The 52nd session of the UNFCCC subsidiary bodies should have taken place during the month of June 2020 but has been postponed. COP 26 which was scheduled for November 2020 has also been postponed to 2021. The work of the constituted bodies of the Convention, the Kyoto Protocol and the Paris Agreement have also been suspended and in some cases virtual meetings are being organized to consider issues but without reaching decisions. The inability of the Secretariat to convene in person negotiating sessions has created a vacuum since negotiating sessions have all been suspended. There are still outstanding issues to be resolved regarding the rule book which must be completed before the Paris Agreement can be effectively implemented by Parties. Notable among the outstanding issues is the completion of work on the modalities, rules and guidelines to regulate the implementation of Article 6 of the Paris Agreement on Cooperative Mechanisms.

The UNFCCC Rules of Procedure being applied did not envisage the convening of virtual sessions and does not therefore provide for such meetings. The UNFCCC provides only for in person universal meetings with participation by all Parties and observers. Covid 19 has affected the ability of the UNFCCC Secretariat to convene international meetings in person negotiations. In session negotiations require the convening of plenary, informal and contact group meetings among parties to enable them reach agreement on issues arising during the negotiations and to adopt decisions. Rule 42 of the Rules of Procedure being applied provides that decisions shall be reached by consensus, but in the absence of consensus, the decision shall at a last resort, be taken by a two thirds majority of Parties present and voting. Rule 42, para. 5 provides that “For the purposes of this rule(42) ,the phrase “Parties present and voting” means Parties present at the meeting at which voting takes place and casting an affirmative or negative vote. Parties abstaining from voting shall be considered as not voting. The use of virtual meetings can only be a stop gap measure as it makes negotiations and the taking of decisions by Parties most difficult.

With the experience to be gained from the impacts of Covid 19, it would appear that it may be possible to consider the inclusion of provisions on the convening of virtual meetings at a certain point in the process when Parties take up once again the adoption of the Rules of Procedure which is presently being applied with the exception of rule 42 on decision making.

Covid 19 will definitely affect the negotiation and adoption of decision by the Parties to the UNFCCC. The absence of in-person negotiations will continue to be a major hindrance to decision making and it is hoped that Covid 19 will go away so negotiations can resume. It has been said that things will never be the same again, but we hope that life will return to a semblance of normality in the not too distant future.