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Ad hoc open-ended working group to prepare for the intergovernmental negotiating committee on mercury
Bangkok, 19–23 October 2009
Item 4 (a) of the provisional agenda*

Preparations for the work of the intergovernmental negotiating committee to prepare a global legally binding instrument on mercury: timetable and organization of work of the intergovernmental negotiating committee

Consideration of the rules of procedure for the intergovernmental negotiating committee to prepare a global legally binding instrument on mercury

Note by the secretariat

1. At its first session, the intergovernmental negotiating committee to prepare a global legally binding instrument on mercury will need to agree upon the rules of procedure for its sessions. Possible options include the application of the rules of procedure of the Governing Council of the United Nations Environment Programme (UNEP), mutatis mutandis, to its proceedings, as in the case of the Ad Hoc Open-ended Working Group on Mercury, or the adoption of its own rules of procedure, as in the case of recent similar intergovernmental negotiating committees for international legally binding instruments.

2. The annex to the present note sets out possible draft rules of procedure that the committee may wish to consider if it should decide to adopt its own rules of procedure. The draft has been prepared on the basis of the rules of procedure for the Intergovernmental Negotiating Committee on an International Legally Binding Instrument for Implementing International Action on Certain Persistent Organic Pollutants, which is the most recent example of rules of procedure for similar intergovernmental negotiations in the field of chemicals. The draft reflects recent consideration by the UNEP Governing Council at its twenty-fifth session and at other intergovernmental meetings on the participation of regional economic integration organizations.

3. The working group may wish to discuss possible rules of procedure for the committee and to consider forwarding the outcomes of its deliberations to the committee at its first session for its consideration.

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Annex

Draft rules of procedure for the intergovernmental negotiating committee to prepare a global legally binding instrument on mercury

I. Purposes

These rules of procedure shall govern the negotiation of a global legally binding instrument on mercury.

II. Definitions

Rule 1

1. "Party" means a State, or a regional economic integration organization that is a member of a specialized agency of the United Nations, participating in the work of the intergovernmental negotiating committee for a global legally binding instrument on mercury (hereinafter referred to as the committee). "Regional economic integration organization" means an organization constituted by sovereign States of a given region to which its member States have transferred competence in respect of matters covered by the committee's work. Participation of such a regional economic integration organization shall in no case entail an increase in the representation to which the member States of that organization would otherwise be entitled.

2. "Chair" means the Chair elected in accordance with rule 8, paragraph 1, of these rules of procedure.

3. "Secretariat" means the secretariat provided by the Executive Director required to service the negotiations.

4. "Executive Director" means the Executive Director of the United Nations Environment Programme.

5. "Meeting" means any session convened in accordance with the present rules of procedure.

6. "Representatives present and voting" means representatives of Parties present and casting an affirmative or negative vote. Representatives who abstain from voting are considered as not voting.

III. Place and dates of sessions

Rule 2

The venue and dates of the sessions shall be decided by the committee in consultation with the secretariat.

IV. Agenda

Drawing up of the provisional agenda for a session

Rule 3

The Executive Director shall, after approval by the Bureau referred to in paragraph 1 of rule 8 below, submit to each session the provisional agenda for the following session. The provisional agenda shall include all items proposed by the committee.

Adoption of the agenda

Rule 4

At the beginning of each session, the committee shall adopt its agenda for the session based on the provisional agenda.

Revision of the agenda

Rule 5

During a session, the committee may revise the agenda for the session by adding, deleting or amending items. Only items that the committee considers to be urgent and important may be added to its agenda during the session.

V. Representation

Composition of delegations

Rule 6

The delegation of each Party shall consist of a head of delegation and such alternate representatives and advisers as may be required.

Alternates and advisers

Rule 7

The head of delegation may designate an alternate representative or an adviser to act as a representative.

VI. Officers

Elections

Rule 8

1. The committee shall elect from among the representatives of the Parties a Bureau comprising one Chair and four Vice-Chairs, one of whom shall act as Rapporteur.

2. In electing the officers, the committee shall have due regard to the principle of equitable geographical representation. Each of the five regional groups shall be represented by one member of the Bureau.

Acting Chair

Rule 9

If the Chair finds it necessary to be absent from a session or any part thereof, he or she shall call upon a Vice-Chair to take his or her place.

Replacement of the Chair

Rule 10

If the Chair is unable to continue to perform his or her functions, a new Chair shall be elected for the unexpired term, with due regard to rule 8, paragraph 2.

Substitute members

Rule 11

If a Vice-Chair finds it necessary to be absent from a session or any part thereof, a new Vice-Chair shall be designated by the same regional group. Such substitution shall not exceed the period of one session.

Replacement of a Vice-Chair

Rule 12

If a Vice-Chair resigns or is otherwise unable to complete his or her term of office, a new Vice-Chair shall be elected for the unexpired term, with due regard to rule 8, paragraph 2.

VII. Secretariat

Rule 13

The Executive Director may designate his or her representative during the sessions.

Rule 14

The Executive Director shall provide and direct the staff of the secretariat required to service the negotiations, including any subsidiary organs that the committee may establish.

Rule 15

The Executive Director, or his or her designated representative, may, subject to rule 19, make oral and written statements to the committee and its subsidiary organs concerning any matter under consideration.

Rule 16

The Executive Director shall be responsible for convening sessions in accordance with rules 2 and 3 and for making all the necessary arrangements for sessions, including the preparation and distribution of documents at least six weeks in advance of the sessions.

Rule 17

The secretariat shall, in accordance with these rules: interpret speeches made at sessions; receive, translate and circulate the documents of the sessions; publish and circulate reports and relevant documentation to the Parties; have the custody of the documents in the committee's archives; and generally perform all other work that the committee may require.

VIII. Conduct of business

Quorum

Rule 18

1. The Chair may declare a session open and permit the debate to proceed when at least one third of the Parties participating in the session are present. The presence of a majority of Parties so participating shall be required for any decision to be taken.

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 extent of the number of votes it is entitled to cast.

Powers of the Chair

Rule 19

In addition to exercising the powers conferred upon him or her elsewhere by the present rules, the Chair shall declare the opening and closing of each session, shall direct the discussion, ensure observance of the present rules, accord the right to speak, put questions to the vote and announce decisions. The Chair shall rule on points of order and, subject to the present rules, shall have control over the proceedings of the sessions and over the maintenance of order at sessions. The Chair may propose to the session the limitation of the time to be allowed to speakers, the limitation of the number of times each Party may speak on any subject, the closure of the list of speakers or the closure of the debate. The Chair may also propose the suspension or the adjournment of the session or of the debate on the question under discussion.

Rule 20

The Chair, in the exercise of his or her functions, remains under the committee's authority.

Powers of the acting Chair

Rule 21

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

The Chair shall not vote

Rule 22

The Chair shall not vote, but may designate another member of his or her delegation to vote in his or her place.

Speeches

Rule 23

No one may address the session without having previously obtained the Chair's permission. Subject to these rules, the Chair shall call upon speakers in the order in which they signify their desire to speak. The Chair shall call a speaker to order if his or her remarks are irrelevant to the subject under discussion.

Precedence

Rule 24

The Chair, Vice-Chair or a designated representative of any subsidiary organ that may be established subject to rule 48, may be accorded precedence in speaking for the purpose of explaining the conclusion arrived at by the subsidiary organ concerned and for the purpose of replying to questions.

Points of order

Rule 25

1. During the discussion of any matter, a representative of a Party may at any time raise a point of order and the point of order shall be immediately decided upon by the Chair in accordance with these rules. A representative of a Party may appeal against the Chair's ruling. The appeal shall be put to the vote immediately and the Chair's ruling shall stand unless overruled by a majority vote of the representatives present and voting.

2. A representative of a Party raising a point of order may not speak on the substance of the matter under discussion.

Time limit on speeches

Rule 26

The committee may limit the time allowed to each speaker and the number of times that each person may speak on any question, except on procedural questions, when the Chair shall limit each intervention to a maximum of five minutes. When debate is limited and a speaker has spoken for his or her allotted time, the Chair shall call him or her to order without delay.

Closing of list of speakers

Rule 27

During the course of a debate, the Chair may announce the list of speakers and, with the committee's consent, declare the list closed. The Chair may, however, accord the right of reply to any Party if, in his or her opinion, a speech delivered after he or she has declared the list closed renders this justified. When the debate on an item is concluded because there are no other speakers, the Chair, with the committee's consent, shall declare the debate closed.

Adjournment of debate

Rule 28

During the discussion of any matter, a representative of a Party may move the adjournment of the debate on the subject under discussion. In addition to the proposer of the motion, one representative of a Party may speak in favour of and one against the motion, after which the motion shall be immediately put to the vote.

Closure of debate

Rule 29

A representative of a Party may at any time move the closure of the debate on the subject under discussion, whether or not any other representative of a Party has signified his or her wish to speak. Permission to speak on the closure of the debate shall be accorded only to two representatives of Parties opposing the closure, after which the motion shall be immediately put to the vote. If the committee is in favour of the closure, the Chair shall declare the closure of the debate.

Suspension or adjournment of the session

Rule 30

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

Order of procedural motions

Rule 31

Subject to rule 25, and regardless of the order in which they are submitted, the following motions shall have precedence, in the following order, over all other proposals or motions before the session:

(a) To suspend the session;

(b) To adjourn the session;

(c) To adjourn the debate on the subject under discussion;

(d) To close the debate on the subject under discussion.

Proposals and amendments

Rule 32

Proposals and amendments shall normally be introduced in writing and submitted to the secretariat, which shall circulate copies to all representatives of Parties. As a general rule, no proposal shall be discussed or put to the vote at any session of the committee unless copies of it have been circulated in the official languages of the session to all representatives of Parties not later than the day preceding the session. Subject to the committee's consent, the Chair may, however, permit the discussion and consideration of proposals or amendments that have not been circulated or have only been circulated the same day.

Decisions on competence

Rule 33

Subject to rule 31, any motion calling for a decision on the committee's competence to adopt any proposal or any amendment submitted to it shall be put to the vote before a vote is taken on the proposal or amendment in question.

Withdrawal of proposals or motions

Rule 34

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

Reconsideration of proposals

Rule 35

When a proposal has been adopted or rejected, it may not be reconsidered at the same session unless the committee, by a two-thirds majority of the representatives present and voting, so decide. Permission to speak on a motion to reconsider shall be accorded only to two representatives of Parties opposing the motion, after which it shall immediately be put to the vote.

Voting rights

Rule 36

1. Each Party shall have one vote, except as provided for in paragraph 2.

2. A regional economic integration organization, on matters within its competence, shall exercise its right to vote with a number of votes equal to the number of its member States participating in the committee. Such an organization shall not exercise its right to vote if any of its member States exercises its right to vote, and vice versa.

Adoption of decisions

Rule 37

1. The committee shall make every effort to reach agreement on all matters of substance by consensus. If all efforts to reach consensus have been exhausted and no agreement reached, the decision shall, as a last resort, be taken by a two-thirds majority of the representatives present and voting.

2. Decisions of the committee on procedural matters shall be taken by a majority of the representatives present and voting.

3. Where there is disagreement as to whether a matter to be voted on is a substantive or procedural matter, that issue shall be decided by a two-thirds majority of the representatives present and voting.

Method of voting

Rule 38

Subject to rule 44, the committee shall normally vote by show of hands, but any representative of a Party may request a roll-call, which shall then be taken in the English alphabetical order of the names of the Parties, beginning with the Party whose name is drawn by lot by the Chair. If, however, at any time a Party requests a secret ballot, that shall be the method of voting on the issue in question.

Recording of roll-call

Rule 39

The vote of each Party participating in a roll-call shall be recorded in the relevant documents of the session.

Conduct during voting

Rule 40

After the Chair has announced the beginning of voting, no representative of a Party shall interrupt the voting except on a point of order in connection with the actual conduct of the voting. The Chair may permit representatives of Parties to explain their votes, either before or after the voting, except when the vote is taken by secret ballot. The Chair may limit the time to be allowed for such explanation. The Chair shall not permit the proposer of a proposal or of an amendment to explain his or her vote on his or her own proposal or amendment.

Division of proposals or amendments

Rule 41

A representative of a Party 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 representatives of Parties in favour and two against. If the motion for division is carried, those parts of the proposal or of the amendment that are subsequently approved shall be put to the vote as a whole. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

Voting on amendments

Rule 42

1. 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 committee shall vote first on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest 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 no amendments are adopted, the proposal shall be put to the vote in its original form.

2. A motion is considered an amendment to a proposal if it adds to, deletes from or revises part of that proposal.

Voting on proposals

Rule 43

1. If two or more proposals are related to the same question, the committee shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The committee may, after each vote on a proposal, decide whether to vote on the next proposal.

2. Any proposals or motions requiring that no decision be taken on the substance of such proposals shall, however, be considered as previous questions and shall be put to the vote before them.

Elections

Rule 44

All elections shall be held by secret ballot unless, in the absence of any objection, the committee decides to proceed without taking a ballot when there is an agreed candidate.

Rule 45

1. If, when one person or Party only is to be elected, no candidate obtains, in the first ballot, the majority required, a second ballot shall be taken, restricted to the two candidates obtaining the largest number of votes. If in the second ballot the votes are equally divided, the Chair shall decide between the candidates by drawing lots.

2. In the case of a tie in the first ballot among the candidates obtaining the second largest number of votes, a special ballot shall be held for the purpose of reducing the number of candidates to two. In the case of a tie among three or more candidates obtaining the largest number of votes, a second ballot shall be held. If a tie results among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the preceding paragraph.

Rule 46

1. When two or more elective places are to be filled at one time under the same conditions, those candidates obtaining the required majority on the first ballot shall be elected.

2. If the number of candidates obtaining such majority is more than the number of places to be filled, those candidates obtaining the largest number of votes shall be elected.

3. If the number of candidates obtaining such majority is less than the number of places to be filled, additional ballots shall be held to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot, who shall number not more than twice the places remaining to be filled. In the case of a tie between a greater number of unsuccessful candidates, however, a special ballot shall be held for the purpose of reducing the number of candidates to the required number.

4. If three restricted ballots are inconclusive, unrestricted ballots shall follow in which votes may be cast for any eligible person or member. If three such unrestricted ballots are inconclusive, the next three ballots (subject to exception in a case similar to that of the tie mentioned at the end of the previous paragraph of this rule) shall be restricted to the candidates obtaining the greatest number of votes in the third of the unrestricted ballots. The number of such candidates shall be not more than twice the number of places remaining to be filled.

5. The following three ballots thereafter shall be unrestricted and so on, until all the places are filled.

Equally divided votes

Rule 47

If a vote is divided equally on matters other than elections, the proposal shall be regarded as rejected.

IX. Subsidiary organs

Subsidiary organs of the sessions, such as working groups and expert groups

Rule 48

1. The committee may establish such subsidiary organs as may be necessary for the effective discharge of its functions.

2. Subject to paragraph 2 of rule 8, each subsidiary organ shall elect its own officers. The number of such officers shall be no more than five.

3. The rules of procedure of subsidiary organs shall be those of the committee, as appropriate, subject to such modifications as the committee may decide upon in the light of proposals made by the subsidiary organs concerned.

X. Languages and records

Languages of the sessions

Rule 49

Arabic, Chinese, English, French, Russian and Spanish shall be the languages of the sessions.

Interpretation

Rule 50

1. Speeches made in a language of the session shall be interpreted into the other languages.

2. A representative may speak in a language other than a language of the session. In this case he or she shall himself or herself provide for interpretation into one of the languages of the session, and interpretation into the other languages by the interpreters of the secretariat may be based on the interpretation given in the first language.

Languages of official documents

Rule 51

Official documents shall be made available in the languages of the session.

XI. Public and private meetings

Plenary meetings

Rule 52

The plenary meetings shall be held in public unless the committee decides otherwise. All decisions taken at a private meeting shall be announced at an early public meeting.

Other meetings

Rule 53

Meetings of subsidiary organs, other than any drafting group that may be set up, shall be held in public unless the organ concerned decides otherwise.

XII. Observers

Participation of observers

Rule 54

Observers may participate in the work of the session in accordance with the established practice of the United Nations General Assembly.

Observers from non-governmental organizations

Rule 55

Relevant non-governmental organizations participating in the session as observers may make their contributions to the negotiating process, as appropriate, on the understanding that these organizations shall not have any negotiating role during the process and taking into account decisions 1/1 and 2/1, adopted by the Preparatory Committee for the United Nations Conference on Environment and Development at its first and second sessions, concerning the participation of non-governmental organizations.

XIII. Suspension and amendment of the rules of procedure

Rule 56

A rule of procedure may be amended or suspended by a decision of the committee taken by consensus provided that 24 hours notice of the proposal has been given.