

 <p>Agreement on the Conservation of Albatrosses and Petrels</p>	<p style="text-align: right;">Fifth Meeting of the Parties <i>Santa Cruz de Tenerife, Spain, 4 - 8 May 2015</i></p> <p style="text-align: center;">Proposed amendment to Rule 4(1) of Rules of Procedure for Meetings of the Parties</p> <p style="text-align: center;"><i>Australia</i></p>
---	---

SUMMARY

This paper proposes an amendment to Rule 4(1) of the Rules of Procedure for sessions of the Meeting of the Parties (MoP) to clarify that member economies of the Asia Pacific Economic Co-operation Forum, whose vessels fish within the range of albatrosses and petrels (relevant APEC member economies), are able to participate as an observer at sessions of the MoP. If agreed, the proposal would overcome present differences of view among Parties about the application of Rule 4(1) to relevant APEC member economies.

RECOMMENDATION

The following recommendation is provided for the consideration of the Meeting of the Parties:

1. That Parties agree to adopt the draft Resolution at Annex 1 amending Rule 4(1) of the Rules of Procedure to read as below (for convenience, proposed changes are shown below with deletions in red, struck through, and new text in blue underline).

Rule 4 - Observers

(1) All signatories to the Agreement, other States which are not Parties, any member economy of the Asia Pacific Economic Co-operation Forum ~~in respect of Article VIII, paragraph 15 of the Agreement~~ whose vessels fish within the range of albatrosses and petrels, the United Nations, any specialised agency of the United Nations, any regional economic integration organisation, any Secretariat of a relevant international convention, particularly regional fisheries management organisations, may send observers to the Sessions of the Meeting of the Parties, who shall have the right to participate but not vote.

1. DISCUSSION

The efforts by the intersessional committee established by Resolution 4.8 are appreciated. The committee explored options that would enable any member economy of the Asia Pacific Economic Co-operation Forum whose vessels fish within the range of albatrosses and petrels (relevant APEC member economies) to participate, as a first step, as observers in sessions of the Meeting of the Parties (MoP) and in meetings of its subsidiary bodies.

The committee agreed to put a proposal concerning observership by relevant APEC member economies to Parties intersessionally (ACAP-ANCP Circular 2014-12). The proposal was to amend Rule 4 of the Rules of Procedure for the MoP to enable a relevant APEC member economy to apply for observership, allowing observership by that relevant APEC member economy except if one-third of the Parties objected. There is an absence of a consensus among Parties concerning the proposed amendment.

Facilitating participation of a wide range of observers at the MoP is consistent with the provisions of Article VIII of the Agreement. For ACAP to achieve the conservation objective expressed in Article 2(1), it is essential that ACAP promptly develop close and cooperative relationships with all States and economies whose vessels fish within the range of albatrosses and petrels listed under Annex 1 of the Agreement—in particular, improved relationships with those States and economies with distant water longline fleets are a high priority.

There is a difference of views among Parties about whether the existing Rules of Procedure for the MoP are sufficient to enable relevant APEC member economies to participate as observers in sessions of the MoP. These differences of view refer to the wording of Rule 4(1). The Rules of Procedure are to be consistent with the intention in Article VIII(4) that the Rules of Procedure ‘provide for transparency in the activities relating to the Agreement’ and ‘shall not be unduly restrictive.

This paper proposes that MoP5 agree to the draft Resolution at Annex 1 to amend Rule 4(1) of the Rules of Procedure for the MoP. The amendment represents the least change to the existing Rules necessary to resolve the differences of view among the Parties.

ANNEX 1

DRAFT RESOLUTION
AGREEMENT ON THE CONSERVATION OF ALBATROSSES AND PETRELS

Resolution 5.X

Amendment to Rule 4(1) of the Rules of Procedure for the Meeting of the Parties to the Agreement on the Conservation of Albatrosses and Petrels

Recalling Article VIII(4) of the *Agreement on the Conservation of Albatrosses and Petrels* (the Agreement), which requires that the Meeting of the Parties make provision in its rules of procedure governing the attendance and participation of observers, that such rules shall provide for transparency in the activities relating to the Agreement and shall not be unduly restrictive;

Further recalling that Article VIII(13)(a) of the Agreement provides that the Meeting of the Parties may amend the *Rules of Procedure for the Meeting of the Parties to the Agreement on the Conservation of Albatrosses and Petrels* (Rules of Procedure) at any session;

Desiring to encourage co-operation with member economies of the Asia Pacific Economic Co-operation Forum whose vessels fish within the range of albatrosses and petrels in order to advance the objective and fundamental principles of the Agreement, set out in Article II of the Agreement;

the Meeting of the Parties to the Agreement

Agrees:

To omit paragraph 1 of Rule 4 of the Rules of Procedure and replace it with the following:

- (1) All signatories to the Agreement, other States which are not Parties, any member economy of the Asia Pacific Economic Co-operation Forum whose vessels fish within the range of albatrosses and petrels, the United Nations, any specialised agency of the United Nations, any regional economic integration organisation, any Secretariat of a relevant international convention, particularly regional fisheries management organisations, may send observers to the Sessions of the Meeting of the Parties, who shall have the right to participate but not vote.