

The UNFCCC – procedure and process

Nairobi, Kenya, 31 October 2018



Purpose of this presentation

- Highlight the **main aspects of the UNFCCC process**
- Focus on the **practical implications** of the rules
- Offer insights that might be useful to delegates:
 - How to use procedural rules properly
 - How to gain confidence in relation to process matters
- Why is it relevant? Getting it right makes good things happen!

<https://www.youtube.com/watch?v=4mQI52sByKY>

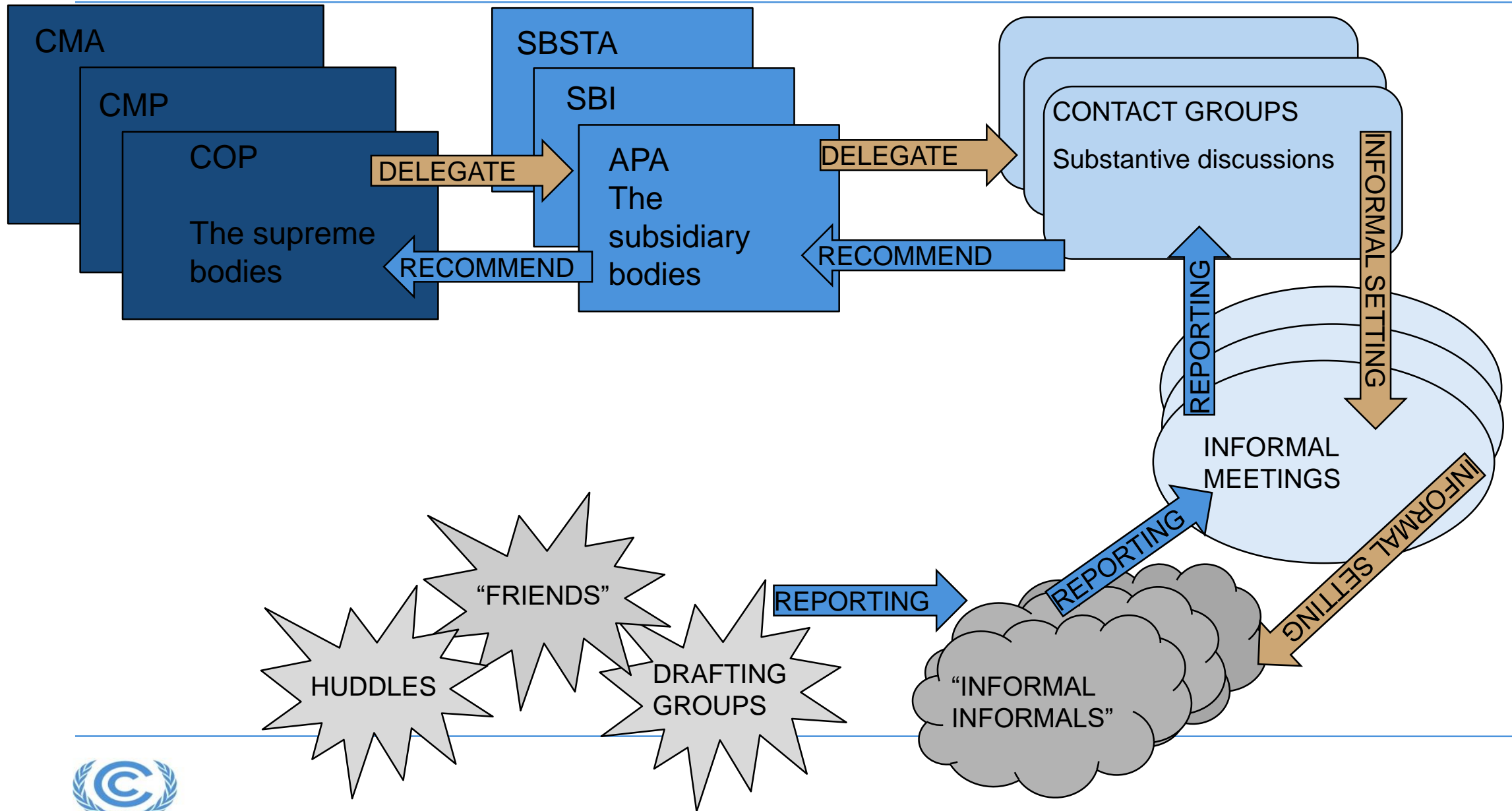


Recap: The bodies of the UNFCCC

- **SUPREME BODIES:** the COP, the CMP, the CMA
 - The Parties to that treaty
 - Are supreme for matters under that treaty
 - Meet once a year (November/December)
- **SUBSIDIARY BODIES:** the SBSTA and the SBI
 - Established by the Convention and serve the Kyoto Protocol and Paris Agreement
 - Meet twice a year (May/June and November/December)
- **AD HOC BODIES:** APA (and previously, ADP, AWG-LCA, AWG-KP)
 - Temporary bodies established for certain tasks – e.g. APA – to deliver parts of the implementation of the Paris Agreement)
 - Meet as needed (usually in conjunction with SBs and COP)



The UNFCCC bodies in a picture



Recap: Key actors in the UNFCCC

- **THE BUREAU**: One member for each UN region plus SIDS plus the President and Vice President, as well as SBSTA and SBI Chairs and Rapporteur.
 - **THE PRESIDENCY**: Manages the meeting and ensures inclusiveness
 - **PRESIDING OFFICERS**: Manage each body; the Presidency presides over COP, CMP, CMA, while Chairs preside over the SBSTA and SBI
 - **THE SECRETARIAT**: UN staff who organize meeting and support implementation of mandates given to Parties, constituted bodies and the secretariat
 - **CONSTITUTED BODIES**: e.g. Adaptation Committee
 - **PARTIES**: Acting through their regional groups, political groupings
 - **AGENDA ITEM Facilitators (and Chairs)**: chosen by the Presiding Officers.
 - **OBSERVERS**: Organizations, Non-Parties; e.g. Civil Society
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A thought...

“An incompetent presiding officer can, single-handedly, create procedural chaos if [s]he does not understand the rules, or does not enforce them or acts in a dictatorial or partisan manner”.

Sydney D. Bailey, The General Assembly of the United Nations, A Study of Procedure and Practice (1984), p. 111

...So what are the rules?



The draft rules of procedure being applied

- **Rules of Procedure:**
 - Rules of the game and for the orderly conduct of business
 - Provide **certainty, consistency and guarantee of fair play**
- **COP mandated to develop rules of procedure for itself and SBs (Article 7.3)**
- **Draft rules applied, with exception of rule 42 (voting) – consensus used**
- **President to ensure observance of the rules**
- **Parties obliged to comply with the rules of procedure**



1. Role and functions of the President

- **GENERAL ROLE AND FUNCTIONS**
 - **Manages and facilitates negotiations for a success outcome**
 - **Ensures transparency, inclusiveness and legitimacy of process**
 - enables compromise
 - pre-empts procedural obstructions and gridlock
 - **Builds trust and acceptance of President's authority**
 - creates good will that enables President to take crucial decisions at critical junctures
 - reduces potential to block agreement.
 - **Obligation of impartiality (rule 22)**
 - cannot exercise the rights as a Party representative
 - **Remains under the authority of the conference (rule 23)**
 - decisions of President can be challenged



1. Role and functions of the President (2)

- **OBLIGATORY POWERS UNDER RoP (rules 9,12, 23 and 34)**
 - Agree on provisional agenda and supplementary provisional agenda
 - **Open and close session/meeting**
 - Preside: control and maintain order and ensure observance of RoP
 - Accord the speakers the right to speak
 - **Rule on points of order**
 - Put issues to Parties for decision and announce decisions
 - Preside over voting
 - **Propose to Parties to adjourn/close debates, suspend/adjourn meeting**
- **DISCRETIONARY POWERS UNDER RoP (rules 6, 7, 32 and 36)**
 - Invite observers to participate in the meeting
 - Call **speaker to order if remarks are not relevant**
 - Permit consideration of proposals/motions not circulated
 - **Close list of speakers and set time limits**



2. Decision-Making in the UNFCCC Process

- **RULES OF PROCEDURE**

- Indispensable in an international conference;
- Define and protect individual rights;
- Permit orderly conduct of business;
- **However, RoP have not been adopted** (FCCC/CP/1996/2) due to disagreement on draft rule 42 about voting majorities for substantive and procedural matters, **but other rules applied continuously for 20 years**
- Convention, Kyoto Protocol and Paris Agreement and some of the draft rules of procedure establish voting majorities for a limited number of issues.
- Except for those cases where voting majority is defined, **decision-making in the UNFCCC process is by consensus.**

- **CONSENSUS in the UNFCCC** – notion of absence of formal objection, not unanimity (Copenhagen, Cancun Agreements, Doha Amendment...)
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2. Decision-Making in the UNFCCC Process (2)

- **KEY PROCEDURAL ISSUES**

- **Quorum** (rules 27 & 31) – are the key participants present?
- Adoption of the agenda (rule 13)
- Competence to consider issue (rules 27 and 35)
- Participation of **observers** (Article 7.6, KP Article 13, and rules 6-7) and SBI conclusions
- Presiding Officer absence - replacement (rule 25)
- **Speaking order and time limits** (rule 32 & 33) - Parties before observers



2. Decision-Making in the UNFCCC Process (3)

- **KEY PROCEDURAL ISSUES**

- **Motions and proposals** (rules 35 - 40); written and available 1 day in advance – Practice
- Procedural motions
 - Adjourn or close debate (rule 23.2 and 38)
 - **Adjourn or suspend meeting** (rule 23.2 and 38)
- **Points of order** (rule 34)
 - President to decide immediately
 - Party may appeal President's decision
- **Rule 16**
 - Where there is no outcome on an agenda item it is placed on the agenda for the next session



Conclusion and references

- **RULES OF PROCEDURE**

https://unfccc.int/sites/default/files/resource/02_0.pdf

- **GUIDE FOR PRESIDING OFFICERS**

https://unfccc.int/sites/default/files/20170919_guideforpresidingofficers_final.pdf

- **CODE OF CONDUCT FOR PARTICIPANTS IN UNFCCC**

<https://unfccc.int/about-us/code-of-conduct-for-unfccc-conferences-meetings-and-events>



Contact details

asteen@unfccc.int

