

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



Sixteenth meeting of the Conference of the Parties  
Bangkok (Thailand), 3-14 March 2013

Strategic matters

POTENTIAL CONFLICTS OF INTEREST IN THE ANIMALS AND PLANTS COMMITTEES

- 1 This document has been submitted by Denmark <sup>1</sup> on behalf of the European Union Member States acting in the interest of the European Union.

Background

2. Transparency of decision-making in international environmental institutions is a key element for their effective functioning. The Outcome Document of the Rio+20 Conference, "The Future We Want", reaffirms that "*to achieve our sustainable development goals we need institutions at all levels that are effective, transparent, accountable and democratic.*"<sup>2</sup> Promoting transparency also forms part of the "CITES Strategic Vision: 2008 – 2013" contained in CITES Resolution Conf. 14.2.
3. The importance of "ensuring that a coherent and internationally agreed approach based on scientific evidence is taken to address any species of wild fauna and flora subject to unsustainable international trade" is also recognised in the "CITES Strategic Vision: 2008-2013". The Animals and Plants Committees are the main vehicles for developing and implementing such approach and play a crucial role for a proper functioning of the CITES Convention, as underlined by CITES Resolution Conf. 11.1 (Rev. CoP15) on the establishment of Committees.
4. This Resolution also lays down the numerous tasks that fall under the remits of those Committees, among them:
  - a) Providing scientific advice and guidance related to the implementation of the Convention to the Parties, the Standing Committee and the CoP, and
  - b) Playing a central role in assessing the sustainability of trade in specimens of certain Appendix II species within the "Significant trade review process" and in reviewing the appropriateness of the inclusion of CITES-listed species within the "periodic review process".
5. Those Committees are not solely advisory bodies but are also in a number of instances called upon to issue or propose recommendations that have an impact on the implementation of the Convention by one or more Parties. This is for the example the case for the recommendations to Parties issued by those Committees in the framework of the Review of Significant Trade in specimens of Appendix-II species pursuant to Resolution Conf. 12.8 (Rev. CoP13).
6. The important role of those Committees makes it essential that their decisions are based on objective, scientific considerations and that their members are exempt of any suspicion of partiality with regard to the topics discussed by the Committees

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<sup>1</sup> *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.*

<sup>2</sup> *Para 10.*

7. Unlike members of the Standing Committee which are representatives of Parties, members and alternate members of the Animals and Plants Committees are elected in their individual capacity.
8. As recalled in document SC61 Doc.8 prepared by the Secretariat<sup>3</sup>, a large number of international Conventions have adopted specific provisions to address the question of potential conflict of interest within their scientific or technical Committees. The latest example of a "conflict of interest policy" includes the decision adopted within the Intergovernmental Panel on Climate Change (IPCC) at its 34th session in November 2011<sup>4</sup>.
9. There are no provisions of this kind for the CITES Animals and Plants Committees. In Decision 15.9, CoP15 decided the following: "*Considering that members of the Animals and Plants Committees serve in a personal capacity, the Standing Committee shall review the need for the Rules of Procedure of those Committees to deal with potential conflicts of interest of its members relating to their activities in the Committees, and shall report on this matter at the 16th meeting of the Conference of the Parties*". This issue was briefly discussed at the 61st session of the Standing Committee in August 2011. At the 62nd session of the Standing Committee in July 2012, at the request of the Chair of the Animals Committee, the Standing Committee decided that this issue should be considered again at its 63rd session, on the basis of a report by the Secretariat.
10. The EU and its Member States are convinced that this matter needs to be adequately addressed by the CITES Parties. This view is also shared by the Chairs of the Animals and Plants Committees.
11. The EU and its Member States therefore propose that, unless a satisfactory solution to this issue is found at the 63rd session of the Standing Committee, the matter be resolved at the 16th meeting of the Conference of the Parties.
12. The EU and its Member States believe that specific provisions designed to avoid situations of conflicts of interest for members and alternate members of the Animals and Plants Committees should be included in Resolution Conf. 11.1 (Rev. CoP15) on the establishment of Committees. Such provisions should ensure transparency during the election of committee members, in cases of perceived or established conflict of interest situations in the course of the Committee work and in external contacts of Committee members.
13. Firstly, before their election at CoP meetings, candidates to a position as member or alternate member of a Committee should disclose any interest that could call into question their impartiality, objectivity or independence in carrying out their duties. This would guarantee that the election of such members is done under a transparent mechanism. The disclosure of interests should be done via a declaration made publicly available and updated if relevant during the term of office.
14. Secondly, when a member or alternate themselves, or the Secretariat, consider that a conflict of interest might arise in relation to a particular item to be discussed by one of the Committees, the Committee needs to be made aware of this in advance of the discussion. In such case, the principle should be that, while entitled to take part in the discussion, this particular member or alternate should not be entitled to take part in any decision in relation to this item. This would allow the respective member to share his expertise on the matter with the Committee while guaranteeing that the decision is adopted without considering potential vested interests.
15. Thirdly, it should be clarified that opinions expressed by the members or alternates outside the CITES framework do not commit the Committee or any other CITES bodies unless they are explicitly tasked or authorised to do so by the Committee. This is a guarantee against the possible misuse of the status of members or alternates to the Committees for purposes which are not foreseen in their mandate.

#### Proposal by the EU and its Member States

16. The EU and its Member States therefore propose that in the section of Resolution Conf. 11.1 (Rev. CoP15) entitled "**Regarding representation in the Animals and Plants Committees**", a new paragraph (c) is included, which would read as follows:

"c) Conflict of interest

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<sup>3</sup> <http://www.cites.org/eng/com/sc/61/E61-08.pdf>

<sup>4</sup> [http://www.ipcc.ch/pdf/ipcc-principles/ipcc-conflict-of-interest\\_decision.pdf](http://www.ipcc.ch/pdf/ipcc-principles/ipcc-conflict-of-interest_decision.pdf)

- i) together with the names and curriculae vitae of the proposed candidates, the Parties proposing candidates as members or alternate members shall request that each candidate provides a declaration of interest which should be circulated to the Parties of the region concerned at least 120 days before the meeting of the Conference by the Parties at which the representatives will be elected. In that declaration, the candidate should disclose any current or past professional, financial or other interest that could call into question his or her impartiality, objectivity or independence in carrying out his or her duties as member or alternate member of the Committee;
  - ii) the declaration of interest of each member and alternate member shall be made publicly available by the Secretariat upon his or her election;
  - iii) during his or her term of office, each member and alternate member shall update his or her declaration of interest where relevant to include any new interest or activity that could call into question his or her impartiality, objectivity or independence in carrying out his or her duties as member or alternate member of the Committee;
  - iv) if, on the basis of this declaration of interest, a given member or alternate member, or the Secretariat ( after consultation with the representative concerned) consider that this representative has a professional, financial or other interest that could call into question his or her impartiality, objectivity or independence regarding a subject to be discussed by the Committee, the Committee should be informed in advance of the discussions and the member or alternate member concerned may participate in the discussion but not in the making of any decision on that subject;
  - v) when taking part in meetings or seminars outside the CITES framework, the members and alternate members should specify that their interventions are made in their personal capacity and not on behalf of the Committee or of any CITES body, unless specific instructions have been issued by the Committee to that effect".
17. The EU also propose that the following text should be inserted into Annex 2 of Resolution Conf. 11.1 (Rev. CoP15) as new paragraph a) bis under the 2nd RESOLVES, as follows:

"each member should, to the best of his/her abilities, act as impartially as possible and endeavour to base their judgements and opinions upon an objective, scientific assessment of the available evidence;"

#### COMMENTS FROM THE SECRETARIAT

- A. The Secretariat supports in principle the proposal to provide policy guidance on the handling of potential conflicts of interest in the Animals and Plants Committees. The proposed revision of Resolution Conf. 11.1 (Rev. CoP15) is one way in which this policy guidance could be provided. In paragraph 8 and footnote 3 of the present document, the proponents have noted, and provided a link to, the Secretariat's discussion document for the 61st meeting of the Standing Committee (Geneva, August 2011), describing the rules, procedures, forms and codes of conduct on conflict of interest adopted by various UN bodies and multilateral environmental agreements. As the Secretariat's document was prepared in response to Decision 15.9 of the Conference of the Parties, it addressed potential conflicts of interest in the context of the Rules of Procedure of the Animals and Plants Committees. It is for the Conference to determine whether guidance on potential conflicts of interest should be provided and how best to provide it.
- B. In addition to the IPCC conflict of interest decision cited by the proponents, Parties might refer to the draft conflict of interest policy and procedures (see [www.ipbes.net](http://www.ipbes.net)) that have been prepared for the newly established Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES). Their purpose is to address issues of independence and bias in order to protect the legitimacy, integrity, trust and credibility of IPBES as well as its products and processes. In general, identified conflicts of interest must be resolved before a person can participate in IPBES activities. The draft policy will be discussed at the first meeting of the IPBES plenary, in January 2013. As the draft policy applies to officers of the IPBES Bureau, members of the Multidisciplinary Expert Panel, members of any IPBES Working Group established, authors with responsibilities for report content, Review Editors and the professional staff of any technical support units established, CITES Parties might wish to consider the scope of any future conflict of interest provisions under the Convention.

- C. As reflected in document CoP16 Doc. 17, the Standing Committee Working Group on IPBES provided comments on the IPBES draft policy in September 2012, stating that, “CITES recognizes the importance of having a conflict of interest policy for the Platform, ensuring confidence in the scientific independence of and the credibility of its work. ... However, it is important to ensure that such a policy does not result in unnecessary bureaucratic procedures which might place a burden on IPBES performance”.
- D. Although the Standing Committee has decided to consider this issue at its 63rd meeting, it would seem timely for the Conference of the Parties also to consider the issue, as the body that could adopt related policy guidance or establish a process for doing so. The Standing Committee might therefore ask its Chair or the Secretariat to transmit to the Conference relevant decisions taken at SC63, when this agenda item is tabled for discussion at the present meeting.