A GUIDE FOR

WORKING GROUP CHAIRS AT COP AND SBSTTA MEETINGS

(VERSION 15 SEPTEMBER 2010)

Secretariat of the
Convention on Biological Diversity

2010 International Year of Biodiversity

A GUIDE FOR WORKING GROUP CHAIRS AT COP AND SBSTTA MEETINGS[1]

Section 1: Working Groups and the COP/SBSTTA Organisation of Work

What is a working group? Within the CBD working groups are an organisational tool to more efficiently undertake the work mandated by a larger plenary body such as the Conference of the Parties (COP) or the Subsidiary Body on Scientific Technical and Technological Advice (SBSTTA). Working groups are established to review issues on the agenda.

Statutory meetings, such as COP and SBSTTA, meet in a plenary for reporting and decision making, but break-up into at least one or two working groups to consider more specific issues on the agenda and, if appropriate, address text. Working groups report to the larger plenary group and endorse or recommend particular outcomes for the plenary's endorsement or adoption.

The COP and SBSTTA determine their organisation of work. The organisation of work for the COP has involved two working groups (WG1 and WG2). The organisation of work for SBSTTA has involved a committee of the whole and two working groups, with no more than two working groups operating at a time.

Section 2: Role of a Working Group Chair

A working group chair is the presiding officer of a working group. He or she is an officer of the meeting and does not represent his or her delegation. Working group chairs are usually COP or SBSTTA Bureau members (although this is not compulsory).

A working group chair's primary role is to facilitate a working group's consideration of an issue in order to achieve consensus and report back to the plenary.

2.1 General functions

The working group chair is responsible for "the orderly and efficient conduct of the meeting" (UNEP, 2007a) and has many functions and powers including, to:

- Open and close meetings;
- Introduce, as needed, with the assistance of the Secretariat, each item on the agenda;
- Recognize and give the floor to a delegate. If more than one delegate wants to intervene on a matter, the working group chair will give the floor to delegations in a particular order (see section 5);
- Allow or refuse discussion and consideration of proposals, amendments to proposals or procedural motions circulated for the first time on that day;
- Determine whether a matter is substantive or procedural in nature;
- Decide when to put a question to a vote; determine the order of voting on proposed amendments; allow a Party to explain its vote; (Note: While rules 40 (5) (c) and 26 (5) (c) of the rules of procedure provide that decisions of the COP and SBSTTA may be adopted by specified majorities of the Parties present and voting, in practice decision making has always been by consensus within the CBD);
- Rule on points of order;
- Call a speaker to order when remarks are irrelevant or repetitious;
- Ensure that the rules of procedure are followed;
- Designate the presiding officers of, for example, contact or other informal groups.

[1] Lyle Glowka, Senior Legal Advisor, Secretariat of the Convention on Biological Diversity. Comments and suggestions are welcome. Please send them to: < secretariat@cbd.int >.

2.2 Characteristics of an effective working group chair

A skilful working group chair is often a key factor to a successful meeting (UNEP, 2007a). He or she can, for example, encourage representatives to focus on key issues, ask representatives to clarify complex positions, and probe in a balanced and objective way positions for opportunities and compromises.

A working group chair also has the discretion to form smaller break out groups, such as contact groups and friends of the chair groups, to attempt to resolve particularly difficult issues (see Section 5 on smaller breakout groups).

Some characteristics of an effective working group chair include being:

- Aware of the expected outcomes;
- Impartial/objective/fair/unbiased;
- Clear (set out the procedure clearly, stick to a systematic approach, and indicate clearly what is being decided at every step);
- Consistent;
- A good listener;
- Pragmatically diplomatic and polite;
- Conscious of limitations such as time;
- A good communicator with delegates and the Secretariat;
- Receptive to having a basic understanding of the mechanics of the meeting logistics, most notably document production.

Section 3: Role of the Secretariat

The working group chair is assisted by a Secretary who is a staff member of the Secretariat. Depending on the meeting this could be a Secretariat division head or a programme officer acting as the primary focal point for a particular thematic or cross-cutting area or both.

The Secretary assists the working group chair by:

- Providing advice on the conduct of the meeting including the application of the rules of procedure;
- Taking notes, summarizing and synthesizing, as far as possible, the contributions from delegations and preparing draft decisions and recommendations;
- Responding and providing clarification when requested by the working group chair or the meeting; and
- Liaising with the Executive Secretary, another working group and any smaller breakout groups and their presiding officers.

The Secretary also liaises with the Secretariat's conference services unit for meeting room allocation, interpretation and production of documents including their translation and distribution.

Section 4: Working Group Chair's Resources and Tools

4.1 Working group chair's resources

A working group chair's primary resources are the meeting delegates and the Secretariat.

The working group chair needs to have and be familiar with the following supplemental resources including the:

- Agenda;
- Annotated agenda;
- Meeting schedule;
- Issues: official and informational documentation for the agenda item and any briefing/speaking notes produced by the Secretariat;
- Rules of procedure.

Depending on the meeting the Secretariat will provide the working group chair with a resource package, which may include "choreography" for opening a meeting, briefing notes, and a glossary of terms for negotiators.

Preparatory discussions on agenda items may also take place between the working group chair and the Secretariat prior to the meeting.

4.2 Smaller groups: A tool to facilitate consensus

Where no consensus can be reached in the larger setting of the working group, the working group chair can propose that a smaller group try to find common understanding or agreement on an issue. Smaller groups usually take three primary forms: "contact groups" and "friends of the chair" or informal consultations among two or more Parties.

4.2.1 Contact groups

Participation in a contact group is open to all delegations that wish to participate. Observers are usually permitted to participate.

One of the advantages of a contact group is that it operates less formally than the working group. The COP's official rules of procedure, applicable to the working group, are not normally applicable to the contact group. Therefore, the contact group can decide its own procedures on the proposal of the contact group's presiding officer or members of the contact group. For example, a strict speaking order (Parties, other governments, organizations) is not necessarily adhered to (UNEP, 2007a).

A contact group can meet when the working group is in session (see section 6.3.2).

4.2.2 Friends of the chair

A friends of the chair group is an informal group of a few prominent negotiators invited by the working group chair to develop a consensus proposal on a specific issue (UNEP, 2007a).

The group reports to the working group chair. The working group chair than reports back to the working group on any proposals or other outcomes.

The working group chair will indicate which countries he or she would like to participate in the friends of the chair group. The composition is at the discretion of the working group chair, but it usually consists of representatives from the regional groups and specific interest groupings. Observers would not be typically invited to participate but are not necessarily excluded.

A friends of the chair group is informal. The COP's official rules of procedure would not normally apply.

4.2.3 Informal consultations

The working group chair may also request informal consultations among a small number of interested delegations. This can be useful in situations where, for example, only two or three countries have divergent views on a particular topic. In this setting the working group chair may request the interested parties to work out a solution amongst themselves, and report back to the working group. These discussions may take place in the margins of the meeting room itself while the larger working group is in-session.

Section 5: Conduct of Business: General Points

Unless otherwise decided, the rules of procedure of the Conference of the Parties apply to CBD working groups and guide the conduct of business. They can be found at:

< http://www.cbd.int/convention/rules.shtml >.

A working group chair needs to be familiar with the rules of procedure focussing in particular on the following:

The conduct of business

- Meetings to be public unless otherwise decided (Rule 29 (2));
- Quorum (Rule 30);
- Right to speak at the permission of the Chair (Rule 31 (1));
- Time limits on speaking (Rule 31 (2));
- Points of order to be decided immediately (Rule 33);
- Proposals in writing and in official languages one day before meeting (Rule 35);
- Precedence of motions (Rule 36);
- Withdrawl of proposals or motions (Rule 37);
- Reconsideration of an adopted or withdrawn proposal (Rule 38);
- Decision making (primarily Rule 40).

In addition for subsidiary bodies such as SBSTTA:

- Quorum of a subsidiary body (Rule 26 (5) (a));
- Chair voting (Rule 26 (5) (b));
- Decision making by majority (Rule 26 (5) (c)) (Note: While rule 26 (5) (c) of the rules of procedure provides that decisions in the SBSTTA may be adopted by majority of the Parties present and voting, SBSTTA has always adopted its recommendations by consensus).

5.1 Decision making (primarily Rule 40)

Substantive decision making within the CBD is by consensus. Consensus is a form of decision making, without voting, generally understood to exist when there is no formal objection to a proposal to adopt a decision. Important to note is that consensus is not necessarily unanimity.

"Whether there is consensus on an issue or not is determined by the working group chair on the basis of the views expressed by delegates and his/her subjective assessment of the sense of the meeting" (UNEP, 2007c). Instead of breaking consensus, a Party may request that its views be reflected in the meeting report.

5.2 "Public" meetings, observers and speaking order

Rule 29 establishes the general principle that, unless otherwise decided by the Parties attending, the COP or SBSTTA, the meeting is to be held in public.

Rules 6 and 7 govern the representation and participation of observers in meetings held under the auspices of the Convention. Observers may "participate" in a meeting, without the right to vote, at the invitation of the chair, unless one third of the Parties present object.

UN practice dictates that speakers are permitted to speak according to the sequence of requests in the following order:

- Parties;
- Non-party observer States;
- Other observers (Intergovernmental organisations; indigenous and local communities; NGOs/private sector).

Observers may not negotiate *per se.* However as part of an intervention they may make points and propose text. However proposed text would not normally be included in subsequent documentation unless "sponsored" by a Party.

5.3 Official Sessions

Working groups meet in place of the plenary and therefore meet when the plenary would otherwise meet. A typical day is defined by two official working sessions from 10:00 to 13:00 and 15:00 to 18:00.

No more than two working groups can meet simultaneously.

5.4 Punctuality

CBD sessions have the potential to start late. When they do it is a wasted opportunity in terms of the Parties' time and money. The working group chair ensures that sessions start and end on time. Starting on time makes the most efficient use of interpretation time, limits the need for night sessions and helps to use limited financial resources more wisely.

5.5 Scheduling of smaller breakout groups

Contact groups, friends of the chair and other informal groups usually meet outside of official meeting hours before the official working group session starts, during the lunch break or in the evening.

The number of meetings and their times will depend on progress made. Subsequent meetings tend to be planned on the spot in consultation with the breakout group members and in communication with the Secretariat and its conference services unit.

5.6 Official night sessions: Advanced Notice Required

An official night session of the working group is possible, with interpretation, if it is apparent work cannot be otherwise finished. Night sessions are usually confirmed ahead of time in consultation with the Bureau.

The Secretariat would inform its conference services unit as soon as possible, so that a room and interpretation can be arranged.

If no interpretation is possible, then the working group chair would need to ask permission from the working group to proceed in English only.

5.7 Interpretation

UN rules limit interpretation to three-hour sessions (e.g., 10:00 to 13:00 and 15:00 to 18:00). Punctuality saves money: Interpreters are paid for these 3-hour sessions whether the meeting session starts on time or not.

If a session has the potential to run slightly over time, it is polite to ask the interpreters if they are willing to provide an additional 5-10 minutes of interpretation. Anything more than this is usually not possible.

No interpretation is provided for smaller groups such as contact groups or friends of the chair groups.

Section 6: Basic Elements of Conducting the Working Group's Business

6.1 Opening of the session

The working group chair calls the meeting to order (using a gavel). At the beginning of the first session the working group chair may wish to exchange courtesies such as expressing thanks for being elected.

Depending on the situation, the working group chair may:

- Reiterate the mandate of the working group;
- Outline any terms of reference;
- Describe the actions requested and therefore the outcomes expected from the working group;
- Describe the form outputs will take;
- Propose/explain how the working group will conduct its business;
- Remind the participants of any time limitations;
- Remind delegates to speak directly to an issue;
- Remind speakers to hand their clearly written statements and proposals for text to the room attendants;
- Explain how to request the floor, use microphones, etc.

The Secretariat may provide the working group chair with speaking notes. Speaking notes provide the basic "choreography" to call the meeting to order and start the session.

6.2 Facilitating the working group's deliberations on an agenda item

The working group chair follows the adopted agenda and meeting schedule. After the agenda item's introduction, the working group chair will open the floor for discussion.

When an agenda item is discussed for the first time, each speaker will generally only take the floor once. Comments can be of a general or specific nature.

6.3 Closing deliberations on an agenda item

The working group chair determines whether there is consensus (i.e., no objection) on a particular item or issue. This involves listening carefully as the debate proceeds and, among other things, identifying areas of convergence and divergence amongst the delegations.

6.3.1 Deliberations resulting in consensus

Consensus on a text can result in at least two ways forward depending in part on the complexity of issue.

In the first, agreed amendments are simply reflected without further discussion by the Secretariat in subsequent documentation (see Section 7 below) to be adopted by the working group.

In the second, the working group chair may offer to prepare a "Chair's text" (usually prepared in collaboration with the Secretariat). The Chair's text, which can take the form of a Conference Room Paper (CRP) (see Section 7 below), would then be re-considered in a subsequent session of the working group.

When the working group finalises its text, agreed amendments are then reflected without further discussion by the Secretariat in subsequent limited distribution (or "L") documentation (see Section 7 below) and recommended to plenary for adoption.

6.3.2 Deliberations resulting in no consensus: deployment of smaller breakout groups

When no consensus can be reached the working group chair can propose that a smaller break out group (e.g., a contact group or friends of the chair group) try to find a path towards consensus on an issue.

Note that to ensure that most delegations are able to participate in the negotiations it has generally been the practice since COP-4 that no more than two contact groups or one working group and one contact group should be operating at any one time. A flexible approach to this may be needed however depending on the agenda.

Breakout groups require the working group chair to provide a:

- Clear mandate (terms of reference);
- Clear expectation of what output is needed;
- Time frame for the work;
- Meeting room (allocated after discussion with the Secretariat);
- Time to meet;
- Proposal for their facilitation (e.g., a presiding officer for contact groups).

The typical output of breakout groups is revised text that is then proposed to the working group under which the breakout group was formed for further consideration and endorsement, with the ultimate intention of the working group submitting a draft recommendation or decision to plenary. Depending on the complexity of the issue, the revised text may be submitted in the form of a Conference Room Paper (CRP).

Section 7: The Long and Winding Documentation Trail

CBD meetings are characterised by two primary types of documents.

7.1 Pre-session documents

Pre-session documentation includes official and information documents produced and made available to delegates at least six weeks before the opening of the meeting. For SBSTTA, pre-session documents are made available at least three months before the meeting.

Official documents (sometimes in other fora called conference or substantive documents) provide context for suggested actions or outcomes including draft decisions or recommendations. They are provided in all six UN languages and are for general distribution.

Information documents provide background to support consideration of an agenda item and do not request or require specific action. They are provided in English only or in the UN language(s) in which they were submitted, and are for general distribution. Information documents may be provided by the Secretariat or at the request of a Party or, depending on the subject matter or issue, by observers.

7.2 In-session documents

In-session documents are generated during the meeting. There are four types.

7.2.1 Conference Room Papers (CRPs)

CRPs are a category of in-session document, only for use during the meeting itself, containing new proposals or outcomes of in-session work.

CRPs "serve a number of purposes: to explain in detail the position of a Party or negotiating bloc on a complex issue; to put forward new negotiating text; to report to the plenary on the results of the deliberations of a group" (UNEP, 2007a).

CRPs are officially numbered (CRP.1, CRP.2 etc.) and their origin is clearly identified (from a group of countries, from a working group etc.) (UNEP, 2007a).

These papers do not survive after the meeting (UNEP, 2007a).

Note that a Party may ask for the inclusion in the final meeting report that all or part of a CRP be included in the final report of the meeting. CRP documents are often used when there is not enough time for translation into the official languages, as would normally be required for a limited distribution ("L") document" (UNEP, 2007a).

7.2.2 Limited distribution or "L" documents

Limited distribution documents are a category of in-session document that contain conclusions and decisions for adoption by a plenary session of a particular meeting.

Within the CBD, a draft meeting report, draft COP decisions and SBSTTA recommendation are circulated to a meeting's plenary session as L documents for consideration and adoption. These in-session documents are edited and, to the extent practicable, translated and issued in all six UN languages prior to consideration in the working group.

They are denoted "L" for limited distribution and exist only during the course of the meeting.

7.2.3 Informal papers

Sometimes called “non-papers”, informal papers are an in-session category of document circulated at the request of a Party on an informal basis and designed to facilitate the negotiation process.

A Party may circulate a “non-paper for any number of reasons: for information purposes; to float possible proposals in order to elicit comments from other countries or to generate support. Unlike CRPs, they have no official numbers. The Secretariat can also circulate informal documents that contain the most recent version of text still subject to negotiations in various groups”(UNEP. 2007a).

7.2.4 Chair’s text

In order to assist the process of negotiating a working group chair may be asked or may take the initiative to put forward a negotiating text. This in-session document usually takes the form of a CRP but may also take the form of an informal paper (non-paper).

7.3 From interventions to CRP

Interventions made during the course of the consideration of an agenda item are collected in written form by the room attendants, and are then provided to the Secretariat. They are used as source material for revising draft decisions and recommendations.

The working group chair typically prepares a “chair’s text” in the form of a “conference room paper” (CRP) based on interventions made by Parties, and/or the results of smaller breakout groups. This can be undertaken with the assistance of the Secretariat.

7.3.1 Translation of CRPs

Preparation needs to be done quickly: in almost all cases the revised document will need to be translated (many times this will be done off-site and over night in another country). The Secretary keeps the working group informed of the expected time that translations will become available.

7.3.2 Chain of review/authorisation

A text needs to be approved by the Secretary of the working group, the Executive Secretary (or his representative) and the chair of the working group.

It then goes to the Secretariat’s editor, who produces the document and arranges for it to be translated and distributed, in close liaison with the working group Secretary.

7.4 The second round: adoption of CRPs or other drafts

Once available, the CRP will go back to the working group from which it originated for further consideration and adoption.

If a contact group has met its presiding officer will usually be asked by the working group chair to report briefly on the outcomes prior to the working group’s consideration of the CRP.

If a friends of the chair group has met the working group chair that created it will report back to the working group. A chair’s text may be introduced as a CRP or non-paper for further consideration.

7.4.1 Working group chair's objective

The working group chair's ultimate objective is to forward "clean" text to the plenary; that is, text that is free and clear of as many (or all) of the brackets as possible. To do this the working group chair must move the working group's consideration of the draft text away from generalities to specifics: content and language must be finalised to resolve all outstanding issues (denoted by square brackets).

Progress at times can be slow and difficult. On difficult issues the working group chair may need to do a fair bit of facilitating, and may want to again use smaller informal breakout groups (see section 5 above) to help quickly resolve remaining contentious points but without adjourning the working group.

A key issue to be considered by the working group chair is deciding what level of detail to proceed: word-by-word, line-by-line or paragraph-by-paragraph.

When a draft decision or recommendation is under negotiation the working group chair would normally lead the working group in its consideration paragraph by paragraph, and within each paragraph, each bracketed set of text, one by one. There may also be comments on the form or structure of the draft decision or recommendation.

Importantly, the working group chair should re-confirm what has been decided for each suggested change. In other words the working group chair should confirm what has been agreed or not agreed, bracketed or deleted, etc. in a stepwise or summary manner.

During this phase of the negotiation the working group chair focuses highest priority on the interventions of Parties.

Once consensus has been achieved, the working group chair can move for the adoption of the text with the changes that have been agreed upon. Using the gavel indicates closure of discussion and adoption. The amended text of the CRP will now become part of a subsequent L document.

7.5 From CRP to L document: more revisions

The Secretariat will process the agreed amended text of the CRP quickly (changes are typically tracked to facilitate translation).

The chain of approval will be the Secretary of the working group, the Executive Secretary (or his representative) and the working group chair. The editor will produce the L document and arrange for translation and distribution. The editor will make sure that the Secretary of the working group sees the text before reproduction.

7.6 Adoption in final plenary

The L documents are adopted in a final plenary session of the COP or SBSTTA. Prior to this, and depending on the meeting, and the nature of the text to be considered, the working group chair could be asked to report to the plenary on the work undertaken.

References and Resources

Multilateral Environmental Agreement Negotiator's Handbook, (Second Edition **2007a**.), UNEP Course Series 5, United Nations Environment Programme (UNEP). On line: http://www.unep.org/DEC/docs/MEAs_Negotiators_Handbook.pdf

Guide for Negotiators of Multilateral Environmental Agreements, **2007b**, UNEP Division of Environmental Law and Conventions. On line: http://www.unep.org/DEC/docs/Guide for Negotiators of MEAs.pdf

Glossary of Terms for Negotiators of Multilateral Environmental Agreements, **2007c**, UNEP Division of Environmental Law and Conventions. On line: http://www.unep.org/DEC/docs/Glossary of terms for Negotiators of MEAs.pdf

Negotiating and Implementing MEAs: A Manual for NGOs, **2007d,** UNEP Division of Environmental Law and Conventions. On line: http://www.unep.org/DEC/docs/MEAs Final.pdf