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**PROGRESS IN THE IMPLEMENTATION OF RESOLUTION 11.4
RESTRUCTURING OF THE SCIENTIFIC COUNCIL**

(Prepared by the Secretariat)

Summary:

This document aims to report on progress in the implementation of mandates to CMS bodies to operationalize and implement organizational changes to the Scientific Council provided by Resolution 11.4, and to solicit the endorsement of the Terms of Reference for the Scientific Council by the Conference of the Parties.

This report highlights the state of activities as at July 2017.

This document should be read in conjunction with UNEP/CMS/COP12/Doc.17.2 and UNEP/CMS/COP12/Doc.21.2.6.

PROGRESS IN THE IMPLEMENTATION OF RESOLUTION 11.4 RESTRUCTURING OF THE SCIENTIFIC COUNCIL

Background

1. [Resolution 11.4](#), adopted by the Conference of the Parties to CMS at its 11th meeting (COP11), provides for several organizational changes to the Scientific Council, and mandates bodies of the Convention to operationalize and implement these changes. In particular, Resolution 11.4
 - i) Requests the Standing Committee at its 44th meeting to intersessionally select and appoint the members of the Sessional Committee of the Scientific Council for the triennium 2015-2017;
 - ii) Requests the Secretariat to provide for a consultative process in order to elaborate, in consultation with the Standing Committee, its recommendation to the Conference of the Parties on the composition of the Sessional Committee;
 - iii) Instructs the Secretariat to develop Terms of Reference for the Scientific Council, in consultation with the Council itself, with a view to submitting them to the Standing Committee at its 44th Meeting for review and provisional adoption, pending their final adoption by COP12;
 - iv) Requests the Scientific Council, with advice from the Secretariat, to develop and establish a revision of its Rules of Procedure, as well as elements of its *modus operandi* in accordance with this resolution, and mandates the Standing Committee to approve the revised Rules of Procedure of the Scientific Council.
2. This document aims to report on progress in the implementation of these mandates, and to solicit the endorsement of some of the outcomes by the Conference of the Parties. Information provided in this document is expected to be complemented by the report to COP12 of the Chair of the Scientific Council, and is cross-referenced in documents UNEP/CMS/COP12/Doc.17.2 and UNEP/CMS/COP12/Doc.21.2.6.

Selection and appointment of the members of the Sessional Committee of the Scientific Council for the intersessional period between COP11 and COP12

3. Through Resolution 11.4, the Conference of the Parties (COP) decided that, for each intersessional period between two consecutive meetings of the COP, a representative selection of the membership of the Scientific Council, to be named the Sessional Committee of the Scientific Council, should be identified, composed of COP-appointed Councillors and Party-appointed Councillors selected regionally, to be appointed at each ordinary meeting of the COP on the basis of a recommendation from the Secretariat in consultation with the Standing Committee.
4. As a transitional measure aimed at implementing this organizational change in the intersessional period between COP11 and COP12, Resolution 11.4 requests the Standing Committee at its 44th meeting to select and appoint the members of the Sessional Committee of the Scientific Council for the triennium 2015-2017.
5. Candidates for the position of member of the Sessional Committee were identified through a process of self-nomination by the members of the Scientific Council, undertaken in advance of the 44th meeting of the Standing Committee (StC44). Selection and appointment of the members took place at StC44. More information can be found in document [UNEP/CMS/StC44/14](#) and in the [StC44 report](#). The composition of the Sessional Committee for the intersessional period between COP11 and COP12 can be found on the CMS website at the URL <http://www.cms.int/en/page/scientific-council-members>.

6. Since its appointment, the Sessional Committee of the Scientific Council has met twice. Information about the meetings can be obtained from the CMS website.

Definition of a consultative process for the selection of members of the Sessional Committee of the Scientific Council

7. The work undertaken by the Secretariat in consultation with the Standing Committee to develop a consultative process aimed at producing recommendations to the meetings of the Conference of the Parties on the composition of the Sessional Committee of the Scientific Council for the next intersessional period is summarized in document UNEP/CMS/COP12/Doc.17.2, as it is directly relevant to the appointment of the Sessional Committee for the intersessional period between COP12 and COP13.

Development of Terms of Reference for the Scientific Council

8. As instructed by the Conference of the Parties through Resolution 11.4, the Secretariat developed draft Terms of Reference for the Scientific Council in consultation with the Council itself, and submitted them to StC44 for consideration and provisional adoption (document [UNEP/CMS/StC44/14](#)).
9. StC44 reviewed and provisionally adopted the Terms of Reference, with a view to their submission to COP12 for further consideration and final adoption. The Terms of Reference as provisionally adopted by StC44 are appended to this document as Annex 1.
10. In developing the Terms of Reference for the Scientific Council, the Secretariat considered their complementarity with the Rules of Procedure of the Scientific Council, currently being revised by the Sessional Committee with support from the Secretariat (see below). In defining the scope of the Terms of Reference versus the one of the Rules of Procedure, the Secretariat considered the current scope of the Rules of Procedure and reviewed comparable documents for advisory bodies established under 11 other MEAs, both inside and outside the CMS Family. It was eventually decided to focus the Terms of Reference on (i) the functions of the Scientific Council and the Sessional Committee; (ii) the appointment of their members; (iii) the role of the individual members; (iv) the interaction of the Scientific Council with other frameworks/organizations. The Rules of Procedure are expected to deal with procedural matters, as it is already largely the case at the moment.
11. The main substance of the draft Terms of Reference is taken from the text of the Convention and the various relevant COP resolutions. Efforts were made to remain as faithful as possible to the original texts. However, some adjustments were made when consolidating pieces of text on the same subject or when provisions appeared clearly not to correspond to the established practice. Some text from relevant documents from CBD and CITES was also used and adapted as appropriate, e.g. for the sections on Operating Principles and Duties of the Members.
12. The Secretariat notes that in document UNEP/CMS/COP12/Doc.17.2 COP12 is invited to consider the possibility of identifying alternate members for the regional membership of the Sessional Committee of the Scientific Council. If agreed, the appointment of alternate members could be reflected in the Terms of Reference of the Scientific Council.
13. Subject to their final adoption by the Conference of the Parties, the Secretariat would recommend that the Terms of Reference be integrated as an annex in the consolidated resolution on the Scientific Council, a draft of which is submitted to COP12 in document UNEP/CMS/COP12/Doc.21.2.6 as part of the review process outlined in UNEP/CMS/COP12/Doc.21. Therefore, Parties are invited to consult document UNEP/CMS/COP12/Doc.21.2.6 in conjunction with this document.

Revision of the Rules of Procedure of the Scientific Council

14. The issue of the revision of the Rules of Procedure of the Scientific Council was considered by the Sessional Committee at its first meeting (Bonn, 18-21 April 2016), on the basis of a preliminary analysis of the sections of the extant Rules of Procedure in need of revision prepared by the Secretariat (document [UNEP/CMS/ScC-SC1/Doc.3.2](#)).
15. The production of a revised version of the Rules of Procedure was included in the Programme of Work for the Sessional Committee under the responsibility of a Working Group on institutional and legal matters. The schedule for the activity foresaw the submission of a revised set of Rules of Procedure to the 45th meeting of the Standing Committee (StC45). However, time limitations and capacity constraints at the level of the Secretariat prevented the deadlines for document submissions to StC45 from being met.
16. The Working Group met twice during the second meeting of the Sessional Committee (Bonn, 10-13 July 2017), considering an option paper on proposed amendments to the Rules of Procedure prepared by the Secretariat. Acknowledging the complexities of codifying a new set of Rules of Procedure, and the need for robust Rules of Procedure that could stand the test of time, the Working Group recommended a revision of the schedule for the delivery of the activity, which foresees the production of a draft revised set of Rules of Procedure by early 2018, to be subject to consultation with the full Scientific Council, and the submission of a paper to the next meeting of the Sessional Committee.

Recommended actions

17. The Conference of the Parties is recommended to:
 - a) take note of progress in the implementation of Resolution 11.4;
 - b) review and adopt the Terms of Reference for the CMS Scientific Council contained in Annex 1 to this document;
 - c) approve the incorporation of the Term of Reference in the consolidated resolution on the Scientific Council as an annex.

ANNEX 1**TERMS OF REFERENCE FOR THE CMS SCIENTIFIC COUNCIL**

(As provisionally adopted by the CMS Standing Committee at its 44th Meeting)

Scope of the Terms of Reference

1. The Terms of Reference apply to the Scientific Council of CMS and, *mutatis mutandis*, the Sessional Committee of the Scientific Council, unless stated otherwise in the Terms of Reference.

General Functions of the Scientific Council

2. The Scientific Council, established in accordance with Article VIII of the Convention, provides scientific and technical advice to, *inter alia*, the Conference of the Parties, the Secretariat, any other body set up under the Convention or any Party.

General Functions of the Sessional Committee

3. Between consecutive ordinary meetings of the Conference of the Parties, a representative selection of the Scientific Council, called the Sessional Committee of the Scientific Council, should be identified, in accordance with Resolution 11.4 of the Conference of the Parties. The Sessional Committee is primarily responsible for the implementation of the mandate assigned to the Scientific Council by the Conference of the Parties for the intersessional period. All outputs of the Sessional Committee are considered outputs of the Scientific Council.

Operating Principles

4. The Scientific Council, in carrying out its functions, should support the implementation of the Convention in a manner consistent with other internationally agreed goals relevant to the objectives of the Convention.
5. The Scientific Council should endeavour constantly to improve the quality of its scientific advice by improving scientific input into debate at and work of its meetings and meetings of the Sessional Committee.
6. The Scientific Council may formulate its advice or recommendations in the form of options or alternatives, where appropriate.

Functions

7. The Scientific Council should fulfill the functions assigned to it in Article VIII of the Convention and subsequently assigned to it by the Conference of the Parties. These functions include:
 - a. advising, between meetings of the Conference of the Parties, on the development and implementation of the Convention's work programme from a scientific and technical standpoint;
 - b. making recommendations to the Conference of the Parties as to the migratory species to be included in Appendices I and II, together with an indication of range of such migratory species, and keeping under review the composition of these Appendices;

- c. assessing proposals for the amendment of Appendices I and II from a scientific and technical standpoint, and providing advice to the Conference of the Parties regarding proposed amendments;
- d. identifying, recommending and coordinating research on migratory species, evaluating the results of such research in order to ascertain the conservation status of migratory species, especially those that are listed in the Appendices or candidates for such listing, and reporting to the Conference of the Parties on such status and measures for its improvement;
- e. making recommendations to the Conference of the Parties as to the migratory species to be included in the list of species designated for Concerted Actions¹, and keeping this list under review;
- f. advising on specific conservation and management measures for the conservation of Appendices I and II species and their priorities, to be included in Concerted Actions or other mechanisms for the conservation of migratory species undertaken within the framework of the Convention;
- g. bringing to the attention of the Conference of the Parties any new and emerging issues relating to the conservation and management of migratory species;
- h. advising on priorities for the development of new Agreements by evaluating proposals for new Agreements against the criteria set by the Conference of the Parties, including those detailed in Resolution 11.12;
- i. making recommendations as to specific conservation and management measures to be included in Agreements on migratory species being negotiated within the framework of the Convention;
- j. advising on the priorities for sponsorship of conservation activities relating to migratory species, and on selecting, monitoring and evaluating small-scale pilot projects which will promote the implementation of the Convention;
- k. recommending to the Conference of the Parties solutions to problems relating to the scientific aspects of the implementation of the Convention, in particular with regard to the habitats of migratory species;
- l. providing information, channelled through the Secretariat, to all Range States of particular species, with a view to encouraging non-Party Range States to become Parties of the Convention and to participate in its implementation.

Appointment of Members

8. The Scientific Council is composed of members appointed by individual Parties (Party-appointed Councillors) and members appointed by the Conference of the Parties (COP-appointed Councillors).

¹ Until COP12, this provision should concern also species designated for Cooperative Actions. In accordance with Resolution 11.13, from COP12 onwards the Concerted Actions and Cooperative Actions mechanisms should be consolidated, and all future designations would be made for Concerted Actions only. The Concerted Actions mechanism would be applicable to both Appendix I and Appendix II species, and its scope would broaden to include all of the kinds of activity previously pursued through Cooperative Actions, as well as those normally pursued through Concerted Actions. The Cooperative Actions mechanism itself would cease to exist.

9. Any Party may appoint a qualified expert as a member of the Scientific Council. Party-appointed Councillors remain in office until such time as they resign or are replaced by the Party that appointed them.
10. Party-appointed Councillors do not represent the Party that appointed them, but contribute to the workings of the Scientific Council in their expert capacity.
11. COP-appointed Councillors are designated by each ordinary meeting of the Conference of the Parties for the subsequent intersessional period.
12. Members of the Sessional Committee are selected from COP- and Party-appointed Councillors. The composition of the Sessional Committee is as follows:
 - a. Nine COP-appointed Councillors with expertise in taxonomic and thematic issues; and
 - b. Fifteen Party-appointed Councillors selected within the Standing Committee geographic regions, as follows: three from Africa, three from Asia, three from Europe, three from Oceania, three from South & Central America & the Caribbean.

Responsibilities of the Scientific Council Members

13. Scientific Councillors should, to the best of their abilities, act as impartially as possible and endeavour to base their judgements and opinions upon an objective, scientific assessment of the best available evidence.
14. Sessional Committee members, that are Party-appointed Councillors, should maintain regular communication with the other members in their region.
15. Scientific Councillors that are not Sessional Committee members are encouraged to contribute to the work of the Scientific Council, coordinate with the Sessional Committee members and participate in working groups, including through meetings and the interactive tools available to the Scientific Council, as well as to pursue activities at the national level.

Cooperation of Other Relevant Inter-governmental Bodies

16. The Scientific Council should cooperate with other advisory bodies set up by Agreements and Memoranda of Understanding under the Convention by, inter alia, inviting them to participate as observers in the meetings of the Scientific Council and of the Sessional Committee.
17. The Scientific Council should liaise, through its Chair or his/her nominated representative, with comparable bodies established under other relevant frameworks, such as, inter alia, those listed in Resolution 6.7. This would include, where appropriate and resource permitting, attendance of the Chair of the Scientific Council, or his/her nominated representative, at meetings of these bodies.

Contribution of Non-Governmental Organizations

18. The scientific contribution of non-governmental organizations to the fulfilment of the role of the Scientific Council is strongly encouraged in accordance with the relevant provisions of the Convention, decisions of the Conference of the Parties and Rules of Procedures of the Scientific Council. This includes inviting them to participate as observers in the meetings of the Scientific Council and Sessional Committee, and establishing and maintaining working cooperation on matters of common interest with organizations such as, inter alia, those listed in Resolution 6.7.

Rules of Procedure

19. The Scientific Council will establish its own Rules of Procedure which will be subject to the approval of the Conference of the Parties.