



United Nations
Climate Change Secretariat

Executive Secretary

Nations Unies
Secrétariat sur les changements climatiques

Secrétaire exécutive

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Dear Mr. De Zayas,

I thank you for your letter dated 22 October 2015 and I am pleased to inform you that, at the closing of the open-ended contact group of the eleventh part of the second session of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) on 23 October 2015, the Co-Chairs informed that for any spin-off group established in the future under the ADP, and until its closure on December 5th, observers will be allowed to attend the first and the last meetings of any such spin-off group unless a Party requests, for any reason, that such meetings be closed.

I also wish to take this opportunity to clarify the rules that govern the attendance and participation of observers in the UNFCCC process.

The Rules of Procedure of the United Nations General Assembly as well as its practices do not apply in the UNFCCC context. They are only of persuasive authority and not binding. The Conference of the Parties (COP) and its subsidiary bodies are independent treaty bodies with their own rules of procedure. The draft Rules of Procedure of the Conference of the Parties, as applied, are contained in document FCCC/CP/1996/2 and apply *mutatis mutandis* to subsidiary bodies including the ADP.

Space for the participation of civil society in the UNFCCC process has progressively expanded over the years. In this regard, you may wish to note that Article 7.6 of the Convention and rules 6 and 7 of the draft Rules of Procedure being applied only contemplated attendance and participation of observers in plenary meetings of the COP and of subsidiary bodies, and not in contact groups or other informal negotiating forums. In 1998, through decision 18/CP.4, the Conference of the Parties decided that the presiding officers of Convention bodies may invite observers to attend any open-ended contact group established under the Convention unless at least one third of the Parties present at the session of the Convention body setting up that contact group object. The decision also contained an important qualification that the presiding officers of such contact groups may determine at any time during the proceedings that they should be closed to observers.



From the above, it is clear that the plenaries of the COP and the subsidiary bodies as well as contact groups established by these bodies are open for attendance and participation by observers, unless at least one third of the Parties present at the session object. However, informal meetings such as spin-off groups, informal consultations or drafting groups would normally not be open to observers.

Notwithstanding this limitation, the Subsidiary Body for Implementation (SBI) at its 34th session in 2011 (FCCC/SBI/2011/7) recommended that in the event that there is no contact group for an agenda item, at least the first and the last meetings of the informals may be open to observer organizations, “recognizing the right of Parties to keep informal meetings closed”.

It follows from the SBI’s recommendation that where there is a contact group, observers would not attend and participate in any of the meetings of the informals. During the negotiations at the ADP 2-11 session, only spin-off groups were closed to observers, while the open-ended contact group and the ADP plenaries remained open to observers’ attendance and participation. From the foregoing, it is evident that the Co-Chairs of the ADP have faithfully followed the rules established by Parties to the Convention regarding observers’ attendance and participation in the UNFCCC process. Nevertheless, as I indicated above, recognizing the critical nature of and the global interest in the on-going negotiations for an inclusive and meaningful Paris climate change agreement, the Co-Chairs informed that, in the future, the first and last meetings of any spin-off group will be open to observers unless a Party objects.

I trust the above clarifies the issues raised in your letter and assures you that observers’ attendance and participation is of the utmost importance to the UNFCCC process. I remain at your disposal to answer any further question you may have.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Christiana Figueres', with a stylized flourish at the end.

Christiana Figueres