

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

Sixteenth meeting of the Conference of the Parties
Bangkok (Thailand), 3-15 March 2013

Administrative mattersRules of ProcedurePROPOSED AMENDMENT TO RULE 25 ON *METHODS OF VOTING*
USE OF SECRET BALLOTS

1. This document has been submitted by Chile and Mexico.
2. The current voting procedures are specified in Rule 25 of the *Rules of Procedure of the Conference of the Parties* (last amended at CoP14; The Hague, 2007), as follows:

Rule 25 **Methods of voting**

1. *The Conference shall normally vote through an electronic system or by show of hands, but any Representative may request a roll-call vote. The roll-call vote shall be taken in the seating order of the delegations. The Presiding Officer may himself/herself require a roll-call vote on the advice of the tellers where they are in doubt as to the actual number of votes cast and this is likely to be critical to the outcome.*
2. *All votes in respect of the election of officers or of prospective host countries shall be by secret ballot when there is more than one candidate and, although it shall not normally be used, any Representative may request a secret ballot for other matters. The Presiding Officer shall ask whether the request is seconded. If it is seconded by 10 Representatives the vote shall be by secret ballot.*
3. *Voting by roll-call or secret ballot shall be expressed by "Yes", "No", or "Abstain". Only affirmative and negative votes shall be counted in calculating the number of votes cast.*
4. *The Presiding Officer shall be responsible for the counting of the votes and shall announce the result. After all votes, except those concerning the designation of the next host country, the Presiding Officer shall announce the number of affirmative votes, negative votes and abstentions, as well as the majority needed to adopt the decision submitted to votation. He/she may be assisted by tellers appointed by the Secretariat.*
5. *After the Presiding Officer has announced the beginning of a vote, it shall not be interrupted except by a Representative on a point of order in connection with the actual conduct of the voting. The Presiding Officer may permit Representatives to explain their votes either before or after the voting, and may limit the time to be allowed for such explanations.*

Background

3. Since 1994 to the date, the use of secret ballots has been discussed by four meetings of the Conference of the Parties and seven meetings of the Standing Committee (see Annex 2 [Rev. 1] of document [SC62 Doc. 10.3](#)).
4. At the 61st meeting of the Standing Committee (SC61; Geneva, August 2011), through document [SC61 Doc. 11.3](#) on *Improving transparency of voting during meetings of the Conference of the Parties*, Member

States of the European Union expressed the view that there had been insufficient transparency in the voting at the 15th meeting of the Conference of the Parties (CoP15; Doha, 2010), mainly due to:

- a) The inability for Parties to verify that their electronic votes had been correctly recorded immediately after a vote; and,
- b) The frequent use of secret ballots.

The SC61 settled the first of these concerns by agreeing to propose—for consideration of the 16th meeting of the Conference of the Parties (CoP16; Bangkok, 2013)—, an amendment to paragraph 1 of Rule 25 of the Rules of Procedure of the Conference of the Parties, to ensure that, for electronic votes, the vote of each Party is displayed on screen.

Regarding the second concern, several Parties stressed the desirability of transparency and the need to minimize the use of the secret ballot; as a result, the SC61 agreed to instruct the Secretariat to conduct a study on the recent history of the use of secret ballots.

5. In compliance with the latter, at the 62nd meeting of the Standing Committee (SC62; Geneva, July 2012) the Secretariat introduced document [SC62 Doc. 10.3](#), consisting of a review of the use of secret ballots during the period CoP10-CoP15. In summary, the document identified three different approaches to the use of secret ballots in history of the Rules of Procedure of the CoP, as follows:
 - a) From CoP1 (Berne, 1976) to CoP2 (Buenos Aires, 1985): a vote would be taken by secret ballot if this was requested by any Party;
 - b) From CoP6 (Ottawa, 1978) to CoP8 (Kyoto, 1992): a vote would be taken by secret ballot only if this was requested by a Party, supported by a second Party, and the supported by a simple majority; and
 - c) From CoP9 (Fort Lauderdale, 1994) to CoP15 (Doha, 2010): a vote would be taken by secret ballot if this was requested by a Party and supported by 10 Parties. This rule remains in effect.
6. As a result, the SC62 noted the aforementioned document, as well as the European Union's intention to submit a proposal to amend the Rules of Procedure of the CoP in relation to the use of the secret ballot. Although the SC only noted the document and the above mentioned intention of the EU, the following guidelines to revise the procedure on the use of the secret ballot (i.e. Rule 25.2) were considered—based on interventions from the North American representative, Mexico, Chile, Kenya, Canada, Colombia and India (amongst others):
 - a) Specific criteria must be established to limit the use of secret ballot for administrative matters, while restricting its use for substantive matters only for *exceptional* situations;
 - b) The threshold on the motion to proceed through secret ballot must be raised to *one-third* of the Representatives present and with a right to vote; and finally,
 - c) Prohibit the vote to take a secret ballot by secret ballot.

Rationale on the need to revise the use of secret ballots during CoP meetings

7. Although Rule 25.2 of the Rules of Procedure clearly establishes that votes by secret ballot “shall not normally be used” for issues other than election of officers and host countries; in practice—since the last modification to the Rules of Procedure on secret ballots (CoP9; 1994)—, the number of secret-ballot votes on non-administrative issues (namely, amendments to the Appendices) have significantly increased where of the 69 votes taken by secret ballot over the course of six meetings, 48 related to marine species or marine subjects (whales, turtles, sharks and other fish, and corals) and 17 related to the African elephant or ivory trade. Specifically, the number of secret ballots was much higher at CoP15 than at CoP13 or CoP14 (as shown in the Secretariat's study of document SC62 Doc. 10.3), although not higher than at the three preceding meetings
8. In this regard, several countries have expressed concerns that the frequent use of vote by secret ballot results in deviating from the agreement by the CoP that they shall not normally be used for issues other than the election of officers and host countries (see document SC61 Doc. 11.3).

9. Furthermore, there is wide recognition of the importance of United Nations treaties and agreements, which operate under open and transparent systems, permitting public access to information, and that Governments are accountable to the people they serve.
10. Moreover, the *CITES Strategic Vision: 2008-2013* ([Res. Conf. 14.2](#)) contemplates the promotion of transparency in the development of conservation practices; however, the overuse of the secret ballot for substantive matters contradicts such *Vision*, specifically by concealing the basis on which substantive decisions are being taken.
11. Additionally, the current threshold on the motion to proceed through secret ballot does not fairly reflect the increased membership of the Convention. In this regard, and based on the discussions held during SC62, a threshold of 1/3 of Representatives present and with a right to vote is advisable in order for the motion to proceed on a more proportional/representative basis.

Recommendation to the Conference of the Parties

12. Bearing in mind the above, the Conference of the Parties is invited to adopt the following amendment to paragraph 2 of Rule 25 of the Rules of Procedure:

Rule 25	Methods of voting
	<p>2. <i>All votes in respect of the election of officers or of prospective host countries shall be by secret ballot when there is more than one candidate and, although it shall not normally be used, any Representative may request a secret ballot for other matters. The Presiding Officer shall ask whether the request is seconded. If it is seconded by 10 <u>one third of the</u> Representatives, the vote shall be by secret ballot. <u>The vote on the motion for a secret ballot shall not proceed through secret ballot.</u></i></p>

COMMENTS FROM THE SECRETARIAT

- A. Considering that the present document and document CoP16 Doc. 4.2 deal with the same issue, but propose different solutions, the Secretariat suggests that they be considered together.
- B. The appropriate majority for deciding whether a vote should be taken by secret ballot is entirely a matter for the Parties. However, it should be noted that the proposed amendment to Rule 25.2 continues to refer to seconding the motion for a secret ballot so that there would be no vote on the motion. Consequently, the proposed final sentence is incongruous in referring to a "vote on the motion for a secret ballot".
- C. Therefore, if the Conference of the Parties agrees to the principles proposed by Mexico, the Secretariat would recommend that Rule 25.2 be amended as follows, to be consistent with other rules regarding voting:

All votes in respect of the election of officers or of prospective host countries shall be by secret ballot when there is more than one candidate, ~~and, although~~ and, although it shall not normally be used, any Representative, ~~if seconded by the Representative of another Party,~~ if supported by one-third of the Representatives present and voting, may request a secret ballot for other matters. ~~The motion shall be immediately put to a vote. The Presiding Officer shall ask whether the request is seconded. If it is seconded by 10 Representatives the vote shall be by secret ballot. The motion shall be granted if it is supported by one-third of the Representatives present and voting. The vote on the motion for a secret ballot shall not be taken by secret ballot.~~

- D. A related issue that has been raised with the Secretariat is what majority is required to amend the Rules of Procedure of the Conference of the Parties. The Secretariat considers that amendment of the Rules of Procedure of the Conference of the Parties requires a simple majority, and bases this view on four points:
 - i) The text of the Convention, in several places, indicates the majority required for the making of decisions by the Conference of the Parties. In one case, it is one-third (Article XI, paragraph 7); in two cases it is two-thirds (Article XV, paragraph 1.(b); Article XVII, paragraph 1). However, with regard to adoption of the Rules of Procedure of the Conference of the Parties (Article XI, paragraph 5), the

Convention is silent regarding the majority. The Secretariat interprets this to mean that decision should be taken by a simple majority unless the Conference decides otherwise;

- ii) As indicated in Rule 26.1 (see paragraph E. above), if the amendment of the Rules is considered to be a procedural matter relating to the conduct of the business of the meeting, then it shall be decided by a simple majority. Otherwise, it shall be decided by a two-thirds majority. It is self-evident that the substance of the Rules relates to the conduct of the meeting;
- iii) The question of which majority applies to the amendment of the Rules of Procedure will be decided first by the Presiding Officer. If the decision is appealed, it shall be immediately put to a vote and decided by a simple majority, in accordance with Rule 18.1.
- iv) In the United Nations General Assembly, amendment of the Rules of Procedure is decided by a simple majority (under Rule 163).