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Item 17(d) of the provisional agenda
Administrative, financial and institutional matters
Decision-making in the UNFCCC process

**Background information relating to the proposal to include a
sub-item on the provisional agenda of the nineteenth session
of the Conference of the Parties**

Note by the secretariat

Background information relating to the proposal to include a sub-item entitled “Decision-making in the UNFCCC process” on the provisional agenda of the nineteenth session of the Conference of the Parties has been provided to the secretariat by the Russian Federation. This information is attached and reproduced in the annex in the language in which it was received and without formal editing.

Annex

Letter dated 14 October 2013 from the Head of the Federal Service for Hydrometeorology and Environmental Monitoring of the Russian Federation to the Executive Secretary

According to item 17(d) of the document FCCC/CP/2013/1, I'd like to submit on behalf of the Russian Federation the background information on the proposal for inclusion of additional sub-item "Decision making in the UNFCCC process" on the provisional agenda for the nineteenth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change.

Annex: 3 pages.

(Signed)

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Decision-making in the UNFCCC process

*Proposal for inclusion of additional sub-item on the provisional agenda
for the nineteenth session of the Conference of the Parties
to the United Nations Framework Convention on Climate Change*

Background information

The compliance with the Draft rules of procedure being applied of the Conference of the Parties to the United Nations Framework Convention on Climate Change and its subsidiary bodies and the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol and its subsidiary bodies is essential to the legitimacy and legal standing of COP/CMP decisions and outcome documents.

Decision-making in the UNFCCC process has suffered evident setbacks over the past few years with serious procedural and legal flaws being multiplied, transparency eroding, frequency of dubious proceedings acquiring alarming magnitude and conduct of business deviating more and more from the Draft Rules of Procedure, as well as working practices of the United Nations system, core provisions of the Charter of the United Nations and basic principles of international law, such as the principle of sovereign equality.

The notion of consensus was often interpreted in many ways leading to uncertainties and controversies. The exercise of the powers conferred on presiding officers was not always at the level required by the cardinal principal of impartiality. This was especially evident at the eighth session of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol, but is a more general problem.

Since then, major countries have stressed the importance of transparency in the UNFCCC process, including the G8 Foreign Minister's Meeting Statement (London,

April 10-11, 2013). Many parties to the UNFCCC/KP were dissatisfied with procedural issues and poor transparency.

Inadequate actions or non-actions of the Secretariat of the UNFCCC versus the obvious procedural violations of the past are a cause of concern. It is in the general interests of all the Parties to ensure that the Secretariat of the UNFCCC performs its functions in an appropriate and professional manner, as the authority called on to promote unconditional compliance with the spirit and letter of the Draft Rules of procedure. Same applies to the exercise of powers conferred on the presiding officers of the Conference of the Parties to the United Nations Framework Convention on Climate Change and its subsidiary bodies and the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol and its subsidiary bodies.

There is an urgent need to provide guarantees for the conduct of negotiations to develop a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties, in conformity with international legal standards and the working practices of the United Nations system.

In view of the above the following issues need to be addressed:

- stressing the importance of transparency in the UNFCCC process;
- underscoring the basic principles of the United Nations as reflected in the Article 2 of the Charter of the United Nations and in particular the principle of the sovereign equality of all states;
- noting that the Draft Rules of Procedure as contained in document FCCC/CP/1996/2 remain not formally adopted for almost two decades hampering decision-making in the UNFCCC process and calling all Parties to work together towards adoption of the Draft Rules of Procedure as a matter of urgency;
- reiterating that consensus is not synonymous to unanimity but reaching consensus is determined by Parties, rather than by presiding officers, and requesting

legal opinion of the Secretariat of the United Nations prepared by the Office of Legal Affairs with regard to the meaning of consensus in the practice of the United Nations to provide common ground and inform decision-making in the UNFCCC process;

- recalling the urgent need to address the issue of voting within the framework of decision-making in the UNFCCC process;

- requesting the elected presiding officers to conduct proceedings in an impartial and objective way, strictly following the provisions of the Draft rules of Procedure as well as international legal standards and established norms, practice and principles of the United Nations and respecting the indelible right of all Parties to express their views freely and in full at any stage of the proceedings as appropriate;

- requesting the Secretariat of the UNFCCC to ensure that elected presiding officers are properly advised on the procedures to be followed during the COP and CMP session, as well as during the sessions of their subsidiary bodies and recalling that the Executive Secretary of the UNFCCC is personally responsible for the performance of the Secretariat staff in relation to procedural and other matters.

It is crucial we re-build confidence in the UNFCCC at this year's COP to provide a strong foundation for the important decisions that countries are asked to make in Warsaw and in the coming years.
