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FIFTH MEETING OF THE PARTIES TO THE  
MONTREAL PROTOCOL ON SUBSTANCES  
THAT DEplete THE OZONE LAYER

Bangkok, 17-19 November 1993

RULES OF PROCEDURE CONCERNING THE CREDENTIALS  
OF REPRESENTATIVES

*Note by the Secretariat*

1. Rules 18, 19 and 20 of the Rules of Procedure for meetings of the Conference of the Parties to the Vienna Convention state that:

Rule 18: "The credentials of representatives and the names of alternate representatives and advisers shall be submitted to the Executive Secretary of the meeting if possible not later than twenty-four hours after the opening of the meeting. Any later change in the composition of the delegation shall also be submitted to the Executive Secretary. The credentials shall be issued either by the Head of State or Government or by the Minister of Foreign Affairs or, in the case of a regional economic integration organization, by the competent authority of that organization".

Rule 19: "The officers of any meeting shall examine the credentials and submit their report to the meeting".

Rule 20: "Pending a decision of the meeting upon their credentials representatives shall be entitled to participate provisionally in the meeting".

2. The Secretariat has noted that many representatives of Parties to the Montreal Protocol do not present credentials issued by the Head of State or Government or the Minister of Foreign Affairs, but present letters from the Permanent Representatives of their countries to UNEP or from other dignitaries. That creates a problem for the officers of a meeting when examining the credentials of representatives of the Parties to the meetings of the Parties. A proposal was placed before the Bureau of the Fourth Meeting of the Parties to the Montreal Protocol to recommend that the parties at their Fifth Meeting delete the last sentence of Rule 18 and give the officers of the meeting discretion in judging the credentials. At the discussion during the first meeting of the Bureau, held in Geneva in September 1993, doubts were raised as to whether it would be appropriate to delete the sentence. The Secretariat was requested to consult further with others and to come up with a solution. Accordingly, in that regard, the Secretariat has sought advice from some environment convention secretariats and from the legal counsel of the United Nations.

3. The legal counsel of the United Nations and the Under-Secretary-General for Legal Affairs advised the retention of the present rules without any amendment. He stated that the provision in Rule 18 for

issuance of credentials by the Head of State or Government or by the Minister for Foreign Affairs accorded with international law and practice and was present in virtually all rules of procedure for meetings of Parties to treaties adopted under the auspices of the United Nations. The Legal Counsel also pointed out that the practice of the Credentials Committee of the United Nations General Assembly was to accept provisional credentials, i.e. not signed by the Head of State or Government or by the Minister for Foreign Affairs, on the understanding that formal credentials for representatives would be communicated as soon as possible.

4. The Secretariat of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) has noted that Rule 3 of its Rules of Procedure for meetings of the Conference of Parties to CITES stipulates that "the representatives or alternate representative of a Party shall, before exercising the voting rights of the Party, have been granted powers by, or on behalf of, a proper authority, i.e. the Head of State, the Head of Government or the Minister of Foreign Affairs, enabling him to represent the Party at the meeting". The words "or on behalf of" give the Credentials Committee of CITES the possibility to accept, for example, credentials issued by embassies, if they are expressly issued on behalf of the Minister of Foreign Affairs.

5. Therefore, in this regard the options are as follows:

(a) to continue with the present rules and institute the practice whereby, if the credentials of any of the representatives are not correct according to Rule 18, the Bureau accepts, provisional credentials on the understanding that formal credentials would be communicated by the representatives as soon as possible; or

(b) to amend the last sentence of Rule 18 by adding the words "or on behalf of" after the words "either by" and before "the Head of State", so that the sentence would then read "the credentials shall be issued either by, or on behalf of, the Head of State or Government or by the Minister of Foreign Affairs ...".

6. The Parties may wish to take an appropriate decision in this regard.

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