

H.E. Eng. Mohammed Saif Al Afkham
Chair
Standing Committee
C/-Secretariat
Ramsar Convention on Wetlands
Rue Mauverney 28
CH-1196 Gland, Switzerland

17 September 2021

Dear Chair,

Closed Session of the Standing Committee

Background

1. I am instructed that on 13 September 2021, you sought advice regarding the correct procedure to follow in relation to a specific closed session of the Standing Committee (SC) (which was to be held the week of 13-17 September).
2. I note that the Report and Decisions of the 59th Meeting of the SC includes the following at paragraph 78 (**The Paragraph**):

Closed sessions were held on 23 and 24 June, and the Standing Committee agreed to hold a further closed session in September 2021, possibly in the week of 13-17 September.

3. There is no other information in the public domain regarding this matter. However, on the basis of The Paragraph, I can advise as follows.

Definitions

4. There is no definition of ‘session’ in the Rules of Procedure. However, it is predominantly used throughout the Rules to denote a discrete part of a larger meeting (as opposed to the meeting in its entirety).¹
5. ‘Meeting’ is defined in the Rules of Procedure as ‘...any ordinary or extraordinary meeting of the Conference of the Parties convened in accordance with Article 6 of the Convention.’² To the extent that the Rules of Procedure apply *mutatis mutandis* to the proceedings of subsidiary bodies,³ we can conclude that ‘meeting’ means any ordinary meeting of the SC.

Analysis

6. The Paragraph refers to ‘closed sessions’ which were held on 23 and 24 June. The term ‘session’ is clearly employed in this sense to mean a discrete ‘gathering’ of Contracting Parties occurring within the context of the larger meeting (that is, within the context of SC59).
7. Second, The Paragraph goes on to note that the SC ‘agreed to hold a further closed session in September 2021...’. This sentence (in particular the use of the word ‘further’) suggests that the event to take place in September may reasonably be regarded as something akin to the two closed

¹ See for example: Rules 19(1), 21(1), 21(2), 22(1).

² Rules of Procedure, 2(e).

³ Rules of Procedure, 25(5).

sessions held at SC59 (that is, as a proceeding that amounts to something less than a meeting of the SC).

Conclusions

8. The principal question to answer is whether the 'further closed session' amounts to a meeting of the SC or constitutes some other proceeding (that is less than an ordinary meeting).
9. As there is no definition of 'session' in the Rules of Procedure, this is somewhat of a grey area. However, and on balance, I think that the better view is that the proposed 'closed session' was not a meeting of the SC (as defined in the Rules of Procedure). Rather, it was some other proceeding (that amounts to something less than an ordinary meeting of the SC).
10. I have formed this view on the basis of the following:
 - The definition of 'meeting' in the Rules of Procedure;
 - The fact that the word 'session' was used in The Paragraph to clearly denote something less than an ordinary meeting; and
 - The fact that it is customary for ordinary meetings of the SC to be referred to as meetings (not 'sessions').

Implications regarding notification and agenda

11. Resolution XIII.4, Annex 1, para 11 states that the Secretariat must provide Contracting Parties with three months' notice of any meeting of, and the agenda for, the SC. However, neither Resolution XIII.4 nor the Rules of Procedure mandate notification periods or agendas for other proceedings of the SC (that is, proceedings that do not rise to the level of a full meeting). It is therefore reasonably open to the SC to determine the notification period for the proposed 'closed session', and whether an agenda is required.
12. For the sake of completeness, I have been asked to advise as to whether a diplomatic note must be sent to the diplomatic missions of each Contracting Party in order to satisfy the notification requirements in the Rules of Procedure and XIII.4. I can detect no mention of diplomatic notes in either document, and to that extent would suggest that the use of this method to notify Contracting Parties of meetings is a form of custom (as opposed to arising out of any procedural requirement).
13. Finally, I would recommend that the Contracting Parties consider amending the Rules of Procedure to explicitly define the terms 'session' and 'closed session'.

Please do not hesitate to contact me if you have any questions regarding this advice.

Kind Regards,



Dr Emma Carmody
Legal Advisor