



Distr.
RESTRICTEE
WG.82/1
3 November 1982
Original: ENGLISH



United Nations
Environment
Programme



COMMITTEE OF GOVERNMENT EXPERTS
ON THE RULES OF PROCEDURE

Athens, 29-30 November 1982

AMENDMENTS TO THE RULES OF PROCEDURE

1. The rules of procedure for meetings and conferences of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution and its related Protocoles were adopted at the First Ordinary Meeting of the Contracting Parties in February 1979. They were amended at the Second Ordinary Meeting of the Contracting Parties in March 1981, and the amended text appears in annex I to this document.

2. At their Second Ordinary Meeting the Contracting Parties also adopted an interim procedure for the replacement of the President of the Bureau in cases where he becomes unable at any time to assume his duties. That procedure was to be applicable until the next (Third) Ordinary Meeting of the Contracting Parties.

3. The Contracting Parties also agreed "to entrust any further amendment of the rules of procedure... to a committee of governmental experts, which shall be open to all the Contracting Parties and convened by the secretariat" (UNEP/IG.23/11, para. 72.(3)). The present meeting is being convened in pursuance of that decision.

4. The purpose of the present document is to call the attention of the committee of government experts to certain problems that have arisen during the past years which could not be adequately resolved through application of the rules of procedure.

5. Amendment of the rules of procedure is governed by rule 50 which reads as follows:

"These rules of procedure may be amended by a decision of the meeting or conference taken by a two-thirds majority of the Contracting Parties present and voting."

6. Prior to the Intergovernmental Review Meeting of Mediterranean Coastal States on the Mediterranean Action Plan (February 1980), a vacancy occurred in the Bureau due to the resignation of a Vice-President from Spain. The meeting, having examined the rules of procedure, found that it would not be legally possible to fill the vacancy on an interim basis by an appropriate nominee of the Government of Spain.

7. At the Intergovernmental Meeting on Specially Protected Areas (October 1980), the President was unable to attend due to other important commitments.

8. The Second Ordinary Meeting of the Contracting Parties referred the matter of a vacancy in the Bureau to a Working Group on Legal Questions. On the recommendation of the working group, the Meeting adopted the following interim procedure for the replacement of the President if it became necessary and specified that it would be applicable until the next ordinary meeting of the Contracting Parties (scheduled for February 1983):

- a) In cases where the President of the Bureau states that he will be unable at any time to assume his duties, the Meeting agreed that he should be replaced by a Vice-President, and it appointed Mr. G. Falchi (Italy) to act as President in the above circumstances.
- b) If such replacement should take effect, a representative of the country to which the replaced President belongs would be entitled to take part in the meetings of the Bureau.
- c) The foregoing provisions shall not affect any further amendment of the rules of procedure, consideration of which shall be entrusted to a committee of governmental experts, which shall be open to all the Contracting Parties and convened by the secretariat. The report of that committee shall be submitted to the next Meeting of the Contracting Parties. (document UNEP/IG.23/11, paragraphs 71 and 72).

9. In order to deal with similar situations in the future, two possibilities (which are not mutually exclusive) are open to the Contracting Parties:

- a) enlarge the Bureau in order to reduce the probability of all members being unavailable at the same time;
- b) provide for the replacement of members who are unable to exercise their functions.

10. The enlargement of the Bureau would require the amendment of rule 20, paragraphs 1 and 2, and a consequential amendment to rule 23. The First Ordinary Meeting of the Contracting Parties had before it a draft resolution in which it was proposed that an expanded Bureau be established comprised of a representative of each interested Contracting Party (UNEP/IG.14/CRP.9). The Meeting decided to reconsider the draft resolution at the Intergovernmental Review Meeting in February 1980. Since a decision on the matter may only be taken by a meeting of the Contracting Parties, the Intergovernmental Review Meeting only held an exchange of views, and referred the final decision to an ordinary meeting of the Contracting Parties.

11. The Intergovernmental Review Meeting also addressed the second course of action; that is to provide in the rules of procedure for the replacement of members of the Bureau who become unable to continue to exercise their functions. The Intergovernmental Review Meeting agreed that appropriate measures should be included in the rules of procedure to deal with such situations. (UNEP/IG.18/7, paragraph 41). Provision for the replacement of members would require amendment of rule 20. It is proposed that two new paragraphs be included which might read as follows:

- proposed paragraphs 4 and 5

"4. If the President resigns or otherwise becomes unable to continue to perform his functions, a Vice-President shall assume the office of the President for the remainder of the mandate, and a representative of the country of the President shall be invited to participate in the meetings of the Bureau.

5. If a Vice-President or the Rapporteur resigns or otherwise becomes unable to continue to perform his functions, a representative of his country shall replace him for the remainder of his mandate."

The above proposal is based on the spirit of rule 21 and aims at maintaining the principle of geographical representation in the composition of the Bureau.

12. If the above proposal were accepted, a small amendment would need to be introduced to rule 22 to specify that rule 22 is concerned only with situations in which the President is temporarily absent from a sitting or part of a sitting of a meeting or conference. It is proposed that rule 22 be amended to read:

"If the President is temporarily absent from a sitting or any part thereof, he shall appoint one of the Vice-Presidents to assume his duties".

13. As noted in paragraph 1 of this document the rules of procedure were amended at the Second Ordinary Meeting of the Contracting Parties in March 1981. The amendments adopted at that meeting were largely based on comments received from the United Nations Office of Legal Affairs. Certain of the comments received from the United Nations Office of Legal Affairs were not incorporated in the amended rules of procedure, and these are reproduced below. The committee of government experts is invited to reconsider these comments and to make recommendations, as appropriate, to the Contracting Parties concerning additional amendments to the rules of procedure.

14. Comments received from the United Nations Office of Legal Affairs:

- a) Rule 10 is not clear. Does "in agreement with" mean "in consultation with" or is the approval of the Bureau required? The rule may be reformulated: "the Executive Director shall prepare the provisional agenda for each meeting or conference (in consultation with) (with the approval of) the Bureau".
- b) Rule 13, first line: The words "in agreement with" should be changed to "with the approval of" or "in consultation with", whichever of these was intended.

- c) Rule 16, second sentence, is awkward in English. The words "at least forty-eight hours before" should be changed to "at least forty-eight hours after" and moved forward so that the sentence would read "unless the meeting decided otherwise, no such item shall be considered until at least forty-eight hours after the meeting has received the Executive Director's report on administrative and financial implications".
- d) Rule 19, fourth line: The word "session" should either be changed to "sitting" for consistency (see rules 9, 22, 23, 33) or be deleted.
- e) Rule 21 is inconsistent with rules 20(2) and 22. Moreover, since the situation envisaged in rule 21 is adequately covered by rules 20(2) and 22, rule 21 can and should be deleted.
- f) At the beginning of rule 37, add the words "If the motion referred to in rule 36 is adopted" and add "or of an amendment" after the word proposal in the first line.
- g) Rule 41. As to the majority required for reconsideration, it is our view that it should not be lower than that required for the adoption of substantive decisions: i.e. two thirds of the representatives present and voting.

OTHER MATTERS

15. The Committee may consider any other rules that, in its view, require amendment and address its recommendations to the Contracting Parties.