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

Administrative and financial matters
Adoption of the Rules of Procedure

PROPOSAL OF ISRAEL

1. This document has been submitted by Israel.

2. This document offers a number of proposals for changes in the Rules of Procedure for the Conference of the Parties (CoP). Each proposed change is preceded by an explanation of the rationale for the proposal.

3. Regarding Rule 23 on the procedure for deciding on proposals for amendment of Appendices I and II. The current situation in Rule 23 paragraph 6, is that when there are multiple proposals dealing with the same taxon, the Conference must first decide on the most restrictive proposal and then only if it is accepted should it proceed to deal with the next least restrictive. In other words if, for example, there are two proposals for uplisting, one for an entire genus and one for just one species in that genus, then the Conference first votes on the entire genus and if it is rejected then the vote on the one species will not occur! This does not allow the Parties the opportunity to deal with uplisting a single important species without having to uplist an entire genus. This issue caused problems at the last CoP. The solution we propose is simple and proper. Proposals related to the same taxon must be dealt with in the opposite order, i.e. starting with the least restrictive and then moving on to most restrictive.

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<td>Rule 23 Procedure for deciding on proposals for amendment of Appendices I and II Paragraph 6.</td>
<td>If two or more proposals including proposals amended in accordance with Rule 22, paragraph 2, and proposals made in accordance with Rule 23, paragraph 5 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</td>
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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.*
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.

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4. Regarding Rule 25 on the method of voting. This rule states that secret ballots “shall not normally be used”, however it allows for a secret ballot on any issue when one Party proposes and ten Parties second the motion. This current situation makes it relatively easy to call for a secret ballot. The CoP discussed a proposal to change the method of voting on secret ballots at its 16th meeting in 2014, using CoP16 Doc. 4.3 (Rev. 1). That document gave an excellent history of the debates on secret ballots including a summary of the issue as presented by the Secretariat in document SC62 Doc. 10.3 at SC62 (Geneva, July 2012) which consisted of a review of the use of secret ballots during the period CoP10–CoP15. Much effort was expended at CoP 16 on how to vote on the proposal to change the method of using secret ballots, but nonetheless the proposal was not approved. We feel that the high number of secret votes at the CoP’s contributes to opacity and to attacks on the Convention and on its decision-making. We propose that secret ballots should be used rarely and only if a simple majority of the Parties want it.

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<td>Rule 25 Method of voting, Paragraph 2.</td>
<td>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.</td>
<td>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 a simple majority of the Representatives present and voting, then the vote shall be by secret ballot.</td>
<td>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 a simple majority of the Representatives present and voting, then the vote shall be by secret ballot.</td>
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5. Regarding Rule 25 on the method of voting for regional economic integration organizations (REIO). Since the EU has recently joined as a Party there has been a good deal of inter-sessional debate on the voting procedure that should be used by a REIO. We propose language for the Rules of Procedure to ensure that the votes by the REIO are equal to the number of members of the REIO that are properly accredited for the meeting at the time the actual vote occurs, and not just the number of Parties that are members of the REIO. For example, if only 19 out of 28 of the EU’s member states have presented credentials and are present at a future CoP, we propose that the EU’s vote will count as 19 votes and not automatically as 28 votes. In addition, it is important to ensure that the REIO does not get an extra vote by duplication with its member states. If the REIO votes at a certain vote, then its vote will count as if all accredited states voted at once, but no members should be allowed to vote individually and thereby get extra votes. Similarly, if the REIO members are free to vote independently, then the system must ensure that the REIO itself cannot vote, so that it does not get an extra vote. This issue is especially important in secret ballots, when there is no way to check the results after the vote. We propose that the electronic voting system must be set up at each vote, in order to ensure no duplicate votes by REIO’s and their member states.

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<td>Rule 25</td>
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<td>The number of votes cast by a regional economic integration organization shall be limited to the number of its member states that are present at the meeting and have been duly accredited at the time of the actual vote. In order to avoid duplication, the electronic voting system shall set at each vote to ensure that it will only accept votes from either the representative of the regional economic integration organization or from its accredited member states, and not both.</td>
<td>The number of votes cast by a regional economic integration organization shall be limited to the number of its member states that are present at the meeting and have been duly accredited at the time of the actual vote. In order to avoid duplication, the electronic voting system shall set at each vote to ensure that it will only accept votes from either the representative of the regional economic integration organization or from its accredited member states, and not both.</td>
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**New Paragraph**

6. Regarding Rule 26 on determining what kind of majority is needed for different kinds of votes, we propose language to clarify an issue that came up at CoP 16. The Rule states that all procedural matters are decided by a simple majority, and other issues are decided by a two-thirds majority. At CoP 16 there was a debate whether a certain issue should be considered “procedural” or not. Our proposal is that in such a case in the future, a two-thirds majority who be needed in order to determine if an issue is indeed “procedural”.

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<td>Rule 26</td>
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<td>Except where otherwise provided for under the provisions of the Convention, these Rules or the Terms of Reference for the Administration of the Trust Fund, all votes on procedural matters relating to the conduct of the business of the meeting shall be decided by a simple majority of the Representatives present and voting, while all other decisions shall be taken by a two-thirds majority of Representatives present and voting.</td>
<td>Except where otherwise provided for under the provisions of the Convention, these Rules or the Terms of Reference for the Administration of the Trust Fund, all votes on procedural matters relating to the conduct of the business of the meeting shall be decided by a simple majority of the Representatives present and voting, while all other decisions shall be taken by a two-thirds majority of Representatives present and voting. Any question as to whether a motion is procedural, shall only be approved with a two-thirds majority.</td>
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COMMENTS FROM THE SECRETARIAT

A. In the report of the Secretariat under this agenda item (document CoP17 Doc. 4.1), the current Rules of Procedure of the Conference of the Parties are contained in Annex 1. A proposal to amend the Rules of Procedure, prepared by the Secretariat on the basis of wide consultations with Parties and the Chairs of the CITES permanent committees, is contained in Annex 2 of that document.

B. The Secretariat suggests that the present document and the two other documents concerning the Rules of Procedure of the Conference of the Parties (CoP17 Doc. 4.1 and CoP17 Doc. 4.3) be considered together. The present document contains four different proposals for amending the Rules of Procedure.

C. With regard to the proposal in paragraph 3 of the present document, concerning the procedure for deciding on proposals for amendment of Appendices I and II, the Secretariat would like to refer to paragraph 25 of its report concerning this rule:

“In their comments during the consultations, some Parties noted that the rules for considering documents and for deciding on proposals for amendment of Appendices I and II remained ambiguous and merited further consideration by Parties. Specific suggestions for changes have also been proposed. However, given the time available and the complexity of these rules, the Secretariat suggests that the Standing Committee be requested to undertake a review of these rules with a view to proposing amendments for CoP18.”

D. The Secretariat considers that this issue merits full reflection and consideration and should therefore first be subject to a discussion in the Standing Committee and not be considered for adoption at the present meeting of the CoP. The proposed decision contained in Annex 4 of the Secretariat's report on the Rules of Procedure (CoP17 Doc. 4.1) directs the Standing Committee to consider the issue in reviewing the Rules of Procedure of the Conference of the Parties.

E. Should the Parties wish to consider the proposal in substance at the present meeting, the Secretariat would like to draw the attention of the Parties to some inaccuracies in the explanation and justification of the proposal. Firstly, the Rule in paragraph 6 of the present document only applies when two or more proposals relates to the same taxon. The example provided is not directly relevant as it may not relate to the same taxon. In addition, the ‘effect on trade’ in the two cases hypothesized is identical, so current Rule 23.6 would not provide any guidance on which proposal to address first. In this context, it should be recalled that any Party in accordance with paragraph 3 of the same Rule “may move that parts of a proposal for amendment of Appendices I and II shall be decided on separately”. This could solve situations where one proposal relates to the entire genus and another only to one species in that genus. Secondly, the words “least” and “most” trade restrictive in the third and the last line of the paragraph 3 of the present document appear to have been inadvertently reversed, making the proposal slightly confusing.

F. Regarding the proposal in paragraph 4 of the present document on methods of voting, the Secretariat is of the view that the appropriate majority for deciding whether a vote should be taken by secret ballot is entirely a matter for the Parties to decide. Further, the Secretariat would like to recall that there were prolonged discussions of a similar proposal at the 16th meeting of the Conference of the Parties (CoP16), without reaching an agreement on its adoption. The Secretariat notes that the present proposal contains no new elements.

G. At CoP16, the Conference of the Parties did, however, agree that a two-thirds majority was required for amending the Rules of Procedure at that meeting, but this decision was not reflected in a change to the Rules of Procedure.

H. Concerning the proposal in paragraph 5 of the present document, the Secretariat notes that the rules on the right to vote, including for Regional Economic Integration Organizations (REIOs) that are a Party to the Convention, are contained in new Rule 26, in particular paragraphs 3 and 4, of the draft Rules of Procedure, set out in Annex 2 of the document CoP17 Doc. 4.1. Given the divergent views on this matter, the Secretariat proposed a set of “practical arrangements for the participation of a regional economic integration organization at the 17th meeting of the Conference of the Parties to CITES,” contained in Annex 3 of its report. Since the finalization of the report by the Secretariat, Parties have continued their consultations on this matter; the Secretariat may therefore be issuing a revised paper reflecting these discussions prior to the present meeting.
I. As for the second part of the proposal of Israel relating to the electronic voting system, the Secretariat confirms that, at the present meeting, the electronic voting system will be set in the way proposed in the present proposal. The new paragraph 4 of new Rule 26, inviting each REIO to announce whether it is exercising its right to vote or whether its member States will exercise their right, is intended to ensure that the electronic voting is set correctly for each vote.

J. The Secretariat recommends that the detailed rules and arrangements concerning voting by REIOs and their member States be reviewed by the Standing Committee after the present meeting, as suggested in the draft decision contained in Annex 4 to document CoP17 Doc. 4.1.

K. In paragraph 6 of the present document, concerning new Rule 28, it is suggested that a question on whether a motion is procedural shall be settled by a two-thirds majority. The Secretariat notes that the present rule states:

Except where otherwise provided for under the provisions of these Rules […] all votes on procedural matters relating to the conduct of business of the meeting shall be decided by a simple majority of the Representatives present and voting […]

L. The Secretariat considers that the determination of the character of a motion is a typical procedural matter relating to the conduct of business. The general rule is thus that such a question should be decided by a simple majority as set out in the current rule. However, there are exceptions to this general rule in the Rules of Procedure, for instance in current Rule 19.

M. The Secretariat considers that it is entirely up to the Parties to decide on the appropriate majority required for deciding on the character of a motion. Should the Parties wish to pursue this proposal, the Secretariat recommends that the proposal be considered in the context of the current Rule 18 concerning procedural motions.
TENTATIVE BUDGET AND SOURCE OF FUNDING FOR THE IMPLEMENTATION OF DRAFT RESOLUTIONS OR DECISIONS

According to Resolution Conf. 4.6 (Rev. CoP16) on *Submission of draft resolutions, draft decisions and other documents for meetings of the Conference of the Parties*, the Conference of the Parties decided that any draft resolutions or decisions submitted for consideration at a meeting of the Conference of the Parties that have budgetary and workload implications for the Secretariat or permanent committees must contain or be accompanied by a budget for the work involved and an indication of the source of funding.

The authors of this document have determined that the proposed changes have no budgetary or workload implications for the Secretariat or for the permanent committees.