



# CONVENTION ON BIOLOGICAL DIVERSITY

Distr.  
GENERAL

UNEP/CBD/COP/5/22  
19 April 2000

ORIGINAL: ENGLISH

CONFERENCE OF THE PARTIES TO THE  
CONVENTION ON BIOLOGICAL DIVERSITY  
Fifth meeting  
Nairobi, 15-26 May 2000  
Item 6 of the provisional agenda\*

## PENDING ISSUES

### Note by the Executive Secretary

#### I. INTRODUCTION

1. As noted in the revised annotations to the provisional agenda for the fifth meeting of the Conference of the Parties (UNEP/CBD/COP/5/1/Add.1/Rev.1), three issues that have been left pending from previous meetings of the Conference of the Parties are proposed for consideration under item 6 of the provisional agenda. These issues relate to:

(a) Paragraph 1 of rule 40 of the rules of procedure for meetings of the Conference of the Parties, which concerns the taking of substantive decisions; and

(b) Paragraphs 4 and 16 of the financial rules for the administration of the Trust Fund for the Convention on Biological Diversity, which concern, respectively, the scale of assessments for the apportionment of contributions by Parties to the Trust Fund and the adoption of decisions regarding the Trust Fund.

2. These outstanding matters have been considered at all previous meetings of the Conference of the Parties, but no conclusive agreement has been reached. At the fourth meeting of the Conference of the Parties, the President acknowledged that no consensus had emerged during the meeting on these issues and undertook to carry out further consultations during the inter-sessional period with a view to enabling the Conference of the Parties adopt its rules of procedure at the outset of the fifth meeting (see UNEP/CBD/COP/4/27, para. 70).

3. The present note outlines the issues in question and conveys to the Conference of the Parties the recommendations of the President resulting from his inter-sessional consultations on the matter.

---

\* UNEP/CBD/COP/5/1.

/...

## II. PARAGRAPH 1 OF RULE 40 OF THE RULES OF PROCEDURE OF THE CONFERENCE OF THE PARTIES

4. At its first meeting, the Conference of the Parties, in decision I/1, adopted its rules of procedure, with the exception of paragraph 1 of rule 40, relating to the taking of decisions on matters of substance. The following text of paragraph 1 of rule 40, as contained in the annex to decision I/1, was considered at all subsequent meetings, but without agreement being reached:

"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.]"

5. 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 a two-thirds majority vote of Parties present and voting. The point of contention is whether or not decisions under paragraphs 1 and 2 of Article 21 of the Convention (Financial mechanism) should be taken by consensus only. This proposed exception to the general rule is reflected in square brackets in the above draft.

## III. FINANCIAL RULES FOR THE ADMINISTRATION OF THE TRUST FUND FOR THE CONVENTION

6. At its first meeting, by decision I/6, the Conference of the Parties also adopted the financial rules for the administration of the Trust Fund for the Convention on Biological Diversity. Paragraphs 4 and 16 of these rules contain bracketed text. Paragraph 4 deals with the scale of assessments for the apportionment of contributions by Parties to the Trust Fund. Paragraph 16 deals with adopting decisions regarding the Trust Fund.

7. 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 the annex to decision III/1, was transmitted to the fourth meeting of the Conference of the Parties for further 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 developing country Party shall be required to pay more than any developed country Party]. 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."

8. 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, has been considered by the Conference of the Parties at previous meetings, but without agreement being reached. Accordingly, it has been transmitted to the fifth meeting for further consideration:

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

(a) The scale and any subsequent revision to it;

(b) The budget. ]

[16B. 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 other Parties present and voting.]"

#### IV. CONCLUSIONS AND RECOMMENDATIONS

9. The President of the Conference of the Parties has informed the Secretariat that his inter-sessional consultations on these outstanding issues have shown minimal or no change in the positions of Parties. After consultation with the Bureau, the President is of the view that it will not be possible to resolve these pending issues at the outset of the fifth meeting of the Conference of the Parties. Accordingly, he recommends that the next President of the Conference of the Parties undertakes similar inter-sessional consultations with a view to reporting to the Conference of the Parties at its sixth meeting on whether it will be possible to adopt the outstanding provisions of the rules of procedure and the financial rules for the administration of the Trust Fund for the Convention at the outset of that meeting.

----