



**CONVENTION ON
BIOLOGICAL DIVERSITY**

Distr
GENERAL

UNEP/CBD/COP/3/2
20 September 1996
ORIGINAL: ENGLIS

CONFERENCE OF THE PARTIES TO THE
CONVENTION ON BIOLOGICAL DIVERSITY
Third meeting
Buenos Aires, Argentina
4 to 15 November 1996
Item 3 of the provisional agenda

**PENDING ISSUES ARISING FROM THE WORK OF THE SECOND
MEETING OF THE CONFERENCE OF THE PARTIES**

Note by the Executive Secretary

1. INTRODUCTION

1. Paragraph 3 of Article 23 of the Convention on Biological Diversity (the Convention) provides that the Conference of the Parties (COP) shall by consensus agree upon and adopt rules of procedure for itself and for any subsidiary body it may establish, as well as financial rules governing the funding of the Secretariat.

2. The second meeting of the COP transmitted to the third meeting for consideration issues related to the rules of procedure of the COP and to the financial rules for the administration of the Trust Fund for the Convention.

2. PARAGRAPH 1 OF RULE 40 OF THE RULES OF PROCEDURE FOR MEETINGS OF THE CONFERENCE OF THE PARTIES

3. At its first meeting held in Nassau, The Bahamas, the COP adopted the rules of procedure for meetings of the COP to the Convention on Biological Diversity with the exception of paragraph 1 of Rule 40. The following text of paragraph 1 of Rule 40, as contained in the annex of decision I/1 adopted by the first meeting of the COP, was transmitted for further discussion to the second meeting of the COP:

“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.]”

4. At its second meeting, held in Jakarta, Indonesia, the COP decided to put this item on the agenda for its third meeting.

5. As presently drafted, the text of paragraph 1 of Rule 40 provides that, in the event that the Parties are unable to reach agreement by consensus, decisions on matters of substance shall be taken by two thirds majority vote of the Parties present and voting. However, a proposal has been made that decisions under paragraph 1 and 2 of Article 21 (Financial Mechanism) should be taken by consensus. This proposal is reflected in square brackets in the current draft of paragraph 1 of Rule 40. Although practice may vary from institution to institution, in general consensus is understood to mean the absence of a formally stated objection.

6. Not all environmental conventions rely upon decision-making by consensus in matters regarding the financial mechanism for the purposes of that convention. For example the Multilateral Fund of the Montreal Protocol on Substances that Deplete the Ozone Layer relies on a system of dual majorities. If all efforts at consensus have been exhausted and no agreement reached, decisions are to be adopted by a two-thirds majority vote of the Parties present and voting. The two-thirds majority must also include both a majority of the Parties operating under paragraph 1 of Article 5 of the Protocol 9 (developing countries) and a majority of the Parties not operating under paragraph 1 of Article 5 of the Protocol (developed countries).

3. FINANCIAL RULES FOR THE ADMINISTRATION OF THE TRUST FUND FOR THE CONVENTION

9. At its first meeting, the COP also adopted the financial rules for the administration of the Trust Fund for the Convention on Biological Diversity, with the exception of paragraphs 4 and 16, concerning contributions and voting procedures respectively.

3.1 Contributions to the Trust Fund

10. The following text of paragraph 4 of the financial rules for the administration of the Trust Fund for the Convention on Biological Diversity, as contained in annex II of decision II/20 on "Financing of and budget for the Convention", was transferred to the third meeting of the COP for consideration:

It is for the Conference of the Parties to determine the scale referred to in paragraph 3 (a) above. The scale is based on the United Nations scale of assessments for the apportionment of the expenses of the United Nations [adjusted to provide that no one contribution shall exceed 25 per cent of the total, [and] no contributions shall be required when the United Nations scale provides for a contribution of less than 0.1 per cent], [and no developing country Party shall be required to pay more than any developed country Party]. [The Conference of the Parties will develop possible methodologies for the principle of common but differentiated responsibility of developed and developing countries to be reflected in the scale of assessment.] [This scale of assessment shall apply unless amended by the Conference of the Parties.] The contributions referred to in paragraph 3(a) shall be due on 1 January of each calendar year."

11. Document UNEP/CBD/IC/2/5, which was prepared for the consideration of the Intergovernmental Committee on the Convention on Biological Diversity by the Interim Secretariat, reviewed certain current practices in selected conventions in relation to, *inter alia*, the scale of assessments.

12. To date, the practice for assessing contributions under the Convention has been that the scale of contributions adopted has been based upon the United Nations scale of assessments for the apportionment of the expenses of the United Nations, adjusted to provide that no one contribution shall exceed 25 per cent of the total and that no contribution from a least developed country Party shall exceed 0.01 per cent of the total (decision I/6 and decision II/20). This approach is similar to the rule on contributions adopted in the financial procedures adopted by the Conference of the Parties to the UN Framework Convention on Climate Change.

3.2 Voting procedures for the Trust Fund

13. The following text of paragraph 16 of the financial rules for the administration of the Trust Fund for the Convention on Biological Diversity, as contained in annex II of decision II/20 on "Financing of and budget for the Convention", was transmitted for further consideration to the third meeting of the COP:

16 A. The Parties shall reach agreement by consensus on:

- (a) The scale and any subsequent revision to it;
- (b) The budget.]

- [16 B. The Parties shall make every effort to reach agreement on the budget by consensus. If all efforts to reach consensus on the budget have been exhausted and no agreement has been reached, the budget shall, as a last resort, be adopted by a [two-thirds] [four-fifths] majority vote of the Parties present and voting representing a [two-thirds] [four-fifths] majority vote of the developing country Parties present and voting and a [two-thirds] [four-fifths] majority vote of the other Parties present and voting].”