

SERIES III- GUIDELINES FOR PRESIDING OFFICERS

1. PROCEDURAL GUIDELINES FOR CHAIRPERSONS OF SUBSIDIARY BODIES OF THE CONFERENCE OF THE PARTIES

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Foreword

These Procedural guidelines for chairpersons of subsidiary bodies of the Conference of the Parties (“The Guidelines) are prepared by the UNCCD secretariat. They are designed to serve as source of information and guidance for the Chairpersons of the subsidiary bodies of the Conference of the Parties (COP) on the conduct of negotiations in the UNCCD process.

The Guidelines contain information on the following:

- I. Institutional structure of the Convention;
- II. Conduct of business and the role and responsibilities of the Chairpersons of subsidiary bodies of the COP;
- III. Negotiating forums.

The Guidelines shall be reviewed and updated periodically by the secretariat, in particular after COP sessions, for sake of consistency, uniformity and legal and procedural coherence, as required.

I. Institutional structure

The standard institutional arrangements for the United Nations Convention to Combat Desertification (“UNCCD” or “Convention”) intergovernmental process are established as follows:

- A supreme governing body – the Conference of the Parties (COP);
- Subsidiary bodies:
 - The Committee for the Review of the Implementation of the Convention (CRIC);
 - The Committee on Science and Technology (CST);
- Process Management Bodies:
 - Bureau of the COP
 - Bureaus of subsidiary bodies: CRIC and CST
- The secretariat;
- The Global Mechanism (GM).

Collectively, these institutions participate in the process of developing policies, providing and giving support to Parties on the implementation of the Convention.

A. Conference of the Parties (article 22 of UNCCD)

The COP is the supreme body of the Convention and its highest decision-making organ. The COP shall take, within its mandate, the decisions necessary to promote effective implementation of the Convention. In particular, it is responsible for regularly reviewing the implementation of the Convention and the functioning of its institutional arrangements. At its first session, the COP adopted its own rules of procedure (decision 1/COP.1), which include decision-making procedures for matters not already covered by those stipulated in the Convention (article 22 of the Convention).

Between 1997 and 2001, five annual sessions of the COP have been held. Beginning with the sixth session of the COP, the UNCCD process revolves around the biennial sessions of the COP (article 22.4 of the Convention). These sessions bring together Parties to the Convention, as well as observer States, organizations and the media. These sessions take place at the headquarters of the secretariat, unless another Party offers to host the sessions and meet the incremental costs generated, as per UNGA Resolution 40/243 of 18 February 1986 (section I, paragraph 5). As at December 2009, nine sessions of the COP have been convened.

B. Subsidiary bodies (articles 22.2 (c) and 24 of UNCCD, rule 28, decision 11/COP.9)

In line with Article 22.2 (c) of the UNCCD and rule 28 of the rules of procedure, the COP shall establish such subsidiary bodies as are deemed necessary for the implementation of the Convention. Such “subsidiary bodies” include committees and working groups.

Two subsidiary bodies of the COP are established as follows:

- The Committee on Science and Technology (CST) is to provide the COP with information and advice on scientific and technological matters relating to combating desertification and mitigating the effects of drought (article 24 of the UNCCD);
- The Committee for the Review of the Implementation of the Convention (CRIC) is a standing subsidiary body, which assists the COP in regularly reviewing the implementation of the Convention and The Strategy (decision 11/COP.9).

In line with provisions of article 24.1 of the UNCCD, the CST meets in conjunction with the ordinary sessions of the COP. However, following decision 12/COP.8 on the functioning of the CST, the COP decided to consider the possibility of the CST holding one intersessional meeting and one shorter meeting that will be held in conjunction with the COP. The CST organized its first special session (CST S-1) in 2008. Subsequently, in line with decisions 25/COP.9, 26/COP.10 and 28/COP.11 further special sessions of the CST took place as follows: 2011 CST second special session (CST S-2) 2013 CST third special session (CST S-3) and 2015 CST fourth special session (CST S-4).

By its latest decision 19/COP.12, the COP decided that that future scientific meetings on DLDD should be decoupled from official sessions of the CST; these scientific meetings can take the form of UNCCD-related scientific conferences, stand-alone expert meetings or expert meetings held in conjunction with existing international scientific conferences.

In accordance with decisions 11/COP.9 (on additional procedures or institutional mechanisms to assist the Conference of the Parties in regularly reviewing the implementation of the Convention) and 12/COP.9 (on the performance review and assessment of the implementation of the Convention and of the Strategy), from 2012 onwards the CST is also meeting intersessionally.

Decision 11/COP.9 adopted the terms of reference (TORs) of the CRIC and spells out the frequency of CRIC sessions. In line with it, CRIC sessions held between ordinary sessions of the COP shall be held every two years, the second of which will be held subsequent to the intersessional sessions of the CST. Sessions held between ordinary sessions of the COP and held in conjunction with the sessions of the CST should last not longer than two weeks, including the duration of the session of the CST. Sessions held between ordinary sessions of the COP and held separately from the sessions of the CST should last not longer than one week (five working days). Extraordinary sessions of the CRIC shall be held at such times as may be decided by the COP.

Subject to rule 31 of the rules of procedure, subsidiary bodies shall not take votes (rule 32).

Subject to article 24 of the Convention, the COP shall determine the matters to be considered by each subsidiary body and may authorize the President, upon the request of a subsidiary body, to adjust the allocation of work (rule 33).

The main outcomes from the deliberations of subsidiary bodies are reports or recommendations for decisions and adoption by the COP.

C. Process Management Bodies

1. Bureau of the Conference of the Parties (article 22.6 of UNCCD, rules: 20, 22, 24, 26)

In line with the provisions of article 22.6 of the UNCCD, at each ordinary session, the COP shall elect a Bureau. The Bureau serves not only during the session but also between sessions. The structure and functions of the Bureau are determined by the rules of procedure 20,22,24,26. The Bureau consists of the following officers: the President, nine Vice-Presidents and the Chairpersons of the CST and of the CRIC. One of the Vice-presidents shall act as Rapporteur. In line with the same above-mentioned article of the Convention, above-mentioned, in appointing the Bureau, due regard shall be paid to equitable geographical distribution and adequate representation of affected country Parties, particularly those in Africa. The offices of the President and the Rapporteur shall normally be subject to rotation among the regional groups (rule 22 of the rules of procedure).

The President is responsible for presiding over the session of the COP and facilitating its work in order to promote agreement among Parties. At the first meeting of each ordinary session, the President of the previous ordinary session, or in the absence of the President, his representative (as per UNCCD pattern of conferences) or a Vice-President shall preside until the COP has elected a President for the session (rule 26). The President remains under the authority of the COP, and he/she must remain impartial and cannot exercise the rights of a representative of the Party to which he belongs (rule22).

One of the Vice-Presidents assists the President in this work, and may preside over sessions of the COP (as Acting President) if the President is temporarily absent from a meeting or any part thereof. The President so designated shall not at the same time exercise the rights of a representative of a Party (rule 24).

At the first meeting of each ordinary session, a Vice-President may also preside (as Temporary President), in the absence of the President, until the COP has elected a President for the session (rule26).

The Rapporteur is responsible for preparing the report of the session. He/she is assisted in this task by the secretariat.

The Bureau of any session is also responsible to examine the credentials and submit its report to the COP for decision (rule 20).

If an officer of the Bureau resigns or is otherwise unable to complete the assigned term of office or to perform the functions of that office, a representative of the same Party shall be named by the Party concerned to replace the said officer for the remainder of that officer's mandate (rule 25).

2. Bureaus of subsidiary bodies (rule 31, decision11/COP.9)

Each subsidiary body established by the COP elects a Bureau. Rule 31 of the Rules of procedure as replaced by paragraph 2 of decision 25 /COP.10 spells out the issue of election of officers of subsidiary bodies.

In line with this, the Chairperson of the Committee on Science and Technology shall be elected by the COP. Paragraph 1 of decision 25/COP.10, which replaced Rule 22 of the COP Rules of Procedure, further specifies that the Chairperson of the CST shall be elected at the final meeting of the COP and shall assume his or her office immediately. Unless the COP decides otherwise, the Chairperson of any other subsidiary body shall be elected by the COP.

The Chairperson of each subsidiary body together with its respective four Vice-Chairpersons which are elected by the CRIC and CST, form the CRIC and the CST Bureaus. In each case, one of the Vice-Chairpersons shall act as Rapporteur.

The Chairperson and four Vice-Chairpersons of the two subsidiary bodies shall be elected with due regard to the need to ensure equitable geographical distribution and adequate representation of affected country Parties, particularly those in Africa, while not neglecting affected country Parties in other regions and shall not serve for more than two consecutive terms.

The Chairperson of a subsidiary body is responsible for facilitating the work of that subsidiary body, with the assistance of the Vice-Chairpersons. The Rapporteur is responsible for preparing the report of the session. He/she is assisted by the secretariat in this function.

In the case of the CRIC Bureau, as per paragraph 9 of the annex to decision 11/COP.9, the Vice-Chairpersons of the CRIC shall be elected at the final meeting of the session of the CRIC, held in conjunction with the sessions of the COP, and shall assume their office immediately. Furthermore, in the case of the CST Bureau, as per paragraph 2 of decision 25/COP.10, the Vice-Chairpersons of the CST shall be also elected at the final meeting of the session of the Committee held in conjunction with the sessions of the COP and shall assume their office immediately.

D. Secretariat (article 23 of UNCCD, decision 3/COP.8)

The secretariat services the COP, its subsidiary bodies and their Bureaus, as established under the Convention.

Its functions are delineated in article 23 of the Convention, as follows:

(a) to make arrangements for sessions of the Conference of the Parties and its subsidiary bodies established under the Convention and to provide them with services as required;

(b) to compile and transmit reports submitted to it;

(c) to facilitate assistance to affected developing country Parties, on request, particularly those in Africa, in the compilation and communication of information required under the Convention;

(d) to coordinate its activities with the secretariats of other relevant international bodies and conventions;

(e) to enter, under the guidance of the Conference of the Parties, into such administrative and contractual arrangements as may be required for the effective discharge of its functions;

(f) to prepare reports on the execution of its functions under this Convention and present them to the Conference of the Parties; and

(g) to perform such other secretariat functions as may be determined by the Conference of the Parties.

The secretariat is required to strengthen its core servicing, advocacy and agenda-setting and representation functions for the implementation of the 10-year strategic plan and framework

to enhance the implementation of the Convention (2008–2018), in order to support Parties, the COP and its subsidiary bodies in fulfilling their respective roles¹.

E. Global Mechanism (article 21.4 and 5)

The Global Mechanism serves the UNCCD process by promoting actions leading to the mobilization and channelling of substantial financial resources, including for the transfer of technology, on a grant basis, and/or on concessional or other terms, to affected developing country Parties, is hereby established. The Global Mechanism functions under the authority and guidance of the COP and is accountable to it (article 21.4 of the Convention).

Its functions are stated in paragraph 5, of article 21(financial mechanisms) of the Convention, as follows:

- (a) Identify and draw up an inventory of relevant bilateral and multilateral cooperation programmes that are available to implement the Convention;
- (b) Provide advice, on request, to Parties on innovative methods of financing and sources of financial assistance and on improving the coordination of cooperation activities at the national level;
- (c) Provide interested Parties and relevant intergovernmental and non-governmental organizations with information on available sources of funds and on funding patterns in order to facilitate coordination among them; and
- (d) Reports o the Conference of the Parties, beginning at its second ordinary session, on its activities.

II. Conduct of Business and the Role and Responsibilities of the Chairpersons of subsidiary bodies of the COP

A. Rules of procedure of the Conference of the Parties (decision 1/COP.1)

The conduct of business at any session of the Conference of the Parties is regulated by the rules of procedure. The Parties to the UNCCD have adopted the rules of procedure as contained in document ICCD/COP(1)/11/Add.1, decision 1/COP.1.

The rules apply to any session of the COP convened in accordance with article 22 of the Convention (rule 1 of the rules of procedure). Also, they apply *mutatis mutandis* to the proceedings of any subsidiary bodies (rule 27).

Core rules of procedure are addressed herein as follows: agenda, quorum, the functions of the presiding officer, procedures for speaking, submission of proposals, motions, and voting.

¹ Document ICCD/COP(8)/16/Add.1, decision 3/COP.8, Annex, paragraph 19

B. Agenda and its adoption (Rules of procedure -Chapter IV Agenda)

In accordance with rule 9 of the rules of procedure, the provisional agenda of each session of the COP is prepared by the secretariat in agreement with the President.

In accordance with rule 27, which specifies that the rules of procedures shall apply *mutatis mutandis* to the proceedings of any subsidiary body, the provisional agenda of each session of the subsidiary bodies is prepared in agreement with the Chairpersons of those bodies.

Pursuant to decision 11/COP.9 (on additional procedures or institutional mechanisms to assist the Conference of the Parties in regularly reviewing the implementation of the Convention, containing the ToR of the CRIC), the provisional agenda of the sessions of the CRIC shall be prepared by the Executive Secretary, in consultation with the Bureau of the CRIC².

Items

In accordance with rule 10 of the rules of procedure, the items that shall be included in the provisional agenda are: items arising from the articles of the Convention, including those specified in its article 22, items for which the inclusion has been decided at a previous session, items from a previous session whose consideration had not been completed (rule 16), the proposed budget as well as questions arising to the accounts and financial arrangements and any item proposed by a Party and received by the secretariat before the provisional agenda is circulated.

Distribution

The rules of procedure require that the provisional agenda, together with supporting documents, to 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).

Supplementary provisional agenda

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).

Addition, deletion, deferment or amendment of items

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 by the Parties may be added to the agenda.

Provisional agenda of extraordinary session

It shall consist only of those items proposed for consideration in the request for holding of the extraordinary session. It shall be distributed to Parties at the same time as the invitation to the extraordinary session (rule 14).

C. Quorum (rules 29 and 37)

The rules of procedure establish two types of quorum: the quorum for opening a meeting and the quorum for decision-making (rule 37), the latter still pending a final decision by the COP³. For meetings of the COP 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

² Section VI (Organization of work), paragraph 23 of the Annex to decision 11/COP.9.

³ See rule 47 on majority required.

the Convention. The presence of two thirds of the Parties to the Convention is required for any decision to be taken.

In the case of a subsidiary body that is not open-ended – that is, participation is restricted to a pre-determined number of Parties – the quorum required is a majority of the Parties designated to participate therein (rule 29).

Determining the existence of a quorum is part of the powers of the presiding officer. In UNCCD practice, the presiding officer always makes sure that the representatives of all the negotiating groups are present before opening the meeting and allowing the 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.

Quorum for adopting amendments to the text of the Convention (article 30 of the Convention)

Any Party may propose amendments to the Convention. Amendments to the Convention shall be adopted at an ordinary session of the Conference of the Parties. The text of any proposed amendment shall be communicated to the Parties by the Permanent Secretariat at least six months before the meeting at which it is proposed for adoption. The Permanent Secretariat shall also communicate proposed amendments to the signatories to the Convention (article 30.1 and 2 of the Convention).

The Parties shall make every effort to reach agreement on any proposed amendment to the Convention by consensus. If all efforts at consensus have been exhausted and no agreement reached, the amendment shall, as a last resort, be adopted by a two-thirds majority vote of the Parties present and voting at the meeting (article 30.3 of the Convention).

D. Functions of the presiding officer (rule 23)

The rules of procedure define, inter alia, the functions of the President of the COP. Rule 23 outlines/specifies the general powers. However, throughout the rules of procedure other specific functions are established. These rules apply, *mutatis mutandis*, to chairpersons of the subsidiary bodies (see point A above).

1. Obligation of impartiality (rule 22.3)

A cardinal principle in the exercise of the powers conferred on the presiding officer is the obligation of impartiality. The rules of procedure 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).

2. General powers of the presiding officer (rule 23)

Rule 23 of the rules of procedure specifies the general powers of the President of the COP, as follows:

- 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.

Rule 23 also provides that the President 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/ her office, the President remains under the authority of the COP. In practical terms this means that the COP can at any time override a decision of the President.

3. Authority of the presiding officer with regard to irrelevant or offensive statements (rule 23)

Rule 23 provides that the President “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 (rules 40 and 43)

A point of order is an intervention directed to the presiding officer, requesting him or her to use certain powers inherent in his/ her office or vested in him/ 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 40 of the rules of procedure provides that a representative may at any time raise a point of order during the discussion of any matter. The President is required to decide immediately on the point of order. A representative may appeal against the ruling of the President. Such an appeal shall be put to the vote immediately and the President’s ruling shall stand unless overruled by the majority of the Parties present and voting. “Parties present and voting” means Parties present and casting an affirmative or negative vote.

A point of order has precedence over any other matter including the procedural motions specified in rule 43 of the 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. Procedures for speaking (rule 38)

Rule 38 of the rules of procedure provides that no one may speak at a meeting of the COP without having previously obtained the permission of the President.

The presiding officer shall call upon speakers in the order in which they signify their desire to speak, subject to rules on precedence (according to which the Chairperson or the Rapporteur of a subsidiary body may be accorded precedence for the purpose of explaining conclusions arrived at by that subsidiary body), points of order, decisions on competence and order on procedural motions.

The presiding officer may call a speaker to order if the speaker's remarks are not relevant to the subject under discussion.

The COP may, on a proposal from the presiding officer or from a Party, limit the time allowed to each speaker and the number of times each representative may speak on a question. Before a decision is taken, two representatives may speak in favour of and two against a proposal to set such limits.

When the debate is limited and a speaker exceeds the allotted time, the presiding officer shall call the speaker to order without delay.

F. Motions and proposals

A "motion" is a formal proposal by a Party that the meeting takes a 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 43)

Rule 43 of the rules defines procedural motions that have precedence over all other proposals or motions subject to rule 40 (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 43 of the rules of procedure.

2. Motion on the competence of the COP or subsidiary body (rule 41)

Rule 41 of the rules of procedure 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 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.

3. Submission of proposals (rules 42 and 44)

Rule 42 of the rules of procedure 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, in one of the official languages, 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 President, however, has discretion to dispense with the above requirements regarding circulation and time frame and to permit discussion and consideration.

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 44). Once withdrawn, a proposal or motion may be re-introduced by any other Party.

The rules of procedure contain detailed provisions (rules 48–51) regarding voting on proposals.

4. Reconsideration of proposals (rule 45)

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 (rule 45). Permission to speak on a motion for reconsideration shall be accorded only to the mover, to one speaker in favour of, and two against, the proposal, after which it shall be put immediately to vote.

G. Voting (article 32 of UNCCD and rules 6, 7, 37 and 47.2 to 47.4)

In line with article 32 of the UNCCD, each Party to the Convention shall have one vote. Regional economic integration organizations are an exception and they exercise their right to vote in matters within their competence, with a number of votes equal to the number of their member States that are Parties to the Convention. However, such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

Observers such as the United Nations, its specialized agencies, any State member thereof or observers thereof not Party to the Convention, as well as the organization housing the

Global Mechanism may, upon invitation of the President, participate without the right to vote in the proceedings of any session, unless at least one third of the Parties present at the session object (rule 6).

Also, observers such as any body or agency, whether national or international, governmental or non-governmental which is qualified in matters covered by the Convention and which has informed the secretariat of its wish to be represented at a session of the COP may, upon the invitation of the President, participate without the right to vote in the proceedings of any session in matters of direct concern to the body or agency they represent, unless at least one third of the Parties present at the session object (rule7).

As regards the majority required for agreement on all substantive matters, the draft text of the rule 47.1 has been amended by decision 21/COP.2. However, as of October 2010, this draft rule of procedure is still outstanding and is to be re-considered at the COP10 in 2011.

The decision-making on procedural matters requires a majority of the Parties present and voting (rule 47.2).

If the question arises as to whether a matter is one of a procedural or substantive nature, the President shall rule on the question (rule 47.3).

If, on matters other than elections, a vote is equally divided, a second vote shall be taken, If this vote is also equally divides, the proposal shall be regarded as withdrawn (rule 47.4).

The presence of two thirds of the Parties to the Convention is required for any decision to be taken (rule 37). The presiding officer, with the assistance of the secretariat, must ensure that there is a quorum for decision-making.

1. Method of voting for general matters (rules 52.1 and 52.2)

Voting, except for elections, shall normally be by show of hands. A roll-call vote shall be taken if one is requested by any Party. It shall be taken in the order used or established by the rules of procedure of the General Assembly of the United Nations. However, if at any time a Party requests a secret ballot that shall be the method of voting on the issue in question. When the Conference of the Parties votes by mechanical means, a non-recorded vote shall replace a vote by show of hands and a recorded vote shall replace a roll-call (rules 52.1 and 52.2).

2. Conduct during voting

After the President has announced the beginning of voting, no representative shall interrupt the voting except on a point of order in connection with the actual conduct of the voting. The President may permit the Parties to explain their votes, either before or after the voting. The President may limit the time to be allowed for such explanations. The President shall not permit the proposer of a proposal or of an amendment to a proposal to explain his/her vote on his/her own proposal or amendment, except if it has been amended.

3. Voting majorities under the Convention (articles 30.3 and 31.1 of UNCCD)

The Convention establishes voting majorities on a number of further issues:

- Amendments to the Convention require a two-thirds majority vote of the Parties present and voting at the meeting (article 30.3).
- Adoption and amendment of annexes to the Convention shall be proposed and adopted in accordance with article 31.1.

- In adopting an additional regional implementation annex or amendment to any regional implementation annex, the majority provided for in that article shall include a two-thirds majority vote of the Parties of the region concerned present and voting.

H. The Meaning of “consensus”

Except for the foregoing matters and other matters discussed above for which the rules of procedure 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.

III. Negotiating forums

Information on negotiations that take place in the plenary, main committees and the sessional Committee of the Whole is provided below.

A. Plenary and subsidiary bodies meetings

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

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 rules of procedure.

It is during plenary meetings that decisions are taken by the COP 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.

Accordingly plenary meetings provide Parties with the forum to make general statements on items on the agenda of the meeting. Negotiations on key issues rarely take place in plenary meetings. These are conducted in other forums, namely contact groups, informal consultations and "Friends of the Chair" meetings. These groups are set-up by the respective Presidents/Chairpersons of the COP/CRIC/CST/COW on the basis of the agenda requirement, for the duration of the session. Presidents of the contact groups might be invited to specific sessions of the Bureaus.

During the opening of plenary meetings, the COP 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 chairpersons of the subsidiary bodies to consult further with Parties. The President and the chairpersons of the subsidiary bodies will inform the meeting of the presiding officers selected to chair the various contact groups and informal consultations for their approval.

During the last plenary meetings, 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. The presiding officer will also inform the President or Chairpersons of the subsidiary bodies of any documents containing decisions or conclusions forwarded for consideration and adoption by the COP.

Following the reports on the outcome of the negotiations in the contact groups and informal consultations, or consultations by the President or Chairperson, 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. Establishment of a Committee of the Whole and allocation of its tasks

As per established practice, at its opening plenary meeting, the Conference establishes a sessional Committee of the Whole (COW) to consider items on the agenda allocated to it by the COP and to submit recommendations thereon to the COP.

The COW is open to the participation of all delegations. It has the task of recommending decisions on matters delegated to it by the COP, for adoption by the Conference. Its Chairperson has the authority to delegate work, as appropriate, to drafting groups and acts as ex-officio member of the COP Bureau at CoW sessional meetings.

As per established practice, the Executive Secretary appoints a senior officer of the staff to serve as Secretary of the COW.

Glossary of terms

“Acting President” means the Vice President designated to act as President in case of temporary absence of the President; The President so designated shall not at the same time exercise the rights of a representative of a Party; he/she shall have the powers and duties of the President (rule 24);

“Acting Chairperson” means the Vice-Chairperson of a subsidiary body designated to act as Chairperson in case of temporary absence of the Chairperson.

“Chairperson” means the Chairperson of a subsidiary body of the Convention, i.e., CST (rule 31 and decision 15/COP.1) and CRIC (decision 11/COP.9);

“Convention or UNCCD” means the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa, adopted at Paris on 17 June 1994;

“Extraordinary sessions of COP” means the COP sessions held at such times as decided either by the COP or at a written request of a Party; in the latter case, it shall be held not more than ninety days after the date at which the request is supported by at least one third of the Parties (rules 4.3 and 4.4);

“Parties” means Parties at the Convention;

“Parties present and voting” means Parties present at the meeting at which voting takes place and casting an affirmative or negative vote; Parties abstaining from voting shall be considered as not voting;

“Presiding officer” refers to both, the President of the COP and Chairpersons of subsidiary bodies;

“President” means the President of the COP elected in accordance to rule 22.1; term used whenever reference is made to a specific rule of procedure;

“Regional economic integration organization” means an organization defined in article 1.(j) of the Convention;

“Rule” means a specific rule of procedure contained in decision 1/COP.1 (Rules of procedure of the COP);

“Rules of procedure” means the set of rules adopted by the COP by its decision 1/COP.1.

“Session” –any ordinary or extraordinary session of the COP convened in accordance with article 22 of the Convention.

“Temporary President” - the President of a previous ordinary session, or in the absence of the President, a Vice-President that shall preside until the Conference of the Parties has elected a President for the session (rule 26).
