



**Bureau of the Conference of
the Parties
Bureau of the Meeting of the
Parties**

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COP8/MOP1/Bureau3/INFO.DOC./1
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Informal Note

1. Legal and procedural aspects of postponing COP9/MOP2 sessions prepared by the Convention Secretariat

Rule 4 of the Rules of Procedure (ROP) of the Conference of the Parties (COP) and Meeting of the Parties (MOP) grants these organs, the prerogative to decide on the dates and duration of their regular sessions.

This rule provides that “Unless otherwise decided by the Conference of the Parties ... regular sessions shall be held every two years”, and that “At each regular session, the Conference of the Parties shall decide on the date and duration of the next regular session. The Conference of the Parties should endeavour not to hold such a session at a time which would make the attendance of a significant number of delegations difficult” and that “To the extent possible, regular sessions of the Conference of the Parties shall be held in the second half of a financial biennium.” The COPs and MOPs have not been compliant with this last clause and because of that some Parties have complained that there is a long period between the approval of the workplan and budget and its implementation.

In use of that prerogative, COP and MOP decided, through decisions FCTC/COP8(24) and FCTC/MOP1(20), that COP9 and MOP2 “will be held in Netherlands with dates to be confirmed after agreement between the hosting Party and the incoming Bureau, in consultation with the Convention Secretariat”. Similarly, the agreement with Netherlands for hosting COP9 and MOP2, provide in Article XVIII that “... the Bureaus of the Conference of the Parties and of the Meeting of the Parties may decide to postpone or change the already agreed venue and/or timing of COP9 and/or MOP2, should an event occur which disrupts or risks to disrupt the conduct of COP9 and/or MOP2 ...”.

Decisions FCTC/COP8(24) and FCTC/MOP1(20) reflect that the COP and MOP have mandated their respective Bureaus to determine, in consultations with the Netherlands, the dates on which these regular sessions will be held. Article XVIII of the agreement with the Netherlands to host COP9 and MOP2, also provides for the Bureaus to take such decisions.

In other words, should the Bureaus consider postponing the dates on which COP9 and MOP2 will be held, the **Presidents of each Bureau could submit a proposal** for consideration by the rest of its members, for the **Bureaus to agree with Netherlands on new dates for the sessions**, at a later date and making reference to the special circumstances and explicitly stating that it should not be considered as establishing any kind of precedent.

As an example, the UN Framework Convention on Climate Change was supposed to have its COP26 in the United Kingdom in November 2020, but has decided to postpone it. The new dates have not been announced yet.

Similarly, the International Labor Organization also postponed the 109th International Labour Conference supposed to take place from 25 May to 5 June 2020 has been deferred from 7 to 18 June 2021.

2. Institutional and practical matters related to the postponement of COP9 and MOP2 prepared by the Convention Secretariat

Should the COP and MOP be postponed, some institutional and practical questions may rise:

a) Tenure of Bureau members and regional coordinators: RoP of COP and MOP, Rule 21 for Bureau members and Rule 24quater for regional coordinators, respectively, provide that their tenure start at the closure of the session when they were elected, and extends "until the closure of the following regular session ..." of the COP and MOP, respectively. So, the tenure of the current Bureaus extend until the closure of COP9 and MOP2, independently of when they take place.

b) Adoption by COP and MOP of their respective workplans and budgets: While this has to be done at each regular session, as provided by Article 23.4 of WHO FCTC and Article 33.7 of Protocol, respectively, practice has been to adopt the workplan and budget two years in advance of the period they cover. COP8 already adopted that for 2020-2021, and MOP1 also adopted it for 2020-2021, the Convention Secretariat has the budget and workplan approved to function until the end of 2021. In addition, postponing the COP and MOP to the second half of 2021 would make them to be compliant with Rule 4.3 of the RoP which states that their regular sessions should be "held in the second half of a financial biennium."

c) Reporting on implementation of COP and MOP decisions should not be an issue either, as the decisions normally require reporting at the next regular session or, simply, at each session. Thus, should the regular COP and MOP sessions be delayed, the reporting will still be compliant with what was established in the decisions.

3. Outcome of the consultation with WHO on the perspective of the situation of COVID19 pandemic in October / November 2020

The Head of the Convention Secretariat consulted WHO on the projection of Covid19 pandemic in November 2020 and also the following year. WHO informed that it is not possible to predict at this time on the global situation for any future period, until more experience is gathered on the results on how different countries are handling the pandemic. The development of the vaccine is still far from being completed.

4. Assessment by the Host country on the perspective of the situation of COVID19 pandemic in October / November 2020 prepared by the Host Country

Taking into account the various uncertainties on the development of the pandemic and after having consulted the Dutch National Institute for Public Health (RIVM), it cannot be said reliably at this moment how exactly the situation will be and if meetings with over 1 000 participants or even meetings as such will be in line with the measures that might be in force in October/November 2020 in The Netherlands to fight this pandemic. There are no scenarios predicting the COVID-19 situation in the Netherlands in October/November 2020. At the moment even gatherings that are required by law or are necessary to ensure the continued daily operation of institutions, businesses and other organizations

must not exceed 100 people and participants must stay at least 1.5 meters away from each other. These regulations are in force until 28 April 2020. A decision for regulations for the period thereafter is to be expected around that date.

So, right now there is only information available about the current Dutch corona-policy concerning large meetings and no reliable predictions of the Dutch situation in October/November. As COP9 and MOP2 have participants from all WHO-regions, the pandemic situation worldwide (*see WHO-assessment*) has also to be taken into account (e.g. change of hotspots, status of vaccination-development, available treatments, travelling-bans, ...) when the bureaus decide on the postponement.

It is a great honour for the Netherlands to be the host country of the upcoming COP9/MOP2. Even though it would be desirable to have more information before deciding on a postponement, a decision to postpone after 5 May 2020 will lead to higher costs (approx. €0,6 million) by the host country. This should be taken into account when the bureaus should decide to not postpone COP9/MOP2 yet.

5. Identity new possible dates in 2021 for COP9/MOP2 in consultation with the Host Country

The decision regarding the postponing (or not) of both events needs to be done by 5 May 2020 at the latest in order to avoid cancellation costs for the host country; and this is independent from the decision on a new date, as this could also be done in successive steps with the advantage of a better forecast of the situation in 2021 later this year.

It is important to take into consideration the fact that to fix a new date has organizational, logistical and financial consequences (approx. €0,8 million for the rent of the venue only). On the other hand, postponing the decision on a new date might complicate the search/fix of a new venue and planning of participants.

If the bureaus decide to postpone COP9/MOP2 the COVID-19-resulting risks and (financial) consequences need to be further worked out in addition to the host agreement between the WHO FCTC and The Netherlands, also since COVID-19 might be a force for a different setup. Sanitation rules (for example 1,5 meter-distance-requirements) might have an impact on the size of the conferences.

6. Possible dates when the World Forum is available in 2021

November 2021

COP9: 8 to 13 November 2021

MOP2: 15 to 17 November 2021

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