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The South Centre presents its compliments to the Secretariat of the United Nations Framework Convention on Climate Change and has the honour of submitting the attached submission as an observer organization in response to the request of the Subsidiary Body on Implementation for submissions from Parties and observer organizations on ways to enhance the engagement of observer organizations (see FCCC/SBI/2010/L.12, paragraph 19).

Geneva, 16 August 2010





16 August 2010

**SUBMISSION FROM THE SOUTH CENTRE
ARRANGEMENTS FOR INTERGOVERNMENTAL MEETINGS (SBI):
Ways to Enhance the Engagement of Observer Organizations**

This submission is being made by the South Centre, an intergovernmental organization duly accredited as an observer organization¹ to the Conference of the Parties (COP) of the United Nations Framework Convention on Climate Change (UNFCCC) as well as to the COP/Meeting of the Parties (COP-MOP) of the UNFCCC's Kyoto Protocol, pursuant to the request of the Subsidiary Body on Implementation for submissions from Parties and observer organizations on ways to enhance the engagement of observer organizations (see FCCC/SBI/2010/L.12, paragraph 19).

The full and effective participation of observer organizations, both from within and outside the United Nations system and both non-governmental and intergovernmental organizations, is recognized as being very important to the work of the COP and its subsidiary bodies.² This is recognized in Article 7, paragraph 2(l) and paragraph 6 of the UNFCCC.

Pursuant to Art. 7.6 of the UNFCCC, the admission and participation of observer organizations in the work of the COP is subject to the rules of procedure adopted by the COP. Current, the rules of procedure being applied by the COP are the draft rules of procedure contained in FCCC/CP/1996/2. The rules relevant to observer organizations are contained in Rules 6 to 8 thereof, with Rule 7 being particularly applicable to organizations that are not part of the United Nations system, its specialized agencies, the GEF, and the IAEA.

Rule 7.1 governs the procedure by which "any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Convention and which has informed the secretariat of its wish to be represented at a session of the" COP may be admitted as an observer. Rule 7.2 governs the extent of participation by such observers in the proceedings of any session.

Additionally, in decision 18/CP.4, the COP decided that the presiding officers of Convention bodies may invite the representatives of IGOs and NGOs to attend as observers any open-ended contact group established under the Convention process.

The UNFCCC Secretariat has provided information on the standard admission process for intergovernmental organization (IGO) observers under UNFCCC Art. 7.6 on its

¹ The South Centre requested and was granted admission as an IGO observer organization in 1998 for the fourth session of the UNFCCC COP (see FCCC/CP/1994/14/Add.1, 27 October 1998)

² Pursuant to decision 36/CMP.1, admission by the COP of an observer to attend COP sessions would also apply to sessions of the COP/MOP.

website.³ Once admitted, the participation of IGO observers then becomes subject to the application of Rule 8 of the draft rules of procedure of the COP as well as decision 18/CP.4. There is nothing in Rule 8 nor in decision 18/CP.4 in which the COP has decided that the UNFCCC secretariat may unilaterally, without any mandate from the COP, impose restrictions on the extent to which IGO observer organizations may participate other than those provided for in Rule 8 or decision 18/CP.4.

In this context, IGO observer organizations, given the functions and services that they perform for their respective member States which may contribute to the more effective participation of such member States as Parties to the UNFCCC, should have the flexibility to nominate their representatives to attend and participate any session of the COP or its subsidiary bodies. While taking account of the indicative deadlines for submission of nominations of their representatives, IGO observer organizations should have the flexibility of nominating their representatives, including if necessary making such nominations up to and during the course of any session.

This flexibility was extended to IGO observers until COP15.

However, in its recent notifications to IGO and NGO observers with respect to nominations for the representatives for the 9-11 April 2010, 31 May to 11 June 2010, and 2-6 August 2010 sessions of the AWG-LCA and AWG-KP,⁴ the UNFCCC secretariat unilaterally indicated that after the indicated deadlines in these notifications, "it will not be possible to process any new nominations, replacements or additions to the received lists of representatives."

This new ruling has caused tremendous inconvenience to the South Centre and possibly to other IGOs as well. This is especially since the deadline for informing the Secretariat of the names of representatives to the particular meeting has been several weeks before the actual meeting. As a result of this ruling, several persons who we have wanted to attend the meetings in recent months, including to replace nominated persons who were unable to attend, were unable to do so.

It is a normal occurrence that an organisation like ours may want to add more persons than originally envisaged, or that certain persons nominated are unable to attend and thus that replacements are therefore needed. The usual request to alter the names on the delegation has been disallowed following the ruling.

The South Centre has been taking part in many meetings of the UN and its agencies, and in our experience it has always been possible to replace the names of persons on the delegation, and add names to the delegation, up to the date of the meeting and often during the meeting itself. This too was the practice in the UNFCCC until recently.

³ See http://unfccc.int/files/parties_and_observers/igo/application/pdf/igo_admission_process_2009_eng.pdf

⁴ See CAS/OBS/MAR/10, 5 March 2010; CAS/OBS/MAR/10, 12 March 2010; CAS/OBS/MAY/10, 27 May 2010.

Furthermore, the notifications also indicate that any limitations of access to the meeting premises that may be imposed will also apply to IGO observer organizations.

Such a restriction with respect to making new nominations, replacements or additions to the IGO observer organization's list of representatives that may have been submitted prior to the indicated deadline, as well as the potential application of access limitations to IGO observer organizations on the same footing as NGO observer organizations, would have the effect of restricting the ability of IGO observer organizations to participate fully and effectively in the UNFCCC process and to provide services that may be required of them by their respective member States in the course of any particular session.

The intergovernmental nature of IGOs, the fact that their respective member States would be, by and large, Parties to the UNFCCC, and the intergovernmental functions that they carry out for these member States, all imply that they should be accorded parity of treatment with respect to the units or specialized agencies of the United Nations, the World Bank, the IAEA, or the GEF, rather than be on the same footing as non-governmental organization observers for which the UNFCCC secretariat has issued NGO-specific participation guidelines.⁵ **The effect of the present ruling and treatment is that IGOs that are not part of the UN are given treatment that is discriminatory as compared to those in the UN.**

The small number of IGO observer organizations (80 as of COP15) as compared to the number of NGO observer organizations (1297 as of COP15) further merits distinguishing between IGO and NGO observer organizations with respect to their treatment in terms of both access and representation in favour of providing more flexibility to IGO observer organizations.

Finally, given that the admission and participation of IGO observers are, under Art. 7.6, subject to the rules of procedure of the COP, it is our view that the UNFCCC secretariat should ensure that any rules, guidelines or procedures that might adversely impinge on the ability of IGO observers to effectively participate as such should first be notified to the COP Bureau and/or to the SBI for appropriate consultation and discussion among the Parties prior to their implementation.

We hope that you will take our comments and suggestions in the constructive spirit with which they are made and that you will consider them seriously.

Thank you.

⁵ See Guidelines for the participation of representatives of non-governmental organizations at meetings of the bodies of the United Nations Framework Convention on Climate Change (March 2003), at http://unfccc.int/files/parties_and_observers/ngo/application/pdf/coc_guide.pdf.