

Secretariat actions to resolve the issue of credentials for Azerbaijan, the Kyrgyz Republic, Tajikistan, and Uzbekistan

Background

1. At Ramsar COP9, the Credentials Committee, in its report, pointed out difficulties encountered by certain Central Asian States, and asked the Secretariat to explore options to resolve this situation, as follows:
2. “5. Four Central Asian countries (Azerbaijan, the Kyrgyz Republic, Tajikistan and Uzbekistan) were unable to produce valid credentials due to the fact that Ministers of Foreign Affairs of these countries only sign documents addressed to Heads of State and the Secretary General of the United Nations. The Kyrgyz Republic has presented an original with a seal, however without the required signature. On 18 October 2005, the Secretariat had drawn the attention of the relevant authorities to Rule 18, paragraph 2 of the Rules of Procedures pointing out that the signature of the Minister of Foreign Affairs or his or her equivalent is an essential requirement in order to validate the credential of the Kyrgyz Republic. It appears that Central Asian countries are encountering similar problems with other Conventions. The Credentials Committee requests the Secretary General to explore before COP10 options to resolve this situation with the Parties concerned.”

Action since COP9

3. The Secretariat has contacted the secretariats of other environmental conventions (CBD, CITES, CMS, and AEWa) to find out if these or similar problems have arisen at these conventions' meetings.
4. As for Ramsar, the Rules of Procedure for these four treaties provide that credentials should be issued by the Head of State or Government or the Minister of Foreign Affairs, but two of them (CMS and AEWa) also allow more flexibility.
5. The CMS Rules provide that powers should be granted by “or on behalf of a proper authority, such as the Head of State, the Head of Government, or the Minister of Foreign Affairs...”. The CMS accepts credentials signed by ambassadors/heads of missions as these are plenipotentiary representatives of states as per the Vienna Convention on Law of Treaties.
6. In the case of AEWa, the Rules of Procedure were amended at MOP3 (2005) and now state that credentials may be signed by “the Head of State or Government or by the Minister of Foreign Affairs or his/her equivalent, or on behalf by an ambassador who is duly authorized”.

7. Information provided by the secretariats of these four MEAs on credentials of the four Central Asian States mentioned in our COP9 Credentials Committee Report do not show a regular or predictable pattern. On the one hand, these states are not always Contracting Parties to these conventions. On the other hand, practice does not seem to be consistent since the same country is reported as, on some occasions, presenting valid credentials signed by the Minister of Foreign Affairs, and on other occasions presenting credentials that were refused or not presenting any credentials at all.
8. It may be that the fact that these conventions are administered by UNEP may cause them to be regarded differently in respect of the stipulation of these countries regarding the UN. However, the inconsistency of the reports received precludes any basis for clear interpretation. This may be cause for optimism that domestic solutions may be possible.
9. However, with the assistance of Mr Dave Pritchard who will be representing the Secretariat at COP10 as the Secretary to the Credentials Committee, the Secretariat has also reviewed the existing Rules of Procedure concerning credentials and has concluded that a solution to the issue in question is already provided for in the second sentence of Rule 18 (2), which states that:

“The credentials shall be issued either by the Head of State or Government or by the Minister for Foreign Affairs or his/her equivalent. **If other authorities in a Contracting Party are entitled to issue credentials for international meetings, this should be notified by the Ministry of Foreign Affairs with an original letter to the Secretary General either in advance of the meeting or not later than 48 hours after the opening of the meeting.**”
10. Accordingly, through a specific diplomatic notification to these Parties, the Secretariat has drawn the attention of the Central Asia Parties concerned to this provision in the Rules of Procedure, and has requested that, if the Parties are unable to issue credentials through the Head of State or Government or Minister of Foreign Affairs, they avail themselves of the procedure set out in sentence two of this Rule.
11. This matter will be looked at further during COP10 by the Credentials Committee, in the light of the form of any credentials submitted by Central Asian Parties.