



IPEN Short Guide to Decision-making under the Stockholm Convention

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The intent of this paper is to describe in a clear and succinct way what the decision-making rules for the Stockholm Convention are. The paper also includes a few comparisons of Stockholm decision-making rules to those of the Rotterdam Convention, which are different in some areas.

Decision-making rules for Stockholm are contained in the text of the Convention and in the Rules of Procedure, which was adopted by the First Conference of the Parties pursuant to Article 19.4 of the Convention. In all cases, a specific decision-making rule found in the Convention takes precedence over one in the Rules of Procedure.

The Stockholm Convention text establishes specific decision-making rules in the following areas:¹

1. The COP must adopt the Rules of Procedure and financial provisions by consensus (art. 19.4).
2. The COP may adopt amendments to the Convention by consensus or, if all efforts at consensus have been exhausted, by a three-fourths majority vote (art. 21.3).
3. The COP may adopt new annexes to the Convention, or may adopt amendments to Annexes A, B, or C by consensus or, if all efforts at consensus have been exhausted, by a three-fourths majority vote (art. 22.3-4). Thus, **the addition of new POPs to Annexes A, B, or C may be accomplished by voting. This is different from the Rotterdam Convention, which requires that additional chemicals may be listed in its Annex III only by consensus of the Rotterdam COP** (see Rotterdam art. 22.5(b)).
4. The Stockholm COP may amend Annexes D, E, or F only by consensus (art. 22.5(b)).
5. The POPRC may adopt recommendations on additional POPs by consensus or, if all efforts at consensus have been exhausted, by a two-thirds majority vote (art. 19.6(c)).
6. Observers may be admitted to COP meetings unless at least one third of the Parties present object (art. 19.8).
7. Extraordinary meetings of the COP may be held at the written request of any Party provided that it is supported by at least one third of the Parties (art. 19.3).

In all other situations where the Convention authorizes the COP to decide or adopt something, the voting provisions of the Rules of Procedure apply. Different voting rules are used, depending on whether the question is one of “procedure” or “substance.” The difference between these two categories is not always clear, and many countries tend to consider any decision that is important to them to be a substantive one. However, an example of a procedural decision could be whether to adjourn or re-convene a meeting, or whether and when a contact group should meet. In contrast, a decision by the COP to approve non-compliance procedures under Article 17 would be a substantive one.

Under the Rules of Procedure, “matters of procedure shall be taken by a majority vote of the Parties present and voting” (rule 45.2). In contrast to that uncontroversial rule, the rule for matters

¹ The Convention also establishes procedures for the settlement of disputes (art. 18), which are not described here.

of substance (45.1) has never been fully agreed. Under Rule 45.1, “The Parties shall make every effort to reach agreement on all matters of substance by consensus.” The remainder of the rule, which would allow voting, has remained bracketed since COP1:

[If all efforts to reach consensus have been exhausted and no agreement has been reached, the decision shall, as a last resort, be taken by a two-thirds majority vote of the Parties present and voting, unless otherwise provided by the Convention, by the financial rules referred to in paragraph 4 of Article 19 of the Convention or by the present rules of procedure.]

Thus, unless and until the COP decides by consensus to lift the brackets in Rule 45.1, the effective decision-making rule for matters of substance under the Stockholm Convention is consensus, unless the Convention or the Rules of Procedure themselves provide otherwise.

The voting provision in the Rotterdam Convention’s rules of procedure is similarly bracketed, as is that of the UN Framework Convention on Climate Change.

Conclusion: In practice, the Conferences of the Parties to treaties like the Stockholm Convention nearly always decide substantive issues by consensus. The value of a voting rule is not so much that the Parties will use it, but rather, that their awareness of voting as a last resort will make a Party less willing to block the majority of Parties in achieving consensus. One can argue that the Stockholm COP’s inability to take some difficult decisions, such as the adoption of a non-compliance system, may be due to the fact that, for now, such a decision must be taken by consensus.

In contrast, the all-important rules for decisions by the POPRC and COP related to listing additional POPs in Annexes A, B, or C are found in Articles 19 and 22 of the Convention itself. Because they include the possibility of super-majority voting if consensus is not possible, they make it less likely that a small minority could successfully block a POPRC recommendation or COP listing decision.