

Plan for the review of the Convention's rules of procedure Proposal by Canada

At its 59th session, the Working Group on Strategies and Review (WGSR) discussed updating the rules of procedure (RoP) to enhance the practical and smooth functioning of the Convention and to do so by undertaking a thorough revision process. The WGSR requested that a proposal be made for a plan and process to undertake the update of the rules of procedure at the 41st session of the Executive Body (EB).

Given the ongoing review of the Gothenburg Protocol and the resources required to complete that work, it is proposed that the work to review and revise the rules of procedure be completed by the 43rd session of the Executive Body (December 2023).

An ad hoc group of experts on the rules of procedure (RoP group) should be struck to lead the substance and content of the work. The EB should mandate the WGSR Chair to set up the group including choosing its chair and members. National experts with policy and/or legal expertise who wish to participate should be identified to the secretariat by January 14, 2022. The EB may also wish to advise the WGSR Chair to consult with the Chairs of the EMEP Steering Body and the Working Group on Effects to determine if any science/technical experts would like to participate on the RoP group.

The first objective of the RoP group will be to assess views that have been put forward to date by Parties, including written submissions that have been received by the secretariat as outlined in the WGSR59 informal document "Proposals by Parties for amendments to the rules of procedure for sessions of the Executive Body for the Convention (compilation by the secretariat)", and to make revision proposals based on this information.

The second objective of the RoP group will be to look at the Rules of Procedure in their entirety, and propose updates to any section that may seem appropriate in the overall goal of enhancing the smooth functioning of the Convention, as per their expertise and experience of the day-to-day operation of the Convention. The RoP group should ensure that the Chair of the WGSR is kept informed of its progress.

In parallel, the ad hoc group of legal experts should be mandated by the EB to undertake a legal assessment of the proposed revisions. The RoP group, in consultation with the WGSR Chair, should engage the ad hoc group of legal experts throughout the revision process, at a sequence that is appropriate with the proposed timelines. The primary objective of the legal expert review will be to ensure the proposed revisions are legally feasible and generally acceptable from a legal perspective.

None of the proposed revisions should be considered as binding or should be assumed to be included in a final revised version of the rules of procedure. Parties will have an opportunity to discuss these changes at meetings of the WGSR in 2022 and 2023, and a final decision will be taken at the 43rd session of the EB.

If the EB agrees with this approach, the Chair of the WGSR should convene the first meeting of the RoP group in early 2022 to begin its work, including beginning text edits to the rules of procedure. At WGSR60, the RoP group should submit an informal document containing the first draft of revisions and report on its progress. The WGSR may wish to discuss these.

Based on guidance received at WGSR60, the RoP group should continue its work throughout 2022. At EB42, the RoP group should submit a second informal draft of the revisions and provide an update on progress. As per discussion and direction provided at EB42, the RoP group should continue its work into 2023 and in parallel (as appropriate) engage with the ad hoc group of legal experts who should undertake the legal assessment of the proposed revisions with the aim of completing the draft revisions and legal review by late April-early May 2023 (depending on timing for WGSR61).

At WGSR61, the RoP group should submit the penultimate informal draft of the proposed revisions (which should include the legal assessment) and report on its progress. The RoP group should then work to respond to any comments/issues raised by the legal assessment and by parties at WGSR61 in order to prepare the final draft of revisions which should be completed by July 1, 2023.

The final draft of revisions to the rules of procedure should be submitted as an official document for EB43, unless otherwise specified by the EB. The EB will make all final decisions on the revisions, including whether or not to adopt them.