



**MANAGING PROCESSES WITHIN THE FRAMEWORK OF THE  
CONVENTION ON BIOLOGICAL DIVERSITY:**

**A GUIDE FOR PRESIDING OFFICERS**

**Secretariat of the Convention on Biological Diversity  
Legal and Intergovernmental Affairs Unit  
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## Objective and contents

This guide is intended to serve as reference or source of information to Bureau members and other officers presiding over meetings in the Convention on Biological Diversity as well as the Cartagena and Nagoya Protocol processes (CBD process).

Officers presiding over meetings in the CBD process include:

- (i) The President of the Conference of the Parties to the Convention and the Conference of the Parties serving as the meetings of the Parties to the Cartagena and Nagoya Protocols;
- (ii) The Chair of the Subsidiary Body on Scientific, Technical and Technological Advice;
- (iii) The Chair of the Subsidiary Body on Implementation;
- (iv) The chairs of other subsidiary bodies;
- (v) The chairs of working groups;
- (vi) The chairs of contact groups;
- (vii) The chairs or facilitators of friends of the chair or President.

The guide contains information on the following:

- (i) The institutional architecture of processes under the CBD and the Protocols;
- (ii) The conduct of business and the role and responsibilities of presiding officers;
- (iii) The negotiating forums in the CBD process;
- (iv) The key negotiating groups;
- (v) Documentation.

## I. Structure

The Convention on Biological Diversity, the Cartagena Protocol on Biosafety (the Cartagena Protocol) and the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (the Nagoya Protocol) establish the basic structure of the relevant intergovernmental processes.

### A. Governing bodies

- (i) The supreme governing body for the Convention is the Conference of the Parties (COP). It is the highest decision-making body. The COP is responsible for reviewing the implementation of the Convention and any related legal instruments. It has the power to make, within its mandate, the decisions necessary to promote the effective implementation of the Convention;<sup>1</sup>
- (ii) The supreme governing body for the Cartagena Protocol is the Conference of the Parties to the Convention serving as the meeting of the Parties to the Cartagena Protocol

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<sup>1</sup> Article 23 of the Convention.

- on Biosafety (COP-MOP of the Cartagena Protocol). It is the highest decision-making body. The COP-MOP is responsible for reviewing the implementation of the Protocol;<sup>2</sup>
- (iii) The supreme governing body for the Nagoya Protocol is the Conference of the Parties to the Convention serving as the meeting of the Parties to the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from Their Utilization (COP-MOP of the Nagoya Protocol). It is the highest decision-making body. The COP-MOP is responsible for reviewing the implementation of the Protocol.<sup>3</sup>

The biodiversity process revolves around the biennial meetings of the COP and COP-MOPs. These sessions bring together Parties to the Convention and Parties to the Protocols, as well as observer States and organizations, the media, and the general public represented by various civil society and non-governmental organizations. The meetings so far have taken place outside of the seat of the Secretariat hosted by different country Parties.<sup>4</sup>

## **B. Bureau**

- (i) At each ordinary meeting of the COP, a President and ten Vice-Presidents are to be elected from among the representatives of the Parties to the Convention.<sup>5</sup> One of the Vice-Presidents shall act as Rapporteur.
- (ii) The President and the ten Vice-Presidents shall serve as the Bureau of the COP and as the Bureau of any extraordinary meeting of the COP held during their term of office.<sup>6</sup>
- (iii) The term of office of the President shall commence straight away – at the meeting at which the President is elected and ends when a new President is elected at the commencement of the next ordinary meeting of the COP. The term of office of the ten Vice-Presidents shall commence upon the closure of the meeting at which they were elected and ends upon the closure of the next ordinary meeting of the COP. In electing its Bureau, the COP shall have due regard to the principle of equitable geographical representation of the Small Island Developing States. The offices of the President and Rapporteur shall normally be subject to rotation among the five groups of States identified in the United Nations General Assembly Resolution 2997 (XXVII) of 15 December 1972, which established the United Nations Environment Programme. These groups are: African group, Asia and Pacific, Central and Eastern Europe, Group of Latin America and Caribbean, and Western Europe and Others Group.
- (iv) No officer or member of the Bureau may be re-elected for a third consecutive term.<sup>7</sup>

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<sup>2</sup> Article 29 of the Cartagena Protocol. Note: the COP-MOP of the Cartagena Protocol serves as the Meeting of the Parties to the Nagoya – Kuala Lumpur Supplementary Protocol on Liability and Redress to the Cartagena Protocol on Biosafety (Article 14 of the Supplementary Protocol).

<sup>3</sup> Article 26 of the Nagoya Protocol.

<sup>4</sup> Rule 3 of the Rules of Procedure provides that the meetings of the COP shall take place at the seat of the Secretariat unless the COP decides otherwise, or other appropriate arrangements are made by the Secretariat in consultation with the Parties. In practice, the COP and COP-MOPs have mainly been hosted by Parties.

<sup>5</sup> Rule 21, para. 1, of the Rules of Procedure.

<sup>6</sup> Rule 21, para. 2, of the Rules of Procedure.

<sup>7</sup> Rule 21, para. 1 and 2, of the Rules of Procedure.

- (v) The President, if temporarily absent from a session or any part thereof, shall designate a Vice-President to act as President. A Vice-President acting as President shall have the same power and duties as the President.<sup>8</sup>
- (vi) If a member of the Bureau resigns or is otherwise unable to complete the assigned term of office or to perform the functions of the office, a representative of the same Party shall be named by the Party concerned to replace the said officer for the remainder of that officer's mandate.<sup>9</sup> This includes also a situation where at any time during a member's term of office, the member loses the capacity to represent his/her Government, the member shall initiate a process towards his/her replacement by informing the Secretariat and the Government concerned.

The Bureau of the COP serves also as the bureau of the COP-MOPs of the Cartagena and Nagoya Protocols. Where a member of the Bureau to the COP representing a Party to the Convention but, at that time, not a Party to the Cartagena Protocol and/or the Nagoya Protocol, is substituted by a member or members elected by and among Parties to one or both Protocols. The term of office of the substitute member shall expire at the same time as the term of office of the member of the Bureau he or she substitutes.

The main function of the Bureau during the period between two meetings (intersessional period) is to provide guidance to the Secretariat with regard to preparations for, and conduct of meetings of the COP, COP-MOPs and the subsidiary bodies unless the subsidiary body has its own bureau such as in the case of SBSTTA.

The President is responsible for presiding over the session of the COP and COP-MOPs, and for facilitating their work in order to promote agreement among Parties. The President remains under the authority of the COP and COP-MOPs, and he or she must remain impartial. The Vice-Presidents assist the President in this work. The Rapporteur is responsible for preparing the report of the meetings. The Bureau undertakes important process-oriented functions, addressing organizational and procedural issues arising pre-session and during the sessions, and providing advice and guidance to the chairs of subsidiary bodies on the conduct of business during the sessions. The COP and COP-MOPs also request, in their decisions, the Bureau to address or take action, inter-sessionally, on a number of issues.

### **C. Subsidiary bodies**

- (i) The Subsidiary Body for Scientific, Technical and Technological Advice (SBSTTA): is the only subsidiary body established under the Convention. It provides the COP and, as appropriate, its other subsidiary bodies with timely information and advice on scientific, technical and technological matters relating to the implementation of the Convention.<sup>10</sup> It meets at regular intervals (twice per biennium) between each ordinary session of the COP.
- (ii) The Subsidiary Body on Implementation (SBI): is established by the decision of COP. It is responsible, *inter alia*, to review relevant information on progress in the implementation of the Convention and assist the COP in preparing decisions on

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<sup>8</sup> Rule 23 of the Rules of Procedure.

<sup>9</sup> Rule 24 of the Rules of Procedure.

<sup>10</sup> Article 25 of the Convention. The modus operandi of the SBSTTA is annexed to Decision VIII/10 of the COP.

- enhancing the implementation of the Convention, as appropriate.<sup>11</sup> It meets once per biennium, in conjunction with one session of the SBSTTA.
- (iii) The Ad Hoc Open-ended Working Group on Article 8(j) and Related Provisions: is established by the decision of the COP. It focuses on the implementation of Article 8(j) of the Convention on knowledge, innovations and practices of indigenous and local communities, and related provisions.<sup>12</sup> It meets once per biennium, in conjunction with the other session of the SBSTTA.

The COP has the authority to establish such subsidiary bodies, particularly to provide scientific and technical advice, as are deemed necessary for the implementation of the Convention.<sup>13</sup> The COP-MOPs can also establish their own subsidiary bodies or agree to use a subsidiary body established by the COP.

The outcomes of the deliberations of subsidiary bodies are mainly recommendations for decisions for the consideration and adoption of the COP or COP-MOPs. The subsidiary bodies can adopt conclusions from their deliberations.

The Protocols also established the following bodies in the form of committees:

- (i) The Compliance Committee under the Cartagena Protocol. The Committee is a limited number membership body mandated to promote compliance with the provisions of the Protocol, to address cases of non-compliance by Parties, and to provide advice or assistance, where appropriate.<sup>14</sup>;
- (ii) The Compliance Committee under the Nagoya Protocol. The Committee is a limited number membership body mandated to promote compliance with the provisions of the Protocol and to address cases of non-compliance.<sup>15</sup>

#### **D. Officers of subsidiary bodies**

- (i) Unless the COP decides otherwise, the chairperson of each subsidiary body is elected by the COP. The COP determines the matters to be considered by each of them.<sup>16</sup> The subsidiary bodies then elect their other officers.<sup>17</sup>
- (ii) The Rules of Procedure for the meetings of the COP apply *mutatis mutandis* to the meetings of subsidiary bodies. The COP may also decide on the modus operandi of the subsidiary body. The modus operandi of SBSTTA and SBI are specified in the relevant decisions of the COP.<sup>18</sup>

With the exception of SBSTTA which has its own bureau, the work of the subsidiary bodies is guided not only by the Bureau of the COP and COP-MOPs, but also by the officers of each subsidiary body. The officers of subsidiary bodies are the Chair, and, where relevant, the

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<sup>11</sup> Decision XII/26 of the COP. The modus operandi of the SBI is annexed to Decision XIII/25 of the COP.

<sup>12</sup> Decision IV/9 of the COP.

<sup>13</sup> Article 23, para. 4, g) of the Convention.

<sup>14</sup> Decision BS-I/7 of the COP-MOP of the Cartagena Protocol.

<sup>15</sup> Decision NP-1/4 of the COP-MOP of the Nagoya Protocol.

<sup>16</sup> Rule 26, para. 3, of the Rules of Procedure.

<sup>17</sup> Rule 26, para. 4, of the Rules of Procedure.

<sup>18</sup> Consolidated modus operandi of SBSTTA (decision VII/10, Annex III), and Modus operandi of SBI (decision XIII/25).

Rapporteur. The Chair of a subsidiary body is responsible for facilitating the work of that subsidiary body.

## **E. Secretariat**

The Secretariat is established by the Convention<sup>19</sup> and is headed by the Executive Secretary. The Executive Secretary or its representative shall act in this capacity in all meetings.<sup>20</sup>

The functions of the Secretariat are:

- (i) to arrange for and service the meetings of COP, COP-MOPs, subsidiary bodies, the Bureau and other bodies established under the Convention and the Protocols;
- (ii) to perform the functions assigned to it by any protocol;
- (iii) to prepare reports on the execution of its functions under the Convention and present them to the COP and the COP-MOPs;
- (iv) to coordinate with other relevant international bodies;
- (v) to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions; and
- (vi) to perform such other functions as may be determined by the COP and the COP-MOPs. Such functions include preparing official and information documents for the meetings of all the bodies; coordinating reviews of national submissions and reports; compiling information and data; and organizing consultations and workshops.

The Executive Secretary shall provide and direct the staff required for servicing of the meetings of the COP, COP-MOPs, and subsidiary bodies.<sup>21</sup>

The bodies described above participate, at different levels, in the process of developing policies and guidance to support Parties in the implementation of the Convention and the Protocols.

## **II. Conduct of business and role and responsibilities of presiding officers**

The conduct of business at a meeting is regulated by the Rules of Procedure adopted under decision I/1, Annex, and amended by decision V/20<sup>22</sup>. All the rules, with the exception of Rule 40, apply to meetings under the CBD process.

The Rules of Procedure address a number of important issues for the conduct of business: the agenda, quorum, the functions of the officers, submission of proposals, motions, and decision-making...

Sessions of the COP, COP-MOPs and subsidiary bodies shall be held in public, unless the Parties or the subsidiary body concerned decide otherwise.<sup>23</sup>

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<sup>19</sup> Article 24 of the Convention.

<sup>20</sup> Rule 27, para. 1, of the Rules of Procedure.

<sup>21</sup> Rule 27, para. 2, of the Rules of Procedure.

<sup>22</sup> <https://www.cbd.int/doc/legal/cbd-rules-procedure.pdf>

<sup>23</sup> Rule 29, para. 1 and 2, of the Rules of Procedure.

### **A. The agenda and its adoption**

The provisional agenda of each meeting of the COP and the COP-MOPs is prepared by the Secretariat in agreement with the President.<sup>24</sup> The provisional agenda of each meeting of the subsidiary bodies is similarly prepared in agreement with the chairs of those bodies.

Items that should be included in the provisional agenda are, *inter alia*:<sup>25</sup> organizational matters (which normally include: election of officers, adoption of the agenda, and organization of work); items arising from the articles of the Convention or the Protocols, including those specified in Article 23 of the Convention, Article 29 of the Cartagena Protocol, or Article 26 of the Nagoya Protocol; items from a previous meeting; items from a previous ordinary meeting that were not completed at the meeting; items proposed by a Party or a group of Parties and received by the Secretariat before the provisional agenda was produced; and the proposed budget.

The provisional agenda, together with supporting documents, shall be distributed in the six official UN languages at least six weeks before the opening of the meeting<sup>26</sup> with the exception of a budget document which should be made available ninety days before the date of opening of the meeting.<sup>27</sup>

The Secretariat, in agreement with the President, is required to include any item which is proposed by a Party and has been received after the provisional agenda has been produced, but before the opening of the meeting, in a supplementary provisional agenda.<sup>28</sup> It is important to note in this regard that the COP, in its decision IV/16, paragraph 4, invited Parties to notify the Executive Secretary of any additional items they wish to add to the provisional agenda six weeks before the opening of the meeting. The provisional agenda of a COP and COP-MOP meeting is issued several months before, sometimes even a year before, the opening of the meeting. Thus, an item proposed by a Party must be received by the Secretariat way before the six-week timeline specified in decision IV/16, paragraph 4, in order to be included in the provisional agenda. Otherwise, the proposed item will be forwarded to the meeting as a supplementary provisional agenda. The timelines, in this regard, should also take into account the need to translate documents in all six official UN languages and make them available in a timely manner.

When adopting the agenda, each body, may add, delete, defer or amend items.<sup>29</sup> The Presiding Officer must be guided by the views expressed by the Parties and determine whether there is consensus to add, delete, defer or amend items. Items that are considered urgent and important may be added to the agenda. In practice, any question or suggestion concerning the provisional agenda better settled through consultations facilitated by the Bureau prior to the meeting. Any attempt to vary the agenda of a meeting in session, could lead to a highly complicated and lengthy discussion which may consume a significant amount of time that should have been spent on considering the other substantive agenda items.

Any item of the agenda of a meeting which has not been completed at the meeting, shall be included automatically in the agenda of the next meeting.<sup>30</sup> If Parties could not agree on whether

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<sup>24</sup> Rule 8 of the Rules of Procedure.

<sup>25</sup> See Rule 8 of the Rules of Procedure.

<sup>26</sup> Rule 10 of the Rules of Procedure.

<sup>27</sup> Paragraph 7(a) of the Financial Rules for the Administration of the Trust Fund for the Convention on Biological Diversity (decision 1/20, Annex I, as amended by decision III/1.

<sup>28</sup> Rule 11 of the Rules of Procedure.

<sup>29</sup> Rule 12 of the Rules of Procedure.

<sup>30</sup> Rule 15 of the Rules of Procedure.

an item submitted in the form of a supplementary provisional agenda should be included in the agenda, the meeting may defer the item and decide to include it in the agenda of the next meeting.<sup>31</sup>

The provisional agenda for an extraordinary meeting shall consist only of those items proposed for consideration in the request for the holding of the extraordinary meeting. It shall be distributed to the Parties at the same time as the invitation to the extraordinary meeting.<sup>32</sup>

The COP or the COP-MOPs, as the supreme governing bodies, have the authority to determine the matters to be considered by each subsidiary body, and to authorize the President, upon the request of the chairperson of a subsidiary body, to make adjustments to the allocation of work. During their meetings, the COP or COP-MOPs may establish working groups to consider the items on their agenda.<sup>33</sup>

## **B. Quorum**

There are two types of quorum: (i) the quorum for opening a session of the meeting and (ii) the quorum for decision-taking. In order to declare a meeting of the COP or the COP-MOP open and permit debate to proceed, the presence of at least one-third of the Parties is required. For taking any decisions, the presence of at least two-thirds of the Parties is required.<sup>34</sup>

Where a subsidiary body is open-ended, one quarter of the Parties shall constitute a quorum. Otherwise, a majority of the Parties designated by the COP to take part in the subsidiary body shall constitute a quorum.<sup>35</sup>

Determining the existence of a quorum is part of the powers of the Presiding Officer. The Presiding Officer shall always make sure that the representatives of all the negotiating groups are present before opening the meeting and allowing debate to proceed or before a decision is taken. If during a meeting the issue of quorum is raised, the Presiding Officer should request the Secretariat to verify the existence of a quorum. If it transpires that a decision was taken without the required quorum, the Presiding Officer should table the proposal afresh to the meeting.

## **C. Functions of the Presiding Officer**

The Rules of Procedure define the various functions of the President of the COP and COP-MOPs. Rule 22 sets out the general functions. However, throughout the Rules of Procedure, other specific functions are specified. These rules apply, *mutatis mutandis*, to chairs of subsidiary bodies and, with less formal rigour, to presiding officers of contact groups.

### ***1. The obligation of impartiality***

A cardinal principle in the exercise of the powers conferred on the Presiding Officer is the obligation of impartiality. The Rules of Procedure consequently provide that the President of the COP shall participate in the meeting in that capacity and shall not at the same time exercise the rights of a representative of a Party. The Party concerned shall designate another representative to

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<sup>31</sup> This is the practice for example, in the climate change (UNFCCC) process.

<sup>32</sup> Rule 13 of the Rules of Procedure.

<sup>33</sup> Rule 26, para. 3, of the Rules of Procedure.

<sup>34</sup> Rule 30 of the Rules of Procedure.

<sup>35</sup> Rule 26, para. 5, a) of the Rules of Procedure.



represent the Party and exercise the right to vote.<sup>36</sup> It is also improper for a presiding officer to remain in the chair when an issue involving himself or herself is being discussed. This does not necessarily mean that a presiding officer must recuse himself or herself when an issue concerning his or her country is being discussed.

## **2. General powers of the presiding officer**

The Rules of Procedure set out the general powers and duties of the President or Presiding Officer. The presiding officer shall:

- Declare the opening and closing of the meeting;
- Preside at the sessions of the meeting;
- Ensure the observance of the Rules of Procedure;
- Accord the right to speak;
- Put questions to the vote;
- Announce decisions;
- Rule on points of order;
- Control the proceedings and maintain order thereat.<sup>37</sup>

The President or presiding officer may propose to the meeting:

- The closure of the list of speakers;
- A limitation of the time to be allowed to speakers;
- The number of times a representative may speak on a question;
- The adjournment or the closure of debate;
- The suspension or adjournment of a session.<sup>38</sup>

The meeting may, on a proposal from the President or from any Party, limit the time allowed to each speaker and the number of times each representative may speak on a question. Before a decision is taken, two representatives may speak in favour of and two against a proposal to set such limits. When the debate is limited and a speaker exceeds the allotted time, the President shall call the speaker to order without delay.<sup>39</sup>

In the exercise of his/her functions, the President or Presiding Officer remains under the authority of the COP<sup>40</sup> or the body elected her/him. In practical terms this means that a decision of the Presiding Officer can always be overridden by the Parties. A Presiding Officer is allowed to alter any decision he or she has previously made, especially if insisting on a ruling would create controversy and result in procedural blockage.

## **3. Authority of the presiding officer with regard to irrelevant or offensive statements**

Rule 22, paragraph 1, provides that the presiding officer “*shall have complete control of the proceedings and over the maintenance of order thereat.*” The Presiding Officer therefore has the power to call a speaker to order if his or her statement is not relevant to the subject under discussion or is offensive.<sup>41</sup> The common practice in international conferences is for the Presiding Officer to call upon speakers to limit their statements to the issue on the agenda. If the speaker persists, the

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<sup>36</sup> Rule 21, para. 3, of the Rules of Procedure.

<sup>37</sup> Rule 22, para. 1, and Rule 31 of the Rules of Procedure.

<sup>38</sup> Rule 22, para. 2, and Rule 31 of the Rules of Procedure.

<sup>39</sup> Rule 31, para. 2, of the Rules of Procedure.

<sup>40</sup> Rule 22, para. 3, of the Rules of Procedure.

<sup>41</sup> See also Rule 31, para. 1, of the Rules of Procedure.

Presiding Officer may suspend the session. In cases where the offending statement is directed at another Party, the Presiding Officer may grant the delegation of that Party “a right of reply”.

#### **4. *Points of order***

A point of order is an intervention directed to the President or Presiding Officer, requesting him or her to use certain powers inherent in his or her office or vested in him or her by the Rules of Procedure. A point of order may, for instance, relate to:

- The manner in which debate is being conducted;
- The maintenance of order in the meeting;
- The compliance with the Rules of Procedure;
- The manner in which the Presiding Officer is exercising his/her powers.

A representative may at any time raise a point of order during the discussion of any matter. The point of order shall be decided immediately by the President or Presiding Officer in accordance with the Rules of Procedure. A representative may appeal against the ruling of the Presiding Officer. The appeal shall be put to the vote immediately and the ruling shall stand unless overruled by the majority of the Parties present and voting. A representative may not, in raising a point of order, speak on the substance of the matter under discussion.<sup>42</sup>

A point of order has precedence over any other matter including the procedural motions. Points of order are also distinct from procedural motions (see below) in one important respect: they involve issues requiring an immediate ruling by the Presiding Officer, subject to possible appeal to the Parties. Procedural motions are to be put to the vote and do not require a ruling by the Presiding Officer.

### **D. Motions and proposals**

A “motion” is a formal proposal by a Party that the meeting take certain action, either procedural or substantive. A “proposal” refers to that part of the motion that contains the text proposed by the Party in its motion.

#### **1. *Procedural motions***

Procedural motions have precedence over all other proposals or motions, except points of order. These motions are:

- To suspend a session;
- To adjourn a session;
- To adjourn the debate on the question under discussion;
- To close the debate on the question under discussion.<sup>43</sup>

Permission to speak on such a motion is limited to the proposer, one speaker for the motion and two against. The Presiding Officer shall then put the procedural motion to a vote.<sup>44</sup> Since Rule 40, paragraph 1 of the Rules of Procedure relating to the voting majorities required for decision-

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<sup>42</sup> Rule 33 of the Rules of Procedure.

<sup>43</sup> Rule 36, para. 1, of the Rules of Procedure.

<sup>44</sup> Rule 36, para. 2, of the Rules of Procedure.

making on matters of substance remains bracketed, a meeting can decide only on a procedural motion by a majority vote of Parties present and voting<sup>45</sup>.

## **2. *Motion on the competence of the COP, COP-MOPs or subsidiary body***

Any motion calling for a decision on the competence of the COP to discuss any matter or to adopt a proposal or an amendment to a proposal submitted to it shall be put to the vote before the matter is discussed or a vote is taken on the proposal or amendment in question.<sup>46</sup> A request by a Party for a decision on competence is a procedural motion and not a point of order to be decided by the presiding officer. It must therefore be decided upon by the meeting itself.

Any motion may be withdrawn by its proposer at any time before voting on it has begun, provided that the motion has not been amended. A motion withdrawn may be reintroduced by any other Party.<sup>47</sup>

## **3. *Submission of proposals***

Proposals and amendments to proposals shall normally be introduced in writing by Parties and handed to the Secretariat for circulation to delegations.<sup>48</sup> The only exceptions are the basic proposals contained in the documents prepared by the Secretariat as the convening authority or proposals submitted by the Presiding Officer. Normally, non-governmental organizations cannot sponsor proposals because an inter-governmental process only addresses issues raised by Governments. In practice, however, the Parties to the CBD and the Protocols are open to consider proposals of non-governmental organizations if the proposal is supported by a Party.

No proposal shall be discussed or put to vote at any meeting unless copies, translated into the official languages of the COP, have been circulated to Parties not later than the day preceding the session. The President or Presiding Officer may, in exceptional circumstances and in cases of urgency, permit the discussion and consideration of proposals, amendments to proposals or of procedural motions even though these proposals, amendments or motions have not been circulated or have been circulated only the same day or have not been translated into all the official languages of the COP.<sup>49</sup>

A proposal may be withdrawn by its proposer at any time before voting on it has begun, provided that the motion has not been amended. A proposal or motion withdrawn may be reintroduced by any other Party.<sup>50</sup>

When a proposal has been adopted or rejected, it may not be reconsidered at the same meeting, unless the COP, by a two-thirds majority of the Parties present and voting, decides in favour of reconsideration. Permission to speak on a motion to reconsider shall be accorded only to the mover and one other supporter, after which it shall be put immediately to the vote.<sup>51</sup>

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<sup>45</sup> Rule 40, paragraph 2 of the Rules of Procedure

<sup>46</sup> Rule 36 of the Rules of Procedure.

<sup>47</sup> Rule 37 of the Rules of Procedure.

<sup>48</sup> Rule 35 of the Rules of Procedure.

<sup>49</sup> Rule 35 of the Rules of Procedure.

<sup>50</sup> Rule 37 of the Rules of Procedure.

<sup>51</sup> Rule 38 of the Rules of Procedure.

## **E. Decision-making**

### **1. Voting majorities under the Convention and the Protocols**

- (i) The Convention does not define a voting majority regarding the adoption of Protocols. It only provides that Protocols shall be adopted at a meeting of the Conference of the Parties. Consequently, protocols to the Convention are to be adopted by consensus.
- (ii) Amendments to the Convention or the Protocols should be adopted by consensus and, if all efforts to reach consensus have been exhausted and no agreement has been reached, they shall as a last resort be adopted by a two-third majority vote of the Parties to the instrument in question present and voting at the meeting.<sup>52</sup> “Parties present and voting” means Parties present and casting an affirmative or negative vote.
- (iii) Adoption and amendment of annexes to the Convention or the Protocols shall be proposed and adopted in accordance with the same procedure.<sup>53</sup>

### **2. Voting majorities under the Rules of Procedure**

Parties to the Convention have agreed to apply the Rules of Procedure, as annexed to Decision I/1 (and amended V/20), with the exception of Rule 40, paragraph 1, dealing with voting majorities for decision-making on matters of substance. As a result of the continuing lack of consensus on this issue, decision-making on substantive matters, save for the specific cases where the Convention, the Protocols or the Rules of Procedure establish the requisite voting majorities, requires consensus.

Decisions on matters of procedure shall be taken by a majority vote of the Parties present and voting.<sup>54</sup>

If the question arises whether a matter is one of procedural or substantive nature, the President shall rule on the question. An appeal against this ruling shall be put to the vote immediately and the President's ruling shall stand unless overruled by a majority of the Parties present and voting.<sup>55</sup>

The Presiding Officer, with the assistance of the secretariat, must satisfy himself or herself that there is a quorum for decision-making. Voting is normally by a show of hands, but any Party may request either a roll-call vote or a secret ballot.<sup>56</sup>

### **3. The meaning of “consensus”**

The United Nations Convention on the Law of the Sea (UNCLOS) and the Dispute Settlement Understanding (DSU) of the World Trade Organization (WTO) (Annex 2 of the WTO Agreement) are the only international legal instruments that provide a definition of the term “consensus”. Article 161.7(e) of UNCLOS states that “consensus” means “*the absence of any formal objection.*” Article 2.4 of the DSU stipulates that the Dispute Settlement Body (DSB) shall take decisions by consensus. A note to this provision states that “*the DSB shall be deemed to have decided by consensus on a matter submitted for its consideration, if no Member, present at the meeting of the DSB when the decision is taken, formally objects to the proposed decision.*” These formulations though capturing the essential legal element do not fully reflect the nuances inherent in the term.

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<sup>52</sup> Art. 29, para. 3, of the Convention.

<sup>53</sup> Art. 30, para. 2, (a) of the Convention.

<sup>54</sup> Rule 40, para. 2, of the Rules of Procedure.

<sup>55</sup> Rule 40, para. 3, of the Rules of Procedure.

<sup>56</sup> Rule 46 of the Rules of Procedure.

In a memorandum to the Executive Secretary of the Convention on Biological Diversity dated 17 June 2002, the Legal Counsel of the United Nations stated as follows regarding the legal interpretation of the term:

*“In United Nations practice, the concept of ‘consensus’ is understood to mean the practice of adoption of resolutions or decisions by general agreement without resort to voting in the absence of any formal objection that would stand in the way of a decision being declared adopted in that manner. Thus, in the event that consensus or general agreement is achieved, the resolutions and decisions of United Nations meetings and conferences have been adopted without a vote. In this connection, it should be noted that the expressions ‘without a vote’, ‘by consensus’ and ‘by general agreement’ are, in the practice of the United Nations, synonymous and therefore interchangeable.”*

*Adoption in this manner does not mean that every State participating in the meeting or conference is in favour of every element of the resolution or decision. States so participating have the opportunity, both prior to and after the adoption, to make reservations, declarations, statements of interpretation and/or statements of position. In so doing, a State may:*

- disassociate itself from the substance or text of parts of the document;*
- indicate that its joining in the consensus does not constitute acceptance of the substance or text of parts of the document; and/or*
- present any other restrictions on its Government’s position on substance or text of parts of the document.”*

*Provided that the State concerned does not formally object to or challenge the existence of consensus or call for a vote on the resolution or decision, it is understood that consensus or general agreement is preserved.”*

Thus, Parties may put their views on record, explaining their position, either before or after the adoption of a decision. Another way to express disagreement with the text or part thereof is by entering a reservation *after* adoption indicating that a Party does not agree to comply with one or more of the text’s provisions. Reservations are used rarely and are intended to be temporary, simply indicating that a Party agrees with the decision in principle but is unable to effectively implement it at the present time. Finally, a Party may express disagreement with the text by issuing an “interpretive statement” defining its position and outlining its understanding of the decision. Statements of position, reservations and interpretive statements are usually put on record at the request of the Party or Parties concerned.

### **III. Negotiating forums**

Negotiations under the CBD process take place in several forums, in particular four main forums: plenary, working groups, contact groups, and informal consultations. In addition, the President of the COP and COP-MOPs, and the chairs of the in-session working groups may also establish, with the agreement of Parties or under their own responsibility, contact groups and smaller group settings, such as, Friends of the Chair to hold consultations with Parties on key issues or agenda items.

## **A. Plenary**

The plenary meetings of the COP, COP-MOPs and the subsidiary bodies are the formal forums for discussion and decision-making by Parties to the Convention and the Cartagena and Nagoya Protocols. Plenary meetings are open to participation by all Parties, observer States and organizations, the media and other participants registered for the CBD sessions.

The conduct of plenary meetings by the President of the COP and COP-MOPs or other Presiding Officers, seating arrangements of participants, languages of the session, and other details concerning the meeting are governed by the rules of procedure. It is during plenary meetings that decisions are taken by the COP and COP-MOPs.

The plenaries of subsidiary bodies, prepare and decide on the recommendations they submit to the COP or the COP-MOPs. Decisions by plenary include procedural decisions, such as the adoption of the agenda and the organization of work of the session, as well as substantive decisions and conclusions of the session, such as the adoption or recommendation of policies, procedures and guidelines pertaining to the implementation of the Convention and the Protocols.

Negotiations on key issues rarely take place in plenary meetings. These are conducted in smaller, less formal forums, such as contact groups and informal consultations. Plenary meetings provide Parties with the forum to make general statements on items on the agenda of the meeting.

During the opening plenary meetings, the COP or COP-MOPs will decide which agenda items to allocate to in-session working groups, contact groups or informal consultations; and on which issues the President would consult further with Parties. Similarly, the subsidiary bodies will also allocate specific agenda items to contact groups or informal consultations or request the chairs of the in-session working groups (who are mostly Bureau members) to consult further with Parties. The President or the chairs of the working groups, as appropriate, will propose to the meeting the presiding officers selected to chair the various contact groups and informal consultations for their approval.

At the closing plenary meeting, the Presiding Officers will report on the outcome of their work in the working groups (which include the work of any contact group) and informal consultations, and on whether the negotiations were completed successfully. Smaller group meetings should always report back to the body that established them. The Presiding Officer will also inform the President of any documents containing decisions or recommendations forwarded for consideration and adoption by the COP or the COP-MOPs.

Following the reports on the outcome of the negotiations in the working groups, contact groups and informal consultations, or consultations by the President or Chair, the Parties will be invited to consider and adopt the documents containing the draft decisions forwarded from these negotiating bodies. The draft decisions will be adopted if there is consensus among the Parties. If there is no consensus, the issue will be forwarded for consideration to the next session (rule 16).

## **B. Working groups**

In the CBD process, there are two types of working groups – one that are established to undertake a certain task inter-sessionally (such as the working group on post-2020 global biodiversity framework, the Working Group on Article 8(j) and Related Provisions) and the other established when COP, COP-MOPs, and open-ended subsidiary bodies such as SBSTTA and SBI, are in-session.

In-session working groups are an organisational tool to more efficiently undertake the work mandated by a larger plenary body such as the COP, COP-MOPs or SBSTTA, and SBI. Working groups are established to review issues on the agenda. Statutory meetings, such as COP and SBSTTA, meet in a plenary for reporting and decision making, but break-up into at least one or two working groups to consider more specific issues on the agenda and, if appropriate, address text. Working groups report to the larger plenary group and recommend particular outcomes for the plenary's endorsement or adoption. The COP and the open-ended subsidiary bodies determine their organisation of work. The organisation of work for the COP involves the establishment of two in-session working groups (WG1 and WG2). The organisation of work for SBSTTA has also involved so far plenary and the establishment of two working groups, with no more than two working groups operating at a time.

### **Role of a Working Group Chair**

A working group chair is the Presiding Officer of a working group. He or she is an officer of the meeting and does not represent his or her delegation. Working group chairs are usually COP or SBSTTA Bureau members. However, representatives of other Parties may also be appointed to chair working group depending on circumstances. A working group chair's primary role is to facilitate a working group's consideration of an issue in order to achieve consensus and report back to the plenary

#### **1/ General functions**

The working group chair is responsible for the orderly and efficient conduct of the meeting and has several functions and powers including, to:

- Open and close meetings;
- Introduce, as needed, with the assistance of the Secretariat, each item on the agenda;
- Recognize and give the floor to a delegate. If more than one delegate wants to intervene on a matter, the working group chair will give the floor to delegations in a particular order;
- Allow or refuse discussion and consideration of proposals, amendments to proposals or procedural motions circulated for the first time on that day;
- Determine whether a matter is substantive or procedural in nature; specific issues on the agenda and, if appropriate, address text.
- Decide when to put a question to a vote; determine the order of voting on proposed amendments; allow a Party to explain its vote;
- Rule on points of order;
- Call a speaker to order when remarks are irrelevant or repetitious;

- Ensure that the rules of procedure are followed;
- Designate the presiding officers of, for example, contact or other informal groups.

## **2/ Effective working group chair**

A skilful working group chair is often a key factor to a successful meeting. He or she can, for example, encourage representatives to focus on key issues, ask representatives to clarify complex positions, and probe in a balanced and objective way positions for opportunities and compromises. A working group chair also has the discretion to form smaller break out groups, such as contact groups and friends of the chair groups, to attempt to resolve particularly difficult issues. Some characteristics of an effective working group chair include being:

- Aware of the expected outcomes;
- Impartial/objective/fair/unbiased;
- Clear (set out the procedure clearly, stick to a systematic approach, and indicate clearly what is being decided at every step);
- Consistent;
- A good listener;
- Pragmatically diplomatic and polite;
- Conscious of limitations such as time;
- A good communicator with delegates and the Secretariat;
- Receptive to having a basic understanding of the mechanics of the meeting logistics, most notably document production.

The working group chair is assisted by a Secretary who is a staff member of the Secretariat. Depending on the meeting this could be a Secretariat division head or a programme officer acting as the primary focal point for a particular thematic or cross-cutting area or both.

### **C. Contact groups**

Contact groups are established to conduct negotiations on specific agenda items, with the aim of achieving an agreed outcome. They are established by the COP, COP-MOPs, open-ended subsidiary bodies, or in-session working groups, based on a proposal by the President, Chair of the subsidiary body or the in-session working group, or a Party.

The presiding officer(s) for each contact group is proposed from among representatives of Parties at the session by the President or Chair of the subsidiary body. Where two presiding officers are proposed to chair a contact group, to achieve balance one will be a representative from a developing country Party and the other from a developed country Party. The President or Chair will normally request the Parties to agree to his or her proposed presiding officer for the contact group.

The presiding officer of a contact group reports regularly to the President or subsidiary body or in-session working group Chair on progress made during the negotiations and may request the assistance of the President or subsidiary body or the in-session working group Chair to resolve any difficulties that may arise during the negotiations.



Contact groups are open-ended, that is, open to participation by all Parties. Representatives of observer organizations may be invited to attend any open-ended contact group unless one third of the Parties present at the session object, and on the understanding that the presiding officer of the contact group may determine at any time that the contact group should be closed to observer organizations (Rule 29, paragraph 2, of the Rules of Procedure). Presiding officers are required to ascertain, at the time of establishment of each contact group, if there are any objections to the attendance of observer organizations.

The flexibility in the application of the formal Rules of Procedure in the conduct of business in contact groups provides a more efficient forum for negotiations. The discussions are conducted, and documents are available, only in English. The date, time and venue for the contact group meetings are announced in advance. The presiding officer of a contact group must however strive to strike an acceptable balance between the need for efficiency and the imperative of procedural equity and transparency.

#### **D. Informal consultations**

Informal consultations are convened by the President or Chair of a subsidiary body, in-session working group or contact group, with the approval of the body. The presiding officer normally invites a delegate to undertake consultations on a particular issue and report to him or her on the outcome of these consultations, which may take the form of bilateral consultations, open ended meetings or a combination of both.

Informal consultations are normally open ended, but if a smaller group is desired then the President or Chair bears responsibility for determining the invitees. As a change from existing practice, informal consultations are now announced to ensure transparency. The presiding officer has flexibility in the application of the Rules of Procedure for the conduct of discussions in the informal consultations but should bear in mind the need to ensure procedural equity and transparency. As with contact groups, the discussions are conducted, and documents are available, only in English.

#### **E. Other smaller group settings**

The CBD processes use a range of other informal, smaller group settings to advance negotiations, such as “Friends of the Chair”.

‘Friends of the Chair’ are convened by presiding officers to advance negotiations on particularly difficult and politically sensitive issues. A limited number of Parties are invited to participate in these closed meetings usually chaired by the presiding officer. Only invited delegates attend, no formal rules are applied, and the conduct of business is entirely at the discretion of the chair.

Smaller group meetings are not normally announced, and observers are not permitted to attend.

In establishing smaller groups, the presiding officer should take particular care to ensure that the requirements of transparency, legitimacy and inclusiveness are met. In particular, the presiding officer should clearly define the mandate of the group and ensure broad representation of the major

negotiating groups and key Parties in order to guarantee acceptance of the final outcome. If the group is not open ended, it is good practice for the presiding officer to invite the negotiating groups to select the delegates to represent them in smaller group meetings. It is also important for legitimacy of the process that the results of any smaller group meeting are reported back to the main body for decision making so that Parties who were not in the smaller group have an opportunity to consider the outcomes.

#### **IV. Major Negotiating Groups**

Parties have formed a number of political negotiating groups based on common concerns and interests. Negotiations within the CBD takes place through these groups, which are often aligned with UN regional groups. They meet regularly before and during the sessions of the COP, COP-MOP or subsidiary bodies in order to exchange information on their concerns and to coordinate and agree on common positions on key issues. Some of the major negotiating groups include:

- The African Group
- The European Union
- Megadiverse Parties Group
- Small Island States Group
- Group of 77 and China

Negotiating groups could be created at different times for different purposes.

#### **V. Documentation**

Different types of documents form the substance of and guide the CBD negotiations. It is through documents that information on issues is provided, proposals from Parties are circulated, information is disseminated, and draft text is negotiated and adopted. The main document types are outlined below. There are pre-sessional and in-session documents.

##### **A. Pre-sessional documents**

These include regular documents prepared by the Secretariat as background documents relating to agenda items before the session, information documents, miscellaneous documents containing proposals or views submitted by Parties, and technical papers providing information and analysis on technical issues. The basic official documents of the meeting are denoted by symbols (CBD/COP/xx/x, for example). Additional or supplementary information is sometimes presented in addenda, which carry a symbol such as CBD/COP/xx/x/Add.1. Sometimes a revised version of a document is distributed with a symbol in the form CBD/COP/xx/x/Rev.1.

These documents are normally prepared and distributed well in advance of each session. Rule 10 of the Rules of Procedure provides that provisional agenda and supporting documents each ordinary meeting shall be distributed in all six official languages of the United Nations by the secretariat to Parties at least six weeks before the opening of the meeting. Information documents carry a symbol in the form CBD/COP/xx/x/INF. x. and are made available only in English.

## **B. In-session documents**

Official in-session documents normally contain draft decisions produced during the process of a meeting. They may be conference room paper (CRP) containing draft recommendation or decision proposed by the President or the presiding officer of the body. In rare cases, CRPs may also contain a proposal by a Party or group of Parties. Following agreement or adoption of CRPs, in-session documents designated as "L" (or limited distribution) documents are produced. "L" documents contain proposals (by the in-session working groups) for a decision by the COP or the COP-MOPs, or inter-sessionally, recommendations of an open-ended subsidiary body – SBSTTA, SBI, WG on Article 8(j). These in-session documents are translated, are referred to in the final report of the meeting. "L" documents represent the final version of a text.

In the course of negotiations, Parties or groups of Parties or chairs of contact groups or informal groups may prepare and distribute non-papers to facilitate progress in the negotiations or to explain positions. These documents often do not bear a document symbol and are not part of the official record of the meeting. The secretariat usually keeps a record of important non-papers.

## **C. Processing of documents**

The text of recommendation by a subsidiary body or a decision by COP and COP-MOP evolves through various versions and revisions during a negotiation process. The first version is usually prepared by the Secretariat in the form of draft recommendation or draft decision and as part of a pre-session document prepared to facilitate discussions on a particular agenda item. Such draft text often forms the basis on which Parties negotiate. Once a text enters negotiations, individual Parties or negotiating groups offer their proposed revisions. Much of this takes place through oral interventions by delegations from the floor. More complex amendments or proposals by negotiating groups are often submitted in writing. In practice, all proposals made during plenary are sought to be submitted in writing.

If there are major differences in proposals from Parties, the President, Chair or facilitator may either create a contact group or informal group to come up with a text that may bridge the differences or take the responsibility of preparing and presenting a compromise text (with the assistance of the Secretariat) by herself/himself. This could take the form of CRP containing the President's or Chair's text.

The President, Chair or facilitator may use his or her political authority to persuade delegates to accept the text without much revision and move forward. The President or Chair or facilitator must, however, carefully weigh the political opportunity for such an intervention and should avoid any action that might jeopardize progress in the negotiations.

During negotiations, the Secretariat issues, under the guidance of the President, Chair or facilitator, a compilation of text that incorporates all agreed changes to the draft text or additional proposals. It would also indicate areas of agreement and disagreement. The areas of disagreement are usually presented in square brackets. This document then becomes the basis for further negotiations.

Once agreement is achieved on all portions of the text, the presiding officer would then propose the text for adoption. If no formal objections are raised, the text is adopted by consensus. Parties are, however, at liberty to make statements of position and interpretive statements or to enter reservations after the adoption and may request that these be reflected in the record of the proceedings.

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**RULES OF PROCEDURE FOR MEETINGS OF THE  
CONFERENCE OF THE PARTIES TO THE  
CONVENTION ON BIOLOGICAL DIVERSITY  
(Annex to Decision I/1 as amended by Decision V/20, section I)**

PURPOSES

Rule 1

These rules of procedure shall apply to any meeting of the Conference of the Parties to the Convention on Biological Diversity convened in accordance with article 23 of the Convention.

DEFINITIONS

Rule 2

For the purposes of these rules:

(a) "Convention" means the Convention on Biological Diversity adopted in Nairobi on 22 May 1992 and opened for signature in Rio de Janeiro on 5 June 1992;

(b) "Parties" means Parties to the Convention;

(c) "Conference of the Parties" means the Conference of the Parties established in accordance with article 23 of the Convention;

(d) "Meeting" means any ordinary or extraordinary meeting of the Conference of the Parties convened in accordance with article 23 of the Convention;

(e) "Regional economic integration organization" has the same meaning as that assigned to it in article 2 of the Convention;

(f) "President" means the President elected in accordance with rule 21, paragraph 1, of the present rules of procedure;

(g) "Secretariat" means the Secretariat established under article 24 of the Convention;

(h) "Subsidiary bodies" includes committees and working groups.

PLACE OF MEETINGS

Rule 3

The meetings of the Conference of the Parties shall take place at the seat of the Secretariat, unless the Conference of the Parties decides otherwise or other appropriate arrangements are made by the Secretariat in consultation with the Parties.

## DATES OF MEETINGS

### Rule 4

1. Ordinary meetings of the Conference of the Parties shall be held every two years. The Conference of the Parties shall from time to time review the periodicity of its ordinary meetings in the light of the progress achieved in the implementation of the Convention.
2. At each ordinary meeting, the Conference of the Parties shall decide on the date and duration of the next ordinary meeting.
3. Extraordinary meetings of the Conference of the Parties shall be convened at such times as may be deemed necessary by the Conference of the Parties, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.
4. In the case of an extraordinary meeting convened at the written request of a Party, it shall be convened not more than ninety days after the date at which the request is supported by at least one third of the Parties in accordance with paragraph 3 of this rule.

### Rule 5

The Secretariat shall notify all Parties of the dates and venue of a meeting at least two months before the meeting is due to commence.

## OBSERVERS

### Rule 6

1. The Secretariat shall notify the United Nations, its specialized agencies and the International Atomic Energy Agency as well as any State not Party to the Convention of meetings of the Conference of the Parties so that they may be represented as observers.
2. Such observers may, upon invitation of the President, participate without the right to vote in the proceedings of any meeting unless at least one third of the Parties present at the meeting object.

### Rule 7

1. The Secretariat shall notify any body or agency, whether governmental or non-governmental, qualified in fields relating to the conservation and sustainable use of biological diversity, which has informed the Secretariat of its wish to be represented, of meetings of the Conference of the Parties so that they may be represented as observers unless at least one third of the Parties present at the meeting object.
2. Such observers may, upon invitation of the President, participate without the right to vote in the proceedings of any meeting in matters of direct concern to the body or agency they represent unless at least one third of the Parties present at the meeting object.

## AGENDA

### Rule 8

In agreement with the President, the Secretariat shall prepare the provisional agenda of each meeting.

### Rule 9

The provisional agenda of each ordinary meeting shall include, as appropriate:

- (a) Items arising from the articles of the Convention, including those specified in article 23 of the Convention;
- (b) Items the inclusion of which has been decided at a previous meeting;
- (c) Items referred to in rule 15 of the present rules of procedure;
- (d) Any item proposed by a Party and received by the Secretariat before the provisional agenda is produced;
- (e) The proposed budget as well as all questions pertaining to the accounts and financial arrangements.

### Rule 10

The provisional agenda, together with supporting documents, for each ordinary meeting shall be distributed in the official languages by the Secretariat to the Parties at least six weeks before the opening of the meeting.

### Rule 11

The Secretariat shall, in agreement with the President, include any item which is proposed by a Party and has been received by the Secretariat after the provisional agenda has been produced, but before the opening of the meeting, in a supplementary provisional agenda.

### Rule 12

The Conference of the Parties shall examine the provisional agenda together with any supplementary provisional agenda. When adopting the agenda, it may add, delete, defer or amend items. Only items which are considered by the Conference of the Parties to be urgent and important may be added to the agenda.

### Rule 13

The provisional agenda for an extraordinary meeting shall consist only of those items proposed for consideration in the request for the holding of the extraordinary meeting. It shall be distributed to the Parties at the same time as the invitation to the extraordinary meeting.

#### Rule 14

The Secretariat shall report to the Conference of the Parties on the administrative and financial implications of all substantive agenda items submitted to the meeting, before they are considered by it. Unless the Conference of the Parties decides otherwise, no such item shall be considered until at least forty-eight hours after the Conference of the Parties has received the Secretariat's report on the administrative and financial implications.

#### Rule 15

Any item of the agenda of an ordinary meeting, consideration of which has not been completed at the meeting, shall be included automatically in the agenda of the next ordinary meeting, unless otherwise decided by the Conference of the Parties.

### REPRESENTATION AND CREDENTIALS

#### Rule 16

Each Party participating in a meeting shall be represented by a delegation consisting of a head of delegation and such other accredited representatives, alternate representatives and advisers as it may require.

#### Rule 17

A representative may be designated as an alternate head of delegation. An alternate representative or an adviser may act as a representative upon designation by the head of delegation.

#### Rule 18

The credentials of representatives and the names of alternate representatives and advisers shall be submitted to the Executive Secretary of the Conference of the Parties or the representative of the Executive Secretary if possible not later than twenty-four hours after the opening of the meeting. Any later change in the composition of the delegation shall also be submitted to the Executive Secretary or the representative of the Executive Secretary. The credentials shall be issued either by the Head of State or Government or by the Minister for Foreign Affairs or, in the case of a regional economic integration organization, by the competent authority of that organization.

#### Rule 19

The Bureau of any meeting shall examine the credentials and submit its report to the Conference of the Parties for decision.

#### Rule 20

Pending a decision of the Conference of the Parties upon their credentials, representatives shall be entitled to participate provisionally in the meeting.



## OFFICERS

### Rule 21

1. At the commencement of the first session of each ordinary meeting a President and ten Vice-Presidents, one of whom shall act as Rapporteur, are to be elected from among the representatives of the Parties. They shall serve as the bureau of the Conference of the Parties. The term of office of the President shall commence straight away and the terms of office of the Vice-Presidents shall commence upon the closure of the meeting at which they are elected. In electing its Bureau, the Conference of the Parties shall have due regard to the principle of equitable geographical representation of the Small Island Developing States. The offices of President and Rapporteur of the meeting of the Conference of the Parties shall normally be subject to rotation among the five groups of States referred to in section I, paragraph 1, of General Assembly resolution 2997 (XXVII) of 15 December 1972, by which the United Nations Environment Programme was established.

2. The President shall remain in office until a new President is elected at the commencement of the next ordinary meeting and the Vice-Presidents shall remain in office until the closure of the next ordinary meeting. They shall serve as the bureau of any extraordinary meeting held during their term of office and provide guidance to the Secretariat with regard to preparations for, and conduct of, meetings of the Conference of the Parties. No officer may be re-elected for a third consecutive term.

3. The President shall participate in the meeting in that capacity and shall not at the same time exercise the rights of a representative of a Party. The Party concerned shall designate another representative who shall be entitled to represent the Party in the meeting and to exercise the right to vote.

### Rule 22

1. In addition to exercising the powers conferred upon the President elsewhere by these rules, the President shall declare the opening and closing of the meeting, preside at the sessions of the meeting, ensure the observance of these rules, accord the right to speak, put questions to the vote and announce decisions. The President shall rule on points of order and, subject to these rules, shall have complete control of the proceedings and over the maintenance of order thereat.

2. The President may propose to the Conference of the Parties the closure of the list of speakers, a limitation on the time to be allowed to speakers and on the number of times each representative may speak on a question, the adjournment or the closure of the debate and the suspension or the adjournment of a session.

3. The President, in the exercise of the functions of that office, remains under the authority of the Conference of the Parties.

### Rule 23

The President, if temporarily absent from a session or any part thereof, shall designate a Vice-President to act as President. A Vice-President acting as President shall have the same powers and duties as the President.

#### Rule 24

If an officer of the Bureau resigns or is otherwise unable to complete the assigned term of office or to perform the functions of the office, a representative of the same Party shall be named by the Party concerned to replace the said officer for the remainder of that officer's mandate.

#### Rule 25

At the first session of each ordinary meeting, the President of the previous ordinary meeting, or in the absence of the President, a Vice-President, shall preside until the Conference of the Parties has elected a new President.

### SUBSIDIARY BODIES

#### Rule 26

1. In addition to the subsidiary body on scientific, technical and technological advice established under article 25 of the Convention, the Conference of the Parties may establish other subsidiary bodies. It may also establish committees and working groups if it deems it necessary for the implementation of the Convention. Where appropriate, meetings of subsidiary bodies shall be held in conjunction with meetings of the Conference of the Parties.

2. The Conference of the Parties may decide that any such subsidiary bodies may meet in the period between ordinary meetings.

3. Unless otherwise decided by the Conference of the Parties, the chairperson for each such subsidiary body shall be elected by the Conference of the Parties. The Conference of the Parties shall determine the matters to be considered by each such subsidiary body and may authorize the President, upon the request of the chairperson of a subsidiary body, to make adjustments to the allocation of work.

4. Subject to paragraph 3 of this rule, each subsidiary body shall elect its own officers.

5. Unless otherwise decided by the Conference of the Parties, these rules shall apply *mutatis mutandis* to the proceedings of subsidiary bodies, except that:

(a) A majority of the Parties designated by the Conference of the Parties to take part in the subsidiary body shall constitute a quorum, but in the event of the subsidiary body being open-ended, one quarter of the Parties shall constitute a quorum;

(b) The chairperson of a subsidiary body may exercise the right to vote; and

(c) Decisions of subsidiary bodies shall be taken by a majority of the Parties present and voting, except that the reconsideration of a proposal or of an amendment to a proposal shall require the majority established by rule 38.

## SECRETARIAT

### Rule 27

1. The head of the Secretariat of the Convention shall be the Executive Secretary of the Conference of the Parties. The Executive Secretary or the representative of the Executive Secretary shall act in that capacity in all meetings of the Conference of the Parties and of subsidiary bodies.
2. The Executive Secretary shall provide and direct the staff required by the Conference of the Parties or subsidiary bodies.

### Rule 28

The Secretariat shall, in accordance with these rules:

- (a) Arrange for interpretation at the meeting;
- (b) Receive, translate, reproduce and distribute the documents of the meeting;
- (c) Publish and circulate the official documents of the meeting;
- (d) Make and arrange for keeping of sound recordings of the meeting;
- (e) Arrange for the custody and preservation of the documents of the meeting; and
- (f) Generally perform all other work that the Conference of the Parties may require.

## CONDUCT OF BUSINESS

### Rule 29

1. Sessions of the Conference of the Parties shall be held in public, unless the Conference of the Parties decides otherwise.
2. Sessions of subsidiary bodies shall be held in public unless the subsidiary body concerned decides otherwise.

### Rule 30

The President may declare a session of the meeting open and permit the debate to proceed if at least one third of the Parties to the Convention are present and have any decisions taken when representatives of at least two thirds of the Parties are present.

### Rule 31

1. No one may speak at a session of the Conference of the Parties without having previously obtained the permission of the President. Subject to rules 32, 33, 34 and 36, the President shall call upon speakers in the order in which they signify their desire to speak. The Secretariat shall maintain a list of speakers. The President may call a speaker to order if the speaker's remarks are not relevant to the subject under discussion.

2. The Conference of the Parties may, on a proposal from the President or from any Party, limit the time allowed to each speaker and the number of times each representative may speak on a question. Before a decision is taken, two representatives may speak in favour of and two against a proposal to set such limits. When the debate is limited and a speaker exceeds the allotted time, the President shall call the speaker to order without delay.

#### Rule 32

The chairperson or rapporteur of a subsidiary body may be accorded precedence for the purpose of explaining the conclusions arrived at by that subsidiary body.

#### Rule 33

During the discussion of any matter, a representative may at any time raise a point of order which shall be decided immediately by the President in accordance with these rules. A representative may appeal against the ruling of the President. The appeal shall be put to the vote immediately and the ruling shall stand unless overruled by a majority of the Parties present and voting. A representative may not, in raising a point of order, speak on the substance of the matter under discussion.

#### Rule 34

Any motion calling for a decision on the competence of the Conference of the Parties to discuss any matter or to adopt a proposal or an amendment to a proposal submitted to it shall be put to the vote before the matter is discussed or a vote is taken on the proposal or amendment in question.

#### Rule 35

Proposals and amendments to proposals shall normally be introduced in writing by the Parties and handed to the Secretariat, which shall circulate copies to delegations. As a general rule, no proposal shall be discussed or put to the vote at any session unless copies of it, translated into the official languages of the Conference of the Parties, have been circulated to delegations not later than the day preceding the session. Nevertheless, the President may, in exceptional circumstances and in cases of urgency, permit the discussion and consideration of proposals, amendments to proposals or of procedural motions even though these proposals, amendments or motions have not been circulated or have been circulated only the same day or have not been translated into all the official languages of the Conference of the Parties.

#### Rule 36

1. Subject to rule 33, the following motions shall have precedence, in the order indicated below, over all other proposals or motions:

- (a) To suspend a session;
- (b) To adjourn a session;
- (c) To adjourn the debate on the question under discussion; and
- (d) For the closure of the debate on the question under discussion.

2. Permission to speak on a motion falling within (a) to (d) above shall be granted only to the proposer and, in addition, to one speaker in favour of and two against the motion, after which it shall be put immediately to the vote.

#### Rule 37

A proposal or motion may be withdrawn by its proposer at any time before voting on it has begun, provided that the motion has not been amended. A proposal or motion withdrawn may be reintroduced by any other Party.

#### Rule 38

When a proposal has been adopted or rejected, it may not be reconsidered at the same meeting, unless the Conference of the Parties, by a two-thirds majority of the Parties present and voting, decides in favour of reconsideration. Permission to speak on a motion to reconsider shall be accorded only to the mover and one other supporter, after which it shall be put immediately to the vote.

### VOTING

#### Rule 39

1. Except as provided for in paragraph 2 of this rule, each Party shall have one vote.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Parties. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

#### Rule 40

[1. The Parties shall make every effort to reach agreement on all matters of substance by consensus. If all efforts to reach consensus have been exhausted and no agreement reached, the decision [, except a decision under paragraph 1 or 2 of article 21 of the Convention] shall, as a last resort, be taken by a two-thirds majority vote of the Parties present and voting, unless otherwise provided by the Convention, the financial rules referred to in paragraph 3 of article 23 of the Convention, or the present rules of procedure. [Decisions of the Parties under paragraphs 1 and 2 of article 21 of the Convention shall be taken by consensus.]]

2. Decisions of the Conference of the Parties on matters of procedure shall be taken by a majority vote of the Parties present and voting.

3. If the question arises whether a matter is one of procedural or substantive nature, the President shall rule on the question. An appeal against this ruling shall be put to the vote immediately and the President's ruling shall stand unless overruled by a majority of the Parties present and voting.

4. If on matters other than elections a vote is equally divided, a second vote shall be taken. If this vote is also equally divided, the proposal shall be regarded as rejected.

5. For the purposes of these rules, the phrase "Parties present and voting" means Parties present at the session at which voting takes place and casting an affirmative or negative vote. Parties abstaining from voting shall be considered as not voting.

#### Rule 41

If two or more proposals relate to the same question, the Conference of the Parties, unless it decides otherwise, shall vote on the proposals in the order in which they have been submitted. The Conference of the Parties may, after each vote on a proposal, decide whether to vote on the next proposal.

#### Rule 42

Any representative may request that any parts of a proposal or of an amendment to a proposal be voted on separately. The President shall allow the request unless a Party objects. If objection is made to the request for division, the President shall permit two representatives to speak, one in favour of and the other against the motion, after which it shall be put immediately to the vote.

#### Rule 43

If the motion referred to in rule 42 is adopted, those parts of a proposal or of an amendment to a proposal which are approved shall then be put to the vote as a whole. If all the operative parts of a proposal or amendment have been rejected the proposal or amendment shall be considered to have been rejected as a whole.

#### Rule 44

A motion is considered to be an amendment to a proposal if it merely adds to, deletes from, or revises parts of that proposal. An amendment shall be voted on before the proposal to which it relates is put to the vote, and if the amendment is adopted, the amended proposal shall then be voted on.

#### Rule 45

If two or more amendments are moved to a proposal, the Conference of the Parties shall first vote on the amendment furthest removed in substance from the original proposal, then on the amendment next furthest removed therefrom, and so on, until all amendments have been put to the vote. The President shall determine the order of voting on the amendments under this rule.

#### Rule 46

Voting, except for election, shall normally be by show of hands. A roll-call vote shall be taken if one is requested by any Party. It shall be taken in the English alphabetical order of the names of the Parties participating in the meeting, beginning with the Party whose name is drawn by lot by the President. However, if at any time a Party requests a secret ballot, that shall be the method of voting on the issue in question.

#### Rule 47

The vote of each Party participating in a roll-call vote shall be recorded in the relevant documents of the meeting.

#### Rule 48

After the President has announced the beginning of voting, no representative shall interrupt the voting except on a point of order in connection with the actual conduct of the voting. The President may permit the Parties to explain their votes, either before or after the voting. The President may limit the time to be allowed for such explanations. The President shall not permit proposers of proposals or of amendments to proposals to explain their vote on their own proposals or amendments, except if they have been amended.

#### Rule 49

All elections shall be held by secret ballot, unless otherwise decided by the Conference of the Parties.

#### Rule 50

1. If, when one person or one delegation is to be elected, no candidate obtains in the first ballot a majority of the votes cast by the Parties present and voting, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the President shall decide between the candidates by drawing lots.

2. In the case of a tie in the first ballot among three or more candidates obtaining the largest number of votes, a second ballot shall be held. If a tie results among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the procedure set forth in paragraph 1 of this rule.

#### Rule 51

1. When two or more elective places are to be filled at one time under the same conditions, those candidates, not exceeding the number of such places, obtaining in the first ballot the largest number of votes and a majority of the votes cast by the Parties present and voting shall be deemed elected.

2. If the number of candidates obtaining such majority is less than the number of persons or delegations to be elected, there shall be additional ballots to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot, to a number not more than twice the places remaining to be filled, provided that, after the third inconclusive ballot, votes may be cast for any eligible person or delegation.

3. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the candidates who obtained the greatest number of votes in the third of the unrestricted ballots, to a number not more than twice the places remaining to be filled, and the following three ballots thereafter shall be unrestricted, and so on until all the places have been filled.

#### LANGUAGES

#### Rule 52

The official and working languages of the Conference of the Parties shall be those of the United Nations Organization.

#### Rule 53

1. Statements made in an official language shall be interpreted into the other official languages.
2. A representative of a Party may speak in a language other than an official language, if the Party provides for interpretation into one such official language.

#### Rule 54

Official documents of the meetings shall be drawn up in one of the official languages and translated into the other official languages.

#### SOUND RECORDS OF THE MEETINGS

#### Rule 55

Sound records of the meetings of the Conference of the Parties, and whenever possible of its subsidiary bodies, shall be kept by the Secretariat in accordance with the practice of the United Nations.

#### AMENDMENTS TO RULES OF PROCEDURE

#### Rule 56

These rules of procedure may be amended by consensus by the Conference of the Parties.

#### OVERRIDING AUTHORITY OF THE CONVENTION

#### Rule 57

In the event of any conflict between any provision of these rules and any provision of the Convention, the Convention shall prevail.

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