



# WORLD HEALTH ORGANIZATION

OPEN-ENDED INTERGOVERNMENTAL  
WORKING GROUP ON THE  
WHO FRAMEWORK CONVENTION  
ON TOBACCO CONTROL  
Provisional agenda item 6

A/FCTC/IGWG/1/4  
20 May 2004

## Draft rules of procedure for the Conference of the Parties, including criteria for participation of observers

### Note by the Secretariat

#### INTRODUCTION

1. By resolution WHA56.1, the Fifty-sixth World Health Assembly (May 2003) adopted the WHO Framework Convention on Tobacco Control and decided to establish an open-ended intergovernmental working group to consider and prepare proposals on a number of issues for consideration by the Conference of the Parties at its first session. Such issues were to include rules of procedure for the Conference of the Parties, including criteria for participation of observers at sessions of the Conference of the Parties (Article 23, paragraphs 3 and 6 of the Framework Convention). In accordance with Article 24, paragraph 2 of the Framework Convention, WHO provides secretariat functions until such time as a permanent secretariat is established.

2. The draft rules of procedure set out in the Annex as a basis for consideration have been based on the Rules of Procedure of the World Health Assembly, the Rules of Procedure of the Executive Board and on the precedents and practices of several international conventions and organizations. This note provides an overview and explanation of standard provisions of rules of procedure, and gives examples of precedents where appropriate. These precedents are listed numerically in the Appendix.

#### ELEMENTS OF RULES OF PROCEDURE

3. Rules of procedure constitute a legal instrument that governs the work of certain organs established by a multilateral convention or international organization. They are adopted either by the supreme body of the convention or organization, or by the organ to which the rules apply. They lay down procedures for the meetings of the organ concerned and of any subsidiary bodies, and for the participation of representatives of Parties to a convention or of members of an organization and of observers. They define the role of the secretariat, the functions and duties of officers, and establish procedures for the conduct of business, decision-making and elections.

4. Two different approaches to the rules of procedure can be seen in the precedents. With the first approach, the supreme body of the convention adopts its own rules of procedure, as distinct from those of the parent organization on account of the differences between the functioning of a convention and

that of an international organization. However, some of the rules of the parent organization may be included, if relevant, particularly on a specific subject. This was the approach taken, for example, by the multilateral environmental agreements adopted under the auspices of UNEP, in which all the procedural provisions of the convention are contained in a single document, thus avoiding the need for cross-referencing. The disadvantage is a certain amount of duplication.

5. The second approach is for the rules of procedure of the convention to declare the rules of the comparable organ of the parent organization to be applicable in their entirety to the convention *mutatis mutandis*, and then to make reference to other relevant rules of the organization. The rules of procedure of the convention thus include substantive provisions only where necessary. The advantage of this approach, which has been taken in some conventions adopted under the auspices of FAO and WIPO, is that the rules of procedure for the convention will be short and simple. The disadvantage is the constant need to refer to other documents with respect to a given issue. A further disadvantage is the inability of the Parties to the convention to influence any amendments to the rules of procedure of the parent organization.

6. The draft rules of procedure for the Framework Convention that are set out in the Annex adopt the first approach, allowing business to proceed on the basis of a single document. As WHO is the parent organization of the Framework Convention, the draft follows the basic format and structure of the Rules of Procedure of the World Health Assembly and of the Executive Board, with modifications to accommodate the simpler infrastructure and procedural requirements of a convention. The Rules of Procedure of some multilateral environmental agreements adopted under the auspices of UNEP since the late 1980s have proved to be workable and have also served as a primary point of reference.

7. The draft rules of procedure incorporate the following elements, which exist in most of the precedents.

8. **Applicability.** Rules on applicability define the scope of the rules, i.e. they specify to which body or bodies, including subsidiary bodies, the rules of procedure shall apply. Such a provision appears in all conventions adopted under the auspices of UNEP.

9. **Definitions.** Rules of procedure sometimes define certain key terms that are used throughout, as do the conventions themselves, in order to make clear the meaning attached to them in that particular context.

10. **Sessions.** Rules of procedure determine the place and timing of sessions of the Conference of the Parties to a convention. It is customary for sessions to be held at the seat of the secretariat unless a party offers to host a session. In some conventions, it is quite common for sessions to be held in one of the Party States. Regular sessions are held at regular intervals and deal with the ordinary business of the Conference of the Parties, as defined in the convention. The precedents vary as to the frequency of the regular sessions: annual sessions are common; biennial sessions should be considered a maximum. Extraordinary sessions can be held between regular sessions if any special business, such as the adoption of a protocol, requires attention. The extraordinary session will then be devoted exclusively to that particular item.

11. **Agenda.** In order to structure and guide the deliberations of the Conference of the Parties, the secretariat, in consultation with the President of the Conference, prepares a provisional agenda in advance of the session, which is introduced, discussed and adopted at the beginning of each session. Based on the function and competencies of the Conference of the Parties as provided for in the convention, the rules of procedure determine the items to be included in the provisional agenda. They also specify the methods and procedures for dispatching the provisional agenda in advance of the

session, and for its adoption by the Conference. The provisional agenda must always be sent out in advance to the Parties to a convention or the members of an international body. Some treaties provide for the agenda to be sent to observers as well. In most precedents, the deadline for dispatching the provisional agenda is between six and eight weeks prior to the opening day of the session.

12. **Secretariat.** The role of the secretariat is to organize the sessions and service the meetings of the Conference of the Parties and its subsidiary bodies, and to provide the necessary administrative and organizational support. The rules of procedure generally provide for interventions by the secretariat during the deliberations in order to provide background information and explanations, for example, on the financial and administrative implications of a proposed decision of the Conference of the Parties (see draft rules 12 and 35.2).

13. **Representation and credentials.** States that are Parties to a convention or members of an international organization are represented in the Conference of the Parties or assembly of the organization by delegations, consisting of a head of delegation and any other persons who have been designated by the competent government authorities. As proof of their authority to act on behalf of the State, delegations are required to submit credentials to the secretariat. In assemblies of international organizations, a special credentials committee is usually established to verify the credentials of all delegations. In many conventions, this task is carried out by the Bureau of the Conference of the Parties (see draft rule 19), whose overall functions are outlined in paragraph 14 below. The credentials committee or Bureau submits a report on the credentials it has examined to the Conference of the Parties or assembly for its approval. Pending such approval, delegations may participate in the proceedings on a provisional basis.

14. **Officers.** The President, Vice-Presidents and Rapporteur of a Conference of the Parties to a convention or assembly of an international organization are responsible for guiding, directing, overseeing and generally ensuring the smooth running of the meetings. In a number of conventions, these officers are collectively known as the Bureau. The members of the Bureau are representatives of the Parties and are elected by the Conference of the Parties. The number of members of the Bureau varies from convention to convention. Most modern conventions require balanced regional representation within the Bureau. To achieve this, some rules of procedure provide that each geographical region, as defined for the purposes of the convention, should be represented by an equal number of Bureau members. Chairmen of any subsidiary bodies of the Conference of the Parties (see draft rule 21.5) are also normally ex officio members of the Bureau.

15. The functions of the President are set out in the rules of procedure. He or she controls the proceedings and maintains order, in accordance with the rules of procedure and subject to the ultimate authority of the Conference of the Parties. To this end, the President has the power to rule or make proposals on most procedural issues. In some instances, his or her decision can be overruled by a simple majority vote of the Parties present and voting (see draft rules 37 and 49.3). The other officers support the President in the exercise of his or her functions. One of the Vice-Presidents may be designated to replace the President in the event of temporary unavailability. The Bureau usually meets at least once a day during regular sessions of the Conference of the Parties to discuss organizational and procedural matters.

16. **Subsidiary bodies.** Most modern conventions provide for the Conference of the Parties to establish subsidiary bodies to consider specific issues. The rules of procedure for the Conference of the Parties apply equally to its subsidiary bodies. On some issues, such as the quorum, dates and venues of meetings, and election of officers of the subsidiary bodies, specific rules apply.

17. **Observers.** It is customary for international organizations and conventions to allow States that are neither members nor Parties to the convention to participate in the sessions as observers. This usually means that they may attend meetings, make statements and submit written materials, but may not vote or participate in the decision-making processes in any way. Intergovernmental and nongovernmental organizations are likewise customarily admitted as observers.

18. Some conventions outline the prerequisites and conditions for observer participation. Others, such as the Framework Convention, leave this to be determined by the Conference of the Parties. The precedents have different modalities of observer participation. FAO, a specialized agency of the United Nations like WHO, retains close institutional links with its conventions: observer participation is governed by the relevant provisions of FAO's Constitution and other applicable rules. Different categories of observers can thus participate in the Conference of the Parties to the conventions on the same terms as they participate in the bodies of the parent organization. This means that only nongovernmental organizations in official relations and intergovernmental organizations with an arrangement with the parent organization can participate as observers. By contrast, the conventions adopted under the auspices of UNEP do not distinguish between the different categories of observers, according observer status to all United Nations organizations, States that are neither members nor Parties and intergovernmental and nongovernmental organizations that are engaged in matters covered by the convention, subject to objection by one third of the Parties present at any given meeting.

19. **Conduct of business.** This section lays down the methods and procedures for conducting the meetings of the Conference of the Parties. Under many conventions, the meetings of the Conference of the Parties and its subsidiary bodies are public unless the Conference decides otherwise. This allows for closed or private meetings for the discussion of politically sensitive issues, for example. The rules also determine the proportion of the total number of Parties to the convention which must be present for a meeting to proceed or for decisions to be adopted (the quorum). This proportion varies among the different conventions. Recent precedents deal specifically with the way in which regional economic integration organizations (such as the European Community) are to be considered in establishing the quorum. Since the European Community, in matters in which it is competent, may cast a number of votes equal to the number of its Member States that are Parties to the convention, it will be counted, for the purposes of establishing the presence of a quorum, according to the number of votes it is entitled to cast, where such matters are discussed (see draft rule 33.2). Provisions such as those on the introduction of written proposals, the procedures for speaking and for submitting motions, and the modalities for dealing with motions and proposals, including their order of precedence, are fairly standard. Those in the draft rules contained in the Annex have been modelled on the relevant provisions of the Rules of Procedure of the World Health Assembly and of the Executive Board of WHO.

20. **Voting.** This section sets out the procedures for voting on issues of substance and procedure, and for elections. In most conventions, the majority requirements for votes on matters of substance differ from those on matters of procedure. Most conventions normally require that every effort must be made to reach consensus before resorting to a vote. It is common for voting to be by show of hands, and for any Party to be able to request a roll-call vote or secret ballot. Elections are commonly held by secret ballot. The draft rules of procedure of the Stockholm Convention on Persistent Organic Pollutants (2001), which is the most recent precedent examined, makes provision for the use of modern technical equipment for voting, although this is not always available.

21. **Languages and records.** It is common for global conventions to designate the languages of the authentic texts of the convention as being the official languages of the Conference of the Parties. In the case of the Framework Convention these are Arabic, Chinese, English, French, Russian, and Spanish, which correspond to the official languages of the Health Assembly.

22. In conventions adopted under the aegis of an international organization, a common approach is to refer to the rules of that organization on the keeping of records.

23. **Amendments.** In existing conventions and organizations, majority requirements for amending the rules of procedure vary from a simple majority to consensus. Since Article 23, paragraph 3 of the Framework Convention provides that the Rules of Procedure for the Conference of the Parties shall be adopted by consensus, the same requirement would apply to their amendment.

24. **Relationship with the Framework Convention.** Some existing rules of procedure specify that, where there is a conflict between the rules and the convention, the convention shall prevail.



## ANNEX

### DRAFT RULES OF PROCEDURE FOR THE CONFERENCE OF THE PARTIES

(Numbers in brackets refer to the numbered precedents listed in the Appendix; square brackets denote alternative text)

#### APPLICABILITY

##### *Rule 1*

These Rules of Procedure shall apply to any session of the Conference of the Parties to the convention convened in accordance with Article 23 of the Convention and these Rules (Precedents 6, 7, 8, 9, 10, 11)

#### DEFINITIONS

##### *Rule 2*

For the purposes of these Rules:

1. “Convention” means the WHO Framework Convention on Tobacco Control, adopted at Geneva on 21 May 2003;
2. “Parties” means Parties to the Convention;
3. “Conference of the Parties” means the Conference of the Parties established by Article 23 of the Convention;
4. “session” means any regular or extraordinary session of the Conference of the Parties convened in accordance with Article 23 of the Convention and these Rules;
5. “regional economic integration organization” means an organization as defined in Article 1(b) of the Convention;
6. “President” means the President of the Conference of the Parties elected in accordance with Rule 21, paragraph 1 of these Rules;
7. “Secretariat” means the Secretariat established by Article 24, paragraph 1, of the Convention;
8. “subsidiary body” means any body established pursuant to Article 23, paragraph 5(f) of the Convention;
9. “Parties present and voting” means Parties present at the meeting in which voting takes place and casting a valid affirmative or negative vote. Parties abstaining from voting shall be considered as not voting.

(Precedents 6, 7, 8, 9, 10, 11)

## SESSIONS

*Rule 3*

The sessions of the Conference of the Parties shall be held at the seat of the Secretariat, unless the Conference of the Parties decides otherwise or other appropriate arrangements are made by the Secretariat in consultation with the Parties. (Precedents 4, 6, 7, 8, 9, 10, 11, 12)

*Rule 4*

1. Unless otherwise decided by the Conference of the Parties, [regular sessions of the Conference of the Parties shall be held once every [year]<sup>1</sup> [two years]<sup>2</sup> **OR** [the second, [and] third [and fourth]<sup>3</sup> regular sessions of the Conference of the Parties shall be held yearly, and thereafter, regular sessions shall be held every two years].<sup>4</sup>

2. At each regular session, the Conference of the Parties shall decide on the date and duration of the next regular session. The Conference of the Parties should endeavour not to hold such a session at a time which would make the attendance of a significant number of delegations difficult.

3. Extraordinary sessions of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat of the Convention, it is supported by at least one third of the Parties.<sup>5</sup>

4. Extraordinary sessions held at the written request of a Party, shall take place not more than [ninety]<sup>6</sup> [thirty]<sup>7</sup> days after the date at which the request is supported by at least one third of the Parties in accordance with paragraph 3 above.

(Precedents 1, 3, 4, 6, 7, 8, 9, 10, 11, 12)

*Rule 5*

[The Secretariat shall notify all Parties of the dates and venue of regular and extraordinary sessions at least [two months]<sup>8</sup> [sixty days]<sup>9</sup> before the session is due to commence.]<sup>10</sup> **OR** [The

<sup>1</sup> Precedents 1, 4, 6, 7, 10, 12.

<sup>2</sup> Precedent 3.

<sup>3</sup> Precedent 9.

<sup>4</sup> Precedents 9 and 11.

<sup>5</sup> Article 23.2 of the Convention.

<sup>6</sup> Precedents 7, 8, 9, 10, 11.

<sup>7</sup> Precedent 12.

<sup>8</sup> Precedents 7, 8, 9, 10.

<sup>9</sup> Precedents 5 and 11.

<sup>10</sup> Precedents 3, 6, 7, 8, 9, 10, 11.

Secretariat shall notify all Parties of the dates and venue at least [sixty][ninety] days in advance of a regular session, and at least thirty days in advance of an extraordinary session.]<sup>1</sup>

## AGENDA

### *Rule 6*

In consultation with the President, the Secretariat shall prepare the provisional agenda for each session.

### *Rule 7*

The provisional agenda for each regular session shall include, as appropriate:

- (a) items arising from the Articles of the Convention, including those specified in its Article 23;
- (b) items the inclusion of which has been decided at a previous session;
- (c) items referred to in Rule 13;
- (d) the proposed budget and all questions pertaining to the accounts and financial arrangements;
- (e) any item proposed by a Party and received by the Secretariat prior to circulation of the provisional agenda.

### *Rule 8*

For each regular session, the provisional agenda, together with other conference documents, shall be distributed in the official languages by the Secretariat to the Parties, [and to observers invited to attend the session in accordance with Rules 29 and 30],<sup>2</sup> at least [six weeks]<sup>3</sup> [two months]<sup>4</sup> [sixty days]<sup>5</sup> before the opening day of the session.

### *Rule 9*

The Secretariat shall, in consultation with the President, include in a supplementary agenda any item proposed by a Party which reaches the Secretariat between the dispatch of the provisional agenda for a regular session and the opening day of the session.

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<sup>1</sup> Precedents 1, 4, 12.

<sup>2</sup> Precedents 3 and 4.

<sup>3</sup> Precedents 7, 8, 9, 10, 11.

<sup>4</sup> Precedents 3 and 6.

<sup>5</sup> Precedents 4 and 12.

*Rule 10*

When adopting the agenda for a regular session, the Conference of the Parties may decide to add, delete, defer or amend items. Only items that are considered by the Conference of the Parties to be urgent and important may be added to the agenda.

*Rule 11*

The provisional agenda for each extraordinary session shall include only those items proposed for consideration by the Conference of the Parties at a regular session or in the request for the holding of the extraordinary session. It shall be distributed to the Parties at the same time as the notification of the extraordinary session.

*Rule 12*

1. The Secretariat shall report to the Conference of the Parties on the administrative, financial and budgetary implications of all substantive agenda items submitted to the session, before they are considered by the Conference.

2. Unless the Conference of the Parties decides otherwise, no such substantive agenda item shall be considered until at least forty-eight hours after the Conference of the Parties has received a report from the Secretariat on its administrative, financial and budgetary implications.

*Rule 13*

Any item on the agenda of a regular session, that has not been considered or completed at the session, shall automatically be included in the provisional agenda of the next regular session, unless otherwise decided by the Conference of the Parties. (Precedents 6, 7, 8, 9, 10, 11).

## SECRETARIAT

*Rule 14*

1. The head of the Secretariat, or the representative of the head of the Secretariat, shall act in that capacity in all sessions of the Conference of the Parties and of its subsidiary bodies.

2. The head of the Secretariat shall arrange for the provision of staff and services required by the Conference of the Parties and its subsidiary bodies, within available resources, and shall manage and direct such staff and services and provide appropriate support and advice to the Bureau of the Conference of the Parties and its subsidiary bodies.

(Precedents 8 and 10).

*Rule 15*

In addition to the functions specified in the Convention, in particular in Article 24, the Secretariat shall, in accordance with these Rules:

- (a) arrange for interpretation at the session;
- (b) collect, translate, reproduce and distribute the documents of the session;
- (c) publish and distribute the official documents of the session;
- (d) prepare and keep the records of the session;
- (e) arrange for the custody and safekeeping of the documents of the session; and
- (f) perform all other tasks required in connection with the work of the Conference of the Parties.

(Precedents 1, 7, 8, 9, 10, 11)

**REPRESENTATION AND CREDENTIALS***Rule 16*

Each Party participating in a session shall be represented by a delegation consisting of a head of delegation and such other accredited representatives, alternate representatives and advisers as it may require.

*Rule 17*

An alternate representative or an adviser may act as a representative upon designation by the head of delegation.

*Rule 18*

The credentials of representatives, as well as the names of alternates and advisers shall be submitted to the Secretariat if possible no later than twenty-four hours after the opening of the session. Any subsequent change in the composition of the delegation shall also be submitted to the Secretariat. Credentials shall be issued either by the Head of State or Government or by the Minister for Foreign Affairs or, in the case of a regional economic integration organization, by the competent authority of that organization.

*Rule 19*

The Bureau of the session shall examine the credentials and report thereon to the Conference of the Parties.

*Rule 20*

Representatives shall be entitled to participate provisionally in the session, pending a decision by the Conference of the Parties to accept their credentials. (Precedents 7, 8, 9, 10, 11, 14)

## OFFICERS

*Rule 21*

1. At the first regular session of the Conference of the Parties, a President and [five]<sup>1</sup> Vice-Presidents, one of whom shall act as Rapporteur, shall be elected from among the representatives of the Parties present at the session. These officers shall constitute the Bureau of the Conference of the Parties. Each of the WHO regions shall be represented by [one] Bureau member. The President and Vice-Presidents shall remain in office until the closure of the second regular session of the Conference of the Parties, including for any intervening extraordinary session.
2. Before the end of the second and subsequent regular sessions of the Conference of the Parties, officers shall be elected from among the Parties to constitute the Bureau for the following session. These officers shall commence their term of office at the closure of the session and shall serve until the closure of the following regular session of the Conference of the Parties, including for any intervening extraordinary session.
3. The offices of the President and Rapporteur shall normally be subject to rotation among the WHO regions. No elected officer may serve more than two consecutive terms.
4. The President shall participate in sessions of the Conference of the Parties in that capacity and shall not at the same time exercise the rights of a representative of a Party. The Party concerned shall designate another representative to represent the Party in the sessions and to exercise its right to vote.
5. The Chairman of any subsidiary body established in accordance with Article 23.5(f) of the Convention shall be a member ex officio of the Bureau.

*Rule 22*

1. In addition to exercising the powers which are conferred upon him or her elsewhere by these Rules, the President shall declare the opening and closing of the session, preside over the meetings, ensure observance of these Rules, accord the right to speak, put questions to the vote and announce decisions. He or she shall rule on points of order and, subject to these Rules, shall control the proceedings and maintain order thereat.
2. The President may propose to the Conference of the Parties the closure of the list of speakers, a limitation of the time to be allowed to each speaker and of the number of times a representative may speak on a question, the adjournment or closure of the debate and the suspension or adjournment of a meeting.

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<sup>1</sup> Precedents 1 and 2. Other treaties provide for different numbers and criteria of composition.

3. The President, in exercising the functions of that office, remains subject to the authority of the Conference of the Parties.

*Rule 23*

1. The President, if temporarily absent from a session or any part thereof, shall designate a Vice-President to act as President in his place. A Vice-President so designated shall not at the same time exercise the rights of a representative of a Party.

2. A Vice-President acting as President shall have the same powers and duties as the President.

*Rule 24*

1. If an officer of the Bureau resigns or is otherwise unable to complete the assigned term of office or perform the functions of that office, a representative of the same Party shall be designated by the Party concerned in his or her place for the remainder of the original term of office.

2. If the President is unable to act during the intersessional period, one of the Vice-Presidents shall act in his or her place. The order in which the vice-presidents shall be requested to serve shall be determined by lot at the session at which the election takes place.

(Precedents 1, 2, 11, 14)

## SUBSIDIARY BODIES

*Rule 25*

1. In accordance with Article 23.5(f) of the Convention, the Conference of the Parties may establish such subsidiary bodies as are necessary to achieve the objective of the Convention.

2. The Conference of the Parties shall determine the matters to be considered by each such subsidiary body and may authorize the President, upon the request of the Chairman of a subsidiary body, to make appropriate adjustments in the allocation of work.

3. Except as provided in Rules 26-28, these Rules shall apply *mutatis mutandis* to the proceedings of any subsidiary bodies, subject to any modifications decided by the Conference of the Parties.

*Rule 26*

When a subsidiary body is not open ended, a majority of the Parties designated by the Conference of the Parties to participate therein shall constitute a quorum. When the subsidiary body is open ended, one quarter of the Parties shall constitute a quorum.

*Rule 27*

1. The Conference of the Parties shall decide the dates and venue of the sessions of the subsidiary bodies, with due regard for the desirability of holding such sessions in parallel with the sessions of the Conference of the Parties.

2. Sessions of subsidiary bodies shall be [public]<sup>1</sup> [private]<sup>2</sup> unless the Conference of the Parties or the subsidiary body concerned decides otherwise.

*Rule 28*

1. Unless the Conference of the Parties decides otherwise, the Chairman of a subsidiary body shall be elected by [the Conference of the Parties]<sup>3</sup> [that subsidiary body]<sup>4</sup>. Each subsidiary body shall elect its own officers [other than the Chairman] with due regard for the principle of equitable geographical representation. Officers shall not serve for more than two consecutive terms.

[2. The Chairman of a subsidiary body may exercise the right to vote.]

(Precedents 4, 6, 7, 8, 9, 10, 11)

OBSERVERS

*Rule 29*

[Any Member State of WHO which is not a Party to the Convention, any Associate Member of WHO, or any State which is neither a Party to the Convention nor a Member State of WHO but is a Member State of the United Nations or of any of its specialized agencies or of the International Atomic Energy Agency shall, upon a request communicated to the head of the Secretariat, be invited to attend sessions of the Conference of the Parties and its subsidiary bodies as an observer. It may submit memoranda and participate in discussions without a vote.] (Precedents 3, 4, 5)

OR

[Any Member State of the United Nations, of its specialized agencies, or of the International Atomic Energy Agency not Party to the Convention may attend meetings as observers. Such observers may, upon invitation of the President, participate without the right to vote in the proceedings of any meeting, unless at least one third of the Parties present at the meeting object.] (Precedents 6, 7, 8, 10, 11)

*Rule 30*

[1. Subject to paragraph 2 below, the head of the Secretariat, taking into account guidance given by the Conference of the Parties, may invite global and regional intergovernmental organizations and international nongovernmental organizations to attend sessions of the Conference of the Parties in an observer capacity.

2. Participation of intergovernmental and international nongovernmental organizations in the work of the Conference of the Parties and the relations between the Conference of the Parties and such organizations shall be governed by the relevant provisions of the Constitution of the World Health

<sup>1</sup> Precedent 8.

<sup>2</sup> Precedent 7.

<sup>3</sup> Precedents 6, 8, 9, 10, 11.

<sup>4</sup> Precedents 3, 7, 12.

Organization, the Rules of Procedure of the World Health Assembly, and by other decisions adopted by the Health Assembly in respect of relations with such organizations.<sup>1]</sup> (Precedents 3, 4, 5)

OR

[1. Any body or agency, whether national, international, governmental or nongovernmental, which is engaged in matters covered by the Convention and which has informed the Secretariat of its wish to attend a meeting as an observer, may be so admitted unless at least one third of the Parties present at the meeting object.

2. Such observers may, upon the invitation of the President, participate without the right to vote in the proceedings of any meeting in matters of direct concern to the body or agency they represent, unless at least one third of the Parties present at the meeting object.] (Precedents 6, 7, 8, 10, 11)

(Precedents 1, 2, 3, 4 for draft Rule 31 as a whole)

## CONDUCT OF BUSINESS

### *Rule 31*

Sessions of the Conference of the Parties shall be held in public, unless the Conference of the Parties decides otherwise. (Precedents 7, 8, 9, 10, 11, 14)<sup>2</sup>

### *Rule 32*

Proposals and amendments to proposals shall normally be introduced by the Parties in writing, in one of the official languages, and handed to the Secretariat, which shall circulate copies to delegations. As a general rule, no proposal or amendment to a proposal shall be discussed or put to the vote at any meeting unless copies of it have been circulated to delegations not later than the day preceding that meeting. The President may, however, permit the discussion and consideration of proposals, amendments to proposals or procedural motions, even though such proposals, amendments to proposals or motions have not been circulated, or have been circulated only the same day.

### *Rule 33*

1. A majority of the Parties shall constitute a quorum for the conduct of business at plenary meetings of the Conference of the Parties. The presence of two thirds of the Parties shall be required for any decision to be taken. (Precedents 1 and 12)<sup>3</sup>

2. For the purposes of determining a quorum for a decision to be taken on a matter within the competence of a regional economic integration organization, that organization shall be counted to the

<sup>1</sup> Reference to the legal instruments governing WHO will only be relevant if WHO is designated as permanent Secretariat of the Convention.

<sup>2</sup> Although rules usually provide for sessions to be held in public, precedents such as the Basel Convention provide for sessions to be held in private.

<sup>3</sup> Alternative language, used in precedents 7, 8, 9, 10, 11: "The President shall not declare a session of the Conference of the Parties open or permit the debate to proceed unless at least one third of the Parties to the Convention are present. The presence of two thirds of the Parties to the Convention shall be required for any decision to be taken."

extent of the number of votes it is entitled to cast in accordance with Article 32.2 of the Convention.  
(Precedent 11)

*Rule 34*

1. No representative may address a session without having previously obtained the permission of the President. Subject to Rules 35, 37 and 41, the President shall call upon speakers in the order in which they signify their desire to speak. The Secretariat shall maintain a list of speakers. The President may call a speaker to order if his or her remarks are not relevant to the subject under discussion.
2. During the course of a debate, the President may announce the list of speakers and, with the consent of the Conference, declare the list closed. The President may, however, accord the right of reply to any representative if a speech delivered after the list has been closed makes this desirable. (Precedents 1 and 14).
3. The Conference of the Parties may, on a proposal by the President or by any Party, limit the time allowed to each speaker and the number of times a representative may speak on a question. Before a decision is taken, two representatives may speak in favour of and two against the proposal to set such limits. When a limit has been set, and a speaker exceeds the allotted time, the President shall call the speaker to order without delay.

*Rule 35*

1. The Chairman or Rapporteur of a subsidiary body may be accorded precedence for the purpose of explaining the conclusions arrived at by that subsidiary body. (Precedents 6, 7, 8, 9, 10, 11)
2. The head of the Secretariat or any member of the Secretariat designated by him or her may at any time make either oral or written statements concerning any question under consideration. (Precedent 1)

*Rule 36*

The right of reply shall be accorded by the President to any representative who requests it. Representatives should in exercising this right attempt to be as brief as possible and preferably deliver their statements at the end of the meeting at which this right is requested. (Precedent 1)

*Rule 37*

During the discussion of any matter, a representative may at any time raise a point of order, on which the President shall immediately rule in accordance with these Rules. A representative may appeal against the ruling of the President. Such appeal shall immediately be put to the vote and the ruling shall stand unless overruled by a majority of the Parties present and voting. A representative raising a point of order may not speak on the substance of the matter under discussion.

*Rule 38*

1. During the discussion of any matter, a representative may move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall immediately be put to the vote.

2. For the purpose of these Rules, “suspension of the meeting” means the temporary postponement of the business of the meeting and “adjournment of the meeting” the termination of all business until another meeting is convened. (Precedents 1 and 2)

*Rule 39*

During the discussion of any matter, a representative may move the adjournment of the debate on the question under discussion. In addition to the proposer of the motion, one speaker may speak in favour of, and one against, the motion, after which the motion shall immediately be put to the vote. (Precedents 1 and 2)

*Rule 40*

A representative may at any time move the closure of the debate on the question under discussion, whether or not any other representative has signified the wish to speak. If request is made for permission to speak against closure, it may be accorded to not more than two speakers, after which the motion shall immediately be put to the vote. If the Conference of the Parties decides in favour of closure, the President shall declare the debate closed. The Conference of the Parties shall thereafter vote only on proposals moved before the closure. (Precedents 1 and 2)

*Rule 41*

The following motions shall have precedence in the order indicated below over all other proposals or motions, except a point of order:

- (a) to suspend the meeting;
- (b) to adjourn the meeting;
- (c) to adjourn the debate on the question under discussion;
- (d) to close the debate on the question under discussion.

*Rule 42*

Subject to Rule 41, 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 a vote is taken on the proposal or amendment in question.

*Rule 43*

A representative may move that parts of a proposal or of an amendment shall be voted on separately. If objection is made to the request for division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be given only to two speakers in favour and two speakers against. If the motion for division is carried, those parts of the proposal or of the amendment which are subsequently approved shall be put to the vote as a whole. If all operative parts of the proposal or the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole. (Precedents 1 and 2)

*Rule 44*

When an amendment to a proposal is moved, the amendment shall be voted on first. When two or more amendments to a proposal are moved, the Conference of the Parties shall first vote on the amendment deemed by the President to be furthest removed in substance from the original proposal, and then on the amendment next removed therefrom, and so on, until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. If an amendment to a proposal has been accepted by the original proposer, such an amendment shall be deemed to be an integral part of the original proposal and no separate vote shall be required thereon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of the proposal. A motion which constitutes a substitution for a proposal shall be considered as a proposal. (Precedents 1 and 2)

*Rule 45*

If two or more proposals relate to the same question, the Conference of the Parties, unless it decides otherwise, shall vote on the proposals in the order in which they have been submitted. The Conference of the Parties may, after each vote on a proposal, decide whether to vote on the next proposal. (Precedents 8, 9, 11)

*Rule 46*

A proposal or motion may be withdrawn by its proposer at any time before voting on it has commenced, provided that the proposal or motion has not been amended. A proposal or motion thus withdrawn may be reintroduced by any Party.

*Rule 47*

When a proposal has been adopted or rejected, it may not be reconsidered at the same session, unless the Conference of the Parties, by a two thirds majority of the Parties present and voting, so decides. Permission to speak on a motion to reconsider shall be accorded only to the proposer, to one speaker in favour of and two speakers opposing the motion against the proposal, after which it shall immediately be put to a vote. The correction of a clerical or arithmetical error in any document concerning a proposal which has already been adopted shall not be considered as requiring the reopening of the debate on such a proposal by a two thirds majority vote. (Precedents 1, 2, 6, 7, 8, 9, 10, 11, 12, 14)

## VOTING

*Rule 48*

1. Each Party shall have one vote, except as provided for in paragraph 2. (Precedents 1, 2, 11)
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their Member States that are Parties

to the Convention. Such an organization shall not exercise its right to vote if any of its Member States exercises its right, and vice versa.<sup>1</sup> (Precedents 6, 7, 8, 9, 10, 11)

*Rule 49*

1. The Parties shall make every effort to reach agreement by consensus. If all efforts to reach consensus have been exhausted and no agreement has been reached, decisions on matters of substance shall, as a last resort, be taken by a two thirds majority vote of the Parties present and voting, unless otherwise provided by the Convention, by the financial rules referred to in Article 23.4 therein, or by these Rules.<sup>2</sup>
2. Decisions of the Conference of the Parties on matters of procedure shall be taken by a majority vote of the Parties present and voting.
3. The President shall rule on any question of whether a matter is procedural or substantive. Any appeal against this ruling shall immediately be put to the vote. The President's ruling shall stand unless overruled by a majority of the Parties present and voting.
4. If a vote is equally divided on a matter other than an election, the proposal shall be regarded as rejected.

*Rule 50*

1. Voting, except for elections, shall normally be by show of hands. A roll-call vote shall be taken at the request of any Party. The roll-call shall be taken in the English alphabetical order of the names of the Parties. The name of the Party to vote first shall be determined by lot. (Precedent 1)
2. The Conference of the Parties may vote on any matter by secret ballot if it has previously so decided by a majority of the Parties present and voting, provided that no secret ballot may be taken on budgetary questions. A decision under this Rule whether or not to vote by secret ballot may only be taken by a show of hands; if the Conference of the Parties has decided to vote on a particular question by secret ballot, no other mode of voting may be requested or decided upon. (Precedent 1)
3. 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. (Precedent 11)<sup>3</sup>
4. The vote of each Party participating in a roll-call or recorded vote shall be included in the records of the session.

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<sup>1</sup> Article 32.2 of the Convention.

<sup>2</sup> Majorities required for matters of substance are the subject of debate in a number of multilateral environmental agreements adopted under the auspices of UNEP. The Rules of Procedure of the World Health Assembly and of the Executive Board of WHO (limited to decisions on important questions) and the Rules of the following agreements provide for a two thirds majority. Precedents 12 and 13.

<sup>3</sup> This proposed wording takes account of the mechanical methods of voting currently available in many facilities.

*Rule 51*

1. 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.
2. After the voting has been completed, a representative may make a brief statement, consisting solely of an explanation of vote. A sponsor of a proposal shall not speak in explanation of vote thereon, except if it has been amended.

*Rule 52*

Elections shall be held by secret ballot, except that, in the absence of any objection, the Conference of the Parties may decide to proceed without taking a ballot on an agreed candidate or list of candidates. Where a ballot is required, two tellers appointed by the President from among the delegations present shall assist in the counting of votes. (Precedent 1)

*Rule 53*

1. When only one person or one Party is to be elected and no candidate obtains in the first ballot a majority of the votes cast by the Parties present and voting, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the President shall decide between the candidates by drawing lots.
2. When two or more elective places are to be filled at one time under the same conditions, those candidates obtaining in the first ballot the largest number of votes and a majority of the votes cast by the Parties present and voting shall be elected. If the number of candidates obtaining such majority is less than the number of persons or Parties to be elected, there shall be additional ballots to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot to a number not more than twice the places remaining to be filled; provided that, after the third inconclusive ballot, votes may be cast for any eligible person or Party. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the candidates who obtained the greatest number of votes in the third of the unrestricted ballots, to a number not more than twice the places remaining to be filled, and the following three ballots thereafter shall be unrestricted, and so on until all the places have been filled.

*Rule 54*

In an election each representative, unless he or she abstains, shall vote for that number of candidates equal to the number of elective places to be filled. Any ballot paper on which there are more or fewer names than there are elective places to be filled shall be null and void.

*Rule 55*

If during an election one or more elective places cannot be filled by reason of an equal number of votes having been obtained by two or more candidates, a ballot shall be held among such candidates to determine which of them will be elected. This procedure may be repeated if necessary. (Precedents 1, 2, 6, 7, 8, 9, 10, 11)

## LANGUAGES AND RECORDS

### *Rule 56*

Arabic, Chinese, English, French, Russian and Spanish shall be the official languages of the Conference of the Parties.

### *Rule 57*

1. Statements made in an official language shall be interpreted into the other official languages.
2. A representative of a Party may speak in a language other than an official language if the Party provides for interpretation into one of the official languages. Interpretation into the other official languages by interpreters of the Secretariat may be based on the interpretation given in the first such language.

### *Rule 58*

All decisions and other official documents of the Conference of the Parties shall be made available in the official languages.

### *Rule 59*

1. Records of the sessions of the Conference of the Parties and the subsidiary bodies shall be made in accordance with the Rules of Procedure of the World Health Assembly.<sup>1</sup>
2. Recordings of the meetings of the Conference of the Parties, and, whenever possible, of the subsidiary bodies, shall be kept by the Secretariat.

(Precedents 1, 7, 8, 9, 10, 11)

## AMENDMENT OF RULES OF PROCEDURE

### *Rule 60*

These Rules of Procedure may be amended by consensus by the Conference of the Parties.

## OVERRIDING AUTHORITY OF THE CONVENTION

### *Rule 61*

In the event of any conflict between any provision of these Rules and any provision of the Convention, the Convention shall prevail. (Precedents 6, 7, 8, 9, 10, 11)

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<sup>1</sup> This applies only if WHO is designated as permanent Secretariat of the Convention.

## Appendix

### **PRECEDENTS USED IN COMPILING THE DRAFT RULES OF PROCEDURE**

1. Rules of Procedure of the World Health Assembly
2. Rules of Procedure of the Executive Board of the World Health Organization
3. Draft rules of procedure of the International Treaty on Plant Genetic Resources for Food and Agriculture (2001)
4. Agreement for the Establishment of the Indian Ocean Tuna Commission (1993)
5. Agreement for the Establishment of a General Fisheries Commission for the Mediterranean (1997)
6. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (1989)
7. United Nations Framework Convention on Climate Change (1992)
8. United Nations Convention on Biological Diversity (1992)
9. United Nations Convention to Combat Desertification (1994)
10. Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (1998)
11. Stockholm Convention on Persistent Organic Pollutants (2001)
12. Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (1993)
13. WIPO Copyright Treaty (1996)
14. Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (1997)

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