

**INTER-AMERICAN INSTITUTE FOR  
GLOBAL CHANGE RESEARCH**



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**Inter-American Institute for Global Change Research (IAI)  
Standing Committee on Rules and Procedures**

19 May 2003

Sr. Antonio MacDowell, Chair  
IAI Executive Council  
Director de Administracion e Planeamiento  
Agencia Espacial Brasileira  
SPO – Area 5 – Quadra 3 – Bloco B – Terreo  
70.610-200 – Brasilia – DF  
Brazil

Dear Antonio,

In response to the three actions that the Executive Council (EC) at its Sixteenth Meeting referred to or bear on the Standing Committee on Rules and Procedures, the Committee offers the following comments. These actions are summarized in the “Action Lists” for the first and second days of EC-XVI. The first of these Actions was Action 1.8: “The EC Chair requested that comments on the Standing Committee for Rules and Procedures memo regarding “basic support” (Document 8\_ECXVI) be sent to the Chair of the Committee, Louis B. Brown, via e-mail and that a decision would take place at the next EC Meeting in June 2003.”

**The Basic Support Issue:**

The Committee has received no comments from IAI members regarding the proposal of the Committee on this issue. However, we have reconsidered the issue of “basic support” anyway. We have also referred a draft of this report to the Chair of the Financial and Administrative Working Group (FAWG) who has provided comments. The Committee’s conclusions and recommendations are as follows.

The IAI Agreement states that the IAI shall have “a budget for operational expenses” which shall consist of salaries for Directorate staff and “basic support” for the “Directorate, SAC, and EC”. The term “basic support” has been used very little, if at all, since the Agreement was signed. However, recent IAI documents, especially those dealing with budgetary matters, make it clear that the IAI has interpreted “basic support” to refer to funds for activities, other than salaries and associated benefits, that constitute the day-to-day operations of the IAI.

To demonstrate, the reader is referred to the “IAI Core Budget Request for Fiscal Year 2002/2003”, as submitted to the IAI EC-XV and CoP-IX Meetings, 25-28 June 2002, Sao Jose dos Campos, Brazil (Doc. 9\_ECXV/CoPIX/DWD/English/ June 6, 2002. This document identifies some of the various components of what the IAI has referred to for some time as its “Core Budget”. These are:

Personnel (staff salaries and associated benefits);  
Staff travel;  
Other costs (including  
    Support for EC Working Groups,  
    Capital equipment budget, and  
    Support to participants in scientific meetings (non-IAI staff); and  
Director’s special fund.

Support for EC Working Groups has been given only for those meetings not occurring on the same dates as regular meetings of the EC or CoP, and only to those members specifically requesting it.

The budget states further that the Director's special fund is to be used for research and training activities that cannot be supported out of "regular research funds" and as "seed money" to encourage other donors to become involved in IAI research programs.

The above listing of activities that received special emphasis in the "other costs" category in the present IAI budget is not exclusive, for example, IAI communications, including publications and documents, is also normally funded under the rubric of "other costs".

So, in our view, the way forward is clear. *The Committee on Rules and Procedures recommends that the EC reconfirm this definition of "basic support" to refer to funds for activities, other than salaries and associated benefits, that constitute the day-to-day operations of the IAI. Such funds presently include:*

*Staff travel;*

*Other costs (including*

*Support for EC Working Groups,*

*Capital equipment budget, and*

*Support to participants in scientific meetings (non-IAI staff); and*  
*Director's special fund.*

#### **Delegate Travel to EC and CoP Meetings:**

This brings us to the corollary issue regarding the possible use of IAI funds to pay for delegate travel to EC and CoP Meetings, thus including such travel costs in the IAI core budget under the category of "basic support". This issue was addressed prior to the EC-XV and CoP-IX Meetings by the IAI's Financial and Administrative Working Group (FAWG), in consultation with the Committee on Rules and Procedures. The FAWG and the Rules Committee recommended jointly that "travel expenses of country Representatives to meetings of the EC and CoP continue to be the responsibility of country members" of these two bodies.

The FAWG and the Rules Committee recognized that the IAI had decided earlier that it could use core budget funds to support travel of members of committees, task forces, and working groups. However, the FAWG and the Rules Committee identified serious issues regarding potential use of core budget funds for the travel of delegates who would be representing their countries in EC and CoP Meetings. From the perspective of the Rules Committee, the most important of these is the basic issue of conflict of interest.

The IAI has emphasized in its policy statement on "Conflicts of Interest and Standards of Ethical Conduct" that:

"The IAI must ... avoid or minimize actual and apparent Conflicts of Interest to maintain its integrity, internal effectiveness, and public trust."

Delegates to IAI Meetings represent their countries and, in this capacity, participate in discussions and vote on the IAI program and core budget. If such participation and voting were to be enabled by funds provided by the IAI, rather than the Delegate's country, then a serious question is raised regarding the extent to which such participation and voting would be guided by the delegate's role as a country representative or as an individual funded through the IAI core budget that the delegate is called upon to consider and approve.

*The Committee on Rules and Procedures, therefore, reconfirms our earlier recommendation, together with the FAWG, that “travel expenses of country Representatives to meetings of the EC and CoP continue to be the responsibility of country members” of these two bodies.*

If, however, the EC and the CoP decide to not accept this recommendation and that the IAI should fund the travel of delegates to EC and/or CoP meetings, the Rules Committee recommends strongly that the IAI set up a trust fund for this purpose; that this trust fund be administered separately from the IAI’s core budget; and that reports of the use of such a trust fund, including specific information on the travelers supported, be provided regularly as a part of the regular reports on budget to the EC and CoP.

### **Selection of Members of the Standing Committee for Rules and Procedures:**

The second action was Action 2.4: “As the composition of the Standing Committee for Rules and Procedures will have to be redefined at the next EC meeting, the decision on whether members should be elected by country or by person was postponed until that moment. This decision will be then be forwarded to the Tenth CoP Meeting.”

It should be born in mind that membership on the Committee has been and remains open to all IAI Members, but that this membership has been determined through periodic invitations by the EC to IAI Members to designate individuals to serve on the Committee. There has been one such designation in the last two years – that is, the designation of Sr. Diego Malpede by Argentina.

Once designated, members of the Committee serve in their individual capacities as experts in one or more areas of the Committee’s work. The Committee’s charge is to provide the best possible guidance to the EC and CoP regarding the IAI’s rules, the IAI’s procedures, and the IAI Agreement and how these should be interpreted.

The Committee, in developing its guidance in these areas, considers that the Agreement, the IAI Rules and IAI procedures were developed in order to enable the IAI to fulfill its scientific and programmatic objectives for the positive benefit of the Institute and its Members, bearing in mind the need to assure that the IAI apply the Agreement, the Rules and its procedures in a legal, ethical, and appropriate manner.

*We recommend, therefore, that membership of the Standing Committee to continue to be open; that members of the Committee to be designated, as at present, by Members in response to EC calls periodically for new Committee members; and that members serve in their individual capacities, again as is the case now, thus enabling them to bring their full expert capabilities to bear on issues before the Committee. We also recommend that each designating country be given the opportunity to make a new appointment if its designee decides to leave the Committee or if the country decides that a change in designee is necessary.*

### **Reducing the Number of IAI Meetings:**

The EC in Action 1.7 “requested the Standing Committee for Rules and Procedures to discuss and prepare a proposal to reduce the number of EC and CoP meetings and to modify the IAI documents as appropriate”. An analysis of the IAI Agreement and of the Rules of Procedure for the CoP and the EC indicates that, if it is deemed desirable to reduce the frequency of CoP and/or EC meetings, the most appropriate way to do so would be to amend the Agreement and the Rules of Procedure.

This would require only one formal action by governments – that is, to amend Articles V and VI of the Agreement. Since the Rules are intended to implement the Agreement, an amendment to

the Agreement on a point that is repeated essentially verbatim in the Rules would require the IAI simply to make corresponding changes to the Rules to bring them into accord with the amended Agreement, without having to undertake separate approvals from governments for such changes to the Rules.

To amend the Agreement would be straightforward. A proposed text for Article V, Paragraph 3, of the Agreement would read as follows:

“The Conference of the Parties shall meet at least once every (two)(three) years.”

A proposed parallel amendment to Article VI, Paragraph 3, would read as follows:

“The Executive Council shall meet at least once each year, with one of these meetings to be held immediately prior to each meeting of the Conference of the Parties and shall strive to hold its meetings in different locations among the Parties.”

It should be expected, of course, that to amend the IAI Agreement and to obtain the necessary ratifications would require some years, even when proposed amendments are non-controversial. It may be possible, however, for the IAI to put such an amendment into effect before the amendment is ratified and enters into force. The Vienna Convention on the Law of Treaties has taken such a need into account in its Articles 24 and 31, copies of which are attached as an appendix to this report.

It is possible that the IAI could decide that the proposed amendments to the Agreement are subject to the “provisional application rule” (Article 24.4 of the Vienna Convention on “...other matters arising necessarily before the entry into force of the treaty apply from the adoption of its text”) and thus could apply the amendment to its operations without waiting for the ratification process to be completed.

It would seem most appropriate to apply this rule if the proposed amendment were to be adopted unanimously by the Members. In any event, the IAI should, prior to applying this rule, organize a brief, informal consultation with the legal services of the Member States that ultimately will have to advise their representatives to the CoP when these alternatives will be formally discussed.

#### Some Implications of Reducing the Frequency of Meetings

It should be expected that such a reduction from one set of meetings every six months to one set of meetings every year would require that the latter sets of meetings be of somewhat longer duration than the former. Such a change would still probably reduce significantly the workload imposed on both the Members of the IAI and the Directorate by the need to prepare for, convene and follow-up on each and every meeting. Such a change would also enable the IAI to prepare for its meetings longer in advance than is now possible and would reduce travel cost burdens on both Members and the Directorate.

Most importantly, however, lengthening the periods between Conferences of the Parties would most likely result in the IAI assigning increasing responsibility and authority to the EC; to its Bureau; and to the Directorate, the mechanisms that the IAI relies on during the periods between Conferences of the Parties.

If it is decided that the CoP should meet every two years, then it is not necessary to change the terms of office of the Chair and Vice-Chairs of the EC. These terms are now for “a period of two years”. If the CoP were to meet every three years, then it is recommended strongly that the terms of office of the EC Chairs and Vice-Chairs be changed accordingly.

The Committee recommends that, assuming that the IAI would like to proceed to reduce the frequency of its meetings, the IAI set in place a process that would enable the CoP at its Eleventh Session to consider and approve on a consensus basis amendments to the Agreement along the lines suggested above and, if consensus is achieved, that the CoP at its Eleventh Session also move to implement these amendments in the following cycle of IAI Meetings, in accordance with the relevant provisions of the Vienna Convention of the Law of Treaties.

Respectfully submitted,  
Louis B. Brown, Chair  
Standing Committee on Rules and Procedures

**Appendix:**

Extract from the Vienna Convention of the Law of Treaties:

SECTION 3. ENTRY INTO FORCE AND PROVISIONAL APPLICATION OF TREATIES

Article 24

Entry into force

1. A treaty enters into force in such manner and upon such date as it may provide or as the negotiating States may agree.
2. Failing any such provision or agreement, a treaty enters into force as soon as consent to be bound by the treaty has been established for all the negotiating States.
3. When the consent of a State to be bound by a treaty is established on a date after the treaty has come into force, the treaty enters into force for that State on that date, unless the treaty otherwise provides.
4. The provisions of a treaty regulating the authentication of its text, the establishment of the consent of States to be bound by the treaty, the manner or date of its entry into force, reservations, the functions of the depositary and other matters arising necessarily before the entry into force of the treaty apply from the time of the adoption of its text.

...

Article 31

General rule of interpretation

1. A treaty shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose.
2. The context for the purpose of the interpretation of a treaty shall comprise, in addition to the text, including its preamble and annexes:
  - (a) any agreement relating to the treaty which was made between all the parties in connection with the conclusion of the treaty;
  - (b) any instrument which was made by one or more parties in connection with the conclusion of the treaty and accepted by the other parties as an instrument related to the treaty.
3. There shall be taken into account, together with the context:
  - (a) any subsequent agreement between the parties regarding the interpretation of the treaty or the application of its provisions;
  - (b) any subsequent practice in the application of the treaty which establishes the agreement of the parties regarding its interpretation;
  - (c) any relevant rules of international law applicable in the relations between the parties.
4. A special meaning shall be given to a term if it is established that the parties so intended.