

 <p>Agreement on the Conservation of Albatrosses and Petrels</p>	<p>Fourth Meeting of the Parties <i>Lima, Peru, 23 – 27 April 2012</i></p> <p>Proposed amendment to Rule 4(1) of the MoP Rules of Procedure</p> <p><i>Author – Australia</i></p>
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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, are able to participate as an observer at sessions of the MoP.

RECOMMENDATION

That MoP4 agree to the draft Resolution at Annex 1 and amend Rule 4(1) of the Rules of Procedure to read as below (for convenience, the changes are shown below with deletions in red, struck through (e.g. ~~respect~~) and new text in blue underline (e.g. whose)) :

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. This does not affect the rights of any member economy of the Asia Pacific Economic Co-operation Forum for whom provisions have been made under Article VIII(15) to enable that member economy to participate in the work of the Meeting of the Parties and its subsidiary bodies, in accordance with that Article.

COMMENTS

Australia notes with pleasure the approach adopted by ACAP Parties to facilitate the participation of a wide range of observers, including non-Party States and non-government organisations, at previous meetings of the Advisory Committee (AC) and sessions of the MoP. Australia considers this approach is consistent with the provisions of Article VIII of the Agreement that encourage those concerned with the conservation and management of albatrosses and petrels or marine living resources to participate as observers in sessions of the MoP and its subsidiary bodies.

Australia also considers that, if ACAP is to achieve the conservation objective expressed in Article 2(1) of the Agreement, it is essential that ACAP promptly develop a close and co-operative relationship 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 longlining fleets are a high priority.

Discussions during AC6 in 2011 highlighted that, for some Parties, there was ambiguity in the provisions of Rule 3(1) of the AC Rules of Procedure as it relates to the participation as observers at AC meetings by member economies of the Asia Pacific Economic Co-operation Forum. As AC Rule 3(1) is very similar to MoP Rule 4(1) it is possible that similar difficulties might arise at MoP4.

In order to avoid any such potential difficulties in interpreting the provisions of MoP Rule 4(1), and to improve consistency between the MoP Rules of Procedure and the intention in Article VIII(4) of the Agreement that the MoP Rules “provide for transparency in the activities relating to the Agreement” and “shall not be unduly restrictive”, Australia proposes that MoP4 agree to the draft Resolution at Annex 1 and amend Rule 4(1) of the Rules of Procedure.

Should MoP4 agree to this proposal, Australia also proposes that MoP4 encourage the AC to similarly amend Rule 3(1) of its Rules of Procedure at its next meeting (AC7 in 2013); this request could be recorded as part of the MoP4 Report and the ACAP Secretariat tasked with submitting a suitable paper to AC7.

ANNEX 1 – DRAFT RESOLUTION TO AMEND MoP RULE 4(1)

AGREEMENT ON THE CONSERVATION OF ALBATROSSES AND PETRELS

Resolution 4.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. This does not affect the rights of any member economy of the Asia Pacific Economic Co-operation Forum for whom provisions have been made under Article VIII(15) to enable that member economy to participate in the work of the Meeting of the Parties and its subsidiary bodies, in accordance with that Article.