



UNITED
NATIONS



Framework Convention
on Climate Change

Distr.
GENERAL

FCCC/TP/2004/5
18 November 2004

ENGLISH ONLY

Workshop on organization of the intergovernmental process

Technical paper

Summary

The Subsidiary Body for Implementation, at its twentieth session, agreed to continue its discussion on the organization of future sessional periods with a view to ensuring that the Convention bodies can work as efficiently and effectively as possible within the time available at a session, while ensuring a coherent and responsive approach to issues.

This technical paper reviews the past organizational experience in the Convention process and **identifies questions for discussion and possible options for improvement**. The options presented are not intended as formal proposals, but as suggestions to facilitate further discussion. The paper also considers relevant experience from other multilateral processes to assess alternative approaches.

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I. Introduction

1. The Subsidiary Body for Implementation (SBI), at its twentieth session, agreed to continue its discussion on the organization of future sessional periods with a view to ensuring that the Convention bodies can work as efficiently and effectively as possible within the time available at a session, while ensuring a coherent and responsive approach to issues. It requested the secretariat to convene a workshop on the organization of the intergovernmental process in conjunction with the twenty-first session of the SBI and to prepare a background paper taking into account relevant experience in other multilateral processes.¹
2. The workshop will provide an opportunity for participants **to exchange views informally and provide further suggestions on improvements to the Convention process**. A workshop report will be produced for consideration by the SBI at its twenty-second session, scheduled from 16 to 27 May 2005.
3. This technical paper reviews the past organizational experience in the Convention process and **identifies questions for discussion and possible options for improvement**. The options presented are not intended as formal proposals, but as suggestions to facilitate further discussion. The paper also considers relevant experience from other multilateral processes to assess alternative approaches.

II. Background

4. The SBI periodically considers the state of the intergovernmental climate change process with a view to identifying possible improvements and assessing the level of satisfaction among Parties with regard to “their process”. At previous SBI sessions, Parties and observers have noted that the Convention process faces increasing difficulties with regard to **agenda management** during each session, as well as during the intersessional period. They have also noted that the entry into force of the Kyoto Protocol would further intensify the schedule of formal and informal meetings. The following are some of the difficulties:
 - (a) The agendas for the sessions of the Conference of the Parties (COP) and the subsidiary bodies can be extensive, which limits the amount of time available for discussion on each item. This situation also leads to an intensive schedule of formal and informal meetings and regional and other group meetings. However, Parties do not appear to support an extension of the sessional period beyond two weeks.
 - (b) The large number of agenda items considered by each body at any one session makes it difficult for small delegations to attend all meetings and consultations, even when only two parallel meetings are held at the same time.
 - (c) Due to the limited time available between sessions, extensive agendas make it difficult to advance all relevant issues intersessionally. There is an increasingly complex schedule of intersessional workshops, meetings of constituted bodies and other support forums such as training sessions.
 - (d) The schedule also leads to a growing volume of documentation for each COP and subsidiary body session, as well as for intersessional meetings.
5. Some Parties and observers have underscored that the process has undergone different phases. For example, during the Ad Hoc Group on the Berlin Mandate (AGBM) the emphasis of the process was on negotiations. In contrast, the process has focused more on implementation since the adoption of the Marrakesh Accords. This has implications for the organization of agendas and meetings, and efforts at agenda management may have to take into account the emerging future demand for both negotiations and implementation.

¹ FCCC/SBI/2004/10, paragraph 94.

III. Elements of the intergovernmental process

6. A review of the building blocks of the intergovernmental process – the sessions of the COP and subsidiary bodies, expert groups, constituted bodies and workshops – may offer opportunities for increased efficiency and effectiveness. Are the component blocks working as intended? Are adjustments needed? Is the process achieving results commensurate with its costs? The following sections examine these features, including the agendas of the COP and subsidiary bodies, and identify some alternatives that may enable the process to maximize its efficiency, and also lead to sustainable and effective outcomes.

A. Roles of the Conference of the Parties, the subsidiary bodies and the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol

7. There are currently three main building blocks of the UNFCCC process, the COP and the two subsidiary bodies. As of 2005, the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (COP/MOP) will become a component of the organizational picture. This section outlines the respective roles of these bodies, as well as the general content of their agendas.

1. The Conference of the Parties

8. The COP is the supreme body of the Convention. It consists of all Parties to the Convention. It reviews the implementation of the Convention and examines the commitments of Parties in light of the Convention's objective, new scientific findings, and experience gained in implementing climate change policies. A key task for the COP is to review the national communications and emission inventories submitted by Parties. Based on this information, the COP assesses the effects of the measures taken by Parties and the progress made in achieving the ultimate objective of the Convention. The COP also considers the report of the Executive Board of the clean development mechanism on an annual basis.

9. Article 7, paragraph 4, of the Convention notes that "ordinary sessions of the Conference of the Parties shall be held every year unless otherwise decided by the Conference of the Parties". To date, the frequency of the COP sessions has followed Article 7.4. There has been a high-level segment with ministerial participation held at each COP since entry into force of the Convention. Other intergovernmental processes, such as the Convention on Biological Diversity (CBD), the United Nations Convention to Combat Desertification (UNCCD) and the Montreal Protocol to the Vienna Convention for the Protection of the Ozone Layer (Montreal Protocol), also host high-level segments at every COP or Meeting of the Parties (MOP), although not always with ministerial participation. The frequency of these COPs and MOPs varies between annual and once every three years, depending on the number and urgency of the issues to be addressed.

2. The subsidiary bodies

10. The Convention established two permanent subsidiary bodies: the Subsidiary Body for Scientific and Technological Advice (SBSTA) and the SBI. These bodies give advice to the COP and each has a specific mandate.

11. The task of the SBSTA is to provide advice to the COP on scientific, technological and methodological matters. Two key areas of work in this regard are promoting the development and transfer of technologies and conducting technical work to improve the guidelines for preparing national communications and emission inventories. The SBSTA also carries out methodological work in specific areas, such as the land use, land-use change and forestry (LULUCF) sector, hydrofluorocarbons (HFCs) and perfluorocarbons (PFCs), and adaptation and vulnerability. In addition, the SBSTA plays an important role as the link between the scientific information provided by expert sources, such as the Intergovernmental Panel on Climate Change (IPCC) on the one hand, and the policy-oriented needs of the COP on the other. It works closely with the IPCC, sometimes requesting specific information or reports from it, and also collaborates with other relevant international organizations.

12. At recent sessions, the SBSTA agenda has included an item on the impacts of, and vulnerability and adaptation to, climate change, as well as an item on the mitigation of climate change. In-session workshops on these items were held as well. Methodological issues have included good practice guidance for LULUCF, harvested wood projects, emissions from fuel used for international aviation and maritime transport, “good practices” in policies and measures among Parties included in Annex I to the Convention (Annex I Parties) and research and systematic observation.

13. The task of the SBI is to provide advice to the COP on all matters concerning the implementation of the Convention. An important task in this respect is to examine the information in the national communications and emission inventories submitted by Parties in order to assess the Convention’s overall effectiveness. The SBI reviews the financial assistance given to Parties not included in Annex I to the Convention (non-Annex I Parties) to help them implement their Convention commitments, and provides advice to the COP on guidance to the financial mechanism, operated by the Global Environment Facility. The SBI also advises the COP on budgetary and administrative matters.

14. At recent sessions, the SBI agenda has included items on Article 6 of the Convention, capacity-building, and the implementation of Article 4.8 and 4.9 of the Convention, including sub-items on progress in the implementation of activities under decision 5/CP.7 and matters relating to the least developed countries.

15. The SBSTA and SBI work together on cross-cutting issues that touch on both their areas of expertise. These include capacity-building, the vulnerability of developing countries to climate change and response measures, and the Kyoto Protocol mechanisms.

16. The SBSTA and the SBI have traditionally met in parallel, at least twice a year. When they are not meeting in conjunction with the COP, the subsidiary bodies usually convene at the seat of the secretariat.

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

17. The COP will serve as the meeting of the Parties to the Kyoto Protocol when it enters into force. This body, the COP/MOP, will meet during the same period as the COP. Parties to the Convention that are not Parties to the Protocol will be able to participate in the COP/MOP as observers, but without the right to take decisions. The functions of the COP/MOP relating to the Kyoto Protocol are similar to those carried out by the COP for the Convention.

18. Article 13, paragraph 6, of the Kyoto Protocol provides that the first session of the COP/MOP (COP/MOP 1) shall be convened by the secretariat in conjunction with the first session of the COP that is scheduled after the date of entry into force of the Protocol.

19. SBI 18 adopted conclusions on arrangements for COP 9 and COP/MOP 1² and COP 9 adopted decision 17/CP.9.³ With regard to the timing and format of meetings, the SBI conclusions state that the sessions of the subsidiary bodies would be convened in conjunction with the sessions of the COP and the COP/MOP, and that meetings of the SBSTA and the SBI would be held in parallel with each other. There would be a joint high-level segment for COP and COP/MOP 1 with one speaker’s list and one intervention per Party. No decisions would be taken by the joint high-level segment, and seating arrangements for the COP would be used during the COP/MOP. Decision 17/CP.9 calls on the SBI, immediately after COP/MOP 1, to review the arrangements and make further recommendations. It also addresses the rules for replacement of officers, the report on credentials and a single process for the admission of observer organizations.

² FCCC/SBI/2003/8, page 15.

³ FCCC/CP/2003/6/Add.2, page 3.

B. Agenda management for the Conference of the Parties, the subsidiary bodies and the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol

20. This section highlights some agenda management issues of the COP and the subsidiary bodies. It also examines the agreed arrangements for the COP/MOP sessions pertaining to agendas.

21. Rule 9 of the draft rules of procedure being applied provides that “in agreement with the President, the secretariat shall draft the provisional agenda of each session”.⁴ The agendas for the COP and the subsidiary bodies are based on the ongoing programme of work of each body, with many items recurring at every session and new items added as necessary. The COP usually refers most of its agenda items to the subsidiary bodies.

1. Frequency of consideration

22. The sessions of the COP are currently held annually, and the subsidiary bodies meet biannually. Considering some agenda items at a frequency of 5–7 months leaves little “implementation time”. Some items may also benefit from less frequent formal discussion, and more intersessional work or in-session informal discussions. If discussions progress more quickly, some items may not need discussion twice a year. At past sessions, participants have noted that some agenda items should be included at every session as a matter of political priority, and others have stated that political imperatives are not strengthened when no substantive outcome results or only procedural conclusions are adopted.

2. Number of agenda items at each session

23. There is a direct correlation between the number of agenda items and the number of contact groups and informal consultations. This, in turn, leads to a schedule of meetings during the sessions that is very stressful and sometimes unworkable. Furthermore, in order to address all issues, some issues do not receive sufficient time to enable a substantive outcome to be agreed. Fewer agenda items could result in a less intense schedule of contact group meetings and informal consultations and allow for more meetings of each individual group.

24. Considering many items at each session leaves very little time during the sessions for issues to be addressed, as each additional agenda item takes time away from the others. Insufficient time during meetings to consider all issues in sufficient depth may contribute to inconclusive outcomes. At past sessions, participants in the process have also noted that new items are sometimes added to the COP and subsidiary body agendas, but that existing agenda items are seldom removed, thereby creating long and sometimes inconsistent agendas.

25. The COP 10 provisional agenda contains the same number of items and sub-items as the COP 9 agenda, which covered an intensive programme of work. The COP agenda contains about the same number of items as do those of the principal meetings of other multilateral environmental processes such as the Montreal Protocol, the CBD and the UNCCD. However, such a quantitative comparison does not take into account how much time and effort is required to address these agenda items.

26. The CBD COP, at its seventh session, adopted a multi-year programme of work (MYPOW) up to 2010.⁵ The COP decided that, to the extent feasible, a maximum of six items for in-depth review should be considered at any meeting of the COP and that cross-cutting issues be dealt with in a coherent manner taking into account the different requirements and characteristics of the issues. It also agreed that it would focus on assessing the implementation and effectiveness of the MYPOW, updating the MYPOW if necessary by retiring or replacing activities and by making adjustments to reflect changes in the international context, and providing practical support for national and regional implementation. It also decided that some flexibility in the MYPOW should be retained in order to accommodate urgent emerging issues.

⁴ FCCC/CP/1996/2.

⁵ COP VII/31, Annex I, see <<http://www.biodiv.org/decisions/>>.

3. Items held in abeyance

27. At recent sessions, the agendas of the COP and the SBI have been adopted with **items held in abeyance**. Parties could not reach even a procedural conclusion to consider these items, and following rule 10 (c) and rule 16 of the draft rules of procedure being applied, the items were included in the provisional agenda for the next session. Some of these items have been held in abeyance for many sessions with no sign of resolution or progress.

4. Agenda management for the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol

28. The entry into force of the Kyoto Protocol will further intensify the schedule of formal and informal meetings. Regarding the agendas of the subsidiary bodies held in conjunction with the COP/MOP, the SBI 18 conclusions state that items relating to the Convention and items relating to the Protocol should be clearly identified on the agendas of the SBSTA and SBI. They also call for meetings of the COP and COP/MOP to be organized so that similar or related items on their agendas would be dealt with in proximity, or jointly if the Parties to the Convention and Protocol so decide. Meetings of the SBI and SBSTA would be organized so as to ensure that similar or related items on each of their agendas relating to both the Convention and the Kyoto Protocol would be dealt with in proximity. They could also be dealt with together if the Parties to the Convention and the Parties to the Kyoto Protocol so decide.

C. Workshops, expert groups and constituted bodies

1. Workshops

29. Workshops provide an important opportunity for technical discussions among Parties. Workshops are often focused and informative, and facilitate progress on specific issues. As such, they are vehicles to support the formal process and result in reports to the subsidiary bodies, rather than formal decisions. Workshops are resource-intensive and to be successful they require a good selection of invited experts, extensive preparation on behalf of participants and good discussion. Depending on the mandate of the workshop, reports are prepared under the authority of the chair, or the secretariat. In all cases they are completed by the secretariat following consultations with the chair of the event and of the relevant subsidiary body.

30. The secretariat has been requested by the Parties to organize a total of 61 workshops and expert meetings since the adoption of the Marrakesh Accords at COP 7. Since COP 7, a total of 1,598 participants have attended workshops and expert meetings, with some 56 per cent of them coming from non-Annex I Parties.⁶

2. Expert groups and constituted bodies

31. There are currently four constituted bodies and/or expert groups in the UNFCCC process:

- The clean development mechanism (CDM) Executive Board: the CDM Executive Board supervises the CDM, under the authority and guidance of the COP/MOP, and is fully accountable to the COP/MOP. The COP takes the role of COP/MOP until entry into force of the Kyoto Protocol⁷
- The Least Developed Countries Expert Group (LEG): the objective of the LEG is to advise on the preparation and implementation strategy for national adaptation programmes of action

⁶ This paper does not address operational aspects of workshops, which are considered under item 10 of the SBI 21 provisional agenda: "Continuing review of the functions and operations of the secretariat".

FCCC/SBI/2004/INF.10 contains a detailed description of workshops, their mandates and other information.

⁷ Decision 17/CP.7.

(NAPAs), which would meet the urgent and immediate adaptation needs of the least developed countries (LDCs)⁸

- The Expert Group on Technology Transfer (EGTT): the objectives of the EGTT are to enhance the implementation of Article 4.5 of the Convention, to facilitate and advance technology transfer activities and to make recommendations to this end to the SBSTA⁹
- The Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention (CGE): the objective of the CGE is to improve the preparation of national communications by non-Annex I Parties¹⁰

32. Each of these groups meets independently from the COP and subsidiary bodies, and often in conjunction with relevant workshops.

33. In comparison, other intergovernmental processes also have constituted bodies and technical expert groups that are requested to perform supportive roles. For the Montreal Protocol, several technical groups assess the results of research on alternatives to chlorofluorocarbon (CFC) for use in specific applications (e.g., the Medical Aerosols Technical Options Committee that looks at alternatives for asthma inhalers).

IV. Questions for discussion and possible options for improvement

A. Agendas of the Conference of the Parties, the subsidiary bodies and the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol

34. A number of adjustments or alternative approaches are possible regarding the frequency of consideration of agenda items, the programme of work, the structure and content of the agendas, and approaches for dealing with issues held in abeyance. Participants may wish to consider the following questions for discussion and possible options for improvement.

1. Content of agendas

35. **Do the agendas adequately cover the issues important to Parties?** Is the current structure of the COP and subsidiary body agendas optimal for effective consideration of items. In particular:

- (a) Does the current organization of items frustrate the expansion or evolution of discussions (i.e. are annual items “locked” in time)? Should some longstanding agenda items be reviewed for continuing relevance and possibly combined with related agenda items or updated with more current information or concerns? Do the titles currently used for agenda items facilitate discussion of the issues?
- (b) Do the current agenda structures fragment topics under numerous agenda items? Would combining some items or sub-items on the current agenda facilitate discussions?

36. **Should limits be agreed for continuing to hold items in abeyance?** For future sessions, it may be useful to consider:

- (a) Whether such items should remain on the agenda at each meeting;
- (b) Whether to restrict the number of times an item held in abeyance can be deferred to a future session;
- (c) Whether and how discussions about the content of the agenda should and could be resolved without putting items in abeyance.

⁸ Decision 29/CP.7.

⁹ Decision 4/CP.7.

¹⁰ Decisions 3/CP.8, 31/CP.7 and 8/CP.5.

2. Frequency of consideration and number of agenda items

37. Option 1: Consideration of the current number of agenda items at each session. This option reflects the status quo, with its inherent problems.

38. Option 2. Criteria for inclusion of agenda items for a particular session. This option would establish agreed criteria for the inclusion of items on the agenda. For example, related agenda items might be included when work programmes are scheduled for review at a specific COP or subsidiary body session, or when a substantive outcome for a particular agenda item is anticipated. It may also serve to prioritize and/or combine the consideration of certain issues. The process currently applies a flexible set of criteria for including items on the agenda.

39. Option 3: Multi-year plan of work or agreed cycle for considering agenda items. This option would set an agreed cycle for considering agenda items. Rather than consider the current number of items at each session, a multi-year plan could distribute their consideration over a specified period. Again, this approach may also serve to prioritize (possibly with planned changes in emphasis over time) and/or combine the consideration of certain issues. It could also:

- (a) Result in fewer agenda items at each session;
- (b) Enable delegates to prepare well in advance for particular sessions, and allow for concentrated focus on particular issues rather than preparation for multiple discussions at each session;
- (c) Foster more conclusive outcomes, as it would allow for more time for each item;
- (d) Ensure an equitable distribution of time for each issue.

B. Frequency of sessions

40. Article 7, paragraph 4, provides that the COP shall be held every year unless it decides otherwise. COPs have mostly been held on an annual basis, whereas SBSTA and SBI sessions have recently been held twice a year – one of these sessions being in conjunction with the COP. Participants may wish to consider whether other options, such as holding meetings of the COP and/or COP/MOP every two years, would possibly benefit the process.

C. The high-level segment beyond the tenth session of the Conference of the Parties

41. It may be reasonable to consider an adjustment in the frequency, format and/or length of the high-level segments during COPs and COP/MOPs. This would imply that not all COPs and COP/MOPs are expected to serve the same purpose, or expected to result in similar outcomes. With regard to the frequency of ministerial participation in the high-level segment, options include:

- (a) Option 1: High-level segment with ministerial presence at every session
This is the current practice
- (b) Option 2: High-level segment with ministerial presence at selected COPs.

42. The COP has used differing formats for the high-level segment. Many COP sessions have used national statements as the mode for exchanges among ministers and other heads of delegation. COP 8 and COP 9 held three round-table discussions during the high-level segment, whereas COP 10 will feature four panel discussions among ministers and other heads of delegation. As agreed by the SBI, there would be a joint high-level segment for COP and COP/MOP 1 with one speaker's list and one intervention per Party. No decisions would be taken by the joint high-level segment, and seating arrangements for the COP would be used during the COP/MOP. Participants may wish to reflect on the optimal format for the high-level segment at future sessions.

D. In-session arrangements

43. The traditional approach for organizing sessions of the COP and subsidiary bodies has been:
- (a) An opening meeting
 - (b) Initial discussions of agenda items to introduce each item, hear statements and take procedural decisions to establish contact groups and convene informal consultations
 - (c) Extended discussions in contact groups and informal consultations where the conclusions and draft decisions are developed
 - (d) A closing meeting for the adoption of decisions and conclusions.
44. Should this basic approach continue? Would other approaches be more efficient?

E. Workshops, expert groups and constituted bodies

45. Participants may find it appropriate to discuss whether workshops are indeed serving their intended function, and whether they are contributing to achieving results in the intergovernmental process. How can the outcomes of workshops be most effectively brought into the formal process? Is the current number of workshops optimal for the intergovernmental process?
46. As expert groups and constituted bodies are reviewed individually by the COP, participants may wish to discuss their overall effectiveness as a tool to facilitate the intergovernmental process. Are they serving the intended purposes and providing useful and necessary inputs to the intergovernmental process? Should the current number of expert groups and constituted bodies be adjusted?

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