



**MEETING OF THE PARTIES TO THE PROTOCOL
TO ELIMINATE ILLICIT TRADE IN TOBACCO PRODUCTS**

**FCTC/MOP/3/13
19 May 2023**

**Third session
Panama City, Panama, 27–30 November 2023
Provisional agenda item 7.6**

Possible amendments to the Rules of Procedure of the Meeting of the Parties

Report by the Convention Secretariat

Purpose of the document

The present report describes possible amendments to the Rules of Procedure of the Meeting of the Parties (MOP) to the Protocol to Eliminate Illicit Trade in Tobacco Products, as recommended by the Bureau.

Action by the Meeting of the Parties

The MOP is invited to consider the possible amendments to the Rules of Procedures of the MOP contained in Annex 1 and to adopt the draft decision contained in Annex 2 of the present report.

Contribution to the Sustainable Development Goals (SDGs): All SDGs; in particular SDG 3 and Target 3.a, as well as SDG 16.

Link to Workplan and Budget item: None.

Additional financial implications if not included in the Workplan and Budget: None.

Related document(s): Rules of Procedure of the Meeting of the Parties to the Protocol to Eliminate Illicit Trade in Tobacco Products.

BACKGROUND

1. At its Second session, in decision FCTC/MOP2(2), in light of restrictions made necessary as a result of the COVID-19 pandemic, the Meeting of the Parties (MOP) to the Protocol to Eliminate Illicit Trade in Tobacco Products deferred the agenda item related to possible amendments of the Rules of Procedure of the MOP for consideration at the Third session of the Meeting of the Parties (MOP3).
2. The present report contains a proposal for possible amendments to the Rules of Procedure of the MOP, as recommended by the Bureau for consideration by the MOP. The amendments were initially proposed by a Party to the WHO Framework Convention on Tobacco Control (WHO FCTC) in relation to the Rules of Procedure of the Conference of the Parties (COP) to the WHO FCTC and were further discussed by the Bureau of the COP with the Bureau of the MOP, as the amendments related to matters of joint interest. With the support of the Convention Secretariat, the Bureau identified rules to which amendments could be made to facilitate the effective functioning of the MOP and to ensure coordination between the MOP and the COP. In decision FCTC/COP8(11), the COP requested its Bureau to work with the Bureau of the MOP to conduct a review of its Rules of Procedure and to identify rules to which amendments could be made to ensure coordination between the COP and the MOP. The Bureau of the MOP also identified the need to correct certain inconsistencies in the existing Rules of Procedure of the MOP.
3. It is recalled that, in accordance with Rule 66 of the Rules of Procedure of the MOP, the Rules of Procedure may be amended by consensus by the MOP. The Rules of Procedure of the MOP were adopted in decision FCTC/MOP1(1)¹ and have not been amended to date. It is to be noted that the Rules of Procedure of the COP, adopted in decision FCTC/COP1(8), were amended in decisions FCTC/COP6(24), FCTC/COP7(28) and FCTC/COP8(11), following recommendations by the Bureau.

POSSIBLE AMENDMENTS TO THE RULES OF PROCEDURE OF THE MOP

4. The possible amendments to the Rules of Procedure of the MOP, including the rationale to support those amendments, are contained in Annex 1 of the present report.
5. The amendments relate to:
 - (a) correcting inconsistencies between rules in relation to regional economic integration organizations and their status as observer to the MOP;
 - (b) correcting inconsistencies between rules in relation to the attendance of media at the MOP;
 - (c) arranging for live webcasting of agenda items considered for plenary meetings at the MOP;
 - (d) arranging for virtual sessions of the MOP in extraordinary situations;
 - (e) providing for the possibility of designating an acting Head of the Secretariat when required;

¹ Article 33.4 of the Protocol stipulates that the Rules of Procedure of the COP shall apply, *mutatis mutandis*, to the MOP unless the MOP decides otherwise.

- (f) providing for a joint recommendation of the Bureau of the MOP and the Bureau of the COP regarding the appointment of the Head of the Secretariat; and
- (g) discontinuing the practice of provisionally adopting the report of a MOP session before the close of the session.

ADDRESSING THE MATTER OF THE PROVISIONAL REPORTS AT MOP3

6. Should the MOP adopt the proposed amendments in relation to the provisional reports of the MOP (Rule 60), the amendments would apply as of the Fourth session of the MOP.
7. To facilitate proceedings at MOP3, bearing in mind the rationale articulated in Annex 1 of the present report, the MOP may decide to implement the proposed amendments with immediate effect, during the MOP3 session. That would mean that the provisional report for MOP3 would be made available in the six official languages (in line with Rule 60) and published as soon as possible after the session, allowing Parties to provide comments within a 15-day period from the circulation of the report (in line with Rule 62). The report would be considered provisional until it was finalized by the Convention Secretariat (to incorporate the comments received from Parties), and published, further to regular practice, on the WHO FCTC website. The reports of Committee A and Committee B, as well as the decisions taken by the MOP, would be published as soon as available, and before the provisional report.

ADDRESSING THE MATTER OF VERBATIM RECORDS

8. In relation to verbatim records, it is proposed that these be understood as audio files of the plenary meetings, available on the WHO FCTC website or on request (should the website not have the technical capacity to host the full audio records, and/or the accumulated audio records of past MOP sessions), after the closing of the session. This approach would have several benefits:
 - (a) audio files would present the advantage of being available far more quickly and more accurately, and in all six official languages rather than only in the language of the intervention, as is currently the case; and
 - (b) it would permit the Parties to save significant expenses, as well as substantial time and resources spent by the Convention Secretariat in preparing and publishing written verbatim records (a process which requires several months, including the hiring of a transcription company, repeated verification of the recordings, editing the text, etc.).
9. This approach would align with the practice of the World Health Organization (WHO) that no longer prepares written verbatim records for sessions of the World Health Assembly. That change in practice did not require amendment of the Rules of Procedure of the World Health Assembly.
10. The MOP may clarify, without amending the Rules of Procedure of the MOP, that “verbatim records of plenary meetings” (as referred to in Rule 60 and Rule 64, which do not specify the medium of the records) are understood to include audio files.

ACTION BY THE MEETING OF THE PARTIES

11. The MOP is invited to consider the possible amendments to the Rules of Procedures of the MOP contained in Annex 1 and adopt the draft decision contained in Annex 2 of the present report.

ANNEX 1

**POSSIBLE AMENDMENTS TO THE RULES OF PROCEDURE OF THE
MEETING OF THE PARTIES**

Rule	Possible amendment (new text in bold print; deletions in strikethrough print)	Rationale
<p>Rule 2 (Definitions)</p>	<p>12. “Public” sessions or meetings means sessions or meetings that are open to attendance by Parties, States and regional economic integration organizations that are not Parties to the Protocol [but are Parties to the WHO Framework Convention on Tobacco Control], States non-Parties to the WHO Framework Convention on Tobacco Control that are Associate Members of the World Health Organization (WHO) or any other Member State of the United Nations, the Secretariat, intergovernmental and nongovernmental organizations accredited by the Meeting of the Parties pursuant to Rules 30 and 31, respectively, accredited media and members of the public;</p> <p>13. “open” sessions or meetings means sessions or meetings that are open to attendance by Parties, States and regional economic integration organizations that are not Parties to the Protocol [but are Parties to the WHO Framework Convention on Tobacco Control], States non-Parties to the WHO Framework Convention on Tobacco Control that are Associate Members of WHO or any other State that is a Member of the United Nations, the Secretariat, and intergovernmental organizations and nongovernmental organizations that have observer status to the Meeting of the Parties pursuant to Rules 30 and 31, respectively;</p>	<p>To correct an inconsistency between Rule 2 and Rule 29.</p> <p>Regional economic integration organizations are entitled to observe the meeting if they are Parties to the WHO FCTC pursuant to Rule 2, whereas they can do so without being a Party to the WHO FCTC pursuant to Rule 29.</p> <p>The inconsistency between these rules should be aligned for clarity.</p> <p>It is proposed that Rule 2 be amended to align with Rule 29, which would reflect the provisions of decision FCTC/MOP1(4), whereby the MOP decided to invite regional economic integration organizations, among others, to apply for observer status to the second and subsequent sessions of the MOP, bearing in mind criteria which related to: (a) endorsement of the applications by the governing body of the organization; and (b) freedom from association with the tobacco industry or any other commercial entity with a vested interest. In this decision, the MOP does not seem to have retained the precondition of these organizations needing to be Parties to the WHO FCTC.</p>
<p>Rule 2 (Definitions)</p>	<p>13. “open” sessions or meetings means sessions or meetings that are open to attendance by Parties, States and regional economic integration organizations that are not Parties to the Protocol but are Parties to the WHO Framework Convention on Tobacco Control, States non-Parties to the WHO Framework Convention on Tobacco Control that are Associate Members of WHO or any other State that is a Member of the United Nations, the Secretariat, and intergovernmental organizations and</p>	<p>To correct an inconsistency between Rule 2 and Rule 32 (Conduct of business), according to which accredited media are entitled to attend the “open” sessions of the MOP, unless the Parties decide otherwise.</p> <p>Rule 32 provides that: “Sessions of the Meeting of the Parties shall be held in public, unless the Meeting of the Parties decides that they shall be open or restricted. Unless the Parties decide otherwise, accredited media shall be entitled to attend the open sessions of the Meeting of the Parties. This rule shall be implemented in</p>

	nongovernmental organizations that have observer status to the Meeting of the Parties pursuant to Rules 30 and 31, respectively, [and, unless the Meeting of the Parties decides otherwise, accredited media];	accordance with Article 5.3 of the Convention.”
Rule 15 (Secretariat)	<p>In addition to the functions specified in the Protocol, in particular in Article 34, the Secretariat shall, in accordance with these Rules:</p> <p>(a) arrange for interpretation at the session;</p> <p>[(b) arrange for live webcasting of agenda items considered in plenary meetings, as recommended by the Bureau and as approved by the Meeting of the Parties at the beginning of each session, subject to resolution of any relevant technical issues and the availability of financial resources;</p> <p>(c) arrange for virtual sessions of the Meeting of the Parties, upon a coordinated decision of the Bureau of the Meeting of the Parties and the Bureau of the Conference of the Parties, when such exceptional measures are required by an extraordinary situation;</p> <p>(b) (d)] collect, translate, reproduce and distribute the documents of the session;</p> <p>(...)</p>	<p>To ensure flexibility for virtual sessions, as needed, as well as the formalization of live webcasting of plenary sessions.</p> <p>The terminology in proposed paragraph (b) is aligned with that used in resolution WHA67.2 in relation to webcasting, as well as the Rules of Procedure of the MOP.</p> <p>The terminology in proposed paragraph (c) is aligned with that used in decisions WHA73(18) and WHA74(5) in relation to exceptional measures, as well as the Rules of Procedure of the MOP.</p> <p>The numbering of paragraphs in Rule 15 would have to be adjusted to reflect the addition of the two proposed paragraphs.</p>
Rule 24ter (Officers)	<p>In addition to the functions that the Meeting of the Parties may assign to it from time to time, and in addition to those described in Rules 6, 9, 19 and 21–24, the functions of the Bureau shall include the following:</p> <p>(a) to [consult] [make a recommendation, jointly] with the Bureau of the Conference of the Parties, [in relation to the recommendation the latter shall make] to the Director-General of WHO regarding the appointment of the Head of the Secretariat, [including the designation of an acting Head of the Secretariat when required];</p>	<p>In light of the mandate accorded to the Bureaus in decisions FCTC/MOP2(9) and FCTC/COP9(9), it is proposed that the rule be amended to ensure the equal status of the Bureau of the MOP and the Bureau of the COP in relation to the appointment of the Head of the Convention Secretariat.</p> <p>In addition, it is proposed that this rule be amended to ensure that it accounts for periods when a temporary Head of the Convention Secretariat may be required, as a means to ensure the optimal functioning of the Convention Secretariat, as well as to promote continued transparency.</p>
Rule 29 (Observers)	Any Party to the Convention that is not a Party to the Protocol, any Member State of WHO that is not a Party to the Convention, any Associate Member of WHO, or any other State that is not a Party to the Convention but	Reference could be made to Article 1.11 of the Protocol, which provides a definition for “regional economic integration organizations”, identical to that of Article 1(b) of the Convention.

	<p>that is a Member of the United Nations, or its specialized agencies or of the International Atomic Energy Agency, and any regional economic integration organization, as defined in Article 1(b) of the Convention [1.11 of the Protocol], that is not a Party to the Protocol, may attend the public or open sessions of the Meeting of the Parties or meetings of its subsidiary bodies as an observer.</p>	<p>The amendment would also include the footnote attached to Article 1.11 of the Protocol.</p>
<p>Rule 60 (Languages and records)</p>	<p>Verbatim records of plenary meetings of the Meeting of the Parties and reports of each session of the Meeting of the Parties and each session of its subsidiary bodies shall be made in the six working languages. Reports shall reflect the proceedings and incorporate any decisions [and resolutions] and shall be prepared by the Rapporteur with the support of the Secretariat [, and provisionally adopted before the close of the session].</p>	<p>1. It is proposed that reference to “and resolutions” is deleted, since the MOP and subsidiary bodies do not adopt resolutions, but decisions. The term “resolution” mistakenly remained from the text of the Rules of Procedure of the World Health Assembly, which served as a basis for the development of the Rules of Procedure of the COP, and of the MOP.</p> <p>2. To avoid the significant cost to the Parties, as well as substantial time and demands on the capacity of the Convention Secretariat to prepare the reports of the MOP in session. These reports, according to Rule 60, must be translated in all six official United Nations languages prior to their provisional adoption before the close of the session. To complete this task, the Convention Secretariat mobilizes, in session, a full team of precis writers, editors, WHO language services (for proofreading and formatting the English version of the provisional report and translating it into the other five official languages), as well as the capacity of Convention Secretariat core staff, which detracts from time that could be spent supporting Parties for the substantive discussions.</p> <p>At the recommendation of the Bureau, the MOP2 report was provisionally adopted in English before the close of the session, and translation into all official languages was accomplished as soon as possible after the session. Nevertheless, this solution is not fully satisfactory in terms of equal treatment of all languages and does not address the issue of cost and capacity to support this function.</p> <p>Should the amendment be adopted, the MOP session report would be provided in all official languages to Parties after the session, in line with Rule 62, which provides that:</p>

		<p>“The provisional version of the reports referred to in Rule 60 shall be sent as soon as possible to delegations, who shall inform the Secretariat in writing not later than fifteen days after the date of receipt of any corrections they wish to have made.”</p> <p>Rule 62, referring to the “provisional version of the reports” would not need to be amended, considering that the reports would remain “provisional” prior to their finalization, after the incorporation by the Convention Secretariat of comments submitted by Parties, as relevant.</p>
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ANNEX 2

**DRAFT DECISION:
AMENDMENTS TO THE RULES OF PROCEDURE OF THE
MEETING OF THE PARTIES**

The Meeting of the Parties (MOP),

Taking into account Article 33.4 of the Protocol to Eliminate Illicit Trade in Tobacco Products, which states that the Rules of Procedure of the Conference of the Parties (COP) to the WHO Framework Convention on Tobacco Control (WHO FCTC) shall apply, *mutatis mutandis*, to the MOP unless the MOP decides otherwise;

Recalling that its Rules of Procedure were adopted in decision FCTC/MOP1(1);

Considering that the Rules of Procedure of the COP were adopted in decision FCTC/COP1(8) and amended in decisions FCTC/COP6(24), FCTC/COP7(28), FCTC/COP8(11) and FCTC/COP10(x);

Noting the report of the Convention Secretariat submitted in document FCTC/MOP/3/13, containing possible amendments to the Rules of Procedure of the MOP, as recommended by the Bureau;

Recognizing the importance of updating the Rules of Procedure of the MOP to facilitate the effective functioning of the MOP;

Further recognizing the need to ensure coordination between the governing bodies of the Protocol and of the WHO FCTC,

1. ADOPTS the amendments to the Rules of Procedure of the MOP, as articulated in Annex 1 of document FCTC/MOP/3/13;
2. DECIDES:
 - (a) to apply with immediate effect the amendment of Rule 60 in relation to the provisional adoption of the report of each session of the MOP;
 - (b) to clarify that verbatim records of plenary meetings, as referred to in Rule 60 and Rule 64 of the Rules of Procedure of the MOP, are understood to include audio files;
3. REQUESTS the Bureau of the MOP to periodically review the need to amend the Rules of Procedure of the MOP and propose amendments to the MOP, as necessary, and to coordinate with the Bureau of the COP when those rules may relate to joint matters.

(XXX plenary meeting, XX November 2023)

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