

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



Sixty-first meeting of the Standing Committee
Geneva (Switzerland), 15-19 August 2011

Administrative matters

RULES OF PROCEDURE OF THE ANIMALS AND PLANTS COMMITTEES

1. This document has been prepared by the Secretariat.
2. In its comments on the reports of the Chairs of the Animals and Plants Committees at the 15th meeting of the Conference of the Parties (CoP15, Doha, 2010), contained in documents CoP15 Doc. 7.2.1 and CoP15 Doc. 7.3.1 respectively, the Secretariat expressed its continuing concern about the need to prevent and deal with potential conflicts of interest relating to the activities of the Animals and Plants Committees. Its specific comments were:

- B. *After consideration of the reports of the Chairs of the Animals and Plants Committees, the Secretariat would like to reiterate the comment it made at CoP14 in document CoP14 Doc. 8.4 (Joint report of the Chairmen of the Animals and Plants Committees). In that document, the Secretariat suggested that, because members of the technical committees were individuals, rather than representatives of Parties as in the Standing Committee, rules needed to be developed for preventing and dealing with potential conflicts of interest relating to the activities of the Animals and Plants Committees, similar to those in certain other Multilateral Environmental Agreements. When this matter was discussed in Committee II at CoP14, Germany, on behalf of the European Community and its Member States, as well as Mexico and the United States of America supported the recommendation made by the Secretariat. The Chair of the Animals Committee said that such minor amendments to the Rules could be addressed bilaterally between the Secretariat and the scientific committees, and that the final Rules could be adopted at the following meetings of those Committees. [see summary record CoP14 Com. II Rep. 4 (Rev. 1)].*
- C. *However, when the Secretariat proposed the adoption of the following text in the Rules of Procedure to address this issue at the joint session of AC23 and PC17 the Animals and Plants Committees rejected the proposal:*

In cases where a member or alternate member of the Animals and Plants Committee has a financial or personal interest that could call into question his or her impartiality, objectivity or independence regarding a subject to be discussed by the Committee, he or she must disclose the interest to the Committee in advance of the discussions. Following any such disclosure and where appropriate after consultations with the Secretariat, the member or alternate member may participate in the discussion but not in the making of any decision with regard to the subject.

- D. *The Secretariat believes that the insertion of the draft rule in paragraph C above is a basic requirement for the conduct of an impartial, objective and independent advisory body, and understood that Parties shared this view at CoP14. The Secretariat therefore suggests a draft decision to bring this into effect.*

3. Decision 15.9 was subsequently adopted at CoP15. It is directed to the Standing Committee and reads:

Considering that members of the Animals and Plants Committees serve in a personal capacity, the Standing Committee shall review the need for the Rules of Procedure of those Committees to deal

with potential conflicts of interest of its members relating to their activities in the Committees, and shall report on this matter at the 16th meeting of the Conference of the Parties.

4. The issue of potential conflicts of interest in the scientific committees had been previously discussed at the joint session between the 17th meeting of the Plants Committee and 23rd meeting of the Animals Committee (Geneva, April 2008). At that time, a joint working group (PC17/AC23 WG 1) was established under the chairmanship of the PC representative of North America to review proposed Rules of Procedure submitted by the Secretariat. When the working group reported back to the joint PC17/AC23 session, it suggested that proposed Rule 26 (on potential conflicts of interest) be deleted. The summary record indicates that:

With respect to proposed Rule 26, the view was expressed that this was essentially an ethical matter, more appropriate to a code of conduct rather than to rules of procedure. The question of how a conflict of interest could be identified, and who might make such a determination was also raised.

5. Procedures, forms and codes of conduct used to address matters such as conflict of interest, disclosure and recusal have been used in the scientific bodies of other organizations and conventions for a number of years [e.g. the Food and Agriculture Organization of the United Nations (FAO), the World Health Organization (WHO), the Montreal Protocol on Substances that Deplete the Ozone Layer, the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, and the Stockholm Convention on Persistent Organic Pollutants]. WHO applies its procedure for preventing and dealing with conflict of interest for the members of all expert advisory panels and committees.
6. A useful overview of existing procedures used under FAO, WHO and the Montreal Protocol, together with examples of related declaration forms and codes of conduct, was prepared in 2001 for the Eighth session of the Intergovernmental Negotiating Committee for an International Legally Binding Instrument for the Application of the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (see document UNEP/FAO/PIC/INC.8/10).
7. Decision RC-1/7 of the Conference of the Parties to the Rotterdam Convention on *Rules and procedures for preventing and dealing with conflicts of interest relating to the activities of the Chemical Review Committee* was adopted in 2004. Decision SC-1/8 of the Conference of the Parties to the Stockholm Convention on *Rules of Procedure for preventing and dealing with conflicts of interest relating to activities of the Persistent Organic Pollutants Review Committee* was adopted in 2005.
8. The Stockholm Convention's *Handbook for effective participation in the work of the POPs Review Committee* (February 2009) contains a section on conflict of interest. Decision SC-1/8 is included as an annex, together with Decision SC-1/7 of the Conference of the Parties to the Stockholm Convention on Establishment of the Persistent Organic Pollutants Review Committee which includes a conflict of interest provision within the terms of reference for the committee.
9. The Montreal Protocol Technology and Assessment Panel (TEAP) sees 'conflict of interest' essentially as undisclosed affiliation or income, but does not prohibit membership for those experts working for organizations with an interest in a policy outcome. Conflict of interest also occurs in situations where, given the links between an expert and particular interests, there would be doubts as to the actual independence of that expert when considering a particular issue (see document UNEP/FAO/PIC/INC.8/10).
10. The code of conduct by members of the Montreal Protocol's TEAP (contained in its terms of reference) is aimed at enhancing public confidence in the integrity of the TEAP process while encouraging experienced and competent persons to accept TEAP membership by: establishing clear rules of conduct with respect to conflict of interest while and after serving as a member; minimizing the possibility of conflicts arising between the private interest and public duties of members; and providing for the resolution of such conflicts, in the public interest, should they arise (see Annex I to document UNEP/FAO/PIC/INC.8/10).
11. Discussions in CITES to date about preventing and dealing with conflict of interest in activities of the members of the Animals and Plants Committee have been rather limited in scope and duration. Governments have nevertheless identified this issue as an important one in other fora, and it would appear to warrant deeper and more careful analysis as to whether and how it might be addressed in the context of CITES. In this regard, the Secretariat continues to hold the view expressed in paragraph 2 D above.

Recommendation

12. The Secretariat recommends that the Standing Committee establish a working group to assist it with the implementation of Decision 15.9. It further recommends that such a working group report back to the Standing Committee at SC62.