



Multilateral Environmental Agreement (MEA) negotiations

The Foundation for International Environmental Law and Development (FIELD) has compiled a guide to help MEA negotiators who work with Multilateral Environmental Agreements (MEAs).

This fact sheet has been adapted from that handbook, the full version of which can be found at www.field.org.uk/files/field_mea_negotiators_problem_guide_august2011.pdf.

MEA Negotiations: The Basics

A Multilateral environmental agreement is a legally binding agreement between three or more states relating to the environment. They are predominantly produced by the United Nations. Some of the well-established MEAs include the United Nations Framework Convention on Climate Change (UNFCCC), the Kyoto Protocols as well as the United Nations Convention on Biological Diversity (CBD).

New negotiations usually take place under an intergovernmental negotiating committee (INC) while the Conference of the Parties (COP) is usually the main body for negotiations related to existing MEAs.

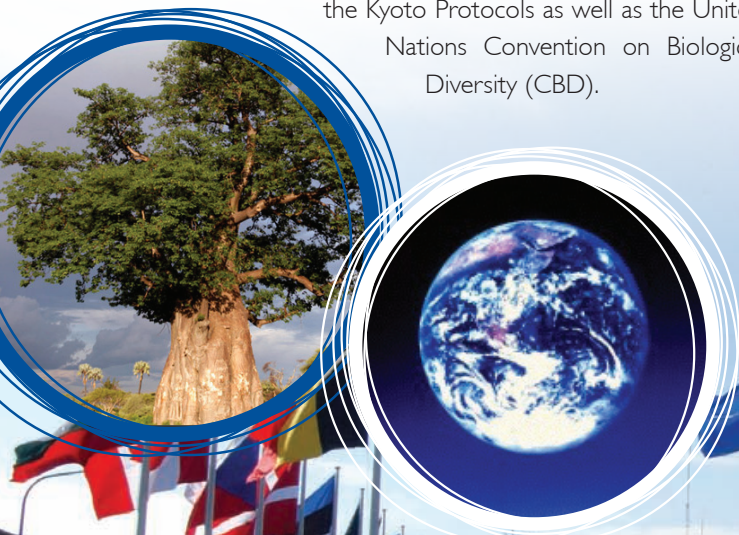
Rules of procedure

The rules of procedure at a negotiating session are usually adopted in a decision by the first COP, and usually apply to main subsidiary bodies and not automatically to other groups. Most address similar issues such as the election of officers, the role of observers and the agenda. An important part of rules of procedure relates to the conduct of business. This includes, for example, rules for making statements, raising points of order and voting.

Negotiations tend to have similar phases

I. Development of national negotiating positions:

The lead ministry in a country will usually coordinate with other ministries to agree on the national negotiating position. For example, in South Africa, Department of Environmental Affairs (DEA) is the lead ministry for the UNFCCC and its Kyoto Protocol.



2. The Chair and the Bureau:

The Bureau includes elected representatives of each UN regional group, the Chair and a rapporteur. It manages issues such as scheduling, best use of time and agenda issues.

3. Country groups:

Countries negotiate as part of groups, such as the G-77 and China, the Least Developed Countries (LDC) Group and the European Union (EU). A position supported by a group is stronger than one supported by a single country, but it is not always possible to achieve a common position in a large group. In such cases, individual countries or sub-groupings negotiate separately. For example, South Africa is a member of the Africa Group within the UNFCCC and its Kyoto Protocol negotiations.

4. Opening plenary:

This usually involves all government delegations. Other representatives, for example of civil society or indigenous peoples, may be present as observers. Once procedural matters have been addressed the plenary begins considering the items on the agenda. The Chair takes up an issue that is not on the agenda. In that situation a party can raise a point of order. A Party cannot speak about issues of substance when raising a point of order; this can only concern process.

a. Working groups and other groups for negotiations:

Issues are often tackled in groups, for example working groups:

- i. Working groups may have been established at previous sessions. Issues may be referred to permanent subsidiary bodies.
- ii. Contact groups are formed to negotiate on specific issues or specific agenda items.
- iii. Drafting groups are established specifically to agree text on a particular issue.

Groups forward the outcomes of their work to a larger group for approval. The Conference of the Parties (COP) is the highest decision-making body of an MEA. Some of the Group negotiations dynamics may include the following:

- Party representatives are uninformed and do not understand the issues. They should be provided with the information they need. Experienced negotiators can explain issues to them or refer them to sources of information. Secretariat staff and NGOs are other sources of helpful information.
- A party representative does not have the authority to agree to a compromise. Other parties could suggest that the representative contacts his or her capital to obtain new negotiating instructions. If this is not possible, focus on other areas where everyone has authority or agree on a process for moving forward.



5. High-level segment:

Important negotiating meetings often include a high-level segment attended by Ministers, Heads of State or Heads of Government. Difficult political issues that have not been resolved in the negotiations are sometimes forwarded to the high-level segment for resolution. The segment usually concludes with a declaration or statement which is political in nature and not a formal outcome under the MEA. For example, Copenhagen Accord was a political agreement whilst towards COP 17 in Durban a "political decision" will have to be undertaken on the continuation of the 2nd commitment period of the Kyoto Protocol.

6. Closing Plenary:

The closing plenary adopts the report of the meeting and any outcomes that have been agreed. Unresolved issues may be forwarded to subsidiary bodies for consideration. For example, Cancun Agreements are the outcomes of the COP 16-CMP 6 meeting in Cancun 2010. Some of the dynamics during the closing plenary include the following:

- **Party representatives reopen negotiations on issues that had been resolved in working groups and contact groups.** The Chair can suspend the plenary to allow negotiations to take place in an informal group. A party can request the Chair to do this. The Chair could also open the floor for debate in the plenary, but this may be less helpful.
- **The Parties become increasingly divided.** Party representatives can make concessions on small issues that matter less than others. This can send a positive message that helps increase trust and might encourage other party representatives to make similar concessions. If the atmosphere is very negative it may be best if the Chair concludes the plenary quickly, without allowing time for lengthy negative statements that might make it even more difficult to reach agreement later.
- **It is impossible to reach agreement.** Sometimes it is not possible to reach agreement. It may be possible to agree on a process for taking the negotiations forward if the disagreement is about substance.

FIELD cautions that MEA negotiations evolve continuously. For example, the Cancun Climate Conference in 2010 triggered debate and suggestions that a new interpretation of the consensus rule may be evolving. This was due to Bolivia being the only country against the Cancun Agreements.