



# Convention on the Conservation of Migratory Species of Wild Animals

Secretariat provided by the United Nations Environment Programme



## 44<sup>th</sup> Meeting of the Standing Committee

Bonn, Germany, 14-15 October 2015

UNEP/CMS/StC44/14

### SCIENTIFIC COUNCIL ORGANIZATIONAL CHANGES

#### Summary

Resolution 11.4, adopted by the Conference of the Parties to CMS at its 11<sup>th</sup> meeting, provides for several organizational changes for the Scientific Council, and gives a mandate to the Standing Committee to oversee, and make decisions towards the implementation of some of these changes in the intersessional period 2015-2017.

The present document aims at providing the Standing Committee with elements for the fulfilment of that mandate, in particular the selection and appointment of members of the Sessional Committee of the Scientific Council for the triennium 2015-2017 and the finalization and provisional adoption of Terms of Reference for the Scientific Council. It also solicits the Standing Committee's advice and guidance to the Secretariat concerning the definition of a process for the selection of members of the Sessional Committee of the Scientific Council as of COP12.

*For reasons of economy, this document is printed in a limited number, and will not be distributed at the meeting. Delegates are kindly requested to bring their copy to the meeting and not to request additional copies.*

## SCIENTIFIC COUNCIL ORGANIZATIONAL CHANGES

(prepared by the Secretariat)

### Introduction

1. Resolution 11.4, adopted by the Conference of the Parties (COP) to CMS at its 11<sup>th</sup> meeting, provides for several organizational changes for the Scientific Council, and mandates the Standing Committee to oversee, and make decisions towards the implementation of some of these changes in the intersessional period 2015-2017. In particular, Resolution 11.4

- i) Requests the Standing Committee at its 44<sup>th</sup> meeting to intersessionally select and appoint the members of the Sessional Committee of the Scientific Council for the triennium 2015-2017 (Res.11.4, § 9);
- ii) 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 44<sup>th</sup> Meeting for review and provisional adoption, pending their final adoption by COP12 (Res.11.4, § 11).

2. Furthermore, it 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 (Res.11.4, § 7).

### Selection and appointment of the members of the Sessional Committee of the Scientific Council for the Triennium 2015-2017

3. Through Resolution 11.4, the CMS COP decided that, for each intersessional period between two consecutive meetings of the Conference of the Parties, 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 44<sup>th</sup> meeting to intersessionally select and appoint the members of the Sessional Committee of the Scientific Council for the triennium 2015-2017.

5. With a view to identifying candidates for the position of member of the Sessional Committee for the intersessional period 2015-2017, at the beginning of July 2015 the Secretariat contacted all members of the Scientific Council requesting them to indicate whether they were interested in being a member of the Sessional Committee for the current triennium. With a view to providing the Standing Committee with adequate information for the selection of the Sessional Committee members, notably with the aim of ensuring the best possible coverage of the scientific expertise needed by the Convention for the triennium, interested councillors were requested to provide a *curriculum vitae*. They were also asked to provide a statement highlighting how they saw their skills and expertise contributing to the Committee's work, their familiarity with the working languages of the Scientific Council (English, French and Spanish),

and confirming that they had the full support of their organization or institution to deliver the work expected of the Committee members, including time (and funds for members not eligible for financial support) for attending meetings and capacity to progress the work of the Committee intersessionally.

6. At the time of writing, interest and availability to be member of the Sessional Committee for the current triennium has been confirmed by nine COP-appointed councillors and sixteen Party-appointed councillors. Some gaps still exist in terms of number of candidates for some of the regions, and the Secretariat is still seeking to identify candidates from those regions. The Secretariat will make available the documentation concerning candidates in a separate submission restricted to members of the Standing Committee in advance of the meeting.

### **Definition of a process for the selection of members of the Sessional Committee of the Scientific Council as of COP12**

7. Resolution 11.4 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.

8. In considering a possible consultative process leading to recommendations to the 12<sup>th</sup> meeting of the Conference of the Parties on the composition of the Sessional Committee for the subsequent intersessional period, the Secretariat has identified a few options, with different implications. Before proceeding further with the definition of the process, the Secretariat would like to seek for the advice and guidance of the Standing Committee.

9. Options considered by the Secretariat are summarized in Annex 1 to this document. They concern mainly the stages of nomination of candidates and the formulation of recommendations to the COP, in particular for the Party-appointed councillors, for which the need for regional selection adds complexities in the case of COP-appointed councillors. Implications of the options for the final appointment of candidates by the Conference of the Parties are also discussed.

### **Draft Terms of Reference for the Scientific Council**

10. As instructed by the Conference of the Parties through Resolution 11.4, the Secretariat has developed draft Terms of Reference for the Scientific Council. They are submitted to the Standing Committee for its consideration as Annex 2 to this document.

11. The chair of the Scientific Council has been consulted on the present version of the draft Terms of Reference. It is foreseen to undertake a wider consultation among the members of the Scientific Council in the run-up to the meeting, the outcomes of which will be made available to the Standing Committee before the meeting.

12. The development and adoption of Terms of Reference are expected to be complemented by a revision of the Rules of Procedure of the Scientific Council, which Res. 11.4 instructs the Scientific Council itself to undertake, with advice from the Secretariat. This revision of the Rules of Procedure is expected to be led by the Sessional Committee of the Scientific Council when established. 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.

13. 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.

14. Consultations within the Secretariat on preliminary drafts of the Terms of Reference identified a few issues, which it was agreed would be drawn to the attention of the Standing Committee for its consideration, in particular:

- i. Whether the appointment of Party-appointed Councillors should be subject to some kind of evaluation within the Convention, as it is already the case for the COP-appointed Councillors, and a process defined to this purpose;
- ii. § 14 of the current draft foresees that Party-appointed members of the Sessional Committee should maintain regular communication with the other members of their region. It was suggested that this could invest them with a regional mandate that might conflict with the expectation that they should act impartially (as stipulated by § 13 of the same document);
- iii. Whether the appointment of alternate members should be envisaged for the Sessional Committee. Alternates would replace members that would have to step down intersessionally.

**Action requested:**

The CMS Standing Committee is invited to

- a. select and appoint the members of the Sessional Committee of the Scientific Council for the triennium 2015-2017;
- b. provide advice and guidance to the Secretariat in the definition of a process for the selection of members of the Sessional Committee of the Scientific Council as of COP12;
- c. review, and provisionally adopt as appropriate, the draft Terms of Reference for the Scientific Council.

## **DRAFT OPTIONS FOR THE SELECTION OF MEMBERS OF THE SESSIONAL COMMITTEE OF THE SCIENTIFIC COUNCIL**

### **Background information**

#### ***Composition of the Sessional Committee***

1. In accordance with Resolution 11.4, the Sessional Committee of the Scientific Council is a representative selection of the membership of the Scientific Council appointed for each intersessional period between two consecutive ordinary meetings of the Conference of the Parties.
2. The Sessional Committee is composed of:
  - (a) nine COP-appointed Councillors with expertise in taxonomic and thematic issues; and
  - (b) fifteen Party-appointed Councillors selected from within the Standing Committee's geographic regions, as follows: three from Africa; three from Asia; three from Europe; three from Oceania; three from South and Central America and the Caribbean.

#### ***Terms of office***

##### Scientific Council members

3. COP-appointed Councillors are appointed by each meeting of the Conference of the Parties for the subsequent triennium. Their appointment can be renewed. However, re-appointment is not automatic and has to be confirmed by each meeting of the Conference of the Parties.
4. Party-appointed Councillors are appointed by individual Parties. Each Party is entitled to appoint one member of the Scientific Council (Art.VIII para.2 of the Convention). Party-appointed Councillors do not have a time limit for their appointment; they remain members until they themselves step down or they are replaced by the Party who appointed them.

##### Sessional Committee members

5. Sessional Committee members should normally be appointed for a minimum term of two triennia. Each ordinary meeting of the Conference of the Parties, starting from the 12th meeting (COP12), should decide upon the renewal of half of the membership of the Sessional Committee.

### **Options for the selection of the members of the Sessional Committee**

6. Differences in the terms of office between COP-appointed and Party-appointed Councillors, and the fact that Party-appointed ones have to be selected regionally suggest different options as regards the process for the selection of the Sessional Committee members within the two categories. The two cases are therefore discussed individually below.

#### ***Party-appointed members***

7. Three basic stages can be identified in the process for the selection of Party-appointed members of the Sessional Committee, namely: the nomination of candidates, the formulation of recommendations to the COP on the appointment of members, and the appointment itself during the COP. For each of these stages, alternative options can be envisaged, which are illustrated below, with some considerations on their possible implications.

### Nomination of Candidates

8. Two main alternative options can be envisaged for the nomination of candidates, namely
- a) Self-nomination. In response to a call made by the Secretariat at a suitable time in advance of the meeting of the Conference of the Parties, Party-appointed Councillors can indicate their willingness to be Sessional Committee member by notifying the Secretariat. Such a process is likely to produce a variable number of candidates for each geographic region.
  - b) Regional consultation. In this option, candidates would be identified from the pool of Party-appointed Councillors within each region through a regional consultation process among the Parties, possibly coordinated by the relevant members of the Standing Committee. As regards the number of candidates for each region, two alternatives would be possible: (i) each region nominates a number of candidates corresponding to the number of Sessional Committee members to be appointed for the region (taking into account the principle of renewal of the membership stipulated by Res.11.4 § 5); (ii) each region nominates a number of candidates exceeding the number of Sessional Committee members to be appointed for the region, from which the members for the region will have to be further selected.

### *Implications*

9. A process of self-nomination is likely to generate a heterogeneous pool of candidates, from which members of the Sessional Committee will have to be selected on the basis of a subsequent evaluation process of the qualifications of the candidates against the criteria defined in Res.11.4 § 6.

10. Nominations generated through a regional consultation process would be expected already to have undergone some degree of evaluation, which would in turn determine the need for any further evaluation of the candidates in the process leading to the formulation of recommendations on appointment to the COP. In this regard, a regional consultation process at the stage of nomination of candidates is likely to simplify subsequent stages in the process of selection of the Party-appointed members of the Sessional Committee.

11. A potential shortcoming of a nomination process based on regional consultations is that such consultations, to be undertaken most probably by correspondence, might turn out to be very complex and time-consuming, particularly for regions characterized by a high number of Parties such as Europe and Africa. Another element to be considered is that regions would most probably select their candidates independently from each other. Particularly in the case that each region nominates a number of candidates corresponding to the number of Sessional Committee members to be appointed for the region (alternative (i) above), this would reduce the possibility of selecting the members of the Sessional Committee taking into account complementarity of expertise.

### Formulation of recommendations to the COP on the appointment of members

12. Res.11.4 § 7 gives the Secretariat the mandate, in consultation with the Standing Committee, to formulate recommendations to the COP on the composition of the Sessional Committee. Different options can be envisaged as regards the nature of the recommendations, which would determine in turn the need for, and the type of evaluation of the candidates identified through the nomination process. Two main options have been considered by the Secretariat in this regard, namely:

- a) The recommendations would provide an evaluation of the candidates' expertise against the criteria defined in Res.11.4 § 6, without however making any specific suggestions as regards the decision to be made concerning the appointment;

- b) The recommendations should go as far as making proposals on the candidates to be appointed as members of the Sessional Committee.

13. The second option would be somehow implicit in the presence of a nomination process based on regional consultation that would identify a number of candidates corresponding to the number of Sessional Committee members to be appointed for the region (see § 8 b) above). In this case, while some type of evaluation of the candidates against the criteria defined in Res.11.4 § 6 would remain desirable within the presentation of the candidates to the COP. However, no comparative evaluation of the candidates would be required.

14. Both options would be compatible with a nomination process that would identify a number of candidates exceeding the number of members to be appointed at a given COP. In this case, while option a) would not require a comparative evaluation of the candidates, option b) most probably would imply it.

#### *Implications*

15. The need for a comparative evaluation of the candidates would increase the sensitivity of the process of formulation of recommendations to the COP, something that would need to be taken into account in the definition of the consultative process that should lead to the recommendations.

16. The options outlined above offer different degrees of delegation by the COP as regards the appointment of the Party-appointed members of the Sessional Committee. Decision-making would largely remain at the level of the COP in the case of a process that would submit to the COP a number of candidates exceeding the number of members to be appointed, and that would not make specific recommendations as regards the appointees. Processes leading to the formulation of specific recommendations on the members to be appointed would on the other hand imply a higher level of delegation by the COP to processes external to it. The COP would obviously maintain the authority not to accept a recommendation, but that should be expected to be the exception rather than the rule.

#### Appointment of members at the COP

17. It can generally be envisaged that the COP would establish some type of ad-hoc committee to support the plenary in making decisions on the appointment of members of the Sessional Committee. Such a committee should logically include representatives of the different regions, which would also act as liaison with the regional groups that meet regularly throughout the COP.

18. In the presence of specific recommendations on the appointment of members produced by the pre-session process, the role of the committee would mainly consist in reviewing those recommendations and confirming their acceptability to the plenary for its final decision. As already mentioned, the eventuality of the committee expressing advice contrary to the recommendations of the pre-session process should normally represent an exceptional circumstance.

19. In the case of a process submitting to the COP a number of candidates exceeding the number of members to be appointed, and not making specific recommendations as regards the appointees, the role of the committee would be to formulate those specific recommendations to the plenary on the basis of the evaluation of the candidates produced in the pre-session process. Theoretically, an alternative option could be to entrust the regional groups to identify the members from their region from the pool of candidates. However, the committee option seems preferable insofar as it would allow for better consideration of the complementarity of expertise

in the appointment of members of the Sessional Committee, while ensuring an adequate involvement of the regions in the decision-making process.

***COP-appointed members***

20. The current terms of office of the COP-appointed Councillors imply that they would be appointed at the same time as the Sessional Committee. It is therefore expected that the processes of appointment of the COP-appointed Councillors for a given triennium and of appointment of the COP-appointed members of the Sessional Committee would largely coincide. Should the COP limit the number of COP-appointed Councillors to nine, all of them would automatically become members of the Sessional Committee for that triennium. Should the COP decide to appoint more than nine Councillors, then only nine could be selected as members of the Sessional Committee. However, a decision on the nine to be selected would be likely to materialize at the same time of the appointment. The existing practice concerning the renewal of the appointment of COP-appointed councillors and the selection of new COP-appointed members could largely be maintained, while fulfilling the targets of 50% renewal of the membership of the Sessional Committee at each COP.



## **DRAFT TERMS OF REFERENCE OF THE SCIENTIFIC COUNCIL**

### **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 Actions<sup>1</sup>, 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, channeled 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).

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.

---

<sup>1</sup> 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.

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 and Central America and 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 MOUs 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.