

# **GUIDE FOR PRESIDING OFFICERS**

**Revised September 2017**



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## Foreword

This guide is prepared by the United Nations Climate Change secretariat (hereinafter ‘the secretariat’). It is designed to serve as a 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), the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP), and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA);
- The chairs of the Subsidiary Body for Implementation (SBI) and the Subsidiary Body for Scientific and Technological Advice (SBSTA);
- The chairs of other ad hoc subsidiary bodies;
- The chairs of contact groups; and
- The chairs (or facilitators) of informal consultations, consultations conducted by the Presidency, and other smaller group settings.

The guide contains information on the following:

- The conduct of business and the role and responsibilities of presiding officers;
- The institutional structure of the United Nations Framework Convention on Climate Change (hereinafter referred to as the UNFCCC or the Convention), the Kyoto Protocol, and the Paris Agreement;
- The negotiating forums in the United Nations climate change process;
- The key negotiating groups; and
- The documentation used.

## **I. Conduct of business and the role and responsibilities of presiding officers**

### **A. Draft rules of procedure being applied**

1. The conduct of business at a conference is regulated by the Draft Rules of Procedure of the Conference of the Parties and its Subsidiary Bodies (hereinafter referred to as the draft 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 United Nations climate change process.

2. 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, motions and proposals and decision-making.

### **B. The agenda and its adoption**

3. In accordance with rule 9 of the draft rules of procedure being applied, the provisional agenda for each session of the COP, the CMP and the CMA (hereinafter referred to as the governing bodies) is prepared by the secretariat in agreement with the President. Similarly, the provisional agenda for each subsidiary body session is prepared in agreement with the chair of that body.

4. The provisional agenda must include items from a previous session that have not been considered, as well as any item proposed by a Party and received by the secretariat before the provisional agenda is circulated (rules 10 and 16 of the draft rules of procedure). An item proposed by a Party and received by the secretariat after the provisional agenda is produced, but before the opening of the session, shall be included in a supplementary provisional agenda (rule 12 of the draft rules of procedure).

5. The draft rules of procedure 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).

6. When adopting its agenda, each body may decide to add, delete, defer or amend items (rule 13 of the draft rules of procedure). However, only those items 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.

7. 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 for the session and continue with their work while the presiding officer holds consultations with Parties regarding the item in dispute. Standard practice dictates that the presiding officer reports back to one of the plenary meetings on the outcome of such consultations. If, by the final plenary meeting, the presiding officer has been unable to reach consensus on the item, he or she may propose to the body in question that the agenda be adopted without the inclusion of the item. Alternatively, the presiding officer may propose that the item be included in the provisional agenda for the next session in accordance with rules 10(c) and 16 of the draft rules of procedure. The item is subsequently included in the provisional agenda for the next session with an appropriate footnote.

8. The governing bodies have the authority to determine which items are to be considered by the subsidiary bodies in accordance with their respective mandates (rule 27, paragraph 7 of the draft rules of procedure). During sessions, the governing bodies, in exercising their sovereign authority, may refer an item to a subsidiary body for consideration. Upon such a referral, the item is automatically included in the agenda of the subsidiary body as a new item or under an existing item.

### **C. Quorum**

9. The draft rules of procedure establish two types of quorum: the quorum for opening a meeting and the quorum for decision-making (rule 31 of the draft rules of procedure). For meetings of the governing bodies 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, the Kyoto Protocol, or the Paris Agreement. Subsequently, the presence of two-thirds of the Parties to the Convention, the Kyoto Protocol, or the Paris Agreement, respectively, is required for any decision to be taken.

10. 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 of the draft rules of procedure), unless the rules of procedure of that subsidiary body state otherwise.

11. The presiding officer has the power to determine the existence of a quorum. In the UNFCCC practice, the presiding officer always verifies 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 the issue of quorum is raised during a meeting, the presiding officer should request the secretariat to confirm the existence of a quorum. If a decision was made without the required quorum, the presiding officer should table the proposal until quorum is attained.

## **D. The functions of a presiding officer**

12. The draft rules of procedure define the general (rule 23) and specific functions of the President of the COP, the CMP and the CMA. 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**

13. A cardinal principle in the exercise of the powers conferred on the presiding officer is the obligation of impartiality. The draft rules of procedure consequently provide that the President shall participate in the session in that capacity and shall not simultaneously 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**

14. Rule 23 of the draft rules of procedure sets out the general powers of 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 a vote;
- Announce decisions;
- Rule on points of order; and
- Control the proceedings and maintain order thereat.

15. Rule 23.2 of the draft rules of procedure 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; and
- The suspension or adjournment of a meeting.

16. 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 members of the meeting. A presiding officer is allowed to alter any decision he or she has

previously made, especially if insisting a ruling would create controversy and result in procedural blockage.

### **3. Authority of the presiding officer with regard to irrelevant or offensive statements**

17. Rule 23 of the draft rules of procedure provides that the presiding officer “shall have complete control of the proceedings and over the maintenance of order thereat.” Therefore, the presiding officer 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 to other Parties. 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 an 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**

18. 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 draft 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; or
- The manner in which the presiding officer is exercising the powers conferred on him or her by the rules of procedure.

19. Rule 34 of the draft rules of procedure provides that a representative may, at any time, raise a point of 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 a vote immediately and the presiding officer’s ruling shall stand unless overruled by the majority of the Parties present and voting.

20. A point of order has precedence over any other matter including the procedural motions specified in rule 38 of the draft rules of procedure. 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**

21. A ‘motion’ is a formal recommendation by a Party that the meeting take certain action, either procedural or substantive. A ‘proposal’ refers to the part of the motion that contains the text proposed by the Party in its motion.

### **1. Procedural motions**

22. Rule 38 of the draft rules of procedure 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; and
- To close the debate on the question under discussion.

23. 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 in support of the motion and two against the motion permission to speak. This is also the letter and spirit of rule 38 of the draft rules of procedure. However, because rule 42 of the draft rules of procedure relates 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 governing or subsidiary bodies**

24. Rule 35 of the draft rules of procedure provides that “[a]ny motion calling for a decision on the competence of the COP 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. The request must therefore be decided upon by the meeting itself. The issue of competence is for the governing bodies to determine in the exercise of their sovereign authority. The secretariat cannot be asked 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 governing bodies (see 37th World Health Assembly, WHA37/1984/REC/3, pp. 217–218).



### **3. Submission of proposals**

25. Rule 36 of the draft rules of procedure establishes the procedures for the submission of proposals by Parties or groups of Parties for consideration including the following:

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

26. All proposals must 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 intergovernmental process only addresses issues raised by governments.

27. A proposal or motion may be withdrawn by its proposer at any time before voting, provided that it has not been amended (rule 36 of the draft rules of procedure). Once withdrawn, a proposal or motion may be reintroduced by any other Party.

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

### **4. Reconsideration of proposals**

29. 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**

30. Rule 42 of the draft rules of procedure deals with voting majorities for decision-making on matters of substance and procedure. As a result of the continuing lack of consensus on adopting the draft rules of procedure, decision-making on all matters requires consensus, save for the specific cases where the Convention, the Kyoto Protocol, the Paris Agreement, the draft rules of procedure, or the rules of procedure for constituted bodies, establish the requisite voting majorities.

31. The presence of two-thirds of the Parties to the Convention, the Kyoto Protocol or the Paris Agreement, as the case may be, is required for a decision to be taken under rule 31 of the draft rules of procedure. The presiding officer, with the assistance of the secretariat, must verify that there is a quorum for decision-making. Rule 48 of the draft rules of procedure 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.

32. The Convention, the Kyoto Protocol and the Paris Agreement establish voting majorities on a number of issues.

33. Voting majorities under the Convention:

- Amendments to the Convention require a three-quarters majority 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); and
- Article 17 of the Convention regarding the adoption of protocols does not define a voting majority for such adoption. Consequently, protocols to the Convention are to be adopted by consensus.

34. Voting majorities under the Kyoto Protocol:

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

35. Voting majorities under the Paris Agreement: The rules on voting majorities in Articles 15 and 16 of the Convention apply mutatis mutandis to the Paris Agreement with regard to the adoption of amendments to the Agreement (Article 22) and the adoption of amendments to annexes to the Agreement (Article 23).

### **The meaning of “consensus”**

36. Except for the foregoing matters and other matters discussed above for which the draft rules of procedure define a voting majority, decision-making under the Convention process is on the basis of consensus. This raises the question of what the term “decision-making by consensus” entails.

37. 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, paragraph 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.

38. 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.”

39. 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 rarely used 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**

40. The Convention, the Kyoto Protocol, and the Paris Agreement establish the standard institutional arrangements for the climate change intergovernmental process:

- A supreme governing body: the COP for the Convention, the CMP for the Kyoto Protocol and the CMA for the Paris Agreement;
- Subsidiary bodies: two permanent subsidiary bodies – the SBSTA and the SBI – as well as other subsidiary bodies established by the COP, the CMP, or the CMA as deemed necessary to address specific issues;
- A process management body: the Bureau of the COP, the CMP and the CMA;
- Technical subsidiary bodies with limited membership (constituted bodies) established under the Convention, the Kyoto Protocol and the Paris Agreement; and
- A secretariat.

41. Collectively, these institutions participate in the process of developing policies and guidance to support Parties in the implementation of the Convention, the Kyoto Protocol and the Paris Agreement.

### **A. The governing bodies**

42. The COP is the supreme body of the Convention and 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).

43. The CMP is the supreme body of the Kyoto Protocol and its highest decision-making organ. It is responsible for overseeing the implementation of the Kyoto Protocol (Article 13 of the Kyoto Protocol). The CMP includes Parties to the Convention that have ratified the Protocol. Parties to the Convention that have not ratified the Protocol may participate as observers in accordance with Article 13, paragraph 2, of the Kyoto Protocol.

44. The CMA is the supreme body of the Paris Agreement and its highest decision-making organ. It is responsible for overseeing the implementation of the Paris Agreement (Article 16 of the Paris Agreement) and includes Parties to the Convention that have ratified the Paris Agreement. Parties to the Convention that have not ratified the Paris Agreement may participate as observers in accordance with Article 16, paragraph 2, of the Paris Agreement.

45. The United Nations climate change process revolves around the annual sessions of the governing bodies. These sessions bring together Parties to the

Convention, Parties to the Kyoto Protocol and Parties to the Paris Agreement, 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 2016, 22 ordinary sessions of the COP, 12 ordinary sessions of the CMP, and the first part of the first session of the CMA have been convened.

## **B. The subsidiary bodies**

46. The Convention establishes, respectively under Articles 9 and 10, two permanent subsidiary bodies:

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

47. The SBSTA and SBI are the main subsidiary bodies of the Convention, the Protocol and the Paris Agreement. They meet twice a year for one to two weeks, normally once mid-year and once in conjunction with the sessions of the governing bodies. The meetings are open to participation by all Parties and observers to the Convention, to the Kyoto Protocol and to the Paris Agreement.

48. The governing bodies can establish other subsidiary bodies as are necessary to assist with the implementation of the Convention, the Kyoto Protocol and the Paris Agreement, respectively (Article 7.2(i) of the Convention, Article 13.4(h) of the Kyoto Protocol, Article 16.4(a) of the Paris Agreement and rule 2.8 of the draft rules of procedure). Such ‘subsidiary bodies’ include committees, working groups and constituted bodies (see section c below). Examples of ad hoc subsidiary bodies to address specific issues for a limited period of time and/or for preparing a specified outcome include the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) and the Ad Hoc Working Group on the Paris Agreement (APA).

49. The main outcomes of subsidiary bodies’ deliberations are conclusions adopted by the subsidiary bodies itself, and recommendations of decisions or conclusions for consideration and adoption by the governing bodies.

## **C. The Bureau**

50. The work of the governing bodies is guided by the Bureau. The Bureau serves during the session and 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 of the draft rules of procedure).

51. The President is responsible for presiding over the session of the governing bodies and for facilitating their work in order to promote agreement among Parties. The President remains under the authority of the governing bodies. He or she must remain impartial and cannot exercise the rights of a representative of the Party by which she or he was nominated. The Vice-Presidents assist the President in this work and may preside over sessions of the governing bodies during the absence of the President or when the President is engaged in negotiations with Parties. The Rapporteur is responsible for preparing the report on the session with the assistance of the secretariat.

52. The work of the subsidiary bodies is guided not only by the Bureau of the governing bodies, 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 as relevant. The Rapporteur is responsible for preparing the report on the session. The draft rules of procedure also establish procedures for the election of officers of the subsidiary bodies (rules 27.5 and 27.6).

53. Neither the Convention nor the draft rules of procedure define the functions of the Bureau, except for the duty to examine the credentials of representatives and submit a report thereon to the COP (rule 20 of the draft rules of procedure). 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 governing bodies have requested the Bureau to take action on a number of issues, such as the arrangements for future sessions of the COP, CMP and CMA.

#### **D. Constituted bodies**

54. The governing bodies have established a number of limited membership constituted bodies. Such bodies provide advice, technical input and expertise to advance the implementation of the Convention, the Kyoto Protocol and the Paris Agreement, as the case may be. They report to and remain under the authority and guidance of their respective governing body, or subsidiary body.

55. There are currently twelve constituted bodies:

- Adaptation Committee (AC);
- Adaptation Fund Board (AFB);
- Advisory Board of the Climate Technology Centre and Network (CTCN-AB);
- Compliance Committee;

- Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention (CGE);
- Executive Board of the Clean Development Mechanism (CDM EB);
- Executive Committee of the Warsaw International Mechanism for Loss and Damage (ExCom);
- Joint Implementation Supervisory Committee (JISC);
- Least Developed Countries Expert Group (LEG);
- Paris Committee on Capacity-building (PCCB);
- Standing Committee on Finance (SCF); and
- Technology Executive Committee (TEC).

56. Support and service for the constituted bodies are provided by the secretariat, except for the AFB, which is supported by the Global Environmental Facility, and the CTCN-AB, which is supported by UN Environment. Detailed information on these constituted bodies is available on the UNFCCC website.

#### **E. The secretariat**

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

#### **F. Entities entrusted with the operations of the Financial Mechanism**

58. The Convention, under its Article 11, states that the operation of the Financial Mechanism is entrusted to one or more existing international entities. One such entity is the Global Environment Facility (GEF) and the other is the Green Climate Fund (GCF). The Financial Mechanism is accountable to the COP, which decides on its policies, programme priorities and eligibility criteria.

### **III. Negotiating forums**

59. Negotiations in the United Nations climate change process take place in three main forums: plenary meetings, contact groups and informal consultations. In addition, the President of the governing bodies 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 meetings**

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

61. The conduct of plenary meetings by the presiding officer, the seating arrangements of participants, the languages of the session, and other details concerning the meeting are governed by the draft rules of procedure. It is during plenary meetings that decisions are taken by the governing 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, such as the adoption of policies, procedures and guidelines pertaining to the implementation of the Convention, the Kyoto Protocol and the Paris Agreement.

62. 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 a forum for general statements on items on the agenda of the meeting.

63. During the opening plenary meetings, the governing bodies decide which agenda items to allocate to the subsidiary bodies, contact groups or informal consultations, and on which issues the President will consult further with Parties. Similarly, the subsidiary bodies 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 propose at the plenary meeting presiding officers to chair the various contact groups and informal consultations.

64. At the closing plenary meeting, the presiding officers of contact groups and informal consultations report on the outcome of their work and whether the negotiations were successfully completed. They then inform the President or chairs of the subsidiary bodies of any documents containing decisions or conclusions forwarded for consideration and adoption. Smaller group meetings should always report back to the body that established them.

65. Following such reports as well as reports by the President or Chair on any consultations he or she has led, Parties are invited to consider and adopt any draft decisions and conclusions produced in the above-mentioned negotiations. The draft decisions and conclusions will be adopted if there is consensus among

Parties on their adoption. If there is no consensus, the issue will automatically be placed on the agenda for the next session (rule 16 of the draft rules of procedure).

## **B. Contact groups**

66. 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 governing bodies or the subsidiary bodies, based on a proposal by the President, the Chair of the subsidiary body or a Party. The presiding officer(s) of contact groups only serve during sessions because their mandate ends at the closing of the session, and therefore they have no formal role thereafter.

67. The presiding officer(s) for each contact group is proposed from among representatives of Parties at the session by the President or the Chair of the subsidiary body. Where two presiding officers are proposed to co-chair a contact group, efforts are made to achieve geographical and gender balance. The President or Chair will normally request Parties to agree to his or her proposal of the presiding officer(s) for the contact group.

68. The presiding officer(s) regularly reports to the President or the subsidiary body Chair on progress made during the negotiations and may request the assistance of the President or the subsidiary body Chair with resolving any difficulties that may have arisen during the negotiations.

69. 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 Parties present at the session object. 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 invited to ascertain, at the time of establishment of each contact group, if there are any objections to the attendance of observer organizations.

70. Flexibility in the application of draft rules of procedure allows a more efficient conduct of business in contact groups. The discussions are conducted and documents are made available only in English. The date, time and venue of 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**

71. 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 facilitate consultations on a particular agenda item or 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. The facilitators of informal consultations only serve during sessions because their mandate ends at the closing of the session, and therefore they have no formal role thereafter.

72. Informal consultations are normally open-ended, but if a smaller group is desired, the President or the Chair bears responsibility for deciding whom to invite. The presiding officer has flexibility in the application of the draft rules of procedure for the conduct of discussions in 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 made available only in English.

### **Inclusive approach**

73. The issue of participation of Parties to the Convention that are not Parties to the Kyoto Protocol as observers in informal consultations arose 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 and some Kyoto Parties agreed to a general approach of inclusiveness but 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 the future an inclusive approach would be followed (see paragraph 95 of the report on SBI 24 contained in document FCCC/SBI/2006/11). This ‘policy of inclusion’ has been interpreted to mean that informal consultations are open to observer States, which may speak during these consultations.

### **D. Other smaller group settings**

74. As in other international processes, climate change negotiations use a range of other informal, smaller group settings to advance negotiations, such as ‘Friends of the Chair’ and so-called ‘informal informals.’

75. Informal informals (also referred to as drafting groups or spin-off groups) have been used to advance negotiations on contentious issues or to expedite detailed drafting work (e.g. to draft a specific section of text or to resolve a specific problem). These informal informals are established with the agreement of the group or under the presiding officer’s own responsibility, often with a specific time-bound task. The presiding officer may request a delegate to facilitate such meetings, which may be open-ended or open only to invited

delegates, or an informal opportunity may be set up without designating a facilitator (simply by providing a meeting room for Parties' consultations).

76. '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, which are 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 presiding officer.

77. Smaller group meetings are not necessarily advertised, particularly if they are only open to invited participants. If they are open-ended, the time and venue is sometimes announced on CCTV for transparency and the orientation of Party delegates. Observers are not permitted to attend these smaller group meetings.

78. 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 the legitimacy of the process that the results of any smaller group meeting be reported to the main body so that Parties who were not in the smaller group have an opportunity to consider the outcomes.

#### **IV. Observers**

79. There are three different categories of observers which may participate at sessions and meetings in the United Nations climate change process:

- a. For any of the three treaties (i.e. the Convention, the Kyoto Protocol and the Paris Agreement): i. Representatives of Observer States; and, ii. Representatives of observer organizations;<sup>1</sup>
- b. For the Kyoto Protocol or the Paris Agreement, also representatives of Parties to the Convention that are not Parties to the Kyoto Protocol or the Paris Agreement, respectively.

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<sup>1</sup> According to rules 6 and 7 of the draft rules of procedure, these include: United Nations specialized agencies, the operating entities of the Financial Mechanism, the International Atomic Energy Agency and any intergovernmental and non-governmental organization, body or agency that has been admitted as an observer in accordance with rule 7, paragraph 1, of the draft rules of procedure.

80. In addition, members of the press and media may attend the conferences and, in particular, the official plenary meetings of the governing and subsidiary bodies.

81. As mentioned in paragraphs 43, 44 and 79 (b) above, Parties to the Convention that are not Parties to the Kyoto Protocol or Parties to the Paris Agreement may participate as observers in the proceedings of any session of the CMP and CMA, respectively. However, decisions under each instrument are taken only by Parties (Article 13.2 of the Kyoto Protocol and Article 16.2 of the Paris Agreement). In addition, any State that is a member of the United Nations, one of its specialized agencies or the International Atomic Energy Agency that is not a Party to the Convention may be represented at sessions of the governing bodies as an observer State.

82. Furthermore, the United Nations, its specialized agencies and the International Atomic Energy Agency may be represented at sessions of the governing and subsidiary bodies as observers and any body or agency, whether national or international, governmental or non-governmental (that is qualified in matters covered by the Convention and has informed the secretariat of its wish to be represented at a session) may be admitted as an observer, unless at least one-third of the Parties present object. Observers may participate, without the right to vote, in the proceedings of any session on matters of direct concern to the body or agency they represent unless at least one-third of Parties object.

83. As per decision 18/CP.4, this rule on observer organizations applies also to any open-ended contact group established in the UNFCCC process: observer organizations may participate unless the Parties setting up that contact group object, on the understanding that the presiding officers of such a contact group may determine at any time during the proceedings that the group should be closed to observers.

84. This practice was extended in 2011 through the recommendation of SBI 34 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 organizations, recognizing the right of Parties to keep informal meetings closed (see document FCCC/SBI/2011/7, paragraph 167).

## **V. Negotiating groups**

85. Based on the established practice of the United Nations, Parties are organized into five regional groups, mainly for electoral purposes: African Group, Asia-Pacific Group, Eastern European Group, Latin American and the Caribbean Group, and Western European and Others Group.

86. The five regional groups are not usually used to represent the substantive interests of Parties. Parties have thus formed a number of political negotiating groups based on common concerns and interests. Negotiations within the United Nations climate change process takes place largely through these groups. They meet regularly before and during the sessions of the governing bodies and the subsidiary bodies in order to exchange information on their concerns and to coordinate and agree on common positions on key issues.

87. With respect to interventions at plenary meetings, in particular opening and closing plenary meetings of the governing body and subsidiary bodies, the Bureau of the COP has encouraged presiding officers to allow the Group of 77 and China, the European Union, the Umbrella Group and the Environmental Integrity Group (i.e. the four groups whose membership does not overlap) to make interventions before other groups.

88. Negotiating group membership can change over time. New groups may emerge as well. Currently, the key negotiating groups in the UNFCCC process include the following:

- The Group of 77 and China is the largest group of Parties within the climate change process and operates throughout the United Nations system. Its members include small island developing States, least developed countries, oil-exporting countries, emerging economies, and middle-income countries;
- The European Union (EU) consists of all member States of the EU, and the European Commission;
- The Umbrella Group currently consists of Australia, Canada, Japan, Kazakhstan, New Zealand, Norway, the Russian Federation, Ukraine and the United States of America;
- The Environmental Integrity Group consists of Liechtenstein, Mexico, Monaco, the Republic of Korea and Switzerland;
- The African Group consists of African countries. It operates as both a regional group (e.g. with respect to elections) and a negotiating group;
- The least developed countries (LDCs) consists of those countries that the United Nations lists as LDCs;<sup>2</sup>
- The Alliance of Small Island States (AOSIS) is an alliance of small island developing States and low-lying coastal States that share similar development challenges and environmental concerns, such as vulnerability to the adverse effects of global climate change;

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<sup>2</sup> This list is available at [www.un.org/development/desa/dpad/least-developed-country-category.html](http://www.un.org/development/desa/dpad/least-developed-country-category.html)

- The Like-minded Developing Countries is currently a group of developing countries (whose membership often varies over time);
- The Arab Group currently comprises Algeria, Bahrain, Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Mauritania, Morocco, Oman, Qatar, Saudi Arabia, Somalia, the State of Palestine, the Sudan, the Syrian Arab Republic, Tunisia, the United Arab Emirates and Yemen;
- The Independent Association of Latin America and the Caribbean (AILAC) is a group currently consisting of Chile, Colombia, Costa Rica, Guatemala, Honduras, Panama, Paraguay and Peru;
- The Bolivarian Alliance for the Peoples of our America – Peoples’ Trade Treaty (ALBA) consists of countries from Latin America and the Caribbean;
- The Central American Integration System (SICA) comprises Central American countries, namely Belize, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, and Panama;
- The BASIC countries is a bloc of large developing countries – Brazil, China, India and South Africa; and
- The Coalition for Rainforest Nations consists of a number of countries in Asia, Africa, Latin America and the Pacific region.

## **VI. Documentation**

89. Documents contain the substance of climate change negotiations. It is through documents that information on issues is provided, proposals from Parties are circulated, information is disseminated and texts are negotiated and adopted. Documents can be official or informal and circulated in print or on the UNFCCC website. Official meeting documents can be prepared before the session (pre-session), during the session (in-session) and after the session (post-session). All official meeting documents carry an official symbol (e.g. FCCC/CP/2016/10).

### **A. Pre-session documents**

90. Pre-session documents are prepared as background documents for sessions and are distributed in advance of the session. They can be produced by the secretariat (reports, information notes, technical papers, etc.) or constituted bodies, among other sources.<sup>3</sup> In accordance with rule 11 of the draft rules of

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<sup>3</sup> Miscellaneous documents, used in the past to compile proposals or views submitted by Parties or observer organizations are no longer prepared. All submissions are available electronically via the submission portal, where Parties upload their submissions independently.

procedure, annotated provisional agendas are 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. The other documents are distributed throughout the pre-session period, some only in English (e.g. information notes and technical papers).

### **B. In-session documents**

91. Official in-session documents (limited distribution or “L” documents) normally contain draft decisions, draft conclusions and draft reports produced during a session. The final version of such texts appears in the report of the session of the appropriate body.<sup>4</sup>

92. In the course of negotiations, presiding officers or Parties may also prepare so-called non-papers or informal notes to facilitate progress in the negotiations or to capture the positions of Parties. These non-papers or informal notes are prepared under the responsibility of presiding officers and/or Parties and have no formal status. These documents do not bear an official document symbol, are not part of the official record of the meeting. Although these non-papers and informal notes may sometimes be referred to in the report on the session for reasons of transparency or for practical reasons, their status remains informal.

### **C. Post-session documents**

93. After sessions of governing or subsidiary bodies, each body’s Rapporteur, with the assistance of the secretariat, produces a report on the session, which is distributed in all six official languages of the United Nations. Chairs of the subsidiary bodies may also prepare, under their own responsibility, notes containing their reflections on the session with a view of assisting Parties with the work ahead. Such notes are informal (unofficial) documents, and their content is not intended to prejudge further work that Parties may wish to undertake or to prevent Parties in any way from expressing other views they may have in future.

### **D. The paper trail during negotiations**

94. Texts of draft decisions and draft conclusions are normally prepared by presiding officers with the assistance of the secretariat and form the basis for negotiation. Subsequent versions attempt to capture the substantive outcomes of the negotiations. A procedural decision to continue the negotiations at a future session is not usually captured in a textual outcome but proposed by the presiding officer or the chair of a subsidiary body and included in the report of the session. Other procedural outcomes, such as invitations for submissions, or requests to the

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<sup>4</sup> As with miscellaneous documents, in order to save printing, distribution and document production resources, conference room papers (CRPs), which normally contain proposals from Parties or groups of Parties, are no longer produced. Party proposals received during a session are posted on the documentation web pages for the session.



secretariat from subsidiary bodies are typically included in conclusions rather than decisions.

95. 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 from negotiating groups are often submitted in writing.

96. 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 or Chair's text and often includes brackets. The President or Chair must, however, carefully weigh the political opportunity for such an intervention because premature action might jeopardize progress in the negotiations.

97. Periodically, during negotiations, at the request of Parties, the secretariat will issue a compilation text that incorporates all agreed changes to the draft text or additional proposals. Areas of disagreement are usually presented in square brackets. This document then becomes the basis for further negotiations.

98. Once agreement is achieved on all portions of the text, the presiding officer proposes the text for adoption at the final plenary meeting of the subsidiary body. If no formal objections are raised, the text is adopted by consensus. Parties are, however, at liberty to make statements of position and interpretative statements or to enter reservations after the adoption and may request that these be reflected in the record of the proceedings.

99. If consensus cannot be reached and the adoption of an issue allows for a decision by way of voting majority (e.g. the adoption of an amendment to the Convention, to the Kyoto Protocol or to the Paris Agreement), the presiding officer may call on Parties to vote for or against the proposal or to abstain. The proposal would be adopted if the requisite majority were achieved.

### Official document types issued for sessions

<b>Document type</b>	<b>Typical content</b>	<b>Abbreviation</b>	<b>Language</b>
Regular document	Session reports, provisional agendas, constituted body reports, certain secretariat background documents	-	All official United Nations languages
Information document	Practical data (e.g. list of participants at a COP session), workshop reports, certain secretariat background documents	INF	English
Technical paper	Detailed background on technical issues	TP	English
Limited distribution document	Draft decisions or conclusions presented to the governing or subsidiary bodies for adoption	L	All official United Nations languages
Addendum	Addition to any of the above documents	Add	According to the original document
Revision	Revision to any of the above documents	Rev	
Corrigendum	Correction to any of the above documents	Corr	

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