

History of Secret Ballots and CITES

At CITES CoP1 through CoP5 (1976-1985) the Rules of Procedure allowed that “any Representative may request a roll-call vote or a secret ballot” without any further requirements (see SC50 Doc. 9 (Rev. 2)). At CoP1 through CoP3, votes by secret ballot were not held. One such vote was held at CoP4. But at CoP5, six votes were held by secret ballot. This was considered to be time consuming and Parties agreed to make it more difficult to hold secret ballots in future.

At CITES CoP6 through CoP8 (1987-1992), the Rules of Procedure allowed for secret ballots but required the majority of Parties to be in favor. Also, the vote on the motion for a secret ballot could not be conducted by secret ballot, enabling the identification of Parties that voted for a secret ballot by show of hands. The new Rule stated:

Rule 15 - Methods of Voting

“(3) All votes in respect of the election of officers or of prospective host countries shall be by secret ballot and, although it shall not normally be used, any Representative may request a secret ballot for other matters. If seconded, the question of whether a secret ballot should be held shall immediately be voted upon. The motion for a secret ballot may not be conducted by secret ballot or roll-call vote.” (Doc. 8.3 (Fin.))

At CITES CoP8 (1992), when the Rules of Procedure were discussed in Plenary:

“The delegation of Zimbabwe suggested the need to give the Presiding Officer of the Session discretion over when to call for a secret ballot. After some discussion, they proposed that Rule 15, paragraph 3, second sentence be replaced by: “If seconded, the question of whether a secret ballot should be held shall be decided upon by the Bureau.” Several delegations spoke in favour of or against this proposal. The Chairman then called for a vote on whether paragraph 3 should be amended; on a vote it was agreed not to amend the paragraph.” (Plen. 8.1)

At the March 1994 meeting of the CITES Standing Committee, Zimbabwe recommended that the final two sentences of Rule 15, paragraph 3, be replaced by “The Presiding officer may either refuse a request for a secret ballot or ask whether it is seconded. If the request is seconded by five Representatives the vote shall be by secret ballot.” This differs from the previous Rules of Procedure in three significant ways: 1) to require only five Parties, rather than the majority, to support the motion for a secret ballot in order for one to be held; 2) to allow the Presiding officer to refuse a request for a secret ballot; and 3) to require that the vote on a motion for a secret ballot shall be by secret ballot:

5. Preparation of the Ninth Meeting of the Conference of the Parties

b) Provisional Agenda

“The Secretariat then suggested that the Rules of Procedure for the ninth Meeting be the same as those adopted at the eighth meeting. The observer from Zimbabwe stated that he had continued concern regarding secret votes, as provided by Rule 15 of the Rules of Procedure. This concern was shared by the observer from Panama. Discussion then took place concerning whether Zimbabwe should submit to the Parties a proposal for an amendment to this Rule, or whether the issue should be further discussed by the Committee. The Chairman adjourned the meeting for lunch, asking the observer from Zimbabwe to develop draft language for such an amendment, as the matter would be taken up again that afternoon.” (SC31 Summary Report)

5. Preparation of the Ninth Meeting of the Conference of the Parties (continuation):

d) Provisional Rules of Procedure

“The observer from Zimbabwe introduced document Doc. SC. 31.4.8. He pointed out that the problem it aimed to address was that, when a delegation proposed that a vote be taken by secret ballot, an open vote was needed to approve this proposal. Delegations sometimes find themselves under pressure to vote a certain way; unfortunately there is a suspicion that if they support a secret ballot they intend to vote a different way. Understanding the difficulties, the representative of Oceania supported the observer from Zimbabwe. The representative of the Next Host Country [USA] recalled that this subject had been discussed before the eighth meeting of the Conference, and the pressures against voting in favour of secret ballots had been perceived. There were two main issues. First was the question of to whom a delegation was accountable. If the delegation is accountable to the government, in principle it should not need to vote in secret. Secondly, secret ballots are very time consuming and slow down the progress of the meeting. They should therefore be resorted to only exceptionally. The representative of the Next Host Country added that this was a sensitive issue and that she could not here agree to any change in the rules. The Secretariat, noting that the Rules of Procedure had to be adopted by the Conference of the Parties, asked whether the Committee could agree to submit the provisional Rules of Procedure with Rule 15, paragraph 3, amended as suggested by the observer from Zimbabwe. The Secretariat said that at the meeting of the Conference in Argentina secret ballots could be taken at the request of any delegation, and a number of votes were taken by secret ballot that need not have been. That is why the rules were changed for the next meeting. It was agreed at the sixth meeting of the Conference that at least one-half of the Parties should be in favour of a secret ballot. Under the change suggested by Zimbabwe, the Chairman had the right not to accept a second secret ballot on the same issue, so the problems that had arisen in Argentina [CoP5, 1985] were unlikely to arise again. The observer from Israel expressed a preference for maintaining the

current text of Rule 15. However, the representatives of the Depositary Government and the Previous Host Country [Japan] and the observers from Namibia and South Africa supported the suggestion of Zimbabwe. The Committee then agreed that the document to go to the ninth meeting of the Conference of the Parties should contain the amended text of Rule 15, paragraph 3. The Chairman asked the Secretariat to draw the attention of the Parties to this change when sending out the provisional Rules of Procedure." (SC31 Summary Report)

At CITES CoP9 (1994), the Parties considered the proposed changes to the final two sentences of Rule 15, paragraph 3, agreed by the Standing Committee: "The Presiding officer may either refuse a request for a secret ballot or ask whether it is seconded. If the request is seconded by five Representatives the vote shall be by secret ballot." After some debate, the proposed language about the Presiding officer refusing a request for a secret ballot was deleted and the number of Parties that must second the request for a secret ballot was increased from five to ten. The language adopted at CoP9 remains in effect to the present date (although the numbering system has changed and now it is Rule 25, paragraph 2):

Rule 15 - Methods of Voting

"(3) 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 ten Representatives the vote shall be by secret ballot." (Doc. 9.3 (Fin.))

The debate at CoP9 on this paragraph was extensive:

III. Adoption of the Rules of Procedure

"The Chairman of the Standing Committee opened the session and commented that document Doc. 9.3 contained the new Rules of Procedure to be considered for adoption. Before their adoption, the Rules of the previous meeting, contained in document Doc. 8.3, would apply. The Secretariat pointed out that there were only two ways in which the newly proposed Rules of Procedure differed from those adopted at the last meeting. Both changes were in Rule 15, paragraph 3. The first change affected the election of officers or prospective host countries by secret ballot "when there is more than one candidate". The second changed section stated, "The Presiding officer may either refuse a request for a secret ballot or ask whether it is seconded. If the request is seconded by five Representatives the vote shall be by secret ballot." Secret ballots had been used in previous meetings although they were difficult to implement. The Standing Committee had therefore been requested to formulate a proposal for the ninth meeting of the Conference of the Parties. The Standing Committee at its 31st meeting had approved the text proposed in document Doc. 9.3. The Chairman requested, under Rule 25, that news media representatives in the plenary session not make any recording until authorized to do so. The delegation of Japan offered their suggestions, based on their experiences during the last meeting of the Conference. In particular they suggested that the discussions be based on the fundamental policy of "harmony between conservation and utilization of wildlife", which enables sustainable use, that scientific data should be considered as the primary basis for making sound decisions, and that there was a need to promote mutual understanding and respect between producer and consumer countries. They voiced no objection to the Rules of Procedure as proposed. The delegation of the United States of America, supported by the delegations of Australia, Austria and Israel, did not agree that the proposal would make the procedures for voting by secret ballot any easier, and commented that each delegation was accountable to its own country, therefore there was no need to vote in secret. The delegation of the United States of America stated that any votes made by them would be made public. The delegation of the United Kingdom, supported by the delegations of Argentina, Liechtenstein, Namibia, the Sudan and Zimbabwe, agreed with the principal of openness, but also agreed with the proposed change, except for the proposal to allow the Presiding Officer the sole responsibility for refusing a secret ballot vote. The delegation of the United Kingdom recommended that, in place of allowing the decision for a secret ballot to be determined by the Presiding Officer, a minimum of ten delegations should be required to second the request. The Secretariat suggested that a vote be taken on the second amendment to Rule 15, paragraph 3. This initiated a debate between the Chairman, the Secretariat and several delegations, including those of Australia, France, Panama, Portugal, Senegal, Switzerland, the United Kingdom, the United States of America and Zimbabwe on the clarification of voting order, procedural points of order and concerns over which Rules of Procedure were to be implemented. A final vote on this matter was postponed until the report of the Credentials Committee had been received." (Plen. 9.2 (Rev.))

III. Adoption of the Rules of Procedure

"The Chairman reported that the Bureau had recommended adoption of document Doc. 9.3, with replacement of the second and third sentences in Rule 15, paragraph 3, with The Presiding Officer shall ask whether the request is seconded. If it is seconded by ten Representatives the vote shall be by secret ballot, as proposed by the delegation of the United Kingdom. The delegation of Colombia suggested that voting by secret ballot should be the norm. However, the delegation of Trinidad and Tobago stated that the majority of Parties in their region supported the amendment proposed by the delegation of the United Kingdom. The delegation of Senegal on behalf of the African region also supported the amendment, and the delegation of the United States of America withdrew their proposal to retain the Rules of Procedure from the eighth meeting of the Conference of the

Parties after obtaining clarification from the Chairman that the Bureau clearly expected that secret ballots would be used only in exceptional circumstances. Following further expressions of support for the general principle of voting by secret ballot by the delegations of Singapore and Argentina, document Doc. 9.3 was adopted with the revision proposed by the delegation of the United Kingdom. The delegations of Australia, the United States of America and Zimbabwe stated that their votes would always be made public. The delegation of Ecuador reiterated their opposition to any secret ballot.” (Plen. 9.3 (Rev.))

The Parties have regularly revisited the secret ballot issue since CoP9 but no changes to the Rules of Procedure have resulted (see Annex 1).

Secret ballot usage has increased significantly since CoP9. As discussed above, over the history of CITES there have been three Rules governing secret ballots. A comparison of the average number of votes taken by secret ballots during the periods covered by the three Rules reveals that there were no votes by secret ballot when the support of the majority was required, and when the vote on the use of a secret ballot was by show of hands and thus not secret. In contrast, there were on average 9.7 votes by secret ballot during CoPs governed by the rule that required only ten Parties to second a motion for a secret ballot and that the vote to hold a secret ballot is held in secret (see Table 1). The results suggest that secret ballot motions would rarely occur if a majority of Parties were required to support them and / or if the vote for a secret ballot were not itself held in secret. It is not possible to determine which of these two factors has the largest impact on the occurrence of votes by secret ballot as they have always occurred at the same time. The results indicate that secret ballot usage may be reduced by altering one or both of these parameters such as by increasing the number of Parties needed to support a motion for a secret ballot (more than ten but less than the majority) and/or reinstating this rule: “The motion for a secret ballot may not be conducted by secret ballot or roll-call vote.”

Rules of Procedure Language on Secret Ballots	“Any Representative may request a roll-call vote or a secret ballot”					“All votes in respect of the election of officers or of prospective host countries shall be by secret ballot and although it shall not normally be used any Representative may request a secret ballot for other matters. If seconded, the question of whether a secret ballot should be held shall immediately be voted upon. The motion for a secret ballot may not be conducted by secret ballot or roll-call vote.”			“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.”						
Year	1976	1979	1981	1983	1985	1987	1989	1992	1994	1997	2000	2002	2004	2007	2010
CoP #	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
# Votes by Secret Ballot	0	0	0	1	6	0	0	0	1	16	13	17	5	3	14
Average # Votes by Secret Ballot for Different Rules	1.4					0			9.7						

CITES Consideration of the Secret Ballot Issue Since CoP9

➤ 42nd meeting of the CITES Standing Committee, October 1999

6. Future meetings of the Conference of the Parties

a) Preparations for CoP11 (UNEP, Gigiri)

"With regard to Part VI, Rule 25, the regional representative of Europe (United Kingdom) suggested that the working group [on Rules of Procedure] should pay serious attention to reducing the number of secret ballots. However, the regional representative of Central and South America and the Caribbean (Argentina) felt that this was something that should be discussed at CoP11." (SC42 Summary Report)

➤ CoP11, April 2000

1. Rules of Procedure

"The delegation of Israel considered that extensive use of secret ballots diminished the accountability of Parties to their constituents and expressed the hope that Rule 25 of the provisional Rules of Procedure would be addressed by the Standing Committee between now and the next meeting of the Conference of the Parties. He urged the Standing Committee to use the Rules of Procedure of the UN General Assembly as a guide. The delegation of Japan considered that as there were many sensitive issues to be discussed during the meeting, the option to use secret ballots should be maintained."..."The delegation of Kenya agreed with earlier remarks made by the delegation of Japan regarding secret ballots. They also expressed their concern regarding the influence exerted, not only by non-governmental organizations but also by Parties." (Plen. 11.2)

➤ CoP12, November 2002

Chile proposed to change the Rules of Procedure to make it more difficult to hold secret ballots (CoP12 Doc. 1.2):

REVISION OF THE RULES OF PROCEDURE

b) Rule 25 – Methods of voting

"2. 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 ten Representatives the vote shall be by secret ballot.~~ If the request for a secret ballot is seconded, an immediate vote shall be taken to determine whether a secret ballot should be held. The vote on the motion for a secret ballot does not have to be by secret or roll-call ballot. The vote shall be decided by one third of the Representatives present and with a right to vote.

Explanation: There is wide recognition of the importance of United Nations treaties and agreements, which operate under open and transparent systems, permitting public access to information, and that Governments are accountable to the public they serve. The use of a secret ballot obstructs these factors.

3. Under the Rules of Procedure adopted before the ninth meeting of the Conference of the Parties, a request for use of a secret ballot was decided by a simple majority of the Representatives present and with a right to vote. That vote could not be by secret or roll-call ballot. Except for the election of officers or prospective host countries, secret ballots were used on very few occasions.

4. At CoP9, the Rules of Procedure were changed in order to facilitate the holding of secret ballots. Under the new Rules, which are being discussed at CoP12, a secret ballot can be used when one Representative requests a secret ballot and is seconded by ten Representatives. That means that eleven Representative can impose a vote by secret ballot. The use of a secret ballot has proliferated under these new Rules. In comparison, if the former Rules of simple majority were currently in practice, a secret ballot would require the request of one Representative and seconding by 79 Representatives. Obviously, fewer secret ballots would be held if the Conference of the Parties re-adopted the language used before CoP9. In light of all these considerations, it is proposed that an affirmative vote of one third of the Representatives present in the room be necessary for holding a secret ballot at CoP12."

The CITES Secretariat responded to Chile's proposal, as follows (CoP12 Doc. 1.2):

"Regarding the proposed change to Rule 25.2, the Secretariat wishes only to note that the rules regarding the use of secret ballots have been changed several times in the past. The reasons put forward by Chile for making it more difficult to hold a secret ballot were also presented at the ninth meeting of the Conference of the Parties when the Conference decided to facilitate the holding of secret ballots. The Secretariat has no opinion about whether or not it should be made more difficult to conduct a vote by secret ballot; this is entirely a matter for the Parties. From the practical point of view, what is important is that votes by secret ballot consume a great deal of time when there is no possibility to vote electronically, and that consequently delegates should as far as possible refrain from asking for votes by secret ballot.

The Summary Record of the Plenary Session during which the Rules of Procedure were discussed states:

1. a) Rules of Procedure and b) Revision of the Rules of Procedure (Chile)

"The delegations of Australia and the United States of America supported the Chilean proposal to amend Rule 25. The delegations of Antigua and Barbuda, Cuba, Guinea, Namibia and South Africa opposed the proposal, regarding secret ballots as a way of preventing undue pressure on Parties during meetings. The delegation of China also opposed the Chilean proposal and drew attention to the right of Representatives to explain their votes as a means of ensuring transparency. The delegation of Denmark, speaking on behalf of the Member States of the European Union (EU), saw some merit in the proposed amendment. In response to a suggestion from that delegation, the following decision was agreed":

Decision 12.100: "The Standing Committee shall examine the general issue of secret ballots and in particular the question of whether secret ballots should be retained in the Rules of Procedure of the Conference of the Parties and, if so, under what conditions. The Committee should review the way in which the use of secret ballots has been formulated in the Rules of Procedure and establish, to the extent possible, whether and when secret ballots have been used under other biodiversity-related conventions and global, multilateral environmental agreements, and report at the next meeting of the Conference of the Parties."

➤ 49th meeting of the CITES Standing Committee, April 2003

25. Any other business

b) Secret ballots at meetings of the Conference of the Parties

"The representative of Central and South America and the Caribbean (Ecuador) felt that there was a need for further guidance on the rules relating to voting at meetings of the Conference of the Parties. He also stated that during the counting of votes in a secret ballot there should be a representative of the Parties present to monitor the Secretariat. The Secretary-General noted that Ecuador had suggested the same thing at a Bureau meeting during CoP12 and that the Bureau had rejected the idea and had full confidence in the Secretariat to do its job. The Standing Committee agreed that the Secretariat should prepare a document for consideration at its 50th meeting in response to Decision 12.100, looking at the history of the way in which secret ballots were dealt with in the Rules of Procedure of meetings of the Conference of the Parties and how they have been used in practice, and at the relevant rules and practice of other multilateral environmental agreements. Interventions were also made by the representatives of Asia (China) and North America (United States) and by the observer from Israel." (SC49 Summary Report (Rev. 1))

➤ **50th meeting of the CITES Standing Committee, March 2004**

The Secretariat prepared and submitted a document on secret ballots for consideration at SC50, stating:

"Conclusion

13. The Rules of Procedure for meetings of the Conference of the Parties to CITES, apparently make it more difficult to obtain agreement to hold a vote by secret ballot than it is at meetings of many (if not most) other multilateral environmental agreements. Nonetheless, questions about the use of secret ballots at CITES meetings continue to be raised at meetings of the Conference of the Parties (and occasionally at meetings of the Standing Committee).

14. There are two main reasons for this. a) One is that the use of secret ballots is viewed as going contrary to the principle of transparency and accountability. On the other hand, the delegations of several Parties at CoP12 expressed the view that they regarded the possibility of using secret ballots as a way of preventing undue pressure on Parties during meetings. In any case, it is a possibility provided for in most multilateral environmental agreements.

b) The other is that there continue to be many votes held by secret ballot at each meeting of the Conference and the conduct of these votes is time consuming. If an electronic voting system were available, then the process of conducting a secret ballot (or any other vote) would be completed very quickly.

15. The statement of requirements for hosting a CoP, that the Secretariat sends to potential CoP host countries, and that forms a part of the memorandum of understanding that it signs with each host country, has for many years included a request that an electronic voting system should be provided if this is possible. So far, however, this has never proved possible, mostly because of the cost. For CoP13, the Government of Thailand is exploring the possibility of providing for electronic voting but at the time of writing has not been able to make any commitment.

Recommendation

16. The Secretariat recommends that no change be made in the rules of the Conference of the Parties relating to the requesting of a secret ballot."

The Summary Record of the meeting noted:

9. Use of secret ballots

"The Secretariat introduced document SC50 Doc. 9. One representative expressed the view that it would like to have seen a more thorough analysis. Some participants expressed the view that the use of secret ballots undermined the principles of transparency and accountability and preferred that the Conference of the Parties revert to the rules that applied before the ninth meeting of the Conference of the Parties. One delegation stated that secret ballots should be used for choosing the next host country and for election of officers and not for anything else. Many Parties supported the necessity of secret ballots and the recommendation of the Secretariat to maintain the current rules. The Committee requested the Secretariat to prepare a document for CoP13 indicating that the Standing Committee had considered this issue and did not wish to propose any amendment to the Rules of Procedure relating to secret ballots.

During discussion of this item, interventions were made by the representatives of Africa (Cameroon, South Africa, Tunisia and the United Republic of Tanzania), Europe (the Czech Republic, Germany and Norway), Asia (China), Central and South America and the Caribbean (Nicaragua and Saint Lucia), North America and Oceania, and the observers from Egypt and Japan." (SC50 Summary Report)

➤ **51st meeting of the CITES Standing Committee, October 2004**

6. Arrangements for the 13th meeting of the Conference of the Parties

6.2 Secret ballots

"Some delegations expressed concern about the use of secret ballots in meetings of the Conference of the Parties. Other delegations said that it was important to be able to call for a vote by secret ballot. The Committee agreed with the Secretariat that there was no need to propose a change to the Rules of Procedure of the Conference of the Parties in relation to secret ballots. During the discussion, interventions were made by the representatives of Asia (China), North America (United States) and Oceania (Australia)." (SC51 Summary Record)

➤ **CoP13, October 2004**

The Secretariat reported to CoP13:

1. Rules of Procedure

1.1 Use of secret ballots

"Referring to document CoP13 Doc. 1.1, the Secretariat announced that the Standing Committee had decided not to propose any amendment to the Rules of Procedure for secret ballots. The delegation of the Netherlands, on behalf of the Member States of the European Community, and the delegation of the United States of America regretted the decision on the grounds that it was not in the interests of transparency." (CoP13 Plen. 2 (Rev. 1))