

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



Seventy-third meeting of the Standing Committee  
Online meeting, 5-7 May 2021

Strategic matters

RULES OF PROCEDURE OF THE CONFERENCE OF THE PARTIES:  
REPORT OF THE WORKING GROUP

1. This document has been submitted by Canada as the Chair of the intersessional working group on Rules of Procedure.\*
2. At its 18th meeting (CoP18, Geneva, 2019), the Conference of the Parties adopted Decision 18.1 on *Rules of Procedure* as follows:

**18.1 Directed to the Standing Committee**

*With the support of the Secretariat, the Standing Committee shall review Rule 7.2 a) and Rule 25 of the Rules of Procedure of the Conference of the Parties and propose amendments, as appropriate, to the 19th meeting of the Conference of the Parties with the view to ensuring the effective conduct of meetings.*

3. To address this Decision, the Standing Committee, at its 72nd meeting (Geneva, August 2019), formed an intersessional working group with the mandate to: *Review Rule 7 2. a) and Rule 25 of the Rules of Procedure of the Conference of the Parties with a view to ensuring the effective conduct of meetings.*
4. The membership of the intersessional working group was agreed as follows: Canada (Chair), China, the European Union, Germany, Israel, Malaysia, Namibia, South Africa, the United Republic of Tanzania, the United States of America, and Zimbabwe; and Center for Biological Diversity, Conservation Alliance of Kenya, IWMC-World Conservation Trust, Lewis and Clark – International Environmental Law Project and Safari Club International.
5. The intersessional working group began its deliberations recalling the past issues raised with Rule 7 2. a) (on the composition of the Credentials Committee) and Rule 25 (on deciding on proposals for amendments to the Appendices).
6. Regarding Rule 7 2. a), the issues identified at the 18th meeting of the Conference of the Parties (CoP18) are that according to Rule 7 2. a), the Credentials Committee consists “of not more than five Representatives of different Parties...” As CITES operates with six regions, the number of five representatives means that one region is excluded from being represented on the Committee. The chair of the working group initiated discussion by suggesting the simplest solution to address this issue would be to increase the number of Representatives on the Committee from five to six.

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\* *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.*

7. Regarding Rule 25, the working group recalled that the Standing Committee had discussions on this Rule in advance of CoP18 but did not arrive at a conclusion to present to the Conference of the Parties. Members of the working group were invited to review document [CoP18 Doc. 4.2](#) which captures the main issues and views expressed as a starting point for moving forward. As outlined in document CoP18 Doc. 4.2, while the previous intersessional working group did not arrive at proposed amendments, it did identify some key features and challenges with the current Rule 25, notably the treatment of two proposals which cover the same species, treatment of onsite amendments to reduce the scope of a species proposal and treatment of annotations and supporting Decisions. These key features formed the basis for the deliberations by the current intersessional working group.

#### Regarding Rule 7 2. a)

8. Following the Chair's proposal to replace "five" with "six" in Rule 7 2. a) on the composition of the Credentials Committee, some members of the working group commented that the Rules should additionally specify working language and Regional representativity. Others indicated they were satisfied with the proposal suggested by the Chair or with the inclusion only of Regional representativity. The Chair noted some support for ensuring Rule 7 2. a) emphasized participation from all the CITES regions but also noted the possibility that a region may not be able to provide a member. From the subsequent discussion, it was clear that the working group favoured ensuring regional representation in Rule 7 2. a). Further, retaining existing language of "not more than" would address circumstances where a Region may be unable to identify a candidate for the committee. The proposed modifications to Rule 7 2.a) would be as follows:

2. The Conference of the Parties shall establish the following sessional committees:
  - a) the Credentials Committee, of not more than ~~five~~ six Representatives of different Parties, each representing a different region, which shall report to the meeting;

#### Regarding Rule 25.5

9. The working group addressed two elements of Rule 25. Rule 25.5 provides guidance on addressing amendments to proposals. The working group members reviewed the amendments proposed to this Rule by the previous intersessional working group and, with some minor modifications for clarity, supported amending Rule 25.5 and the first part of Rule 25.6 as follows:
  5. Any Representative may propose an amendment to a proposal for amendment of Appendix I or II to reduce its scope or to make it more precise. The Presiding Officer may permit the immediate discussion and consideration of such a proposed amendment even though it has not been circulated previously. If consensus cannot be reached, then the proposed amendment shall be put to a vote. If the proposed amendment is accepted, the amended proposal shall supersede the original proposal for amendment of Appendix I or II.
  6. If two or more proposals, including proposals amended in accordance with Rule 24, paragraph 2 ~~or, and proposals made~~ in accordance with paragraph 5 of this Rule, relate to the same taxon... *etc.*

#### Regarding Rule 25.6

10. With regard to amendment proposals that concern the same taxon but are different in substance (paragraph 6 of Rule 25), the Chair recalled that some of the key areas that were identified in past as needing attention were the treatment of two proposals which cover the same species, treatment of proposals subsequent to onsite amendments to reduce the scope of a species proposal, and the treatment of annotations and supporting Decisions. Of these, the key issues arising from the discussions within the working group were focused on the order and consideration of proposals that address overlapping taxon.
11. Based on the working group discussion, the Chair suggested possible amendments to Rule 25.6 with the aim of ensuring all proposals to amend the Appendices have the opportunity to be introduced during the Conference of the Parties; that there is clarity on how each proposal will be treated; and the order in which proposals are addressed is clear, but there is exceptional flexibility if appropriate (noting the Parties have the opportunity to object with a point of order).
12. The Chair's suggested amendment left two questions unresolved. Firstly, the working group was asked whether consideration should be given first to the most or to the least restrictive proposal. The current Rule

of Procedure require the least restrictive proposal first be considered. After discussion, the Chair concluded that the majority of the working group members would prefer to have the most restrictive proposal considered first.

13. Also unresolved was how to proceed when there is a partial taxon overlap in proposals to amend the Appendices such that adoption of one proposal removes consideration of a second proposal entirely, even if there is only partial taxon overlap. There was discussion within the working group on submitting taxon to decision separately in order to ensure all taxon within a proposal to amend the Appendices are considered. Under the current Rules of Procedure, this separation into parts of a proposal is possible only if a Party chooses to amend its proposal (Rule 25.5) or moves to have it considered in parts (Rule 25.3). After discussion, the majority of working group members agreed that Rule 25.6 should allow for consideration of parts of a proposal with the goal of submitting all taxon presented in a proposal to amend the Appendices for decision. Based on the discussion, the Chair suggested the addition of "in relation to the same taxon" in order to allow for the automatic consideration of the "remaining" parts of proposal, without having a Party explicitly make this request through Rule 25.3. For further clarity, additional amendments to Rule 25.5 were proposed to ensure any "remaining" taxon are submitted for decision.
14. Based on the discussion in the working group thus far, the Chair proposed the following amendments to Rule 25.6:
  6. If two or more proposals, including proposals amended in accordance with Rule 24, paragraph 2 ~~or and proposals made~~ 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 should 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~~ most restrictive effect on the trade and then on the proposal with the next ~~least~~ most restrictive effect on the trade, and so on until all proposals have been submitted to decision. However, the Chair may exceptionally propose a different order, if appropriate. ~~If~~ When however the adoption of one proposal necessarily implies the rejection of another proposal in relation to the same taxon, the latter proposal shall not be submitted to decision in relation to the same taxon, but shall be submitted to decision in relation to any remaining taxon.
15. At the time of writing, the Chair notes that the working group has not fully deliberated on her proposal for amendments to Rule 25.6. The Chair will provide an oral update on any further views discussed in the working group with respect to Rule 25.6.
16. The Annex of this document includes the full text of Rule 7 and Rule 25 including the proposed amendments to Rule 7 2. a) and Rule 25.5, as well as the Chair's suggested approach to Rule 25.6.

#### Recommendation

17. The Standing Committee is invited to agree to propose to the 19th meeting of the Conference of the Parties amendments to Rule 7 2.a) as found in paragraph 8 of this document, and amendments to Rule 25.5 and Rule 25.6 as found in paragraph 9 of this document.
18. The Standing Committee is invited to consider the amendments to Rule 25.6 proposed in paragraph 14 of this document as well as any further considerations from the working group reported by the Chair, and advise on whether to propose amendments to Rule 25.6 to the Conference of the Parties or to continue deliberations within the working group.

**Rule 7 Plenary sessions, committees and working groups**

1. The Conference of the Parties conducts its work in plenary sessions and in committee sessions.
2. The Conference of the Parties shall establish the following sessional committees:
  - a) the Credentials Committee, of not more than ~~five~~six Representatives of different Parties, each representing a different Region, which shall report to the meeting;
  - b) Committee I, which shall be responsible for making recommendations to the Conference on all proposals to amend the Appendices of the Convention and on any matter of a primarily biological nature; and
  - c) Committee II, which shall act similarly in relation to all other matters to be decided upon by the Conference.
3. The Conference and Committees I and II may establish such working groups as may be necessary to enable them to carry out their functions. They shall define the terms of reference and composition of each working group and shall strive to achieve regional balance. The membership of the working groups shall be limited to delegates and to those observers with expertise on the matter invited by the Presiding Officer of the session at which the working group is established. The Presiding Officer shall aim to ensure a fair and balanced representation of delegates and observers with the number of observers not exceeding the number of delegates.
4. Unless the chair of a working group is appointed by the Presiding Officer of the session at which it is established, each working group shall elect its own chair from among the delegates that are members of the working group.

**Rule 25 Procedure for deciding on proposals for amendment of Appendices I and II**

1. The Conference shall as far as possible decide on proposals for amendment of Appendices I and II by consensus.
2. Whenever the Conference does not reach a consensus on the adoption or rejection of a proposal for amendment of Appendices I and II, the Presiding Officer shall propose that the decision on the amendment be put to a vote.
3. A Representative may move that parts of a proposal for amendment of Appendices I and II shall be decided on separately. If any objection is made to the request for such division, the motion for division shall be voted upon. Permission to speak on the motion shall be accorded only to a delegate from each of two Parties wishing to speak in favour of, and a delegate from each of two Parties wishing to speak against, the motion. If the motion is carried, those parts of the proposal which are subsequently approved shall be decided upon as a whole. If all parts of the proposal have been rejected, it shall be considered to have been rejected as a whole.
4. If two or more proposals for amendment of Appendices I and II relate to the same taxon and have the same substance, the Conference shall decide on one proposal only. If this proposal is adopted or rejected, the other or others is or are deemed to be adopted or rejected also.
5. Any Representative may propose an amendment to a proposal for amendment of Appendix I or II to reduce its scope or to make it more precise. The Presiding Officer may permit the immediate discussion and consideration of such a proposed amendment even though it has not been circulated previously. If consensus cannot be reached, then the proposed amendment shall be put to a vote. If the proposed amendment is accepted, the amended proposal shall supersede the original proposal for amendment of Appendix I or II.

6. If two or more proposals, including proposals amended in accordance with Rule 24, paragraph 2 ~~or, and proposals made~~ 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 should 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~~ most restrictive effect on the trade and then on the proposal with the next ~~least~~ most restrictive effect on the trade, and so on until all proposals have been submitted to decision. However, the Chair may exceptionally propose a different order, if appropriate. If ~~When however~~ the adoption of one proposal necessarily implies the rejection of another proposal in relation to the same taxon, the latter proposal shall not be submitted to decision in relation to the same taxon, but shall be submitted to decision in relation to any remaining taxon.