

Preparation of the reports on credentials for the ordinary meetings of the conferences of the parties to the Basel, Rotterdam and Stockholm conventions in 2015

Thought starter on information to be provided to the parties of the three conventions

(version 25 March 2014)

Introduction

During their teleconferences held respectively on 23 January, 3 February and 19 February 2014, the respective bureaux of the conferences of the parties (COPs) to the Basel, Rotterdam and Stockholm conventions (BRS) agreed on the process pertaining to the preparation of the reports on credentials (see annex). The first step in the process is the development of a thought starter.

The present thought starter provides information on the relevant rules of procedure and past practice of the BRS COPs and presents a proposal for the consideration of the bureaux. As a second step, the Secretariat will draft a note on the preparation of the reports on credentials, for the consideration and approval of the bureaux during their joint meeting on 11-12 November 2014.

The importance of credentials

Credentials are the official designation by a Party of its representatives for a meeting of the Conference of the Parties. The decision taken by the meeting of the Conference of the Parties following submission by the Bureau of the report on credentials has very concrete implications as it determines:

- whether a quorum has been reached¹;
- which Party may participate in decision-making²;
- whether a representative of a Party is present at the meeting and can, therefore, be elected as officer of the BC or SC COP Bureau³.

¹ BC rule 30 (two thirds of the parties must be present for declaring a session of the meeting open, for permitting the debate to proceed and for any decision to be taken), RC rule 35 and SC rule 35 (one third of the parties must be present for declaring a session of the meeting open and for permitting the debate to proceed; and two thirds of the parties must be present for any decision to be taken).

² BC rule 39, RC rule 44 and SC rule 44: each Party shall have one vote (a special rule applies for political and /or economic integration organizations). For matters of procedure, decisions shall be taken by a simple majority vote (BC rule 40, RC rule 45 and SC rule 45). For matters of substance, all efforts shall be made to reach agreement by consensus. If all such efforts have been exhausted, a decision by the BC COP shall, as a last resort be taken by a two-thirds majority vote of the parties present and voting, unless otherwise provided by the BC, the financial rules or the rules of procedure. Similar language is not agreed under the RC and SC rules, which means consensus is required for decision-making on matters of substance under RC and SC.

The BRS rules of procedure

In line with the rules of procedure for meetings of the conferences of the parties to the BRS, the Bureau of any meeting shall examine the credentials and submit its report to the Conference of the Parties⁴.

The respective rules of procedure⁵ set out:

- who may issue the credentials: either the Head of State or Government or the Minister of Foreign Affairs or, in the case of a regional economic integration organization, the competent authority of that organization;
- to whom the credentials should be submitted: the Secretariat/the Executive Secretary; and
- when the credentials should be submitted: *if possible* no later than twenty four hours after the opening of the meeting.

The respective rules of procedure also stipulate that, pending a decision by the meeting to accept the credentials, representatives shall be entitled to participate provisionally in the meeting⁶.

These rules, however, do not specify that the credentials should be submitted in a specific form, for instance in original form, and they do not specify the ultimate deadline by which credentials should be submitted.

For reference purposes, with respect to the form and deadline for the submission of credentials, the rules of procedures of other MEAs (eg. CBD/Cartagena Protocol, UNFCCC, Vienna Convention/Montreal Protocol) are similar to the BRS rules of procedure⁷. In practice, acceptance of copies of credentials appears to be standard practice under the Montreal Protocol, and periods of grace for the submission of original credentials subsequent to the closing of the Conference/Meeting of the Parties have been given under the CBD/Cartagena Protocol and the UNFCCC.

The BRS bureaux and COPs' practice

In examining the credentials, the bureaux will need to take into account the respective rules of procedure and ensure they are respected. As evidenced by the practice over the years under the three conventions, the flexibility provided by these rules with respect to both the form in which, and the deadline by which, credentials should be submitted has been used by the bureaux and

³ BC rule 21.1 and SC rule 22.1 provide that at each ordinary meeting of the COP, a President, and nine Vice-Presidents, one of whom will serve as Rapporteur, are to be elected *from among the representatives of the parties present at the meeting*. Under RC, such a requirement of presence at the meeting only existed for COP-1. For subsequent RC meetings, rule 22.1 provides that the election of officers is to take place *from among the parties to the Convention*.

⁴ BC rule 19, RC rule 20 and SC rule 20.

⁵ BC rule 18, RC rule 19 and SC rule 19. Under BC, a regional political integration organization may also become a Party to the Convention.

⁶ BC rule 20, RC rule 21 and SC rule 21.

⁷ CITES may be cited as an exception since its rules of procedure provide that the Credentials Committee shall recommend acceptance of credentials only if the signed original has been presented.

COPs to ensure that the required quorum was reached and the meeting could proceed with its work.

With respect to the form in which credentials should be submitted, the practice has varied over the years under the three conventions, from being very lenient to requiring originals⁸. With respect to the deadline for the submission of the credentials, the agenda item pertaining to the examination of credentials is taken up early in the meeting, on the morning of the first day, at what time parties are reminded of the rules of procedure pertaining to the matter. Consideration by the COP of the report on credentials submitted by the Bureau usually takes place immediately prior to the COP entering in decision-making mode, i.e. on the morning of the last day of the COP.

During the 2013 COPs, because of the number of decisions to be taken by the six meetings, consideration of the six reports on credentials took place in the afternoon session of the day before the last day of the meeting. Parties were informed in the course of the meetings that their credentials in original form therefore needed to be submitted by noon on the day before the last day of the meetings. Parties failing to do so would be considered as participating as observers for the remainder of the meetings. As such, these parties would not be taken into account for the purpose of determining whether a quorum was reached, they would not participate in decision-making, and their representatives would not be considered as being “present” at the meeting for the purpose of the election of the BC and SC COP officers. The COPs however agreed that representatives of parties without original credentials at that time could still submit original credentials within a week following the closing of the meetings and be listed as parties in the final reports of the meetings. Six parties submitted such credentials.

Possible approach for the 2015 COPs

The bureaux are invited to consider the following approach with respect to the form and deadline for the submission of credentials, based on the respective BRS rules of procedure, taking into account past practice and mindful of the need to reach a quorum for meetings of the COP to proceed.

⁸ For RC, the Bureau has recommended and the COP accepted: only original credentials (COP-3, COP-4, COP-6), original and copies of credentials (COP-5), all forms of nominations (original credentials, copies of credentials, nominations in the form of letters or notes verbales not signed by the proper authority) for the purpose of participation and only original credentials for the purpose of decision-making on the location of the Secretariat (COP-1). The approach followed during RC COP-2 is unclear from the meeting report. For SC, the Bureau has recommended and the COP accepted: only original credentials (COP-6), original or copies of credentials (COP-3, COP-4 and COP-5), all forms of nominations - original credentials, copies of credentials, nominations in the form of letters or notes verbales not signed by the proper authority - on the understanding that formal credentials would be submitted “as soon as possible” (COP-1, COP-2). For BC, the Bureau has recommended and the COP accepted: only original credentials (COP-11), original credentials for decision-making and other forms of nominations for the purpose of participation (COP-8 and COP-9), all forms of nominations - original credentials, copies of credentials, nominations in the form of letters or notes verbales not signed by the proper authority - on the understanding that formal credentials would be submitted “as soon as possible” (COP-10).

- Acceptable forms:
 - original credentials or
 - copies of credentials. In case of doubt as to whether a copy constitutes a valid credential, the copy will need to be accompanied by an original letter or note verbale from a ministry, embassy, permanent mission or other government office/authority of the Party.
- Deadline: submitted by the end of the session before that which immediately precedes the session during which the COP enters into decision-making mode (i.e. if the COP enters in decision-making mode on Thursday at 3:00pm, the deadline for the submission of the credentials is the end of the Wednesday afternoon session).
- Consequences: Parties without valid credentials will be considered as participating as observers during the meeting. They will not be taken into account for the purpose of determining whether a quorum is reached, their representative cannot be a candidate for election in the BC and SC bureaux, and they will not participate in decision-making. These parties will be listed as observers in the meeting report and list of participants.

The approach would need to be brought to the attention of all parties well in advance of the meeting, for instance with the invitation letter, at the web page and through the bureaux members. It is also important to remember that each COP retains ultimate decision-making power with respect to credential matters.

Annex

Process for preparing the reports on credentials for the 2015 COPs⁹ (version of 19 February 2014)

Agreement on the process:

2 Dec. 2013: During their joint teleconference, Presidents agree on the process for developing the approach for the preparation of the reports on credentials for the 2015 COPs.

Jan.-Feb. 2014: Presidents inform their respective Bureau on the process during the individual Bureau teleconferences.

Development / approval of the thought starter:

3 Mar. 2014: Secretariat sends to Presidents for written comments a draft thought starter on a possible approach for the preparation of the reports on credentials for the 2015 COPs.

End Mar. 2014: Secretariat amends the draft thought starter and submits it to the Presidents for approval.

Consultation with each individual Bureau on the thought starter:

7 Apr. 2014: Secretariat sends the thought starter to the three bureaux, requesting comments by 21 April 2014, and indicating that all three bureaux will have a chance to discuss the thought starter at their individual bureau meetings.

14-15 May 2014: SC Bureau meeting;

22-23 May 2014: BC Bureau meeting;

4-5 June 2014: RC Bureau meeting.

A compilation of comments received will be made available to the three bureaux.

Development / approval of a note on the preparation of the reports on credentials:

1 Oct. 2014: Secretariat circulates a draft note outlining the approach for the preparation of the reports on credentials, which incorporates the feedback received from three bureaux to the Presidents for their consideration.

10 Oct. 2014: Presidents agree on the note outlining the approach for the preparation of the reports on credentials to be considered by the bureaux at their joint meeting.

13 Oct. 2014: Secretariat sends out to the bureaux the note outlining the approach for the preparation of the reports on credentials for the 2015 COPs, as background document for their joint meeting.

10 Nov. 2014: Joint Presidents meeting (any issues arising from the consultations on the note could be discussed in preparation for the joint bureaux meeting).

11-12 Nov. 2014: During their joint meeting, bureaux consider and approve the note outlining the approach for the preparation of the reports on credentials which then is annexed to the report of the joint meeting and made available on the website of the conventions as soon as possible following the joint bureaux meeting. It will also be made available as an information document for the 2015 COPs.

⁹ In accordance with the respective rules of procedure for the COPs under the Basel, Rotterdam and Stockholm conventions, each Bureau will submit its report on credentials to the COP.