

**IPCC EXECUTIVE COMMITTEE – EIGHTY-SEVENTH MEETING**  
**Teleconference, 13 November 2020**

**CONCLUSIONS & DECISIONS**

Participants

*Chair:*

Hoesung Lee

*Members:*

Ko Barrett (IPCC Vice-Chair), Thelma Krug (IPCC Vice-Chair), Youba Sokona (IPCC Vice-Chair), Valérie Masson-Delmotte (WG I Co-Chair), Panmao Zhai (WGI Co-Chair), Debra Roberts (WG II Co-Chair), Hans-Otto Pörtner (WG II Co-Chair), Jim Skea (WGIII Co-Chair), Priyadarshi Shukla (WG III Co-Chair), Eduardo Calvo (TFI Co-Chair), Kiyoto Tanabe (TFI Co-Chair), Joy Pereira (WG II Vice-Chair).

*Advisory members:*

Anna Pirani (WGI TSU Head), Melinda Tignor (WG II TSU Head), Raphael Slade (WG III TSU Head of Science), Sandro Federici (TFI TSU Head), Noemie Leprince-Ringuet (SYR TSU Head), Abdalah Mokssit (IPCC Secretary),

*IPCC Secretariat:*

Ermira Fida (IPCC Deputy Secretary), Jonathan Lynn (Head of Communications), Jennifer Lew Schneider (Legal Officer), Nina Peeva, Laura Biagioni, Mxolisi Shongwe, Jesbin Baidya, Melissa Walsh, Oksana Ekzarko, Judith Ewa.

*Invited:*

Elvira Poloczanska (TSU WGII), Roger Fradera (WGIII TSU Head of Operations), Sigourney Luz (WGIII Communications Officer)

**1. ADOPTION OF THE AGENDA**

The provisional agenda (EXCOM-LXXXVII/Doc. 1) was adopted as attached in Annex 1, with the additions as follows: update from the Chair on the work of the Core Writing Team (CWT) under Agenda Item 5; Minutes of the ExCom and documents under Agenda Item 6.

**2. URGENT ISSUES RELATED TO IPCC PRODUCTS AND PROGRAMME OF WORK THAT REQUIRE PROMPT ATTENTION BY THE IPCC BETWEEN PANEL SESSIONS**

**2.1 Coronavirus related issues: Impact on AR6 schedules and products**

- **Changes to the plans of TFI activities.**

The Secretariat summarized the changes to the plans of the Task Force on National Greenhouse Gas Inventories (TFI) activities as presented in the 86<sup>th</sup> Meeting of the ExCom and as transmitted to the Bureau for guidance. The ExCom was invited to make a decision.

The ExCom approved these changes.

- **Next steps of Working Group I timeline**

Working Group I (WGI) Co-Chair updated the ExCom on the need to change the WGI timeline, including a shortening by one week of the Final Government Distribution (FGD) review and requested for a decision on the timing of the approval plenary and an in-depth discussion on the document shared by the Secretariat on plenary sessions in 2021.

The Chair summarised that the WGI schedule needs to change beyond the first quarter 2021 and invited the Secretariat to take the necessary steps including seeking Panel's approval by correspondence after consultation with the Bureau; the plan for the 54<sup>th</sup> Session of the IPCC (IPCC-54) was discussed in Agenda item 5.1.

The ExCom took note of the proposed changes to the WGI schedule and took note of the process to be taken.

### **3. COMMUNICATIONS AND OUTREACH ACTIVITIES**

#### **3.1 Ongoing and planned activities**

The Secretariat reported on the Communication activities as presented in the written report and added they have been participating in a lot of outreach events, mainly organized by other people but there have been several high-profile presentations.

Working Group III (WGIII) Communications Officer presented a project proposal on Cross-Working Group Training for AR6 Authors on Effective Communication with Policymakers.

ExCom members expressed strong support for the proposal and suggested broadening the scope of this communication activity emphasising the need for training of journalists and including ethics in any training with policymakers.

The Head of Communications and WGIII Communications Officer took note of the comments provided by ExCom and will take them into account when developing the proposal.

The ExCom took note of the proposal.

### **4. RESPONSE TO POSSIBLE ERRORS IN COMPLETED ASSESSMENTS AND OTHER IPCC PRODUCTS**

#### **4.1 Update on the implementation of the Error Protocol and follow-up**

The Secretariat invited the ExCom for an approval of an Erratum on IPCC Special Report on the Ocean and Cryosphere in a Changing Climate (SROCC) Figure SPM 3(d). The Secretariat informed the ExCom that since the last ExCom no new error claims have been received.

The ExCom approved the Erratum proposal on the SROCC and took note of the Error Protocol report.

## 5. COORDINATION BETWEEN WORKING GROUPS AND TASK FORCES ON ACTIVITIES AND ISSUES PERTAINING TO THE PRODUCTION OF ASSESSMENTS AND OTHER RELEVANT IPCC PRODUCTS

### 5.1 Update on forthcoming meetings

- **The 53<sup>rd</sup> Session of the IPCC**

The Secretary updated the ExCom on the preparations for the upcoming 53<sup>rd</sup> Session of the IPCC (IPCC-53). The Secretary stated that a letter had been sent to Focal Points to invite them to participate in IPCC-53 and to consider one agenda item on the budget with other items to be deferred to IPCC-53 (bis) planned to be held in the first quarter of 2021. The session documents include the budget document prepared by the Secretariat and some background documents such as the Working Group and other progress reports as well as the Strategic Planning Document as presented at the 59<sup>th</sup> Session of the Bureau (BUR-59). An explanatory note for the meeting will be sent out the following week along with the plan of the session.

The ExCom took note of the update.

- ***Possible implications resulting from COVID19 on the IPCC Plenary Sessions***

The Secretary and the Deputy Secretary presented the draft Note by the Secretariat on the possible implications resulting from COVID-19 on the IPCC Plenary Sessions noting that this is a zero-order draft and invited the ExCom to comment on it.

The Secretary presented an option for a virtual approval session for IPCC-54 / WGI approval, consisting of a two-phase hybrid with a pre-plenary in written format in multiple rounds of comments to identify contentious issues, followed by a virtual approval session focusing on those contentious issues. The Secretary informed the ExCom that there will be consultations with Focal Points to ensure inclusiveness and transparency through the IPCC Focal Point exchange forum and the IPCC newsletter as the modalities for engagement.

The members provided comments on the pros and cons of the draft Note and advices on the process forward. The Chair invited the ExCom members to send further comments to the Secretariat.

The ExCom took note of the draft Note prepared by the Secretariat which will be further developed taking into consideration comments from ExCom members.

- **Planning of informal events regarding Working Group I Final Government Distribution (FGD)**

This agenda item was addressed in the previous agenda item.

- **Information note on the SYR**

The Chair briefed the ExCom on the Information Note on the Synthesis Report (SYR) developed by the SYR Technical Support Unit in collaboration with the Working Group TSUs. It is a plan to have enhanced interaction between the Core Writing Team (CWT) and Working Groups to develop each other's' reports through structured participation in the review of Working Group reports by the CWT, and in the Working Group Lead Author meetings by CWT as observer members. Concern was raised about possible bias resulting from such interactions.

The Chair noted the concern and put the Information Note on hold.

## **6. ANY OTHER MATTERS**

### **6.1 Update on Gender Action Team**

The Secretary presented the Background Note on the Gender Policy and Implementation Plan, with details on the Gender Action Plan, actions taken by the Secretariat regarding its implementation, and the steps to set up the Gender Action Team (GAT). The Secretariat invited the ExCom to undertake a capacity and financial needs assessment for the implementation of the Gender Action Plan. The Secretary suggested having a sub-group of ExCom as part of the GAT as this will be less of a burden on the workload of the ExCom.

The ExCom took note of the Background Note on the Gender Policy and Implementation Plan.

### **6.2 Aspects of ExCom's work and its scope**

The IPCC Legal Officer provided a note, as attached in Annex 2, in response to questions from WG Co-Chairs requesting legal guidance with regard to aspects of ExCom work and work scope, and referencing the Terms of Reference (ToRs) of the ExCom, its engagement with the Bureau and its participation in informal meetings. The note's summary is as follows:

- Per IPCC provisions on Governance and Management, the ExCom purpose states that its implementation of the IPCC Programme of Work is to be in accordance with, inter alia, Bureau advice. While there is no specific provision on whether ExCom is to actively seek out advice, recent guidance from the Bureau indicates that advice is to be sought where matters of Bureau ToR mandates are engaged.
- The scope of ExCom action with reference to its purpose includes actions related to timely and effective implementation.
- The urgent issues that the ExCom is mandated to address per its ToRs are those related to timely action, per the provision of prompt attention required between Panel Sessions, and as related to IPCC Products and Programme of Work.
- The IPCC has not specified working methods with regard to informal meetings. As a general matter with respect to practice within the IPCC and with a view to UN general practices, informal meetings are gatherings that do not constitute official meetings, for which invitations are not issued through the Secretariat, and for which no record is made as this is conducive to a frank and free exchange of views. Requirements for transparency and notification are associated with formal meetings, or as applicable rules may provide.
- The ExCom ToRs provide for strengthening coordination between Working Groups and Task Forces, and this as to activities and issues on the production of assessments and other relevant IPCC products regarding their timely and effective implementation. An informal meeting between SYR CWT members and the IPCC Chair that is solely for the purpose of mutual learning and that neither addresses the production of assessments and other IPCC products nor aspects of implementation on timeliness or effectiveness would not fall within the scope of ExCom. To the extent that practice indicates as a general matter that informal meetings may affect the implementation of the IPCC Programme of Work and thus require greater transparency, this is a policy matter to be addressed by the Panel.

The ExCom took note of the legal guidance note submitted by the IPCC Legal Officer.

### **6.3 Membership of the ExCom**

The 86<sup>th</sup> Executive Committee requested a review of the current rules and practice on ExCom Advisory Member composition and participation in ExCom meetings, in light of recent requests for ExCom meeting participation by TSU staff.

The legal officer provided a note, as attached in Annex 3, advising that per the existing rules Advisory Member participation is set out as a function of the number of TSUs and the Head of the Secretariat, that the rules set out in the Governance and Management decisions thus provide for a current number of six Advisory Members, and that current participation of TSU heads of Operations and Science, and the TSU Science Adviser is in deviation from the specific provisions of the relevant applicable rules with respect to their designation as Advisory Members.

Further, the legal officer informed the ExCom that the rules with reference to Mode of Operation provide that participants may be invited to attend meetings of the ExCom; such invitations for participation may be extended for recurring meetings in an extension of current practice, and that participants so invited for specific or recurring meetings would not be Advisory Members per the rules set out in the Governance and Management decisions.

The ExCom took note of the legal advice.

### **6.4 Minutes of the ExCom and documents**

There were requests from the ExCom members that the minutes of the ExCom meetings be available soon after the meetings and the documents for the meeting be available a couple of days before the meeting.

The Deputy Secretary requested cooperation from the ExCom members to provide supporting documents well ahead of the meeting for the agenda item they propose for ExCom consideration and informed the ExCom that the Secretariat is doing its utmost for speedy processing of all the documentation notwithstanding the limited resources in the Secretariat.

The ExCom took note of the clarification provided.

The Chair concluded the meeting at 16:45 and announced the next ExCom meeting will be held on the first Wednesday of December.

**IPCC EXECUTIVE COMMITTEE – EIGHTY-SEVENTH MEETING  
Teleconference, 13 November 2020**

EXCOM-LXXXVII/Doc. 1  
(11.11.2020)  
Agenda Item: 1  
ENGLISH ONLY

**PROVISIONAL AGENDA**

- 1. ADOPTION OF THE AGENDA**
- 2. URGENT ISSUES RELATED TO IPCC PRODUCTS AND PROGRAMME OF WORK THAT REQUIRE PROMPT ATTENTION BY THE IPCC BETWEEN PANEL SESSIONS**
  - 2.1 Coronavirus related issues: Impact on AR6 schedules and products: Next steps of Working Group I timeline.
  - 2.2 Planning of informal events regarding Working Group I Final Government Distribution (FGD) at the next Panel session.
- 3. COMMUNICATIONS AND OUTREACH ACTIVITIES**
  - 3.1 Ongoing and planned activities
- 4. RESPONSE TO POSSIBLE ERRORS IN COMPLETED ASSESSMENTS AND OTHER IPCC PRODUCTS**
  - 4.1 Update on the implementation of the Error Protocol and follow-up
- 5. COORDINATION BETWEEN WORKING GROUPS AND TASK FORCES ON ACTIVITIES AND ISSUES PERTAINING TO THE PRODUCTION OF ASSESSMENTS AND OTHER RELEVANT IPCC PRODUCTS**
  - 5.1 Update on forthcoming meetings
- 6. ANY OTHER MATTERS**
  - 6.1 Update on Gender Action Team
  - 6.2 Aspects of ExCom's work and its scope
  - 6.3 Membership of the ExCom

## Legal note on aspects of the IPCC Executive Committee work and scope of work

### **Executive Summary**

The following note is in response to the email of 6 October 2020 requesting legal guidance on questions from Working Group Co-Chairs with regard to aspects of Executive Committee work and work scope, and referencing the Terms of Reference (ToRs) of the Executive Committee (ExCom), its engagement with the Bureau and its participation in informal meetings. Reference is additionally made to notes provided to the questions as well as correspondence between ExCom and the Chair in this regard.

- Per IPCC provisions on Governance and Management, the ExCom purpose states that its implementation of the IPCC Programme of Work is to be in accordance with, inter alia, Bureau advice. While there is no specific provision on whether ExCom is to actively seek out advice, recent guidance from the Bureau indicates that advice is to be sought where matters of Bureau ToR mandates are engaged.
- The scope of ExCom action with reference to its purpose includes actions related to timely and effective implementation. The urgent issues that the ExCom is mandated to address per its ToRs are those related to timely action, per the provision of prompt attention required between Panel Sessions, and as related to IPCC Products and Programme of Work.
- The IPCC has not specified working methods with regard to informal meetings. As a general matter with respect to practice within the IPCC and with a view to UN general practices, informal meetings are gatherings that do not constitute official meetings, for which invitations are not issued through the Secretariat, and for which no record is made as this is conducive to a frank and free exchange of views. Requirements for transparency and notification are associated with formal meetings, or as applicable rules may provide.
- The ExCom ToRs provide for strengthening coordination between Working Groups and Task Forces, and this as to activities and issues on the production of assessments and other relevant IPCC products regarding their timely and effective implementation. An informal meeting between some SYR CWT members and the IPCC Chair that is solely for the purpose of mutual learning and that neither addresses production of assessments and other IPCC products nor aspects of implementation on timeliness or effectiveness would not fall within the scope of ExCom. To the extent that practice indicates as a general matter that informal meetings may affect implementation of the IPCC Programme of Work and thus require greater transparency, this is a policy matter to be addressed by the Panel.

### **I. ExCom purpose respecting Bureau advice**

***“The purpose of the Executive Committee is to strengthen and facilitate timely and effective implementation of the IPCC Programme of Work in accordance with the IPCC Principles and Procedures, and the decisions of the Panel and advice of the Bureau, as described in paragraph 1.”***

***Does this imply that the ExCom should actively seek advice from the Bureau on its decisions?***

***Or would taking account of any advice already offered fulfil the Terms of Reference?***

***If advice is sought should this be as a general rule, or should the ExCom decide to seek that advice on a case-by-case basis?***

1. Per its Terms of Reference (ToRs), the purpose of the IPCC Executive Committee (ExCom) is to strengthen and facilitate timely and effective implementation of the IPCC Programme of Work. Further, the ExCom does this in accordance with IPCC Principles and Procedures, Panel decisions, and Bureau advice.<sup>1</sup>
2. Per these ToRs, mandated actions indicate, inter alia, that the ExCom makes decisions on an urgent basis. However, the ToRs do not specify whether ExCom is to take into account only advice already offered or whether ExCom needs to actively seek advice on its decisions.
3. With respect to ExCom decisions and Bureau consultation, reference has been made in the Conclusions and Decisions of the 80<sup>th</sup> and 83<sup>rd</sup> ExCom meetings, and the report of the 58<sup>th</sup> Bureau Session the following:
  - ExCom's role as the sole body that can make urgent decisions requiring action in between Panel Sessions (ExCom 80<sup>th</sup> meeting);
  - ExCom was reminded that following the last Bureau meeting, the Bureau's guidance on specific issues related to the changes in schedules is required (ExCom 80<sup>th</sup> meeting);
  - "The Chair acknowledged that the Bureau had provided valuable suggestions, and thanked it for its guidance to the secretariat in refining the schedule for the Sixth Assessment Report. The Chair invited the Bureau to continue to provide guidance to the Secretariat for the strategic planning schedules" (58<sup>th</sup> Bureau Session).
4. Subsequent to the 58<sup>th</sup> Bureau Session, as noted in the Conclusions and Decisions of the ExCom in its 83<sup>rd</sup> meeting, the ExCom actively sought consultations from the Bureau as related to revised scheduling, "the Chair reminded the ExCom that the 58<sup>th</sup> Session of the Bureau took note of the revised AR6 schedule and provided guidance to the Secretariat as responsible for refining the Strategic Planning Schedule," and "The ExCom took note of the proposed schedule and requested the Secretariat to undertake consultations with the Bureau."
5. Both the Conclusions and Decisions of the ExCom meetings noted above and the relevant Bureau Session minutes specifically address Bureau guidance with regard to changes in schedules and strategic planning schedules.
6. In this regard, the Bureau ToRs are relevant, in which the mandated purpose of the Bureau, inter alia, is to provide guidance on the scientific and technical aspects of its work and to advise on related management and strategic issues. Consideration of the strategic planning schedules as related to strategic issues would fall under the ToRs of the Bureau, thus requiring Bureau advice accordingly.

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<sup>1</sup> IPCC 33rd Session, 10-13 May 2011, Abu Dhabi, UAE, Governance and Management, para. 2.3.



7. It may be noted that the Chair at its 58<sup>th</sup> Session invited the Bureau to continue to provide guidance to the Secretariat not as a general matter, but for the strategic planning schedules. In this sense, in the absence of provisions in ExCom's ToRs on how ExCom is to seek advice from the Bureau, and the specific context in which ExCom was reminded to seek Bureau guidance, it may be concluded that ExCom is to seek advice from the Bureau specifically with regard to issues related to the Bureau's own ToRs, in this specific instance, strategic planning schedule changes. Without prejudice to the mandates of the Bureau or the provisions set out the ToRs, advice previously offered should be considered in ExCom decisions to the extent that it is relevant and applicable.
8. As a general matter, and taking into account any specific mandate by the Panel with respect to advice given or sought, ExCom should be guided by its own ToRs with respect to decisions, engaging with the Bureau for guidance and advice where it is deemed that the decisions required by ExCom also engage the ToRs of the Bureau.

## II. Scope of ExCom decisions

***The Terms of Reference of the Executive Committee include: "to address urgent issues related to IPCC Products and Programme of Work that require prompt attention by the IPCC between Panel sessions."***

***Is the ExCom mandated to address all urgent issues or are these restricted to those that "strengthen and facilitate timely and effective implementation of the IPCC Programme of Work"?***

9. The Executive Committee was established on the basis of a decision of the IPCC at its 33<sup>rd</sup> Session. The stated purpose set out in that decision of the 33<sup>rd</sup> Session was focused on timeliness as well as effectiveness of implementation of IPCC Programme of Work, with the further clarification that the actions of the ExCom are to be "in accordance with the IPCC Principles and Procedures, and the decisions of the Panel and advice of the Bureau" and per its Terms of Reference.
10. In this context of timely and effective implementation, the ExCom ToRs specify, inter alia, that urgent issues are to be addressed. The urgent issues are further qualified by two characteristics, i.e. as those 'related to IPCC Products and Programme of Work' and 'that require prompt attention by the IPCC between Panel sessions.'
11. This also reflects the Panel's decision in establishing the ExCom which noted the IAC recommendation for an Executive Committee to act on the IPCC's behalf between Plenary sessions, and recalled the Panel's decision at its 32<sup>nd</sup> Session to establish a formal body to provide governance functions between Sessions of the Panel, strengthen coordination activities and have oversight of administration and communications.<sup>2</sup>
12. As drafted, the ToRs may be read as mandating the tasked actions as related to timely and effective implementation. With respect to urgent issues, these are to be those

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<sup>2</sup> IPCC 33<sup>rd</sup> Session, 10-13 May 2011, Abu Dhabi, UAE, Decisions taken with respect to the Review of IPCC Processes and Procedures, Governance and Management, para. 2.3; IPCC 32<sup>nd</sup> Session, 11-14 October 2010, Busan, Republic of Korea, Annex I, 2, Decisions on Governance and Management.

requiring prompt, i.e. timely, action. A broader reading of the urgent issues as *all* urgent issues related to IPCC Products and Programme of Work could be seen as going beyond the provision of the ToRs. Consequently, this might be viewed as expanding the mandate of ExCom to act and decide on behalf of the Panel in this regard. Accordingly, in the absence of a more explicit delegation of authority by the Panel to the ExCom to address all urgent issues, it must be concluded that the Panel has reserved this power, and it may be considered that the scope of ExCom's decisions are so delimited.

### III. The status of informal meetings

#### ***How are informal, preliminary and formal meetings to be distinguished?***

#### ***Are informal or preliminary meetings convened by an IPCC Bureau Member, involving the participation of authors and elected IPCC officers, subject to the IPCC Principles and Procedures?***

#### ***What are the requirements, if any, for transparency through notification of the meeting to the Panel and to the general public?***

13. As a general matter, the IPCC Principles and Procedures neither distinguish nor reference informal meetings. As a matter of IPCC practice, informal meetings do take place, e.g. during Plenaries where such informal meetings may be convened to address key issues. Such meetings are not subject to specified IPCC Principles or Procedures.
14. With reference to the IPCC Principles and Procedures, it is for the Panel to take major decisions, including with regard to these Principles and Procedures.<sup>3</sup> As master of its own Principles and Procedures, the Panel has not provided rules governing informal meetings. As a matter of precedent as well of customary international law, where rules are silent, reference will be made to the closest rules of procedure applicable that reflect the conventional understanding of the Parties, until such time as determined otherwise in accordance with the relevant governing procedures.<sup>4</sup>
15. Reference to formal and informal meetings may be found both within WMO General Regulations as well as within Rules of Procedure for the United Nations, where WMO General Regulations are relevant to the IPCC for decisions on procedural issues where consensus is judged not possible to the relevant body<sup>5</sup>, and UN Rules of Procedure (Rules) are relevant guidelines as to UN general practice for the IPCC, an intergovernmental organization within the wider UN system.<sup>6</sup>

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<sup>3</sup> IPCC Principles and Procedures, Principle 4, Procedure 16.

<sup>4</sup> See Draft conclusions on identification of customary international law, with commentaries (2018), in Yearbook of the International Law Commission, 2018, vol II, Part Two, p. 142, Judgment ICJ Reports 2008.

<sup>5</sup> IPCC Principles and Procedures, Procedure 10.

<sup>6</sup> World Meteorological Organization (2019) Basic Documents No. 1 – Convention, General Regulations, Staff Regulations, Financial Regulations and Agreements. 2019 edition, Geneva, Switzerland, WMO, [200pp.]. (WMO No. 15). <https://public.wmo.int/en/resources/library/basic-documents-no-1-2019-edition>, Regulation no. 3; See, *The GA Handbook: A practical guide to the United Nations General Assembly (2<sup>nd</sup> ed.)* (2017), ed. Johann Aeschlimann and Mary Regan. Geneva, Switzerland: Permanent Mission of Switzerland to the United Nations, section 3.2, formal and informal meetings (hereafter, *The GA Handbook*).

16. With reference to informal meetings, UN practice differentiates solely as between formal and informal meetings, using purely descriptive terms in use to refer to informal meetings, and as such would include reference to preliminary meetings.<sup>7</sup> Formal meetings include a specific workplan and the taking of decisions or recommendations; further, per UN practice, all formal meetings are governed by the Rules.<sup>8</sup> By contrast, informal meetings are scheduled as needed, not included in an official programme of work, and may be held for a variety of reasons, including consultations and negotiations, with such informal meetings not subject to the Rules of Procedure, although they may be guided by them; further, no decisions may be taken in an informal meeting.<sup>9</sup>
17. This is, moreover, consistent with IPCC prior and current practice, e.g. where informal meetings are set up to deliberate on key topics, e.g. during approval and adoption sessions of meeting reports, sections of the SPM, certain figures. Informal consultations, be they in small groups of two or three, or in larger groups, are essentially private. Also, there is no official record of what is said and the conversation can be tentative or exploratory in nature. This means that participants may speak much more freely in such conversations than they might in formal meetings where their words may be recorded.
18. Formal meetings regarding IPCC reports include those meetings as set out in Appendix A, e.g. Sessions and meetings that are approved by the Panel, including Scoping, Workshops and Expert meetings, LAMs, and CWT meetings.
19. Accordingly, in view of practice and with reference to Appendix A, a meeting convened by an IPCC Bureau Member involving the participation of authors and elected IPCC officers and that is convened without an official programme of work and at which no decisions are to be taken would not qualify as a formal meeting, but rather as an informal meeting. As above, an informal meeting it is not subject to IPCC Principles and Procedures.
20. With respect to transparency, the Panel, as noted above, has not provided rules governing informal meetings, including in this regard. Informal meetings, as such, while convened by a Member of the Bureau, do not constitute an activity of the Panel or the Bureau which moreover would have invitations issued from the Secretariat. Participation in such informal meetings is for individual participants to decide upon and participants may choose not to attend. Such a meeting as within a format in practice by the IPCC is not one that specifically accommodates transparency, but rather one that favours frank and flexible discussion.
21. With reference to the Bureau ToRs, an informal meeting convened by a Bureau Member that does not entail the Bureau providing guidance to the Panel on scientific and technical aspects of its work nor advising on related management and strategic issues, would not require notification to the Panel, unless otherwise mandated by the Panel.

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<sup>7</sup> See *The GA Handbook*, supra note 6.

<sup>8</sup>Id.

<sup>9</sup> See G.A. Res. 70/305, U.N. Doc. A/520/Rev. 18 (2016). Annex III (e), d, ¶ 32.

#### **IV. Discussion of the informal meeting originally proposed between some SYR CWT members and the Chair**

##### ***Is discussion of this specific informal meeting within the scope of the ExCom?***

22. Some ExCom Members have contended that discussion of this informal meeting is within the scope of the ExCom, and have expressed 1) there is precedent that informal processes prejudice approval of reports that adhere to their originally agreed scope; 2) informal processes can affect the “effective implementation of the IPCC Programme of Work”; and 3) the ExCom ToRs reference to “strengthen coordination between Working Groups and Task Forces on activities and issues pertaining to the production of assessments and other relevant IPCC products”.
23. The use of the designation of ‘precedent’ with respect to rules refers to any legal decision or form of proceeding that serves as an authoritative rule in similar cases, and may extend to customary practice.<sup>10</sup> In this regard, respect for the hierarchy of a norms is fundamental to the application of rules, principles and procedures, as it dictates how the different levels of norms will apply in practice. The IPCC’s work is guided by a set of principles and clear procedures for all the main activities of the organization. For guidance regarding these activities, precedent may be cited as decisions and practices that appear in the documented record of Sessions and meetings of IPCC bodies.
24. The reference to precedent herein expressing that *informal processes prejudice approval of reports that adhere to their originally agreed scope* does not refer to a statement within documented record of Sessions and meetings. Therefore, this statement cannot be reviewed as precedent within the framework of IPCC rules, principles and procedures as applying to permissibility of informal meetings, nor with regard to the scope of ExCom’s mandated actions under its ToRs. To the extent that the example cited is deemed by IPCC Members as indicating that informal meetings may affect implementation of the IPCC Programme of Work and thus require greater transparency, this is a policy matter to be further addressed by the Panel.
25. Nonetheless, to address the concern expressed as a matter of practice, informal processes as part of Plenary approval sessions may be distinguished from this specific informal meeting between some SYR CWT members and the Chair. The example provided refers to events during the AR5 synthesis approval at which an informal side meeting was called by a Vice-Chair and a small number of governments to discuss report content, i.e. a cross-chapter Box, and that this informal meeting was not notified to the Plenary or other governments. In the event, the cross-chapter Box was pulled.
26. The informal meeting referred to above took place during a Plenary meeting, which was moreover an approval session. During such approval sessions, either chaired by the IPCC Chair or by Working Group Co-Chairs, contact groups or huddles may be formed, with Plenary and government notification normally taking place. By contrast, the specific informal meeting originally proposed between some SYR CWT members and the Chair did not take place at a Plenary session, was not during an approval session, nor involved consideration of the content of a report. Separately, in view of IPCC practice, it may be

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<sup>10</sup> See *Doctrine of Precedent*, Black’s Law Dictionary (9<sup>th</sup> ed. 2009).

further noted that informal meetings such as those as organized in between LAMs may take place as organized by chapter teams in the form of teleconferences without notification of the Plenary, governments or ExCom.

27. The further extent to which the ExCom purpose of “effective implementation of the IPCC Programme of Work” serves as a basis for this specific informal meeting as being within the scope of ExCom may be addressed with respect to a reading of the ExCom ToRs. The scope of the ExCom purpose and mandates as set out in its ToRs includes the mandate to “strengthen coordination” specifically as “between Working Groups and Task Forces on activities and issues pertaining to the production of assessments and other relevant IPCC products.”<sup>11</sup> This mandate to “strengthen coordination” as read in reference to its purpose, “timely and effective implementation” may be seen to refer to ExCom’s role in facilitation and coordination, as indicated in numerous ExCom Conclusions and Decisions, including for the flow of information during the assessment process in particular on updates on forthcoming meetings, cross-cutting issues and activities across the Working Groups.<sup>12</sup> In this regard, effective implementation relates to the timeliness with regard to the IPCC Programme of Work, and not with respect to meeting formats or working methods, including informal meetings.
28. The specific informal meeting originally proposed between some SYR CWT members and the IPCC Chair was presented per the IPCC Chair as solely for the purpose of mutual learning between some SYR CWT members and the IPCC Chair. The meeting was not convened as an official IPCC SYR meeting, i.e. the CWT 1 through the CWT4 and approval session. Further the meeting was not proposed to address matters of scheduling or timing of the assessment process, or timing to enable flow of information or cross-cutting issues as between the Working Groups. The meeting was not about Working Group collaboration. With respect to the above, the mandate regarding strengthening coordination with reference to timely and effective implementation would not apply to this informal meeting, and consequently would not provide a basis for the informal meeting as within the scope of ExCom.

*IPCC Legal Officer*

*10 November 2020*

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<sup>11</sup> IPCC 33rd Session, 10-13 May 2011, Abu Dhabi, UAE, Governance and Management, para. 2.3.

<sup>12</sup> See, e.g. ExCom 85<sup>th</sup> and 83<sup>rd</sup> meetings, item 5.1 Update on forthcoming meetings – P53 planning; ExCom 81<sup>st</sup> meeting, item 5.1 Update on forthcoming meetings, item 5.2 cross-cutting issues and ongoing activities across the three Working Groups; 80<sup>th</sup> ExCom meeting, item 5.3 Update on forthcoming meetings, , item 5.2 debriefing on virtual meetings (pre-LAM activities of Working Group I started), item 5.3 Planning on cross working group coordination, item 5.4 SBSTA Chair information event, presenting implications of COVID 19 on the work of IPCC and changes to schedules.

## IPCC Executive Committee Advisory Member Selection and Participation

### Executive Summary

The 86<sup>th</sup> Executive Committee (ExCom) requested a review of the current rules and practice on ExCom Advisory Member composition and participation in ExCom meetings, in light of recent requests for ExCom meeting participation by TSU staff.

- IPCC decisions on Governance and Management<sup>1</sup> set out both the composition of the ExCom with respect to Advisory Members, the mode of operation covering invitations for participation in meetings of the ExCom, and provisions on the functions of IPCC Technical Support Units (TSUs), including participation in the ExCom as Advisory Members.
- While an initial IPCC decision on Governance and Management provided for four TSU Heads plus the Head of the Secretariat as Advisory Members, a subsequent decision addressing functions of the IPCC TSUs provides for participation of TSU Heads as ExCom Advisory Members with a view to existing TSUs and TSUs that may be formed.
- Per the rules set out in these Governance and Management decisions, in addition to the Head of Secretariat, Advisory Member participation is set out as a function of the number of TSUs. Accordingly, the total number of Advisory Members currently provided for is six: one for each of the current five TSUs (TSU Heads) plus the Head of the Secretariat.
- Current practice regarding participation deviates from the specific provisions of the rules by way of participation of a TSU head of Operations (WGIII), a TSU head of Science (WGIII), and a TSU Science Advisor (WGII), in addition to Advisory Members Heads of TSUs and Head of the Secretariat.
- Further, the rules with reference to Mode of Operation provide that participants may be asked to attend specific meetings of the ExCom; such invitations for participation may be extended for recurring meetings to TSU heads of Operations, with reference to the purpose and functions of the TSUs, and in extension of current practice. Participants so invited for specific or recurring meetings would not be Advisory Members per the rules set out in the Governance and Management decisions.

### **I. Background**

1. A question was posed within the 86<sup>th</sup> Executive Committee meeting regarding ExCom Advisory Member composition and participation in ExCom meetings. This question arose in the context of a request for the participation of Technical Support Unit heads of Operations to participate in ExCom meetings.
2. During discussion of this matter, the broader request was clarified as based on a pragmatic concern that ExCom discussions were not informed to all Operation Action Team (OAT) members, as OAT is composed of Heads of TSUs and heads of

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<sup>1</sup> IPCC 33rd Session, 10-13 May 2011, Abu Dhabi, UAE, Decisions taken with respect to the Review of IPCC Processes and Procedures, Governance and Management; IPCC 35<sup>th</sup> Session, 6-9 June 2012, Geneva, Switzerland, Decisions taken with respect to the Review of IPCC Processes and Procedures, Governance and Management.

Operations, while only the Heads of TSUs are part of ExCom. It was expressed that OAT discussions consequently lacked the needed context necessary to fulfil OAT's role.<sup>2</sup>

3. Additionally, it was pointed out that WG III does not have a Head of TSU, but instead relies on co-equal heads for Operations and Science. Moreover, it is noted that the WG II Science Advisor is a head of Science, advising the WG II Co-Chairs.
4. Separately, a request was made for the one-time participation of the Director of Operations (WGII) in ExCom. The request pointed out that the provisional agenda included an item that included consideration of the output of the Operations Action Team (OAT), that the WGII TSU Director of Operations is a member of this OAT, and that discussion of the agenda item would enable him to better support OAT in any follow-up or implementation.

## **II. Rules on Composition and Participation, and current practice**

5. The ExCom purpose as set out in decisions on Governance and Management by the IPCC 33<sup>rd</sup> Session is to strengthen and facilitate the timely and effective implementation of the IPCC Programme of Work, in accordance with the IPCC Principles and Procedures, and the decisions of the Panel and advice of the Bureau. The composition of the ExCom for this purpose is set out in to include both Members and Advisory Members.<sup>3</sup>
6. The Advisory Member component of the of the Executive Committee was initially set at five participants, i.e. the Head of the Secretariat and four Heads of the Technical Support Units (TSUs). In specifying the number of Advisory Members, there was no reference to or accommodation for a SYR TSU Head nor any other TSUs that might be established during the IPCC cycle.
7. However, a subsequent decision as to the functions of the IPCC TSUs provided a functional definition of the TSUs as those supporting respective IPCC Working Groups and the Task Force on National Greenhouse Gas Inventories (TFI), with a further provision that any TSU may be formed to support the Synthesis Report (SYR) or any Task Force constituted by the Panel.<sup>4</sup> This may be understood to expand the Advisory Member composition of the ExCom to six Advisory Members, in accordance with the number of TSUs and in regard to their respective Heads of TSUs at any given time, with a specific provision that participation as Advisory Members is through the TSU Heads.<sup>5</sup>

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<sup>2</sup> The OAT Modus Operandi specify that OAT was set up by the Secretariat of the IPCC, with OAT's role, inter alia, to provide recommendations to ExCom for their consideration.

<sup>3</sup> IPCC 33<sup>rd</sup> Session, 10-13 May 2011, Abu Dhabi, UAE, Decisions taken with respect to the Review of IPCC Processes and Procedures, Governance and Management, para. 2.

<sup>4</sup> IPCC 35<sup>th</sup> Session, 6-9 June 2012, Geneva, Switzerland, Decisions taken with respect to the Review of IPCC Processes and Procedures, Governance and Management, 'Functions of the IPCC Technical Support Units'.

<sup>5</sup> Id. at (c).

8. The decisions on Governance and Management by the IPCC 33<sup>rd</sup> Session further set out rules for the mode of operation of ExCom, including a provision that the ExCom may invite additional individuals to participate in a meeting of the ExCom.<sup>6</sup> This may be understood to apply to invitations for participation in a given particular meeting, as the provision does not indicate that such invitations extend to participation in all ExCom meetings. It may be further noted that the rules do not provide for an unlimited number of Advisory Members, nor that individuals so invited participate as Advisory Members.
9. In practice, participation in ExCom meetings currently includes in addition to the Head of the Secretariat and Heads of the Technical Support Units, the head of Operations (WGIII) and the head of Science (WGIII), as well as a TSU Science Advisor (WG II). These participants take part on a recurring basis. It is also noted that WG III does not otherwise have a single Head of TSU that could serve as a WG III Head of TSU Advisory Member to the ExCom, but relies instead on these co-equal heads of Operations and Science. While one participant as Advisory Member from WG III would be in furtherance of the overall TSU functions as set out in the rules of Governance and Management,<sup>7</sup> the current participation of additional individuals noted above is in deviation from the specific provision of the rules with regard to their designation as Advisory Members.

### **III. Conclusion**

10. With respect to the Advisory Member component of ExCom as established by the Panel, this component has been expanded from an initially specified five Advisory Members to include the TSU Head of the SYR as well as the Heads of any TSUs formed to support any other Task Force constituted by the Panel (Governance and Management, Functions of the IPCC Technical Support Units, paragraph 1). The rules thus provide for a current number of six Advisory Members.
11. With respect to any request for a one-time participation in ExCom meetings, the applicable rules provide that the Executive Committee may invite such additional individuals to participate in a meeting of the Executive Committee (Governance and Management, IPCC Executive Committee, paragraph 3). Invitations to additional participants do not include designation as an Advisory Members for those so invited.
12. With respect to the current participation of TSU heads of Operations and Science, and the TSU Science Advisor, this participation is in deviation from the specific provision of the relevant applicable rules with respect to their designation as Advisory Members. Absent a designated WG III Head of TSU, WG III would need to inform the Secretariat prior to a given ExCom meeting which participant would represent WG III as TSU Advisory Member for ExCom; this would be in alignment with the boundaries of the ExCom mandate with respect to the functions of the IPCC Technical Support Units and

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<sup>6</sup> IPCC 33rd Session, 10-13 May 2011, Abu Dhabi, UAE, Decisions taken with respect to the Review of IPCC Processes and Procedures, Governance and Management, para. 3.

<sup>7</sup> IPCC 35th Session, 6-9 June 2012, Geneva, Switzerland, Decisions taken with respect to the Review of IPCC Processes and Procedures, Governance and Management, Functions of the IPCC Technical Support Units, (c).



the needs of the Working Group TSUs. Participation by any additional individuals would need to be on the basis of an invitation by ExCom.

13. Accordingly, ExCom may invite additional individuals, including heads of Operations, to participate in specific ExCom meetings. Such additional individuals would not participate in the role of Advisory Members. With respect to participation on a recurring basis, ExCom may exercise its discretion to invite additional individuals including TSU heads of Operations to attend recurring meetings in furtherance of the role of the OAT and in light of the functions of the TSUs, as well as in extension of current practice.

*IPCC Legal Officer*

*9 November 2020*