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**154th meeting of the Committee of Permanent Representatives
to the United Nations Environment Programme**

Nairobi, 20 May 2021

Online meeting

14:00 – 17:00 (GMT+3)

Agenda Item 4: Consideration of the cycle of term of office of the Bureau of

Agenda Item 5: Election of officers.

the Committee of Permanent Representatives.

This note, entitled “Election of the Bureau of the Committee of Permanent Representatives” has been developed by the Secretariat as a background document in support of agenda item 4: Consideration of the cycle of term of office of the Bureau of the Committee of Permanent Representatives, and agenda item 5: “Election of officers”.

The note provides a procedural and legal background to delegations on the matter of the forthcoming election of Officers of the Bureau of the CPR, in accordance with relevant decisions of the UNEP Governing Council and the United Nations Environment Assembly, as well as the UNEA Rules of Procedure and established practices, in support of an efficient election process. The note seeks to respond to several questions raised by delegations in the past weeks, including at meeting of the CPR subcommittee on 6 May (meeting summary available [here](#); Secretariat background note available [here](#)), and at the meeting of the CPR Bureau on 12 May (meeting summary available [here](#)).

ELECTION OF THE BUREAU OF THE COMMITTEE OF PERMANENT REPRESENTATIVES

This Note has been developed in order to provide a procedural and legal background to delegations on the matter of the forthcoming election of Officers of the Bureau of the Committee of Permanent Representatives (“CPR”) in accordance with relevant decisions of the UNEP Governing Council and United Nations Environment Assembly as well as the Rules of Procedure and established practices, in support of an efficient election process.

(1) Why should there be elections of officers to the Bureau of the CPR and when should elections take place?

Rule 63, paragraph 3 of the Rules of Procedure of the United Nations Environment Assembly (“Rules”) provides as follows: “The rules of procedure of subsidiary organs shall be those of the United Nations Environment Assembly, as appropriate, subject to such modifications as the United Nations Environment Assembly may decide upon in the light of proposals by the subsidiary organs concerned. **Each subsidiary organ shall elect its own officers.**” (Emphasis added).

Consequently, the Rules of Procedure of the CPR are those of the United Nations Environment Assembly (“UN Environment Assembly/Assembly”), subject to such modifications as the Assembly may decide upon.

As far as the term of office of the Bureau members is concerned, paragraph 9 of Governing Council decision 19/32 provides that “the Committee of Permanent Representatives shall elect a Bureau composed of a Chairperson, three Vice Chairpersons and a Rapporteur, for a period of two years, taking into account the principles of rotation and equitable geographical representation”.

Thus, every two years there should be an election of the Bureau of the CPR. The last election occurred at the 146th meeting of the CPR held 20 June 2019. Consequently, an election should be held before that date in order to comply with decision 19/32.

The Bureau is elected by the members of the CPR. The only role that the UN Environment Assembly and its predecessor, the Governing Council, have played is to decide upon the composition and term of office (i.e. two years) of the Bureau, while referring to the principles of rotation and equitable geographical distribution.

The cycle of the CPR Bureau is different from the Bureau of the UN Environment Assembly that elects its Bureau at the final meeting of the Assembly, pursuant to Rule 18, paragraph 1 of the Rules.

The Rules of the UN Environment Assembly and its decisions do not require the cycles of the Bureaus of the Assembly and that of the CPR to be formally aligned. Similarly, in the United Nations system at large, the regional rotation of Bureaus of plenary bodies and of subsidiary bodies are usually not required to be aligned.

(2) What are the Rules that should be applied to the conduct of elections?

The Rules of the UN Environment Assembly apply *mutatis mutandis* to the CPR and the election of its Officers, unless otherwise decided by the Assembly.

Elections

Rule 18

“1. During the final meeting of a regular session, the United Nations Environment Assembly shall elect a President, eight Vice-Presidents and a Rapporteur from among its members. These officers shall constitute the Bureau of the United Nations Environment Assembly. The Bureau shall assist the President in the general conduct of business of the United Nations Environment Assembly. The chairpersons of such sessional committees or working parties as may be established under rule 61 below shall be invited to participate in meetings of the Bureau.”

“2. In electing its officers, the United Nations Environment Assembly shall ensure that each of the five regions is represented by two members in the Bureau of the United Nations Environment Assembly.”

“3. The Offices of President and Rapporteur of the United Nations Environment Assembly shall normally be subject to rotation among the five groups of States referred to in section I, paragraph 1, of General Assembly resolution 2997 (XXVII).”

Replacement of a Bureau member

Rule 19

“1. During a session of the United Nations Environment Assembly, if a Bureau member, except the President, is unable to permanently carry out any of her or his functions, the Assembly may elect an alternate upon appointment by a member State or by the regional group to which that member belongs.”

“2. During the intersessional period, if a Bureau member resigns or is unable to exercise her or his functions, the member State or the regional group to which that member belongs shall nominate a replacement for the remainder of the term. The Executive Director shall immediately upon receipt of the nomination inform all members of the United Nations Environment Assembly of the nomination in writing. If within one month no objections are received in writing, the nominee is elected. If a member State objects, the nominee is elected if a majority of member States responding support the nominee.”

Terms of office

Rule 20

“The President, the Vice-Presidents and the Rapporteur shall hold office until their successors are elected. They shall commence their terms of office at the closure of the session at which they are elected and remain in office until the closure of the next regular session. Subject to the provisions of rule 18, they shall be eligible for re-election. None of them may hold office after the expiration of the term of office of the member of which the officer concerned is a representative.”

Acting President

Rule 21

“If the President cannot preside at a meeting or any part thereof, the President shall appoint a Vice President to take her or his place.”

Replacement of the President

Rule 22

“If the President ceases to be a representative of a member of the United Nations Environment Assembly or is unable to perform the President’s functions, or if the State of which the President is a representative ceases to be a member of the United Nations Environment Assembly, the Bureau shall designate one of the Vice-Presidents as Acting President.”

Powers of the Acting President

Rule 23

“A Vice-President acting as President shall have the same powers and duties as the President.”

Voting rights of the President

Rule 24

“In the case of a member of the United Nations Environment Assembly, which is for the time being represented by the President, an alternate representative shall, at the discretion of the President, be permitted to participate in the proceedings and to vote in the United Nations Environment Assembly. In such a case the President shall not exercise the right to vote.”

(3) How can Member States nominate candidates for election to the Bureau?

Pursuant to its official functions, the Secretariat issues a letter to the Chairs of all regional groups in a timely manner, seeking the nomination of candidates to the new Bureau. It is then up to the Chairs to consult with their regional groups and to forward nominations to the Secretariat.

(4) Can a regional group nominate more than one candidate to the Bureau?

Normally, a regional group will agree internally and only nominate a single candidate for the position of President, Vice President or Rapporteur respectively. Successful candidates are expected pursuant to Governing Council Decision 19/32 to serve for a full two years. Accordingly, the nomination of candidates to serve for less than two years is discouraged. Should regional groups wish to “split terms” pursuant to their internal arrangements then the provisions of Rule 19, paragraph 2 should be followed that provides that “During the intersessional period, if a Bureau member resigns or is unable to exercise her or his functions, the member State or the regional group to which that member belongs shall nominate a replacement for the remainder of the term. The Executive Director shall immediately upon receipt of the nomination inform all members of the United Nations Environment Assembly of the nomination in

writing. If within one month no objections are received in writing, the nominee is elected. If a member State objects, the nominee is elected if a majority of member States responding support the nominee.” Consequently, a Bureau member can resign and then be replaced for the remainder of the term by a nominee from her/his regional group or Member State.

(5) Is regional rotation required amongst the regional groups for positions in the Bureau?

Governing Council decision 19/32 provides that “the Committee of Permanent Representatives shall elect a Bureau composed of a Chairperson, three Vice Chairpersons and a Rapporteur, for a period of two years, **taking into account the principles of rotation and equitable geographical representation**”. (Emphasis added).

In addition, Rule 18, paragraph 3 provides as follows: “The Offices of President and Rapporteur of the United Nations Environment Assembly shall **normally** be subject to rotation among the five groups of States referred to in section I, paragraph 1, of General Assembly resolution 2997 (XXVII).” (Emphasis added).

The words, “taking into account” and “normally” indicate that regional rotation is not obligatory but that it is a factor that should be carefully considered. Historically and within the practice of the United Nations, regional groups can agree to switch or waive their right for example for the positions of Chair or Rapporteur. Usually this is without prejudice to the existing rotation of regional groups within a particular body. On occasion, a Principal Organ has made recommendations to its subsidiary bodies on rotations amongst regional groups. For example, by General Assembly decision 68/505 of 1 October 2013 and General Assembly resolution 68/307 of 10 September 2014, the General Assembly recommended a pattern for the regional rotation of the Chairs of the Main Committees of the General Assembly for the sixty-ninth to seventy-third sessions.

As far as the UN Environment Assembly is concerned, operative paragraph 8 of Decision 5/3 taken at the 5th session, “Recommends that the Committee of Permanent Representatives, at its 154th meeting, consider, in view of systemic problems and in a comprehensive manner, the cycle of the term of office of the Bureau of the Committee of Permanent Representatives in relation to that of the Bureau of the Environment Assembly.”

(6) Can a Bureau Member be re-elected for a second term?

The third sentence of Rule 20 of the Rules provides that, “Subject to the provisions of rule 18, [Bureau members] shall be eligible for re-election.” Bureau members are elected by name upon nominations of regional groups as was the case at the last election that occurred at the 146th meeting of the Committee of Permanent Representatives held 20 June 2019. Consequently, the same individual can be re-elected for a second term to the CPR Bureau to the same position, should the regional group agree to nominate that individual.

(7) Can the term of office of the current Bureau be extended?

Neither the Rules or the decisions of the UNEP Governing Council and the UN Environment Assembly allow for the extension of the existing terms of Officers. Extending the term of the CPR Bureau would not

be consistent with paragraph 9 of Governing Council decision 19/32 or the Rules. However, re-election of the same individual Member is possible (see section 6 above).

- (8) Can the Committee decide on a temporary measure by which it elects Officers, including those already sitting in the current Bureau to lead the preparations for the resumed 5th session of the UN Environment Assembly?

The Rules as well as the practice of the United Nations do not provide for the election of Bureaus or their extension as a temporary measure. However, any election by the CPR can be accompanied by a recommendation to the resumed 5th session of the UN Environment Assembly to address the question of the cycle of the CPR Bureau, that could include recommendations to take effect immediately after the 5th session of the Environment Assembly.

- (9) What happens when the position of Chair of the CPR becomes vacant?

Under Rule 21 (cited above), if the Chair cannot preside at a meeting or any part thereof, the Chair shall appoint a Vice-Chair to take her or his place. Under Rule 22 (cited above), if the Chair is unable to perform the Chair's functions, the Bureau shall designate one of the Vice Chairs as Acting Chair. In cases where the Chair as a Bureau member resigns or is unable to exercise her or his functions then the provisions of Rule 19 apply, concerning the replacement of a Bureau member. In accordance with Rule 19, paragraph 2, "the Member State or the regional group to which that member belongs shall nominate a replacement for the remainder of the term. The Executive Director shall immediately upon receipt of the nomination inform all members of the United Nations Environment Assembly of the nomination in writing. If within one month no objections are received in writing, the nominee is elected. If a member State objects, the nominee is elected if a majority of member States responding support the nominee."

- (10) Can the current Bureau continue until the resumed 5th session of the UN Environment Assembly in February 2022?

The first sentence of Rule 20 of the Rules provides that, "the President, the Vice-Presidents and the Rapporteur shall hold office **until their successors are elected.**" (Emphasis added). However, within the practice of the United Nations, this has been interpreted to mean that Officers can hold office for a few weeks beyond their term, if agreement is still pending on who should succeed them. The Rule is not intended to allow for an extended period of office beyond an existing term *per se*. Such an interpretation could have implications for future elections and run counter to the obligation placed upon Member States under Governing Council decision 19/32 to conduct elections for the CPR Bureau every two years.

- (11) Does UNEA decision 5/3 on the adjournment and resumption of the fifth session of the UN Environment Assembly taken at its 5th session in February 2021 have any bearing from a legal point of view on the election of a new Bureau?

There are two provisions from that decision that can be seen to be relevant. In the first instance, operative paragraph 1 provides as follows: "Decides to adjourn the fifth session of the United Nations Environment Assembly, and to resume the session by convening at its headquarters in Nairobi from 28 February to 2 March 2022 to conclude the consideration of its agenda." This is in accordance with Rule 8 of the Rules pursuant to which, "the United Nations Environment Assembly may decide at any session to adjourn temporarily and resume its meetings at a later date." This has had the consequential effect that

the Bureau of the 5th session of the UN Environment Assembly will continue until March 2022. , While this does not have any automatic legal effect on the election of the CPR Bureau as the Rules and decisions do not require the cycles of the Bureaus of UNEA and of the CPR to be aligned, it does not preclude a policy consideration on the matter in view of operative paragraph 8 .

In this connection, operative paragraph 8 of the same decision, “Recommends that the Committee of Permanent Representatives, at its 154th meeting, consider, in view of systemic problems and in a comprehensive manner, the cycle of the term of office of the Bureau of the Committee of Permanent Representatives in relation to that of the Bureau of the Environment Assembly.” This paragraph recognizes the existence of systemic problems and invites Member States to reflect on this issue in a comprehensive manner at the CPR.

(12) Can the CPR take a decision that will address the cycle of the term of office of its Bureau?

The CPR cannot change the term of office of the Bureau, i.e. two years as this is prescribed by Governing Council decision 19/32. However, it can address the rotation of Officers in the Bureau, and specifically, the rotation of the positions of Chair and Rapporteur amongst the five regional groups, as well as to formulate recommendations to the UN Environment Assembly.

(13) Is it possible that the UN Environment Assembly can take a decision at the UN Environment Assembly that will address and change the term of office of the CPR Bureau?

Yes – it is possible. The UN Environment Assembly is the master of its own proceedings.

It is important to recall that there is no legislative hierarchy of Governing Council or UN Environment Assembly decisions. While the Assembly can decide to follow its previous decisions and practice it also has the right to change or amend them. The only limitations that would apply are the decisions of the General Assembly. In this case the General Assembly has not adopted any decisions or resolutions that impact upon the term of office or the rotation of the Bureau of the CPR.

Consequently, the UN Environment Assembly can decide to adopt a new decision that amends Governing Council decision 19/32 and that could, for example, change (i) the timing of the election of the CPR Bureau; (ii) change the term of office of Officers of the CPR Bureau; and (iii) make a recommendation to the CPR on regional rotation.

(14) Are the three options in the [secretariat background note on the consideration of the cycle of term of office of the Bureau of the CPR \(UNEP/SC/2021/6/2/Corr.1\)](#) consistent with the relevant rules and decisions?

For the purpose of the [meeting of the subcommittee of the CPR on 6 May 2021](#) and following a request from the [CPR Bureau at its meeting on 23 March](#), the Secretariat prepared a paper that, inter alia, outlines options for the composition and regional rotation cycle of the Bureaus. The paper, inter alia, outlined three options on the cycle of the term of office of the CPR Bureau. All three options are equally consistent with the Rules.

Option A involves the election of a Bureau with no change in the existing cycle of rotation for the CPR Bureau. Consequently, no action would be required by the UN Environment Assembly. Option B

envisages the re-election of the current Bureau, that is permissible pursuant to Rule 20. Electing a Bureau with different Officers but from the same Member States or regional groups and holding the same positions would also be permissible because regional rotation, while being a factor to be considered, is not obligatory. Option B (as well as Option C) also puts forward the possibility of recommending that UNEA adopt a decision at its 5th session to align the term of office of the CPR Bureau with the term of office of the UNEA Bureau.

The UN Environment Assembly can, for example, request the CPR to elect a new Bureau with a view to addressing the cycle of the term of office of the Bureau of the CPR in relation to that of the Bureau of the Environment Assembly. In such a case the 5th session should be clear on what the term of office will be for CPR Bureaus going ahead. Pursuant to Rule 20, Officers can be re-elected.

As far as Option C is concerned, this is also permissible under the Rules, for the same reasons.

(15) What happens if there is no agreement on Officers for the CPR Bureau?

The Rules allow for the conduct of an election pursuant to Rules 56 through Rule 58. Pursuant to Rule 56, “All elections shall be held by secret ballot unless otherwise decided by the United Nations Environment Assembly.”

(16) Can a secret ballot be conducted during COVID – 19?

Yes - the General Assembly has in its decision 74/557 outlined procedures for holding elections by secret ballot without a plenary meeting during the COVID-19 pandemic. Should the UNEP Secretariat be requested, in the absence of agreement amongst Member States to conduct an election by secret ballot, it will use the procedures in that decision as a guide. Prior to any election, the Secretariat will issue a Note on procedures for the conduct of the election for review and approval by the current CPR Bureau before distribution to all Members of the CPR.

(17) Can the Rules of the UN Environment Assembly be amended?

Rule 63, paragraph 3 of the Rules provides that “the rules of procedure of subsidiary organs shall be those of the United Nations Environment Assembly, as appropriate, subject to such modifications as the United Nations Environment Assembly may decide upon in the light of proposals by the subsidiary organs concerned. Each subsidiary organ shall elect its own officers.” Consequently, the CPR does not have the authority to change the Rules as they apply to the CPR, unless so approved by the UN Environment Assembly. However, the UN Environment Assembly can amend its own Rules.

(18) Does the decision on adjournment adopted at the 5th session of the UN Environment Assembly affect the two-year cycle of the United Nations Environment Assembly?

The UN Environment Assembly has adopted Decisions at its 2nd, 3rd, 4th and 5th sessions concerning its cycle and that of the OECP as well as the dates of future sessions.

Decision 2/22 entitled, “Review of the cycle of the United Nations Environment Assembly of the United Nations Environment Programme” decided in operative paragraph 1 “to hold its regular sessions in odd numbered years commencing with its third session in 2017” and decided “that the above-mentioned cycle

shall also apply to the open-ended meetings of the Committee of Permanent Representatives to be held in accordance with Governing Council decision 27/2.”

Decision 3/2 adopted at UNEA 3, entitled, “Provisional agenda, date and venue of the fourth session of the United Nations Environment Assembly” decided in operative paragraph 1 “to hold the fourth session of the United Nations Environment Assembly at its headquarters in Nairobi from 11 to 15 March 2019” and decided in operative paragraph 3 that sessions of the Assembly, following the fourth session would be held during the last week of February, unless otherwise decided by the Environment Assembly at its headquarters in Nairobi, consistent with rule 4 of the rules of procedure.”

Decision 4/2, entitled “Provisional agenda, date and venue of the fifth session of the United Nations Environment Assembly” in operative paragraph 1 decided to hold the fifth session of the United Nations Environment Assembly at its headquarters in Nairobi from 22 to 26 February 2021, in accordance with its decision 3/2 of 6 December 2017.

The 5th session of the UN Environment Assembly subsequently convened on 22 February 2021 in accordance with Decision 4/2. By Decision 5/3, the 5th session decided, “to adjourn the fifth session of the United Nations Environment Assembly, and to resume the session by convening at its headquarters in Nairobi from 28 February to 2 March 2022 to conclude the consideration of its agenda.”

As far as the Rules are concerned, Rule 1 provides that, “the United Nations Environment Assembly shall normally hold one regular session every two years.” Rule 2 provides that, “each regular session of the United Nations Environment Assembly shall be held, subject to the provisions of rule 3, at a date fixed by the United Nations Environment Assembly at its previous session in such a way, if practicable, as to enable the Economic and Social Council and the General Assembly to consider the report of the United Nations Environment Assembly in the same year.”

Consequently, the following considerations can be borne in mind for the purpose of determining a date for the 6th session of the UN Environment Assembly.

- There is an obligation for UNEA under its rules to set a date for the 6th session at the resumed 5th session.
- Under Rule 1 of the Rules, the regular session is normally held once every two-years;
- If the 6th session is held in two years (i.e. 2024) then the two-year cycle for Assembly sessions in odd numbered years, as laid down in Decision 2/22, will be broken.
- The UN Environment Assembly can decide to change its cycle to even numbered years by taking a new decision that replaces Decision 2/22, should it wish to do so.
- Alternatively, it can retain the current cycle of meeting in odd numbered years, by either deciding to hold the 6th session in 2023, possibly at a later date than the last week of February as referred to in paragraph 3 of Decision 3/2, or to hold the 6th session in 2024 on an exceptional basis and then to revert to odd numbered years for its sessions at a later date.
- Finally, in taking decisions on this matter, the resumed 5th session should make clear whether this is an exception to previous decisions or whether it is establishing a new precedent/cycle.