE IN ENDANGERED SPECIES
OF WILD FAUNA AND FLORA



Seventy-eighth meeting of the Standing Committee
Geneva (Switzerland), 3 - 8 February 2025

ADDITIONAL INFORMATION ON THE RULES OF PROCEDURE OF THE CONFERENCE OF THE PARTIES

This document has been submitted by the Chair of the Standing Committee as Chair of the intersessional Working Group (WG) on the Rules of Procedure for the Conference of the Parties (CoP) to facilitate discussion of document SC78 Doc. 12.4.*

It represents some additional information since the Working Group Chair submitted the Working Group Report (Document SC78 Doc. 12.4). As discussed in paragraph 22 of the document, concerns were expressed by several Working Group members with the stepwise approach and wording for the proposed amendments to Rule 25.6 contained in the same paragraph. In addition, in its comments on the Working Group Report, China proposed new wording for the proposed amendments but there was not sufficient time for the Working Group to discuss China's suggestions in advance of the SC78 document submission deadline.

At the request of a number of WG Members, the WG Chair convened an informal online consultation on January 21, 2025, to discuss further the draft amendments to Rule 25.6 and Document SC78 Doc. 12.4.

During the informal consultation, the WG Chair provided information graphics to illustrate the proposed amendments to Rule 25.6 presented in paragraph 22 of Document SC78 Doc. 12.4, including what the stepwise approach as described in paragraphs 16-21 of the same Document and the blue and purple highlighted text below would mean in practice. These graphics and explanation are presented in the Annex to this information document.

The WG members considered the two proposals.

The Current Rule of Procedure 25.6 reads:

"If two or more proposals including proposals amended in accordance with Rule 24, paragraph 2 or in accordance with paragraph 5 of this Rule, relate to the same taxon, but are different in substance, the Conference shall first decide on the proposal that will have the least restrictive effect on the trade and then on the proposal with the next least restrictive effect on the trade, and so on until all proposals have been submitted to decision. When however, the adoption of one proposal necessarily implies the rejection of another proposal, the latter proposal shall not be submitted to decision."

Draft Amendments proposed to Rule 25.6 in paragraph 22 of Document SC78 Doc. 12.4:

If two or more proposals including proposals amended in accordance with Rule 24, paragraph 2 or in accordance with paragraph 5 of this Rule, relate to the same taxon, but are different in substance, **the Chair shall so advise the Conference, clearly indicating the implications of the adoption of one proposal for the other(s), and allow each of the proposals to be introduced prior to submitting any of them for discussion and decision.** The Conference shall first decide on the proposal that will have the least restrictive effect on the trade and then on the proposal with the next least restrictive effect on the trade, and so on until all proposals have been submitted to decision. **If**

* The geographical designations employed in this document do not imply the expression of any opinion whatsoever on the part of the CITES Secretariat (or the United Nations Environment Programme) concerning the legal status of any country, territory, or area, or concerning the delimitation of its frontiers or boundaries. The responsibility for the contents of the document rests exclusively with its author.

any proposal to reduce the restrictive effect on the trade in the taxon is adopted, then no further decision will be made on proposals to add restrictions on the same trade for the same taxon. After this stepwise process, if more than one proposal is adopted to add restrictions for the same taxon, then the last proposal adopted will be the decision of the Conference for the taxon. ~~If, in relation to the same taxon, When however, the adoption of one proposal necessarily implies the rejection of another proposal,~~ the latter proposal shall nevertheless ~~not~~ be submitted to decision in relation to any other taxon remaining in the latter proposal. Nothing in the procedure stipulated in this paragraph is intended to affect the procedure in the other paragraphs of Rule 25.

* E.g., if the effect of one proposal is to reduce the restrictive effect on the trade and the effect of another proposal is to increase the restrictive effect on the same trade for the same taxon, then adoption of one necessarily implies rejection of the other for the taxon.

The WG Chair notes that during the informal consultation, there was consensus on the text in yellow/double-underlined above, while there was not consensus on the other proposed amendments (blue, green, and purple text). The WG Chair further notes that the blue highlighted text is described in SC78 Doc. 12.4, paragraphs 16-21 on a stepwise progression and, in the Chair's view, is still subject of discussion. The WG Chair further notes that the concept of allowing the consideration of non-overlapping taxa (green highlighted text, described in SC78 Doc. 12.4, paragraphs 14-15) seems to be largely supported, but is still subject of some discussion as to the clearest language. Finally, the WG Chair notes that the text in the footnote (purple highlighted text) described in Document SC78 Doc. 12.4, paragraph 16, scenario 2, paragraphs 20-21, provides an example of adoption of one proposal necessarily implying the rejection of another proposal is linked to the text in green and, in the Chair's view, is still subject of discussion.

The information graphics in the Annex to this information document illustrate how the proposed amendments to Rule 25.6 in the blue and purple highlighted text above would operate in practice.

China's proposed alternative text for Rule 25.6.

In its comments to the working group report, China proposed the amendment of the existing rule with the addition of two sentences (underlined) and the partial revision of the second to last sentence (underlined), as follows:

"If two or more proposals including proposals amended in accordance with Rule 24, paragraph 2 or in accordance with paragraph 5 of this Rule, relate to the same taxon, but are different in substance, the Chair shall so advise the Conference, clearly indicating the implications of the adoption of one proposal for the other(s), and allow each of the proposals to be introduced prior to submitting any of them for discussion and decision. The Conference shall first decide on the proposal that will have the least restrictive effect on the trade and then on the proposal with the next least restrictive effect on the trade, and so on until all proposals have been submitted to decision. If the adoption of one proposal necessarily implies the rejection of another proposal, the latter proposal shall not be submitted to decision unless it contains **non-overlapped** taxon. Nothing in the procedure stipulated in this paragraph is intended to affect the procedure in the other paragraphs of Rule 25."

The WG Chair notes that the main differences between the text in paragraph 22 of Document SC78 Doc. 12.4 and China's proposed text is that China's proposed text does not include the blue highlighted text concerning a stepwise progression, and does not include the purple highlighted footnote example. It may be useful for the Standing Committee to consider whether or not to recommend each of those elements of the draft amendments for consideration by CoP20.

The WG Chair further notes that the sentence "If the adoption of one proposal necessarily implies the rejection of another proposal, the latter proposal shall not be submitted to decision unless it contains non-overlapped taxon" is similar to the green highlighted text in the draft above; the main difference is the use of the term "non-overlapped". The WG Chair suggests that it may be useful for the Standing Committee to consider whether adding "non-overlapping" to the text proposed in the WG report (in green above) could lead to added clarity and consensus on that text. This would then read as follows:

"...If, in relation to the same taxon, ~~When however,~~ the adoption of one proposal necessarily implies the rejection of another proposal, the latter proposal shall nevertheless ~~not~~ be submitted to decision in relation to any other **non-overlapping** taxon remaining in the latter proposal. Nothing in the procedure stipulated in this paragraph is intended to affect the procedure in the other paragraphs of Rule 25. "

Annex

The visual below was prepared by the WG Chair as a tool to aid discussion by helping visualize the two more complicated issues presented in the draft amendments to Rule 25.6, and what it would mean to adopt the proposal presented in the working group report, using generic examples.

Issue 1) what it means for one proposal to necessarily imply rejection of another proposal (where both proposals concern regulating the same trade in the same taxon, but are different in substance).

Issue 2) what it means to apply these principles in practice under the rule.

Image 1 is intended to help visualize what it means for adoption of one proposal to necessarily imply rejection of another proposal in different scenarios. It contains four general examples of proposals of a range of restrictiveness, from P1 to P4. P1 would reduce restrictions from status quo by the most. P2 would reduce restrictions from status quo, but less than P1. P3 would increase restrictions from status quo, but less than P4. P4 would increase restrictions from status quo by the most. Please note, not all of these scenarios would occur in practice under the rule, or in all fact patterns. The scenarios that actually occur are based on the proposals submitted, the order of consideration, and then based on the decisions reached by the Parties at each step of the decision making process. As determined through our working group discussions, the rule continues to consider proposals from least restrictive to most restrictive in outcome. In our discussions we have not proposed to change that order.

Visual Illustration of CITES CoP Rule of Procedure 25.6

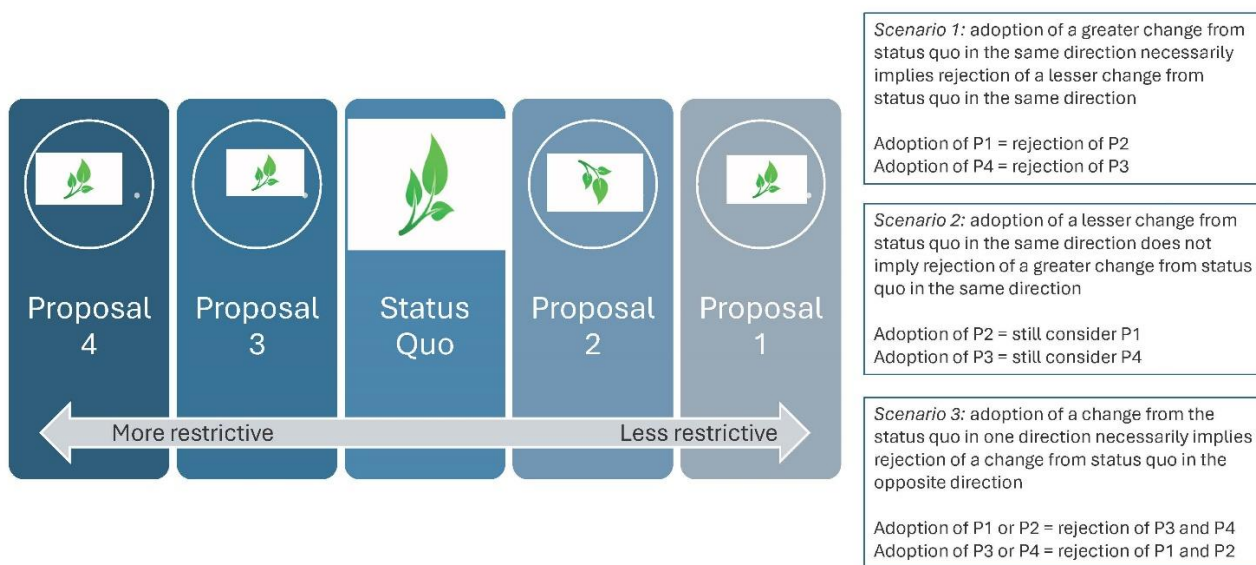
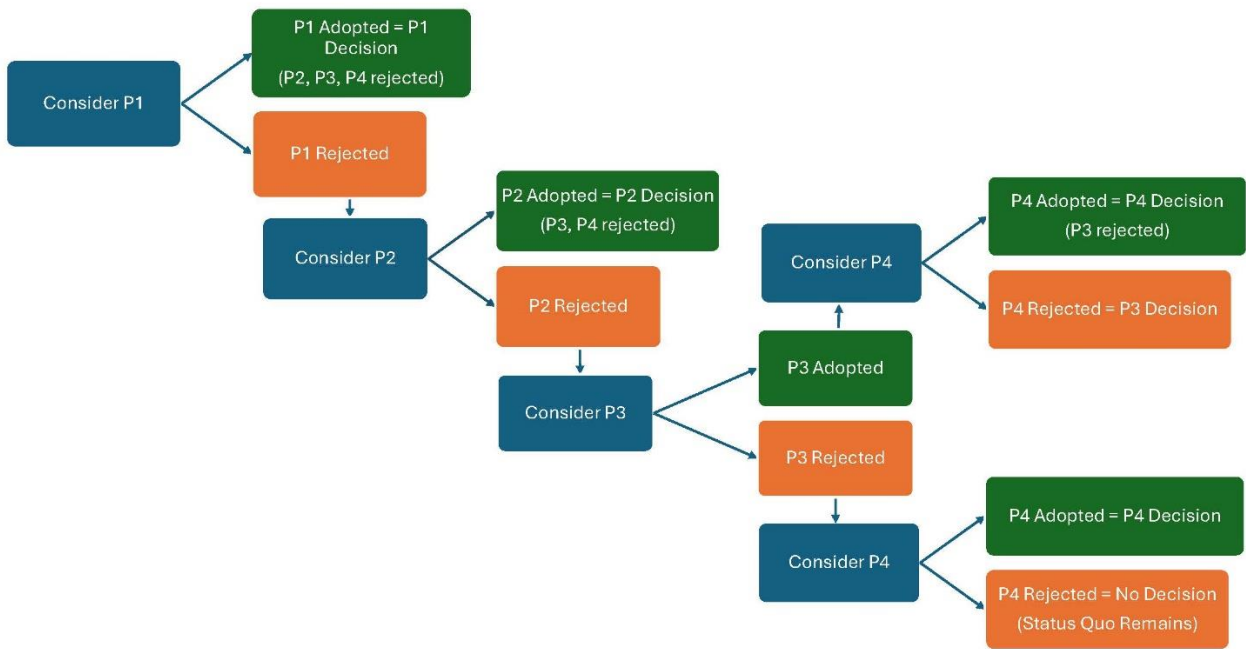


Image 2 presents a visual representation of the stepwise approach from least restrictive to most restrictive. Hence, it starts with P1, and provides a flow chart of stepping through consideration of the proposals, applying the scenarios as they are presented and decided through operation of the draft rule after all proposals are introduced and discussed if no consensus is achieved.

Visual Illustration of the Stepwise Approach as to CITES CoP Rule of Procedure 25.6



Step 1. First P1 is decided. Because it is the least restrictive, proposing to reduce restrictions by the most.

If P1 is adopted, then the other three proposals in the example are rejected. P2 rejected (scenario 1 on image 1 of the visual), because it would reduce restrictions by less than P1. By adopting P1, the Parties would have decided to reduce restrictions by more than proposed in P2. Adoption of more in the same direction from status quo implies rejection of less in the same direction from status quo. *[This is also detailed in Document SC78 Doc. 12.4, paragraph 16, Scenario 3.]* P3 and P4 also rejected (scenario 3 on image 1 of the visual), because they are proposals to instead increase restrictions, and adoption of a proposal by the Parties moving in one direction from status quo implies rejection of a proposal to move in the opposite direction from status quo. *[This is also detailed in Document SC78 Doc. 12.4, paragraph 16, Scenario 2.]*

Step 2. If P1 is rejected, then P2 is next decided as the next least restrictive, because P2 proposes to reduce restrictions by the next most of remaining proposals.

If P2 is adopted, then the other two proposals in the example are rejected. Again, P3 and P4 rejected (scenario 3 on image 1 of the visual), because they are proposals to instead increase restrictions, and adoption of a proposal by the Parties moving in one direction from status quo implies rejection of a proposal to move in the opposite direction from status quo. *[This is also detailed in Document SC78 Doc. 12.4, paragraph 16, Scenario 2.]*

Step 3. If P2 is rejected, then P3 is decided as the next least restrictive, because P3 proposes to increase restrictions by the least of remaining proposals. See Step 3 a., if P3 is adopted. See Step 3 b., if P3 is rejected.

Step 3 a. If P3 is adopted, then P4 is next decided as the next least restrictive in the same direction (scenario 2 on image 1 of the visual) *[This is also detailed in Document SC78 Doc. 12.4, paragraph 16, Scenario 1.]* P4 is not implied rejected, because adoption of the lesser change in the same direction from status quo does not imply rejection of the more change when moving in the same direction from status quo.

If P4 is adopted, then P4 is the decision of the Parties, as the last proposal adopted by 2/3 of the Parties. P3 implied rejected (scenario 1 on image 1 of the visual), because it would add restrictions by less than P4. By going on to adopt P4, the Parties would have decided to increase restrictions by more than proposed in P3. Adoption of more in the same direction from status quo implies rejection of less in the same direction from status quo.

If P4 is rejected, then P3 is the decision of the Parties, as the last proposal adopted by 2/3 of the Parties.

Step 3 b. If P3 is rejected, then P4 is next decided as the next least restrictive in the same direction.

If P4 is adopted, then P4 is the decision of the Parties.

If P4 is rejected, then all proposals have been rejected, and the status quo remains.