

Presentation on the Rules of Procedure of the United Nations Environment Assembly

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Rules of Procedure

- Rules of Procedure for a variety of Bodies:
 - General Assembly
 - Committees of the General Assembly
 - Economic and Social Council (ECOSOC)
 - Functional Commissions of ECOSOC
 - United Nations Conferences
 - Provisional Rules of the Security Council
 - Treaty Bodies

Synopsis

- Constitutional and Institutional questions
- Bureau
- Discussion phase
- Action or voting phase
- Consensus and voting
- Subsidiary bodies

Constitutional and institutional questions

- General Assembly resolution 67/213 of 21 December 2012 decided in OP 4(b), to establish **universal membership** in the Governing Council of the United Nations Environment Programme, and mandates it, as from its first universal session to be held in Nairobi in February 2013, using its applicable rules of procedure and applicable rules and practices of the General Assembly, pending the adoption of its new rules of procedure.

Constitutional and institutional questions

- General Assembly resolution 67/251 deals with the change of the designation of the Governing Council of the United Nations Environment Programme to the United Nations Environment Assembly of the United Nations Environment Programme.
- Meaning of universal membership – refers to the fact that all 193 Member States of the United Nations are members of and participate on an equal basis in UNEA.

Bureau

Rule 18 (1)

“During the final meeting of a regular session, the United Nations Environment Assembly shall elect a President, eight Vice-Presidents and a Rapporteur from among its members. These officers shall constitute the Bureau of the United Nations Environment Assembly. The Bureau shall assist the President in the general conduct of business of the United Nations Environment Assembly. The chairpersons of such sessional committees or working parties as may be established under rule 61 below shall be invited to participate in meetings of the Bureau.”

Bureau

- Rule 18 (2): In electing its officers, the United Nations Environment Assembly shall ensure that each of the five regions is represented by two members in the Bureau of the United Nations Environment Assembly.
- Five regions are: African, Asian, Eastern European, Latin American and the Caribbean and Western European and other State.

Bureau

Rule 21

- If the President cannot preside at a meeting or any part thereof, the President shall appoint a Vice President to take her or his place.

Rule 23

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

Bureau – credentials function

- Rule 16 :Each member of the United Nations Environment Assembly shall be represented by an accredited representative, who may be accompanied by alternate representatives and advisers.
- Rule 17: Credentials of representatives shall be submitted to the Executive Director before the first meeting of United Nations Environment Assembly. The Bureau of the United Nations Environment Assembly shall examine the credentials and submit its report to the United Nations Environment Assembly

Meetings of UNEA

- Consistent with the meetings of the General Assembly and its Committees a distinction should be made between the discussion phase of a proposal and the action phase or adoption of a proposal.
- This is reflected in the rule on quorum: Rule 32 provides that “The President may declare a meeting open and permit the debate to proceed when at least one third of the members of the United Nations Environment Assembly are present. The presence of a majority of the members of the United Nations Environment Assembly shall be required for any decision to be taken.”

Meetings of UNEA

- During the **discussion phase** representatives are allowed to make points of order concerning the conduct of proceedings. During the **action phase** representatives can only make points of order concerning the conduct of voting and are limited to the voting process.

Discussion phase

- **General powers of the President: Rule 33**
- **“In addition to exercising the powers conferred upon the President elsewhere by these rules, the President shall declare the opening and closing of each meeting of the United Nations Environment Assembly, shall direct the discussion, ensure observance of these rules, accord the right to speak, put questions to the vote and announce decisions. The President shall rule on points of order and, subject to these rules, shall have control of the proceedings of the United Nations Environment Assembly and over the maintenance of order at its meetings. The President may propose to the United Nations Environment Assembly the limitation of time to be allowed to speakers, the limitation of the number of times each representative may speak on any question, the closure of the list of speakers or the closure of the debate. The President may also propose the suspension or the adjournment of the meeting or of the debate on the question under discussion.”**

Discussion phase

- Rule 34: “The President, in the exercise of her/his functions, remains under the authority of the United Nations Environment Assembly.”
- Rule 37: “(1) During the discussion of any matter, a representative may rise to a point of order, and the point of order shall be immediately decided by the President in accordance with the rules of procedure. A representative may appeal against the ruling of the President. The appeal shall be immediately put to the vote, and the President’s ruling shall stand unless overruled by a majority of the members present and voting. (2) A representative rising to a point of order may not speak on the substance of the matter under discussion.”

Discussion phase

- Several procedural motions that are available to Member States during the discussion phase: Adjournment of debate (Rule 40); Closure of debate (Rule 41); Suspension or adjournment of the meeting (Rule 42); order of procedural motions (rule 43).

Discussion phase/procedural weapons

Adjournment of debate: Rule 40

During the discussion of any matter, a representative may move the adjournment of the debate on the item under discussion. In addition to the proposer of the motion, one representative may speak in favour of, and one against, the motion, after which the motion shall be immediately put to the vote. [NO ACTION MOTION]

Discussion phase/procedural weapons

Closure of debate. Rule 41

A representative may at any time move the closure of the debate on the item under discussion, whether or not any other representative has signified his wish to speak. Permission to speak on the closure of the debate shall be accorded only to two speakers opposing the closure, after which the motion shall be immediately put to the vote. If the Environment Assembly is in favour of the closure, the President shall declare the closure of the debate.

Discussion phase/procedural weapons

Suspension or adjournment of the meeting: Rule 42

“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 be immediately put to the vote.”

Discussion phase/procedural weapons

Proposals and amendments: Rule 44

- “Proposals and amendments shall normally be introduced in writing and submitted to the Executive Director, who shall circulate copies to the members in all the official languages of the United Nations Environment Assembly. As a general rule, no proposal shall be discussed or put to the vote at any meeting of the United Nations Environment Assembly unless copies of it have been circulated to all members not later than the day preceding the meeting. Subject to the consent of the United Nations Environment Assembly, the President may, however, permit the discussion and consideration of proposals or amendments even though these proposals or amendments have not been circulated or have only been circulated the same day.” (Emphasis added).

Discussion phase – decision on competence and reconsideration

- Competence: Rule 45: Any motion calling for a decision on the competence of the United Nations Environment Assembly 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.
- Reconsideration: Rule 47: When a proposal has been adopted or rejected, it may not be reconsidered at the same session of UNEA unless UNEA, by a two-thirds majority of the members present and voting, so decides. Permission to speak on a motion to reconsider shall be accorded only to two speakers opposing the motion, after which it shall be immediately put to the vote.

Action phase: Voting

- Rule 48: Each member of the United Nations Environment Assembly shall have one vote.
- Rule 49 (1): Decisions of the United Nations Environment Assembly shall be made by a majority of the members present and voting.
- Rule 49 (2): For the purpose of these rules, the phrase "members present and voting" means members present and casting an affirmative or negative vote. Members which abstain from voting are considered as not voting.

Action phase - voting

- Whether a draft proposal or resolution has been adopted is determined on the basis of whether the draft resolution has met the required majority, i.e. a majority of those present and voting, which is determined exclusively on the basis of the affirmative and negative votes cast.

Action phase - voting

- In very few cases the affirmative vote of a minimum number of Member States is required for purposes of adopting a decision. For example, under Article 108 of the UN Charter, amendments to the Charter have to be adopted by “two thirds of the members of the General Assembly.” In such a case, failure to obtain an affirmative vote of two thirds of the members would mean that the proposal or draft resolution is not adopted. However, the requirement of “absolute majority” is not used within the context of UNEA decision-making.

Voting

- How does the United Nations Environment Assembly vote? Rule 50: Subject to rule 56, the United Nations Environment Assembly shall normally vote by show of hands, but any representative may request a roll call, which shall then be taken in the alphabetical order of the names of the members, beginning with the member whose name is drawn by lot by the President
- How about mechanical means?

Voting

Conduct during voting: Rule 52.

“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 members to explain their votes, either before or after the voting, except when the vote is taken by secret ballot. 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 explain the proposer’s vote on the proposer’s own proposal or amendment.”

Consensus

- Majority of resolutions are adopted by consensus.
- What is the meaning of consensus?
- United Nations Juridical Yearbook (1974) p 163 and (1987) p 174.
- Secretariat Note to the 2014 Prep Com of the Third World Conference on Disaster Risk Reduction (A/CONF.224/PC (I)/INF.5).

Consensus

- In United Nations practice, consensus is generally understood to mean adoption of a decision without formal objections and vote; this being possible only when no delegation formally objects to consensus being recorded, though some delegations may have reservations to the substantive matter at issue or to a part of it. The fact that consensus is recorded does not necessarily mean that there is “unanimity”, namely, complete agreement as to substance and a consequent absence of reservations. For example, there are numerous occasions where States make declarations or reservations to a matter at issue while not objecting to a decisions being recorded by consensus.

Section VIII: Sessional or inter-sessional committees, working parties and subsidiary organs

Sessional committees and working parties

- Rule 61 (1) At each session, the United Nations Environment Assembly may set up sessional committees and working parties, from among its members, and refer to them any questions on the agenda for study and report.
- UNEA rules apply – subject to certain exceptions

Subsidiary organs and expert groups

- Rule 63 (1) The United Nations Environment Assembly may establish such subsidiary organs on a permanent or ad hoc basis as may be necessary for the effective discharge of its functions and, as required, expert groups to consider specific problems and make recommendations.
- Rule 63 (3) Rules of UNEA apply.