

ELEVENTH MEETING OF PARTNERS OF THE EAST ASIAN – AUSTRALASIAN FLYWAY PARTNERSHIP  
Brisbane, Queensland, Australia, 12-17 March 2023



## Draft Decision 3

### Adjustments to the Technical sub-Committee Terms of Reference & Rules of Procedure

*Submitted by EAAFP Technical sub-Committee*

#### Summary

In the light of the TsC's experience of operating under its Terms of Reference and Rules of Procedure adopted by MOP10 Decision 4, three amendments are proposed to MOP11.

These concern:

- i. establishing a procedure for appointments to fill any intersessional TsC vacancies arising; and
- ii. recognizing other regional flyway initiatives as permanent observers, without voting rights, to the TsC.
- iii. clarifying the procedure for the appointment of TsC Chair and Vice-Chair.

#### Background

1. The Technical sub-Committee's Terms of Reference and Rules of Procedure were approved in 2018 by Partners under MOP10 Decision 4.
2. From the TsC's experience of operating since 2018, the TsC has identified three issues which would be beneficially addressed by Partners at MOP11.
3. The **first issue** concerns the absence, in the current ToRs/RoPs, of any mechanism for appointments to the TsC if vacancies arise intersessionally (i.e. between MOPs).
4. Such intersessional vacancies can arise under at least two circumstances:
  - a. If not all TsC member positions are filled by MOP Decision. This situation arose at MOP10, when only nine of the 10 TsC positions were filled; or
  - b. If an appointed TsC member resigns their position intersessionally.
5. It is recommended that MOP11 establishes a process for filling such TsC vacancies. This is that:

- a. Should a vacancy or vacancies in TsC membership arise intersessionally, the TsC will make recommendations to the Management Committee for filling such vacancies;
  - b. The Management Committee will approve such intersessional appointments to the TsC.
6. The **second issue** concerns the role of other regional flyway initiatives (e.g. the African-Eurasian Migratory Waterbird Agreement (AEWA) and the Western Hemisphere Shorebird Reserve Network (WHSRN)) in the TsC.
  7. There is considerable mutual benefit in maintaining strong links between TsC and other flyway initiatives, so as to ensure sharing of implementation experiences and avoiding duplication of effort in the provision of scientific and technical implementation guidance
  8. Members of the TsC are appointed for their expertise in their own right. On the current TsC one member so appointed is also a staff member of the AEWA Secretariat, which has caused some confusion as to roles.
  9. So as to maintain continuity of engagement with these other flyway initiatives it is proposed that these initiatives are afforded 'permanent observer' status, without voting rights, to the TsC.
  10. The **third issue** concerns the terms of TsC RoP Rule 8 concerning the TsC's appointments of its Chair and Vice-Chair. TsC member appointments these are made by Partners at each MoP. The TsC then appoints its Chair and Vice-Chair from amongst the MOP-appointed members. However, currently Rule 8 states: *"The members of the Sub-Committee shall elect from among the Sub-Committee members, a Chair and Vice-Chair. This election will normally take place before the meeting of the Meeting of the Partners, and the newly elected officers shall assume their functions at the conclusion of the corresponding meeting of the Meeting of the Partners."*
  11. This formulation is very odd, since it indicates that the TsC will appoint its Chair and Vice-Chair before the TsC members have been appointed by Partners during MOP, which does not seem appropriate or due process. To clarify this process, a reformulation to Rule 8 is proposed, whereby once TsC members have been appointed by MOP the TsC will meet as soon as possible, preferably before the end of the MOP, to appoint its Chair and Vice-Chair.

**Decision:**

- Partners at MOP11 are invited to approve the proposals for three amendments to the TsC Terms of Reference and Rules of Procedure.

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### Adjustments to the Technical sub-Committee Terms of Reference & Rules of Procedure

*Submitted by EAAFP Technical sub-Committee*

*Recalling* that the EAAFP Technical sub-Committee's Terms of Reference and Rules of Procedure were approved in 2018 by Partners at MOP10; and

*Recognizing* that from experience of the operations of the TsC since 2018 that some improvements to its Terms of Reference and Rules of Procedure can be made so as to improve its operations.

#### The 11<sup>th</sup> Meeting of Partners of the East Asian – Australasian Flyway Partnership

1. Agrees to adjust the Technical sub-Committee's Terms of Reference and Rules of Procedure (as set out in Annex 1), concerning:
  - a. Filling TsC intersessional vacancies;
  - b. Affording other regional flyway initiatives a 'permanent observer' status, without voting rights to the TsC; and
  - c. The mechanism for the appointments of the TsC Chair and Vice-Chair.
2. Instructs the EAAFP Secretariat to make the approved adjustments to the TsC Terms of Reference and Rules of Procedure as set out in Annex 1, and to issue these to Partners, the TsC and working groups and task forces.

## Annex 1

### Technical Sub-Committee Terms of Reference & Rules of Procedure

*Submitted by EAAFP Technical sub-Committee*

**Note [text to be deleted after adoption].** The proposed adjustments are shown in *red* and ~~strike-through~~ text. These concern paragraphs 10 and 10bis of the ToR and Rule 8 of the RoP.

#### TERMS OF REFERENCE FOR THE EAAFP TECHNICAL SUB-COMMITTEE

##### *Scope of the Terms of Reference*

1. These Terms of Reference apply to the East Asian-Australasian Flyway Partnership Technical sub-Committee, unless stated otherwise in the Terms of Reference.

##### *General Functions of the Technical Sub-Committee*

2. The Technical Sub-Committee, established in accordance with paragraph 9(9) of the Partnership document, provides scientific and technical advice to, *inter alia*, the Meeting of the Partners, the Secretariat, any other body set up under the Partnership or any Partner.

##### *Operating Principles*

3. The Technical Sub-Committee, in carrying out its functions, should support the implementation of the Partnership in a manner consistent with other nationally and internationally agreed goals relevant to the objectives of the Partnership document.
4. The Technical Sub-Committee should endeavour constantly to improve the quality of its scientific and technical advice through improving scientific input into the work of its meetings and meetings of the Partnership working groups and task forces.
5. The Technical Sub-Committee may formulate its advice or recommendations in the form of options or alternatives, where appropriate.

##### *Functions*

6. The Technical Sub-Committee should fulfil the functions assigned to it by the Meeting of the Partners. These functions include:
  - a. advising, between Meetings of the Partners, on the development and implementation of the Partnership's work programme from a scientific and technical standpoint;
  - b. advising, identifying, assessing and recommending proposals for sites to be considered for inclusion in the Flyway Site Network;
  - c. advising on the scientific and technical content of draft decisions and recommendations submitted to Meetings of the Partners;

- d. making recommendations to the Meeting of the Partners as to the migratory waterbird species to be included in Appendix III;
- e. assessing proposals for the amendment of Appendix III from a scientific and technical standpoint, and providing advice to the Meeting of the Partners regarding proposed amendments;
- f. identifying and making recommendations to the Meeting of the Partners on flyway research needs on migratory species and their habitats, especially those that are listed in Appendix III or candidates for such listing;
- g. advising on specific conservation and management measures for the conservation of Appendix III species and their priorities, or other mechanisms for the conservation of migratory species and their habitats undertaken within the framework of the Partnership;
- h. bringing to the attention of the Meeting of the Partners any new and emerging issues relating to the conservation and management of migratory waterbird species and their habitats;
- i. advising on the priorities for conservation activities relating to migratory waterbird species and their habitats, and on selecting, monitoring and evaluating projects which will promote the implementation of the Partnership objectives;
- j. recommending to the Meeting of the Partners solutions to problems relating to the scientific and technical aspects of the implementation of the Partnership objectives;
- k. providing information, channelled through the Secretariat, to all Range States of particular species and relevant organizations, with a view to encouraging non-partner Range States and relevant organizations to become Partners of the Partnership and to participate in its implementation;
- l. liaising with working groups and task forces, to identify issues of common concern among these bodies and distil lessons for wider dissemination;
- m. providing upon request, advice on scientific and technical proposals from working groups and task forces;
- n. making proposals for more effective and streamlined scientific and technical outputs of working groups and task forces to respond to Partnership objectives; and
- o. reviewing and advising on EAAFP small grant proposals from EAAFP Working Groups and Task Forces.

#### *Appointment of Members*

7. The Technical Sub-Committee is composed of members appointed by the Meeting of the Partners.
8. Any Partner may nominate a qualified expert as a member of the Technical Sub-Committee.
9. Technical Sub-Committee members do not represent the Partner that nominate them but contribute to the workings of the Technical Sub-Committee in their expert capacity.
10. The composition of the Technical Sub-Committee is as follows:
  - a. Ten members with expertise in regional, and thematic issues;
  - b. The Head of the EAAFP Science Unit as an observer *ex officio*, without the right to vote; ~~and~~
  - c. The Chair of the Management Committee shall have the right to participate in meetings of the Technical Sub-Committee as an observer *ex officio*, without the right to vote.; **and**

d. representatives of other regional waterbird flyway initiatives shall be invited to participate in meetings of the Technical sub-Committee as permanent observers *ex officio*, without the right to vote.

10 *bis*. Should a vacancy or vacancies in TsC membership arise intersessionally, the TsC will make recommendations to the Management Committee for filling such vacancies; and the Management Committee will approve such intersessional appointments to the TsC.

#### *Responsibilities of the Technical Sub-Committee Members*

11. Technical Sub-Committee members should, to the best of their abilities, act as impartially as possible and endeavour to base their judgements and opinions upon an objective, scientific assessment of the best available evidence.
12. Technical Sub-Committee members should maintain regular communication with the chairs of the Partnership working groups and task forces.
13. Technical Sub-Committee members should maintain regular communication with the other Partners in the Partnership.

#### *Cooperation of Other Relevant Bodies or organizations*

14. The Technical Sub-Committee should cooperate with other advisory bodies set up by other Conventions, Agreements and MOUs, *inter alia*, inviting them to participate as observers in the meetings of the Technical Sub-Committee.
15. The Technical Sub-Committee should liaise, through its Chair or his/her nominated representative, with comparable bodies established under other relevant frameworks. This would include, where appropriate and resource permitting, attendance of the Chair of the Technical Sub-Committee, or his/her nominated representative, at meetings of these bodies.
16. The scientific contribution of non-governmental organizations to the fulfilment of the role of the Technical Sub-Committee is strongly encouraged. This includes inviting them to participate as observers in the meetings of the Technical Sub-Committee and establishing and maintaining working cooperation on matters of common interest with organizations.

#### *Rules of Procedure*

17. The Technical sub-Committee will establish its own Rules of Procedure which will be subject to the approval of the Meeting of the Partners.

## RULES OF PROCEDURE OF THE EAAFP TECHNICAL SUB-COMMITTEE

### *General Functions*

#### *Rule 1*

The Technical sub-Committee, established in accordance with paragraph 9(9) of the Partnership, provides scientific and technical advice to, inter alia, the Meeting of the Partners, the Secretariat, and to any Partner to the Partnership. Its functions are defined in Terms of Reference, supplemented from time to time by instructions included in resolutions or recommendations adopted by the Meeting of the Partners.

#### *Rule 2*

In particular, it advises, between the meetings of the Meeting of the Partners, on the development and implementation of the Partnership's work programme from a scientific and technical standpoint, and advises on the priorities for sponsorship of conservation activities.

#### *Rule 3*

The Technical Sub-Committee shall liaise, through its Chair or a member or members nominated for this purpose, with working groups and task forces established under the Partnership.

### *Representation and Attendance*

#### *Rule 4*

Any Partner may nominate a qualified expert as a member of the Technical Sub-Committee. The Technical Sub-Committee shall include as members no more than ten qualified experts selected and appointed by the Meeting of the Partners. In addition, the Head of the Partnership Science Unit will be an observer of the Sub-Committee *ex officio* without the right to vote.

#### *Rule 5*

Membership of the Sub-Committee shall be reviewed at each ordinary meeting of the Meeting of the Partners.

#### *Rule 6*

The Chair of the Management Committee shall have the right to participate in meetings of the Technical Sub-Committee as an observer *ex officio* without the right to vote.

#### *Rule 7*

The Chair may invite any person or representative of any Partner, non-Partner or organization to participate in meetings of the Sub-Committee as an observer without the right to vote, and shall inform the Secretariat accordingly.

### *Officers*

#### *Rule 8*

The members of the Sub-Committee shall elect from among the Sub-Committee members, a Chair and Vice-Chair. **Following the appointment of TsC members by the MOP, the TsC should meet as soon as possible, preferably before the close of the MOP, to appoint their Chair and Vice-Chair, This election will normally take place before the meeting of the Meeting of the Partners,** and the newly elected officers

shall assume their functions at the conclusion of the corresponding meeting of the Meeting of the Partners.

*Rule 9*

The Chair shall preside at meetings of the Sub-Committee, approve for circulation the provisional agenda prepared by the Secretariat, and liaise with working groups, task forces and with the Management Sub-Committee between meetings of the Sub-Committee. The Chair may represent the Sub-Committee as required within the limits of the Sub-Committee's mandate, and shall carry out such other functions as may be entrusted by the Sub-Committee.

*Rule 10*

The Vice-Chair shall assist in the execution of the Chair's functions, and shall preside at meetings in the absence of the Chair.

*Elections*

*Rule 11*

If in an election of an officer no clear candidate emerges, a ballot will be taken. If in the ballot the votes are equally divided, the presiding officer shall decide between the candidates by drawing lots.

*Meetings*

*Rule 14*

Meetings of the Sub-Committee shall be convened at the request of the Chair or, in exceptional cases, of at least one-third of the members, in both cases in consultation with the Secretariat. Meetings of the Technical Sub-Committee and any working groups or task forces established thereunder shall be serviced by the Secretariat of the Partnership.

*Rule 15*

The Sub-Committee should meet at least once between ordinary meetings of the Meeting of the Partners. The time, method (face-to-face or electronic) or venue of meetings shall be determined by the Chair, in consultation with the Secretariat.

*Rule 16*

Notice of meetings, including the date and venue, shall be sent to all Partners by the Secretariat at least 60 days in advance and, in the case of extraordinary meetings, at least 30 days in advance.

*Rule 17*

A quorum for a meeting shall consist of half of the members of the Sub-Committee. No decision shall be taken at a meeting in the absence of a quorum.

*Rule 18*

Decisions of the Sub-Committee shall be taken by consensus unless a vote is requested by the Chair or by three members.

*Rule 19*

Decisions of the Sub-Committee by voting (pursuant to Rule 18) shall be taken by a simple majority of the members present. In the case of a tie, the motion shall be considered as rejected.

*Rule 20*

A summary record of each meeting shall be prepared by the Secretariat within four (4) weeks and shall be communicated to all Partners.

*Rule 21*

The Sub-Committee shall work in the official language of the Partnership.

*Working Groups*

*Rule 22*

Working groups of the Technical Sub-Committee may be established in order to further the Sub-Committee's work programme intersessionally, taking into account the provisions of any relevant recommendations or resolutions of the Meeting of the Partners.

*Communication Procedure*

*Rule 23*

Any member or the Secretariat may make a proposal to the Chair for a decision by email procedure. The Secretariat shall communicate the proposal to the members for comments within 60 days of the date of communication; any comments received within these limits shall also be so communicated.

*Rule 24*

If, by the date on which comments on a proposal were due to be communicated, the Secretariat has not received any objection from a Partner, the proposal shall be considered as adopted, and notice of the adoption shall be given to all members.

*Rule 25*

If any member objects to a proposal within the applicable time limit, the proposal shall be referred to the next meeting of the sub-Committee.

*Other Functions*

*Rule 26*

The Chair shall submit to each ordinary meeting of the Meeting of the Partners a written report on the Sub-Committee's work since the previous ordinary meeting.

*Rule 27*

The Sub-Committee shall receive reports from other committees established under the Partnership, as necessary.

*Final Provisions*

*Rule 28*

In matters not covered by the present Rules, the Rules of Procedure as adopted by the last regular meeting of the Meeting of the Partners shall be applied *mutatis mutandis*.

*Rule 29*

These Rules shall be applied at the first meeting of the Sub-Committee following their approval by the Meeting of the Partners, and may be amended by the Sub-Committee as required, in accordance with the provisions of the Partnership and decisions of the Meeting of the Partners.