

GUIDE FOR PRESIDING OFFICERS

Revised November 2011



Foreword

This guide is prepared by the United Nations Climate Change secretariat. It is designed to serve as source of information and guidance for presiding officers on the conduct of negotiations in the climate change process.

Presiding officers of the climate change process include:

- The President of the Conference of the Parties (COP) and the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP)
- The chairs of the Subsidiary Body for Implementation (SBI) and Subsidiary Body for Scientific and Technological Advice (SBSTA)
- The chairs of other subsidiary bodies
- The chairs of contact groups
- The chairs of informal consultations
- The Friends of the Chair or President

The guide contains information on the following:

- The conduct of business and the role and responsibilities of presiding officers
- The institutional structure of the UNFCCC and the Kyoto Protocol
- The negotiating forums in the climate change process
- The key negotiating groups
- The documentation used

I. Conduct of Business and the Role and Responsibilities of Presiding Officers

A. Draft rules of procedure being applied

The conduct of business at a conference is regulated by the rules of procedure. The Parties to the UNFCCC have agreed to apply the draft rules of procedure contained in document FCCC/CP/1996/2, with the exception of rule 42, in meetings held under the climate change process.

The draft rules of procedure address a number of important issues for the conduct of business: the agenda, quorum, the functions of the presiding officer, submission of proposals, motions, and decision-making.

B. The agenda and its adoption

In accordance with rule 9 of the draft rules of procedure being applied, the provisional agenda of each session of COP/CMP is prepared by the secretariat in agreement with the President. The provisional agenda of each session of the subsidiary bodies is similarly prepared in agreement with the chairs of those bodies.

Among the items that must be included in the provisional agenda are items from a previous session whose consideration had not been completed and any item proposed by a Party and received by the secretariat before the provisional agenda is circulated (rules 10 and 16). An item proposed by a Party and received by the secretariat after the provisional agenda has been produced but before the opening of the session shall be included in a supplementary provisional agenda (rule 12).

The rules of procedure being applied require that the provisional agenda, together with supporting documents, be distributed by the secretariat in the six official languages of the United Nations at least six weeks before the opening of a session (rule 11).

When adopting its agenda, each body may decide to add, delete, defer or amend items (rule 13). However, only those items that are considered urgent and important may be added to the agenda. The presiding officer must be guided by the views expressed by Parties and determine whether there is consensus to add, delete, defer or amend items.

Sometimes during the adoption of the agenda Parties disagree on the inclusion of an item in the agenda. Such disagreements often lead to procedural blockage. In the UNFCCC practice, such an item is normally “held in abeyance” pending further consultations. This procedural device allows Parties to adopt the agenda of the session and continue with their work while the presiding officer holds

consultations regarding the item in dispute. The practice is for the presiding officer to report back to one of the plenary meetings on the outcome of his or her consultations. If by the final plenary meeting the presiding officer has been unable to find consensus on the item, the common practice is for the presiding officer to propose to the session that the item be included in the provisional agenda of the next session in accordance with rules 10(c) and 16 of the draft rules of procedure being applied. The item is subsequently included in the provisional agenda of the next session with an appropriate footnote.

The COP or the CMP, as supreme governing bodies, have the authority to determine the items to be considered by the subsidiary bodies in accordance with their respective mandates (rule 27, paragraph 7). During sessions, the COP or the CMP in exercising its sovereign authority may refer an item to be considered by a subsidiary body. Upon such a referral the item is automatically included in the agenda of the subsidiary body.

C. Quorum

The draft rules of procedure being applied establish two types of quorum: the quorum for opening a meeting and the quorum for decision-making (rule 31). For meetings of the COP, CMP and open-ended subsidiary bodies, the quorum required to declare a meeting open and permit debate to proceed is at least one third of the Parties to the Convention or the Protocol, as the case may be. The presence of two thirds of the Parties to the Convention or the Protocol is required for any decision to be taken.

Where a subsidiary body is not open-ended – that is, participation is restricted to a pre-determined number of Parties – the quorum required is a simple majority of the Parties designated to participate therein (rule 27).

Determining the existence of a quorum is part of the powers of the presiding officer. In the UNFCCC practice, the presiding officer always makes 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.

D. The functions of the presiding officer

The draft rules of procedure being applied define the functions of the President of the COP. Rule 23 sets out the general functions. However, throughout the draft rules of procedure being applied other specific functions are established. These

rules apply, mutatis mutandis, to chairs of the 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 draft rules of procedure being applied consequently provide that the President of the COP shall participate in the session in that capacity and shall not at the same time exercise the rights of a representative of a Party (rule 22.3). It is 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

Rule 23 of the draft rules of procedure being applied sets out the general powers of the President (hereinafter referred to as the “presiding officer”). The presiding officer shall:

- Declare the opening and closing of the session;
- Preside at the meetings of the session;
- 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.

Rule 23.2 also provides that the 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 meeting.

In the exercise of the functions of his or her office, the presiding officer remains under the authority of the meeting. In practical terms this means that a decision of the presiding officer can always be overridden by the meeting. 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 23 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. The common practice in international conferences is for the presiding officer to call upon speakers to confine their statements to the issue on the agenda. If the speaker persists, the presiding officer may suspend the meeting.

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 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 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 the powers conferred on him by the rules of procedure.

Rule 34 of the draft rules of procedure being applied provide that a representative may at any time raise a point order during the discussion of any matter. The presiding officer is required to decide immediately on the point of order. A representative may appeal against the ruling of the presiding officer. Such an appeal shall be put to the vote immediately and the presiding officer’s ruling shall stand unless overruled by the majority of the Parties present and voting.

A point of order has precedence over any other matter including the procedural motions specified in rule 38 of the draft rules of procedure being applied. Points of order are also distinct from procedural motions in one important respect: they involve issues requiring an immediate ruling by the presiding officer, subject to possible appeal to the meeting. Procedural motions are to be put to the vote and do not require a ruling by the presiding officer.

E. 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

Rule 38 of the draft rules defines procedural motions that have precedence over all other proposals or motions, except points of order, and establishes a hierarchy among them. These motions are:

- To suspend the meeting;
- To adjourn the meeting;
- To adjourn the debate on the question under discussion;
- To close the debate on the question under discussion.

The rules of procedure of most international conferences require a presiding officer to put a procedural motion to a vote after granting the proposer and one speaker for and two against the motion permission to speak. This is also the letter and spirit of rule 38 of the draft rules of procedure being applied. However, because rule 42 of the draft rules of procedure relating to the voting majorities required for decision-making remains bracketed, a meeting can only decide on a procedural motion by consensus.

2. Motion on the competence of the COP, CMP or subsidiary body

Rule 35 of the rules of procedure being applied provides that “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 taken on the proposal or amendment in question.” 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. The issue of competence is for the COP or CMP to determine in the exercise of its sovereign authority. The secretariat cannot be requested to give an opinion on whether or not the body has competence to discuss a matter. Such an opinion would amount to pre-empting the sovereignty of the COP or CMP (see 37th World Health Assembly, WHA37/1984/REC/3, pp. 217–218).

3. Submission of proposals

Rule 36 of the rules of procedure being applied establishes the procedures for the submission of proposals by Parties or groups of Parties for consideration:

- Proposals and amendments to proposals shall normally be introduced in writing by Parties and handed to the secretariat for circulation to delegations;
- As a general rule, no proposal shall be discussed or a decision taken on it at any meeting unless copies have been circulated to Parties not later than the day preceding the meeting;

- The presiding officer, however, has discretion to dispense with the above requirements regarding circulation and time frame and permit discussion and consideration. But the decision of the presiding officer to accept proposals without due notice may be challenged.

All proposals must be sponsored. They may be sponsored by a Party or a group of Parties. 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. Non-governmental organizations cannot sponsor proposals because an inter-governmental process only addresses issues raised by Governments.

A proposal or motion may be withdrawn by its proposer at any time before voting, provided that it has not been amended (rule 36). Once withdrawn, a proposal or motion may be re-introduced by any other Party.

The draft rules of procedure contain detailed provisions (rules 43–47) regarding voting on proposals.

4. Reconsideration of proposals

Proposals once adopted or rejected can only be reconsidered at the same session if a motion for reconsideration is supported by a two thirds majority of the Parties present and voting.

F. Decision-making

Parties to the Convention have agreed to apply the draft rules of procedure, as contained in document FCCC/CP/1996/2, with the exception of rule 42 dealing with voting majorities for decision-making on matters of substance and procedure. As a result of the continuing lack of consensus on this issue, decision-making on all matters, save for the specific cases where the Convention, the Protocol or the draft rules of procedure establish the requisite voting majorities, requires consensus.

The presence of two thirds of the Parties to the Convention or the Protocol, as the case may be, is required for a decision to be taken (rule 31). The presiding officer, with the assistance of the secretariat, must satisfy himself or herself that there is a quorum for decision-making.

Both the Convention and the Protocol establish voting majorities on a number of issues:

1. Voting majorities under the Convention

- Amendments to the Convention require a three-fourths majority vote of the Parties present and voting at the meeting (Article 15.3). “Parties present and voting” means Parties present and casting an affirmative or negative vote;
- Adoption and amendment of annexes to the Convention shall be proposed and adopted in accordance with Article 15, paragraphs 2, 3 and 4 (Article 16.2);
- Article 17 of the Convention regarding adoption of Protocols does not define a voting majority for such adoption. Consequently, protocols to the Convention are to be adopted by consensus.

2. Voting majorities under the Protocol

- Amendments to the Protocol require a three fourths majority vote of the Parties present and voting at the meeting (Article 20.3);
- Adoption and amendment of annexes to the Protocol require a three fourths majority vote of the Parties present and voting at the meeting (Article 21.4).

Rule 48 stipulates that voting is normally by a show of hands but that any Party may request either a roll-call vote or a secret ballot.

3. The meaning of “consensus”

Except for the foregoing matters and other matters discussed above for which the draft rules of procedure being applied define a voting majority, decision-making under the Convention process is on the basis of consensus. What does the term “decision-making by consensus” entail?

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.

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.

II. The institutional structure

The Convention and the Kyoto Protocol establish the standard institutional arrangements for the climate change intergovernmental process:

- A supreme governing body – the COP for the Convention and the CMP for the Kyoto Protocol;
- Subsidiary bodies: two standing subsidiary bodies – the Subsidiary Body for Implementation (SBI) and the Subsidiary Body for Scientific and Technological Advice (SBSTA) – as well as other subsidiary bodies established by the COP or the CMP as deemed necessary to address specific issues;
- An process management body: the bureau of the COP and CMP;
- A secretariat.

Collectively, these institutions participate in the process of development of policies and guidance to support Parties on implementation of the Convention and the Protocol.

A. The Conference of the Parties and the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol

The COP is the supreme body of the Convention. It is its highest decision-making organ. The COP is responsible for reviewing the implementation of the Convention and any related legal instruments and has the power to make, within its mandate, the decisions necessary to promote the effective implementation of the Convention (Article 7 of the Convention).

The CMP is the supreme body of the Kyoto Protocol and its highest decision-making organ. It is responsible for overseeing implementation of the Kyoto Protocol (Article 13 of the Kyoto Protocol). It includes Parties to the Convention that have ratified the Protocol, and as observers those Parties to the Convention that have not ratified the Protocol.

The climate change process revolves around the annual sessions of the COP and the CMP. These sessions bring together Parties to the Convention and Parties to the Kyoto Protocol, as well as observer States and organizations, the media, and the general public. These sessions take place at the seat of the secretariat, unless another country offers to host the sessions. As at 31 December 2011, 17 sessions of the COP and 7 sessions of the CMP have been convened.

B. The subsidiary bodies

The Convention establishes, respectively under its Articles 9 and 10, two standing subsidiary bodies – the SBSTA and the SBI:

- The SBSTA provides the COP, CMP and other subsidiary bodies with timely information and advice on scientific and technological matters relating to the Convention and the Kyoto Protocol;
- The SBI assists the COP and the CMP in the assessment and review of the implementation of the Convention and the Kyoto Protocol.

The SBSTA and SBI are the main working bodies of the Convention and the Protocol. They meet twice a year for one to two weeks; the first time normally in mid-year and the second in conjunction with the COP/CMP. They are open to participation by all Parties and observers to the Convention and to the Kyoto Protocol.

The COP and the CMP can create such other subsidiary bodies as are necessary to assist with the implementation of the Convention and the Protocol (Article 7.2(i) of the Convention; Article 13.4(h) of the Kyoto Protocol; and rule 2.8 of the Draft rules of procedure). Such “subsidiary bodies” include committees and working groups. Both the COP and CMP have established ad hoc working groups (AWGs) to address specific issues (e.g. the Ad Hoc Working Group on Long-term Cooperative Action under the Convention (AWG-LCA) and the Ad Hoc working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP)).

The main outcomes from the deliberations of subsidiary bodies are recommendations for decisions or conclusions for consideration and adoption by the COP or CMP. The subsidiary bodies can adopt conclusions from their deliberations.

C. The Bureau

The work of the COP and CMP is guided by the Bureau. The Bureau serves not only during the session but also between sessions. The Bureau consists of 11 officers: the President, seven Vice-Presidents, the Chairs of the SBSTA and the SBI, and the Rapporteur (rule 22.1).

The President is responsible for presiding over the session of the COP and CMP, and for facilitating the work of the COP and CMP in order to promote agreement among Parties. The President remains under the authority of the COP and CMP, and he or she must remain impartial and cannot exercise the rights of a representative of the Party to which he or she belongs. The Vice-Presidents assist

the President in this work, and may preside over sessions of the COP and the CMP during the absence of the President or when the President is engaged in negotiations with Parties. The Rapporteur is responsible for preparing the report of the session.

The work of the subsidiary bodies is guided not only by the Bureau of the COP and CMP, but also by the officers of each subsidiary body. The officers of subsidiary bodies are the Chair, the Vice-Chair and the Rapporteur. The Chair of a subsidiary body is responsible for facilitating the work of that subsidiary body, with the assistance of the Vice-Chair. The Rapporteur is responsible for preparing the report of the session. The draft rules of procedure being applied also establish procedures for the election of officers of the subsidiary bodies (rule 27).

Neither the Convention nor the draft rules of procedure being applied define the functions of the Bureau, except for the duty to examine the credentials of representatives and submit its report to the COP (rule 20). In practice, however, the Bureau has assumed important process-oriented functions, addressing organizational and procedural issues arising during the sessions, and providing advice and guidance to the President and chairs of subsidiary bodies on the conduct of business during the sessions. The COP and CMP have requested the Bureau to take action on a number of issues, such as the arrangements for future sessions of the COP.

D. The secretariat

The secretariat services the COP, CMP, subsidiary bodies, the Bureau and other bodies established under the Convention and Kyoto Protocol. Its mandate is to make practical arrangements for sessions and meetings of Convention and Kyoto Protocol bodies; to assist Parties in implementing the Convention and the Kyoto Protocol; to coordinate with secretariats of other intergovernmental bodies; to perform other functions specified under the Convention and Kyoto Protocol; and to perform any other functions that may be determined by the COP and CMP.

The specific tasks performed by the secretariat include preparing official documents for sessions and meetings of the COP, CMP, subsidiary bodies and other bodies established under the Convention and the Kyoto Protocol; coordinating reviews of Annex I Parties' national communications; compiling GHG inventory data; and organizing meetings and workshops.

III. Negotiating forums

Negotiations under the climate change process takes place in three main forums: plenary, contact groups, and informal consultations. In addition, the President of the COP and CMP, and the chairs of the subsidiary bodies and contact groups, may also establish, with the agreement of Parties or under their own responsibility, smaller group settings, such as, informal informals and Friends of the Chair to hold consultations with Parties on key issues or agenda items.

A. Plenary

The plenary meetings of the COP, CMP and the subsidiary bodies are the formal forums for discussion and decision-making by Parties to the Convention and the Kyoto Protocol. Plenary meetings are open to participation by all Parties, observer States and organizations, the media and other participants registered for the climate change sessions.

The conduct of plenary meetings by the presiding officer, seating arrangements of participants, languages of the session, and other details concerning the meeting are governed by the draft rules of procedure being applied. It is during plenary meetings that decisions are taken by the COP, CMP and subsidiary bodies. These 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 of policies, procedures and guidelines pertaining to the implementation of the Convention and Kyoto Protocol.

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 CMP will decide which agenda items to allocate to the subsidiary bodies, 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 subsidiary bodies to consult further with Parties. The President and the chairs of the subsidiary bodies 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 contact groups 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 or chairs of the subsidiary bodies of any documents containing decisions or conclusions forwarded for consideration and adoption by the COP or the CMP.

Following the reports on the outcome of the negotiations in the 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 and conclusions forwarded from these negotiating bodies. The draft decisions and conclusions will be adopted if there is consensus among the Parties for their adoption. If there is no consensus, the issue will be forwarded for consideration to the next session (rule 16).

B. Contact groups

Contact groups are established to conduct negotiations on specific agenda items, with the aim of achieving an agreed outcome. They are established through a decision by the COP, CMP or subsidiary bodies, based on a proposal by the President, Chair of the subsidiary body 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 an Annex I Party and the other a representative of a non-Annex I 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 reports regularly to the President or subsidiary body Chair on progress made during the negotiations, and may request the assistance of the President or subsidiary body 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 (see decision 18/CP.4). 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 being applied 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 advertised 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.

C. Informal consultations

Informal consultations are convened by the President or Chair of a subsidiary body 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 advertised to ensure transparency. The presiding officer has flexibility in the application of the draft 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.

The issue of the participation of observer States in informal consultations under the Kyoto Protocol arose in Montreal during CMP 1. The Bureau recommended that SBI 24 consider the issue. Parties had differing views on the issue: some Convention Parties sought a general recognition of inclusiveness; some Kyoto Parties while agreeing to a general approach of inclusiveness underlined that this is not completely unconditional. In her report to the SBI plenary, the co-chair of the contact group recalled that the contact group decided not to include a reference to the issue in the draft conclusions, but noted that there was a general understanding that in future an inclusive approach would be followed (see report of SBI 24 contained in document FCCC/SBI/2006/11, paragraph 95). This “policy of inclusion” has been interpreted to mean that informal consultations are open to observer States, including the possibility that they may speak during these consultations.

With respect to observer organizations, previously, informal consultations were normally open to all Parties and observer States and closed to observer organizations. However, SBI 34 recommended that in the event that there is no contact group for an agenda item, at least the first and last meetings of the informals may be open to observer organisations, recognising the right of Parties to keep informal meetings closed (see document FCCC/SBI/2011/7, paragraph 167).

D. Other smaller group settings

As in other international processes, the climate change negotiations uses a range of other informal, smaller group settings to advance negotiations, such as “Friends of the Chair” and informal informals.

‘Informal informals’ (also referred to as drafting groups or spin off groups) have been used to troubleshoot a specific problematic issue or advance negotiations on contentious issues, e.g. to draft a specific section of text or resolve a specific problem. These informal informals are established with the agreement of the group or under presiding officers own responsibility. The presiding officer may request a delegate to facilitate such meetings, which may be open ended or limited to only those delegates invited to participate.

‘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 advertised 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 climate change process takes place through these groups. They meet regularly before and during the sessions of the COP, CMP or subsidiary bodies in order to exchange information on their concerns and to coordinate and agree on common positions on key issues. The seven major negotiating groups are:

- The Group of 77 and China
- Alliance of Small Island States
- The African Group
- The Least Developed Country Group
- The European Union
- Umbrella Group
- Environmental Integrity Group

There are also other negotiating groups in the climate change process.

A. The Group of 77 and China

This is the largest group of Parties within the climate change process. The G-77 and China was founded in 1964 in the context of the United Nations Conference on Trade and Development (UNCTAD) and now functions throughout the United Nations system. It comprises 131 member States: small island developing States, oil-exporting countries, least developed countries, industrializing countries, and middle-income countries. The State holding the Chair of the group speaks for the G-77 and China as a whole, and only speaks on behalf of the group on issues on which there is previous agreement.

B. Alliance of Small Island States

The Alliance of Small Island States (AOSIS) is an alliance of 39 small island developing States and low-lying coastal States that share similar development challenges and environmental concerns, especially their vulnerability to the adverse effects of global climate change. This group was established in 1990 during the Second World Climate Conference. The AOSIS States, united by the threat that climate change poses to their very survival, frequently adopt a common position in negotiations.

C. The African Group

The **African Group** consists of 54 States in Africa. The group meets both intersessionally and during sessions to develop common positions on issues and makes common statements. It operates both as a regional group, e.g. with respect to elections, as well as a negotiating group.

D. Least Developed Countries Group

The **Least Developed Countries** (LDCs) currently consists of 48 Parties. It meets intersessionally and during the session to coordinate common positions on issues of concern to the group. The United Nations maintains a list of Least Developed Countries that is regularly reviewed and updated.

E. The European Union

The **European Union** (EU), represented by the European Commission, became a Party to the Convention as a regional economic integration organization. The 27 member States of the EU and the European Commission develop and agree on common positions on key issues. The positions of the EU are usually supported by other Parties seeking to become members of the EU. The country that holds the EU Presidency – a position that rotates every six months – speaks for the EU and its member States.

F. Umbrella Group

The **Umbrella Group** is a loose association of developed countries which was formed following the adoption of the Kyoto Protocol at COP 3 in 1997. Although there is no formal list, the group is usually made up of Australia, Canada, Japan, Kazakhstan, New Zealand, Norway, the Russian Federation, Ukraine and the United States of America. Countries in the Umbrella Group share information on issues of common concern and sometimes develop common positions, although each member of the Group tends to speak on its own behalf.

G. Environmental Integrity Group

The **Environmental Integrity Group** consists of Liechtenstein, Mexico, Monaco, the Republic of Korea and Switzerland. Its purpose is to achieve environmental integrity in the Convention and the Kyoto Protocol.

H. Other key political negotiating groups

Other political negotiating groups that have provided information to the secretariat on their composition include:

- Coalition for Rainforest Nations (14 Parties)

- Central Group (Croatia, Iceland and Turkey)
- Mountainous Landlocked Developing Countries (Armenia, Kyrgyzstan, Tajikistan)
- The Central Asia, Caucasus and Moldova (CACAM), which consists of non-Annex I Parties from Asia and Eastern Europe

There are also other political groups that influence the UNFCCC process, such as ALBA, BASIC, Cartagena Dialogue, SICA and the Arab Group.

The organisation of all of these negotiation groups is a dynamic process. Membership may change and new groups may emerge.

V. Documentation

Different types of documents form the substance of and guide the climate change 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 in the table 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 (FCCC/CP/1996/7, for example). Additional or supplementary information is sometimes presented in addenda, which carry a symbol such as FCCC/CP/1996/7/Add.1. Sometimes a revised version of a document is distributed with a symbol in the form FCCC/CP/1996/7/Rev.1. These documents are normally prepared and distributed well in advance of each session. Rule 11 of the draft rules of procedure being applied provides that supporting documents for the provisional agenda of each ordinary session 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 session.

B. In-session documents

Official in-session documents normally contain draft decisions and draft reports produced during the process of a meeting. The “L” (or limited distribution) documents contain proposals for a decision by the COP or the CMP, or conclusions of a subsidiary body. They are translated, are referred to in the final report of the meeting and represent the final version of a text. The “CRP”

(conference room paper) documents are not normally translated, but can be referred to in the final meeting report. CRPs may contain a proposal by a Party, group of Parties or by the Chair.

In the course of negotiations, Parties or groups of Parties may prepare and distribute non-papers to facilitate progress in the negotiations in the face of blockage 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. The paper-trail during negotiations

The text of a decision or conclusions evolves through various versions and revisions during a negotiation process. A draft outcome text (**draft decision/conclusions**) is normally prepared by the secretariat and 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.

Sometimes, in order to bridge differences, the President, Chair or facilitator prepares and presents a compromise text, using his or her political authority to persuade delegates to accept the text without much revision and move forward. This is known as the President's or Chair's text and often includes brackets. The President or Chair must, however, carefully weigh the political opportunity for such an intervention because a precipitate action might jeopardize progress in the negotiations.

Periodically during negotiations, the secretariat will issue a compilation text that incorporates all agreed changes to the draft text or additional proposals. It would also denote 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.

If consensus cannot be reached and the issue is one for which a voting majority has been established (for example, adoption of an amendment to the Convention or the Protocol) the presiding officer may finally call on Parties to vote either for or against the proposal or to abstain. The proposal would be adopted if the requisite majority is achieved.

Document types

Document type	Typical content	Abbreviation	Language
Regular	Session reports, provisional agendas, most secretariat background documents	-	All official United Nations languages
Information	Practical data (e.g. list of participants at a COP session), more substantive information (e.g. a scoping study), or workshop reports	INF	English
Miscellaneous	Proposals or views submitted by Parties (or observer organizations). No formal editing	MISC	Language of submission (usually English)
Technical papers	Detailed background papers on technical issues	TP	English
Limited distribution	Draft decisions or conclusions presented to the COP or subsidiary bodies for adoption	L	All official United Nations languages
Conference room papers	New proposals or text prepared during a negotiating session to reflect the status of discussion on a particular issue, or proposals by Parties on an issue	CRP	English
Addendum	Addition to any of the above documents	Add	According to the original document
Revision	Revisions to any of the above documents	Rev	
Corrigendum	Correction to any of the above documents	Corr	