

Convention on Long-Range Transboundary Air Pollution (CLRTAP)

62nd session of the WGSR (Geneva, 27-31 May 2024)

Amendments to the Rules of Procedures (RoP)

Submission by the EU and its member states

At its 43rd session, the Executive Body considered the results of the RoP review and the legal assessment, and on that basis invited Parties to submit views on the potential amendments initially identified by the ad hoc group of experts and contained in document ECE/EB.AIR/2023/8 to the secretariat by 9 February 2024.

In response to this invitation and in line with previous positions and contributions of the EU and its Member States on this issue, the EU and its Member States (re)submit following views on the possible amendments to the RoP as contained in document ECE/EB.AIR/2023/8, duly taking into account the assessment of the ad hoc group of legal experts. This submission does not yet reflect the final positions of the EU and its Member States on this matter and as such would not yet provide the basis to negotiate and agree on concrete proposals for amendments already at the 62nd session of the Working Group on Strategies and Review (WGSR) to be recommended to the EB for adoption at its 44th session.

Submission

In line with their previous written contributions on the RoP of March 2020 and June 2023, and their positions delivered at previous meetings of the WGSR and the Executive Body, the EU and its Member States wish to convey following views.

(a) Hybrid meeting (Rules 2.9, 3.2, 3.3, 3.4, 17b.2, 17b.3 and 21.1)

We currently regard this option as less urgent and believe that this issue can also be dealt with separately by an EB decision. Our overarching view is that any amendment proposals regarding hybrid meetings should not be too prescriptive, so as not to unnecessarily complicate the operation of such meetings.

An important drawback of new Rule 17b is that it makes online voting impossible. It may happen in the future, as it happened during the pandemic, that travel is severely limited and such a restrictive provision may cause problems. We support leaving the matter open with a mechanism to decide, should the need arise, whether online voting is really necessary, also taking into account the technological tools for online voting available at that time. We find the comments and observations of the legal experts in paragraphs 16 to 19 (definitions) and 22 to 31 (hybrid meetings) of their report highly relevant to any further consideration of this issue.

(b) Geographical balance and gender parity (Rule 17a.1)

From the EU side, we reiterate our strong objection to any introduction of regional representation on the Bureaux. We support the principle of taking due account to geographical and gender balance but this is not the same as Bureau members representing a certain geographical region or gender. Bureau members are elected on the basis of their individual capacity and expertise and their task is to act for the best interest of the Convention, not for the interest of their home region. This principle remains important to us. For that reason, and taking into account paragraph 34 of the report of the legal experts, we would suggest either not to include in the Rules of Procedure the reference to geographical and gender balance or to include simultaneously

a clarification on the fact that the chair and vice-chairs are expected to act in the best interest of the Convention and not of a certain gender or geographical region.

We support what is said in paragraph 35 of the report of the legal experts about changing the term “gender parity” to “gender balance”, for consistency with the accompanying term “geographic balance”.

(c) Number of vice chairs (Rule 17a.1)

We do not have a final position yet regarding the proposal to increase the number of vice-chairs from 3 to 4. However, since the main reason given in the RRG report for increasing the number of vice chair to four is to facilitate a composition of the EB Bureau that respects geographical and gender balance, and given our position on this issue under (b), we do not consider this a necessary amendment. Moreover, the legal experts have a good argument in their report by pointing out in paragraph 35 that if there are to be an odd number of top officers, one chair and four vice-chairs, actual “parity” would be unattainable.

Also, like the legal experts, we note that rule 17a.1 (existing Rule 17.1) does not apply to subsidiary bodies. Under Rule 21.5 a subsidiary body may already elect more than three vice-chairs. Note that the RRG forgot to update the current reference to Rule 17.1 in Rule 21.6 to reflect the changes to Rule 17 (renumbering).

(d) Length of terms of office (Rule 17.2)

Regarding the length of terms of office, a simpler solution would be to leave this rule (current Rule 17.1) unchanged or further simplified/improved, taking into account the potential discrepancy between the start and end of terms (due to a change in the timing of the annual session of the meeting).

(e) Scope and decision making (Rules 1, 21.6 and 29)

Regarding the expansion of the scope of the Rules of procedure in Rule 1 and the deletion of the reference to Rule 29 in Rule 21.6, making Rule 29 (decision making) also applicable to the other subsidiary bodies, we reiterate that the other subsidiary bodies are not decision-making bodies, but only agree on draft recommendations for the EB or agree on technical documents. Making rules for decision-making also applicable to WGSR, EMEP SB and WGE would further complicate / slow-down the policy preparation and science process and imply that also for the WGSR and EMEP SB we may need to come with credentials. So far we have been able to avoid coordination on science and technical issues within EMEP SB and WGE. This would potentially also have impact on the agreement of the adjustment applications (that we as EU wanted to maintain as a technical procedure). For these reasons and because reaching consensus on recommendations to the EB within subsidiary bodies is not a specific problem to be solved, we insist on removing this proposal from Rule 21.6. (see also the assessment of the legal experts in paragraphs 51 to 57 of their report). We further note that Rules 29 and 30 are currently grouped under 'decision-making' and go hand in hand. Making Rule 29 also applicable to subsidiary bodies, but Rule 30 not seems odd in that sense.

In addition, we also agree with the assessment of the legal experts in paragraph 15 of their report about the proposal to expand the scope of the RoP in Rule 1.

(f) Election of officers (Rule 17b)

Regarding voting for elections of officers, the detail of the proposed new rule 17b seems disproportionately prescriptive compared to the general voting rule 30. We doubt the usefulness and necessity of the proposed detail. We also agree with the assessment of the legal experts who point out that Rule 17b is unclear in several respects (see

paragraphs 38 to 45 of the legal experts' report). The current proposed new Rule 17b should be reconsidered and further clarified/simplified.

(g) Voting (Rule 30)

Regarding the voting rules, we believe that the level of detail in the current proposal (specifying the English alphabetical order of the roll call) may be unnecessary and suggest reconsidering the current proposal, taking into account the points raised by the legal experts in paragraphs 58 to 60 of their report.

(h) EB decisions pertaining to the Implementation Committee (Rule 30bis)

It is not clear why it would be necessary to repeat the wording of EB Decision 1998/3 as a new rule 30bis; it should be noted that such action would also change the way this procedure can later be amended. Also, the Implementation Committee is otherwise outside the scope of the Rules of Procedure. We propose to remove this proposal.

In particular, as we have already communicated on previous occasions, we would like to stress the need to submit only well-reasoned and necessary proposals to the EB for consideration. The Rules of Procedure should help and support the Parties in decision-making, but should not unnecessarily restrict the Parties' choices or ability to adapt to a given situation. If it is not a problem, we do not need to solve it. We therefore understand the need for further clarification, as indicated in paragraphs 13 and 14 of the legal experts' report. We propose to focus at the 62nd session of the WGSR on recommendations for amendments to the RoP that can potentially be adopted by consensus of the Executive Body, as required by the current Rule 33. These recommendations should appropriately take into account the assessment of the RRG proposals carried out by the ad hoc group of legal experts. Note, however, that the EU and its Member States cannot yet take final positions at the 62nd session of the WGSR on amendments to the RoP and that we defer our final judgment on a possible decision on amendments to the RoP until the next session of the Executive Body.