

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



Seventeenth meeting of the Conference of the Parties
Johannesburg (South Africa), 24 September – 5 October 2016

IMPLICATIONS OF THE EU'S ACCESSION TO CITES

1. This document has been submitted by the European Union and its Member States, in relation to agenda item 4 on Adoption of Rules of Procedure.*
2. COP17 will be the first meeting of the Conference of the Parties after the entry into force, in November 2013, of the Gaborone Amendment to the Convention and the subsequent accession of the European Union (EU) as the first regional economic integration organisation (REIO) in 2015. The following Q&A is designed to address questions frequently received on the practical implications of the accession.

What will change compared to the practice at previous CoPs?

The only change in practice concerns the exercise of voting rights and the fact that for a number of items on the agenda, it will be the EU pressing the voting button with a number of votes equal to the number of their Member States which are Parties to the Convention (see Article XXI (5) of the Convention), i.e. 28. On other items, as before, the individual EU Member States will press the buttons. Under no circumstances, will both the EU and the individual 28 Member States vote, so there will be no additional rights due to the EU becoming a Party to CITES.

Who will vote on what?

In line with Article XXI (5), the EU will vote in the fields of its competence. Those have been set out in the [Declaration of Competences](#) submitted when the EU deposited its instrument of accession. Before each CoP, the EU and the EU Member States will agree internally on the distribution of voting for the various agenda items between the EU or the individual Member States. Irrespective of whether the EU or the individual Member States vote, the vote will be based on a coordinated position, as has been the practice at previous CoPs, with the exception of budgetary matters where the EU and the different Member States, contributing separately to the budget, may express separate views.

How will other delegations be informed about who will exercise the voting rights on which item?

The EU and its Member States will inform all Parties before each vote who will exercise the right to vote on a specific item. In addition, and to facilitate the smooth running of the first meeting where the EU participates as a Party in its own right, the EU and its Member States intend to submit an information document prior to CoP 17 which will set out for each agenda item who will exercise the right to vote.

Who will speak on what?

As in previous CoPs, the EU and its Member States will deliver statements, based on positions agreed between them, from behind the EU nameplate.

* 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.

Position of the EU and its Member States on current proposals regarding the revision of the Rules of Procedure (RoP)

1. Number of votes

The Rules of Procedure of the CITES CoP need to be modified to reflect Art XXI of the Convention in relation to the participation of regional economic integration organizations like the EU, notably on voting.

On voting, the rules in the CITES Convention are clear. Article XXI(5) states that "*In the fields of their competence, regional economic integration organizations shall exercise their right to vote with a number of votes equal to the number of their Member States which are Parties to the Convention. Such organizations shall not exercise their right to vote if their Member States exercise theirs, and vice versa*".

In line with this, the CITES Secretariat has proposed to amend the relevant Rule 26 of the CoP Rules of Procedure to read

Rule 26 Right to vote

- 1. Each Party shall have one vote, except as provided for in paragraph 3 of this Rule.*
- 2. The duly accredited Representative of a Party shall exercise the voting rights of that Party.*
- 3. In the fields of their competence, regional economic integration organizations shall exercise their right to vote with a number of votes equal to the number of their Member States which are Parties to the Convention. Such organizations shall not exercise their right to vote if their Member States exercise theirs, and vice versa.*
- 4. In advance of each vote, each regional economic integration organization that is a Party to the Convention shall be invited to announce whether it will exercise its right to vote in accordance with paragraph 3 of this Rule or whether its Member States will exercise their right to vote.*

The EU and its Member States support this proposed amendment to the Rules of Procedure. The proposed wording not only reflects the text of the CITES Convention (Article XXI), but it also follows what is in place in a large number of international conventions (WTO, UN Framework Convention on Climate Change, Montreal Protocol on ozone-depleting substances, Convention on Biological Diversity, Convention on Migratory Species, Basel, Rotterdam and Stockholm Conventions on chemicals and waste – see annex).

The EU and its Member States do not support suggestions by some Parties to foresee in the RoP that Regional Economic Integration Organisations should only be able to vote with the number of votes of its Member States present and eligible to vote at the meeting. This would not be consistent with the CITES Convention, and it would be legally inadmissible for the Rules of Procedure to establish additional conditions contrary to the text of the Convention itself which is the primary legal source. In addition, when the EU votes, it commits the whole EU to implement the measures concerned and is accountable for their implementation across all EU Member States; it is therefore logical that the EU then votes with the votes of all its Member States, no matter how many Member States are present or not at the meeting.

2. Quorum

The EU and its Member States agree that a REIO and its Member States shall not be counted cumulatively when the quorum for a session is established.

3. Information on repartition of voting rights between the EU and its Member States

The EU and its Member States agree that information of the repartition of voting rights between the EU and its Member States on the various agenda items of the CoP should be shared with third countries and the CITES Secretariat in a timely manner.

Examples of provisions on voting by Regional Economic Integration Organisations in international Conventions

A large number of international Conventions contain provisions which foresee that, on matters within their competence, Regional economic integration organisations vote with a number of votes equal to the number of their Member States which are Parties to the Convention. The Parties to these Conventions have adopted Rules of Procedure for the meeting of their Conference of Parties which reflect the relevant provisions of the Convention in that respect. The list below contains examples of the text of such Conventions and Rules of Procedure.

AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION

- Text of the Agreement¹

Article IX Decision-Making

1. The WTO shall continue the practice of decision-making by consensus followed under GATT 1947.1 Except as otherwise provided, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting. At meetings of the Ministerial Conference and the General Council, each Member of the WTO shall have one vote. Where the European Communities exercise their right to vote, they shall have a number of votes equal to the number of their member States² which are Members of the WTO. Decisions of the Ministerial Conference and the General Council shall be taken by a majority of the votes cast, unless otherwise provided in this Agreement or in the relevant Multilateral Trade Agreement.

- Rules of Procedure of the WTO General Council³

Rule 33

The General Council shall take decisions in accordance with the decision-making provisions of the WTO Agreement, in particular Article IX thereof entitled "Decision-Making".

Convention on Biological Diversity

- Text of the Convention⁴

Article 31. Right to Vote

- 1. Except as provided for in paragraph 2 below, each Contracting Party to this Convention or to any protocol shall have one vote.*
- 2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Contracting Parties to this Convention or the relevant protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.*

¹ https://www.wto.org/english/docs_e/legal_e/04-wto.pdf

² *The number of votes of the European Communities and their member States shall in no case exceed the number of the member States of the European Communities.*

³ https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S006.aspx?MetaCollection=WTO&SymbolList=WT/L/161&Serial=&IssuingDateFrom=&IssuingDateTo=&CATTITLE=&ConcernedCountryList=&OtherCountryList=&SubjectList=&TypeList=&FullTextHash=371857150&ProductList=&BodyList=&OrganizationList=&ArticleList=&Contents=&CollectionList=&RestrictionTypeName=&PostingDateFrom=&PostingDateTo=&DerestrictionDateFrom=&DerestrictionDateTo=&ReferenceList=&Language=ENGLISH&SearchPage=FE_S_S001&ActiveTabIndex=0&languageUIChanged=true#

⁴ <https://www.cbd.int/doc/legal/cbd-en.pdf>

- Rules of Procedure⁵

VOTING

Rule 39

1. Except as provided for in paragraph 2 of this rule, each Party shall have one vote.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

United Nations Framework Convention on Climate Change

- Text of the Convention⁶

Article 18 Right to vote

1. Each Party to the Convention shall have one vote, except as provided for in paragraph 2 below.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States that are Parties to the Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

- Rules of Procedure⁷

VOTING

Rule 41

1. Each Party shall have one vote, except as provided for in paragraph 2 of this rule.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States that are Parties to the Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

Vienna Convention for the Protection of the Ozone Layer

- Text of the Convention⁸

Article 15: Right to vote

1. Each Party to this Convention or to any protocol shall have one vote.
2. Except as provided for in paragraph 1 above, regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to the Convention or the relevant protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

- Rules of Procedure⁹

Voting Rule 39

1. Except as provided for in paragraph 2 of this rule, each Party shall have one vote.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties.

⁵ <https://www.cbd.int/convention/rules.shtml>

⁶ http://unfccc.int/files/essential_background/convention/background/application/pdf/convention_text_with_annexes_english_for_posting.pdf

⁷ <http://unfccc.int/resource/docs/cop2/02.pdf> - The RoP of the UNFCCC have not been formally adopted but Parties have agreed to apply them in practice

⁸ <http://ozone.unep.org/en/handbook-vienna-convention-protection-ozone-layer/2205>

⁹ <http://ozone.unep.org/en/handbook-vienna-convention-protection-ozone-layer/2392>

Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Montreal Protocol on Substances that Deplete the Ozone Layer

- Rules of Procedure¹⁰

Voting -Rule 39

1. Except as provided for in paragraph 2 of this rule, each Party shall have one vote.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal

- Text of the Convention¹¹

ARTICLE 24

RIGHT TO VOTE

1. Except as provided for in paragraph 2 below, each Contracting Party to this Convention shall have one vote.
2. Political and/or economic integration organizations, in matters within their competence, in accordance with Article 22, paragraph 3, and Article 23, paragraph 2, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to the Convention or the relevant protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

- Rules of Procedure¹²

VOTING

Rule 39

1. Except as provided for in paragraph 2 of this rule, each Party shall have one vote.
2. Political and/or economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade

- Text of the Convention¹³

ARTICLE 23

VOTING

1. Each Party to this Convention shall have one vote, except as provided for in paragraph 2 below.

¹⁰ <http://ozone.unep.org/en/handbook-montreal-protocol-substances-deplete-ozone-layer/27568>

¹¹ <http://www.basel.int/Portals/4/Basel%20Convention/docs/text/BaseConventionText-e.pdf>

¹² <http://www.basel.int/TheConvention/ConferenceoftheParties/RulesofProcedure/tabid/2281/Default.aspx>

¹³ <http://www.pic.int/TheConvention/Overview/TextoftheConvention/tabid/1048/language/en-US/Default.aspx>

2. A regional economic integration organization, on matters within its competence, shall exercise its right to vote with a number of votes equal to the number of its member States that are Parties to this Convention.
Such an organization shall not exercise its right to vote if any of its member States exercises its right to vote, and vice versa.
3. For the purposes of this Convention, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

- Rules of Procedure¹⁴

RIGHT TO VOTE

Rule 44

1. Each Party shall have one vote, except as provided for in paragraph 2.
2. A regional economic integration organization, on matters within its competence, shall exercise its right to vote with a number of votes equal to the number of its member States that are Parties to the Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right to vote, and vice versa.

Stockholm Convention on Persistent Organic Pollutants

- Text of the Convention¹⁵

ARTICLE 23 Right to vote

1. Each Party to this Convention shall have one vote, except as provided for in paragraph 2.
2. A regional economic integration organization, on matters within its competence, shall exercise its right to vote with a number of votes equal to the number of its member States that are Parties to this Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right to vote, and vice versa.

- Rules of Procedure¹⁶

VOTING

Rule 44

1. Each Party shall have one vote, except as provided for in paragraph 2.
2. A regional economic integration organization, on matters within its competence, shall exercise its right to vote with a number of votes equal to the number of its member States that are Parties to the Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right to vote, and vice versa.

Convention on the conservation of migratory species of wild animals

- Text of the Convention¹⁷

Article I

Interpretation

(...)

2. In matters within their competence, the regional economic integration organizations which are Parties to this Convention shall in their own name exercise the rights and fulfil the responsibilities which this Convention attributes to their member States. In such cases the member States of these organizations shall not be entitled to exercise such rights individually.

¹⁴ <http://www.basel.int/TheConvention/ConferenceoftheParties/RulesofProcedure/tqid/2281/Default.aspx>

¹⁵ <http://chm.pops.int/TheConvention/Overview/TextoftheConvention/tqid/2232/Default.aspx>

¹⁶ <http://www.basel.int/TheConvention/ConferenceoftheParties/RulesofProcedure/tqid/2281/Default.aspx>

¹⁷ <http://www.cms.int/en/convention-text>

- Rules of Procedure¹⁸

Voting

Rule 13 - Methods of Voting

(1) Without prejudice to the provisions of Rule 1, paragraph 2, each Representative duly accredited according to Rule 3 shall have one vote. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with the number of votes equal to the number of their member States that are Parties. In such case, the member States of such organizations shall not exercise their right individually.

Convention on Long-Range Transboundary Air Pollution

Text of the Convention¹⁹

Article 14 – Signature

2. In matters within their competence, such regional economic integration organizations shall, on their own behalf, exercise the rights and fulfil the responsibilities which the present Convention attributes to their member States. In such cases, the member States of these organizations shall not be entitled to exercise such rights individually.

Rules of Procedure²⁰

Voting – Rule 29.8

Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties to the Convention or to the Protocol in question, as appropriate. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

The 2015 Paris agreement under the UNFCCC contains similar "standard provisions" on Regional Economic Integration Organisations²¹. This is also the case of the new Minamata Convention on Mercury²².

¹⁸ http://www.cms.int/sites/default/files/document/Annex_II_Rules_of_Procedure_for_COP_Meetings_En_0.pdf

¹⁹ <http://www.unece.org/fileadmin/DAM/env/lrtap/full%20text/1979.CLRTAP.e.pdf>

²⁰ https://www.unece.org/fileadmin/DAM/env/lrtap/Rules_of_Procedure.pdf

²¹ See: <https://unfccc.int/resource/docs/2015/cop21/eng/I09r01.pdf>

²² http://www.mercuryconvention.org/Portals/11/documents/conventionText/Minamata%20Convention%20on%20Mercury_e.pdf