



منظمة الأغذية
والزراعة
للأمم المتحدة

联合国
粮食及
农业组织

Food
and
Agriculture
Organization
of
the
United
Nations

Organisation
des
Nations
Unies
pour
l'alimentation
et
l'agriculture

Продовольственная и
сельскохозяйственная
организация
Объединенных
Наций

Organización
de las
Naciones
Unidas
para la
Agricultura
y la
Alimentación

COUNCIL

Hundred and Thirty-ninth Session

Rome, 28 – 29 April 2010

REPORT OF THE NINETIETH SESSION OF THE COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS (CCLM) Rome, 28 – 29 April 2010

I. INTRODUCTION

1. The Ninetieth Session of the Committee on Constitutional and Legal Matters (CCLM) was held on 28 and 29 April 2010.

2. The Committee elected Mr. Gerard Limburg (Netherlands) as Vice-Chairperson.

3. The following members were present:

Chairperson: Mr. Purnomo Ahmad Chandra

Vice-Chairperson: Mr. Gerard Limburg (Netherlands)

Members: Ms. Mónica Martínez Menduño (Ecuador)

Mr. Yohannes Tensue (Eritrea)

H.E. Hassan Janabi (Iraq)

Mr. Khalid Mehboob (Pakistan)

Mr. Lawrence Kuna Kalinoe (Papua New Guinea)

Ms. Suzanne E. Heinen (United States of America)

4. The Committee was informed that Mr. Khalid Mehboob had been designated to replace Mr. Rahim Hayat Qureshi as representative of Pakistan.
5. The CCLM was also informed that, in accordance with the arrangements agreed upon by the Council, at its Hundred and Thirty-eighth Session in November 2009, Mr. Lawrence Kuna Kalinoe (Papua New Guinea) was participating as representative of the South West Pacific region in the session. The CCLM was further informed that, at its Hundred and Thirty-ninth Session in May 2010, the Council would formally elect a member for the South West Pacific region.

II. RULES OF PROCEDURE FOR THE CCLM

6. The CCLM took note of a brief on its *modus operandi* based on document CCLM 88/Inf 2, “*Fifty-One Years of Activity of the Committee on Constitutional and Legal Matters*”.
7. The CCLM noted that it had operated effectively since its establishment without Rules of Procedure, within the framework established by the General Rules of the Organization (GRO), as well as any relevant decisions of the Governing Bodies. However, for reasons of consistency with other committees, the CCLM concurred with a proposal that the secretariat should prepare draft Rules of Procedure for review at its next session. This would not prejudice the decision of the Committee on the matter.

III. RULES OF PROCEDURE FOR THE TECHNICAL COMMITTEES (COMMITTEE ON COMMODITY PROBLEMS, COMMITTEE ON FISHERIES, COMMITTEE ON FORESTRY AND COMMITTEE ON AGRICULTURE)

8. The CCLM examined document CCLM 90/2 “*Rules of Procedure for the Technical Committees (Committee on Commodity Problems, Committee on Fisheries, Committee on Forestry and Committee on Agriculture)*”. The CCLM noted that the Immediate Plan of Action (IPA) for FAO Renewal approved by the Conference of FAO at its Thirty-fifth (Special) Session had called for a number of actions regarding the Technical Committees. The CCLM recalled that at its Eighty-fourth Session (2-4 February 2009), it had reviewed document CCLM 84/3 entitled “*Technical Committees*”, as a result of which the Committee had endorsed a number of amendments to the Constitution and the GRO which were reviewed by the Council at its Hundred and Thirty-sixth and Hundred and Thirty-seventh Sessions (15-19 June 2009 and 28 September – 2 October 2009) and approved by the Thirty-sixth Session of the Conference (19-23 November 2009).
9. The CCLM underlined that document CCLM 90/2 was primarily intended to invite the Technical Committees to consider whether their Rules of Procedure should be amended to implement the IPA, in a consistent manner as far as practicable. In this connection, the CCLM stressed that authority to adopt and amend the Rules of Procedure was vested in the Technical Committees which should review the matter in light of their own differentiated functional needs. In that context, the CCLM invited the Technical Committees to consider the following issues.

Role of the chairperson and other officers during and between sessions

10. The CCLM recalled that the IPA had called for an enhanced role of the chairpersons of the Technical Committees, requiring them to facilitate full consultation with Members in relation to agendas, formats and other matters (IPA action 2.59). At its Eighty-fourth Session (2-4 February 2009), the CCLM had recommended that the Technical Committees be invited to

determine whether their Rules of Procedure should be amended to provide for the establishment of a steering committee or a bureau which would act not only during sessions but also between sessions.

11. The CCLM considered that a generic reference to the functions of the steering committee or bureau such as “*ensuring preparations for the sessions*” could be added to the Rules of Procedure but this was a matter for each Technical Committee. A more detailed description of the functions might not be required, considering the dynamic nature of the functions of bodies of this nature.

12. The CCLM also examined the issue of the number of officers elected by each Technical Committee to constitute a steering committee or bureau. The CCLM considered that broader membership in order to ensure representation of all regions could be achieved in some Technical Committees through an increase in the overall number of officers up to seven (one per geographic region) or six officers, as is the case with COFI and COFO. The CCLM underlined that this was a matter to be reviewed by each Technical Committee taking into account all relevant considerations including the fact that some regions could have difficulties in fulfilling all the positions.

13. The CCLM also noted that the issue of the timing of the election of officers needed to be addressed and, in particular, whether this should be done at the beginning or the end of the sessions. The CCLM noted that a debate had arisen in some Technical Committees and some Statutory Bodies of FAO regarding the timing of the elections and that, in general, proposals that elections should take place at the end of the sessions had benefited from increasing support. In this regard, the CCLM noted that under current Rules of Procedure of the Technical Committees the Chairperson and the other officers remain in office until the election of a new Chairperson and other officers, without specifying whether the election takes place at the beginning or at the end of the sessions of the Committees, thus providing sufficient flexibility for an election either at the beginning or at the end of the sessions.

Reporting lines and structure of reports

14. The CCLM recalled that in future the Technical Committees will report to the Council on programme and budget matters and to the Conference on policy and regulatory matters (IPA action 2.56) and that, in order to implement this action the Conference adopted, at its Thirty-sixth Session, amendments to the Constitution and to the GRO. The CCLM noted that the implementation of this action involved consequential amendments to the Rules of Procedure of the Committees, and recalled that at its Eighty-fourth Session (2-4 February 2009) it had already recommended a possible amendment to the Rules of Procedure along the following lines:

“At each session, the Committee shall approve a report embodying its views and recommendations, including when requested, a statement of minority views. The Committee shall make every effort to ensure that recommendations are precise and can be implemented. Policy and regulatory matters shall be referred to the Conference whereas programme and budget matters shall be referred to the Council. Any recommendations adopted by the Committee which affect the programme or finances of the Organization shall be reported to the Council with the comments of the appropriate committees of the Council” (insertions are indicated using underlined text).

15. The CCLM was of the view that the structure of the Committees’ reports might need to be adapted to the new reporting lines, distinguishing between issues related to programme and budget matters and issues related to policy and regulatory matters, but this could be seen primarily as a matter of practice and working methods of the Committees.

Timing of sessions of the Technical Committees

16. The CCLM noted the observations made in document CCLM 90/2 regarding the need for the timing of Technical Committee sessions in accordance with the schedule of sessions appended to Conference Resolution 10/2009 entitled “*Implementation of the Immediate Plan of Action on Reform of Programming, Budgeting and Results-based Monitoring System*” (IPA Actions 3.1 to 3.11) to enable the Programme and Finance Committees to take into consideration their reports in formulating advice to the Council under the new budget cycle. The CCLM invited the Technical Committees to examine whether their Rules of Procedure should be amended in that respect.

17. In conclusion, the CCLM recommended to the Council that the Technical Committees should be invited to examine their Rules of Procedure in light of the above and other relevant considerations. While noting that the Technical Committees had distinct functional requirements, the CCLM invited them to ensure consistency among the Rules of the Committees, as far as practicable.

IV. ADDRESS TO THE COUNCIL AND THE CONFERENCE BY CANDIDATES FOR THE OFFICE OF DIRECTOR-GENERAL

18. The CCLM examined document CCLM 90/3 “*Address to the Council and the Conference by candidates for the Office of Director-General*”. The CCLM recalled that the IPA had called for a number of actions regarding the appointment and term of office of the Director-General which were extensively reviewed by the CCLM at its Eighty-fourth (2-4 February 2009) and Eighty-fifth (23-24 February 2009) sessions. The proposals made by the CCLM were endorsed by the Conference Committee for the Follow-up to the Independent External Evaluation of FAO (CoC-IEE) and the Council at its Hundred and Thirty-sixth (15-19 June 2009) and Hundred and Thirty-seventh (28 September-2 October 2009) Sessions. The Conference, at its Thirty-sixth Session, adopted a number of amendments to the Constitution and the General Rules of the Organization in that connection.

19. The CCLM noted that under revised Rule XXXVII, paragraph 1 of the GRO, candidates for the office of Director-General were required to address the Council, at the session taking place at least sixty days before the session at which the Conference is due to elect the Director-General, and also address the Conference itself, and that this should be done in conditions which ensure strict equality among candidates.

20. The CCLM took note of the information given in document CCLM 90/3 on the procedures of a few Specialized Agencies and underscored that the specific procedure which had been followed at IFAD could provide a useful reference.

21. The CCLM reviewed and amended the proposed procedure for the address to the Council and the Conference by candidates for the office of Director-General set out in **Appendix I** to this Report.

22. The CCLM noted that the procedure before the Council would be approved by the Council, whereas the procedure before the Conference would have to be approved by the Conference itself.

V. CHANGES IN THE TERMS OF REFERENCE OF FORESTRY BODIES UNDER ARTICLE VI OF THE CONSTITUTION

23. The CCLM examined document CCLM 90/4-Rev.1 “*Changes in the Terms of Reference of Forestry Bodies under Article VI of the Constitution*” containing proposed amendments to the Statutes of two Forestry Bodies established under Article VI of the Constitution, i.e. the African Forestry and Wildlife Commission (AFWC) established by the Tenth Session of the Conference (1959) through Resolution 26/59 and the Near East Forestry Commission (NEFC) established by the Seventh Session of the Conference (1953) through Resolution 24/53 respectively.

24. The CCLM reviewed a draft Council Resolution approving amendments to the Statutes of the AFWC, set out in **Appendix II**, and recommended its adoption by the Council.

25. The CCLM reviewed a draft Council Resolution approving the change in the name of the NEFC and amendments to its Statutes, set out in **Appendix III**, and recommended its adoption by the Council.

VI. CHANGES IN THE TERMS OF REFERENCE OF THE COMMISSION FOR INLAND FISHERIES OF LATIN AMERICA (COPESCAL)

26. The CCLM examined document CCLM 90/5 “*Changes in the Terms of Reference of the Commission for Inland Fisheries of Latin America*” containing proposed amendments to the title and Statutes of the Commission. The CCLM noted that the Commission for Inland Fisheries of Latin America (COPESCAL) was established, under Article VI.1 of the Constitution, by the Seventieth Session of the Council (1976) through Resolution 4/70. At its Eleventh Session (2009), the Commission decided to amend its title and mandate in order to better reflect the current situation and new challenges in the region.

27. The CCLM endorsed the proposed change of name of the Commission. However, following a debate arising out of references to the Code of Conduct on Responsible Fisheries in the revised Statutes, the CCLM concurred with a proposal that the secretariat should prepare a study on the legal implications of these references for its session of September 2010. Meanwhile, the CCLM decided to defer consideration of the revised Statutes.

VII. ANY OTHER MATTERS

Correction of an error in Rule XXXIII, paragraph 7 of the GRO

28. The Director-General referred to the CCLM a request from the Chairperson of the Committee on World Food Security (CFS) that a correction be made to Rule XXXIII, paragraph 7 of the GRO concerning the CFS. This paragraph, as approved by the Conference at its Thirty-sixth Session in November 2009, read: “*The Committee on World Food Security is an intergovernmental Committee of FAO*”. This segment was at variance with the relevant provision of the negotiated text of document “*Reform of the Committee on World Food Security*” (CFS/2009/2 Rev.2), which stated: “*The CFS is and remains an intergovernmental Committee in FAO*”. This particular segment of the document had been negotiated within the Contact Group on the Reform of the CFS, was included in the report of the Thirty-fifth Session of the CFS, of October 2009, and was endorsed by the Conference at its Thirty-sixth Session in November 2009 when it approved the CFS report. However, due to an oversight, that segment was not included in the Conference Resolution through which Rule XXXIII, paragraph 7 of the GRO was approved by the Conference.

29. The CCLM recommended that the correction be made to Rule XXXIII, paragraph 7 of the GRO in order to faithfully reflect the content of the negotiated text whereby “*The Committee on World Food Security is and remains an intergovernmental Committee in FAO*”.

Welcome to the new Legal Counsel and tribute to the former Legal Counsel

30. The CCLM welcomed Ms. Lorraine B. Williams, newly appointed Assistant Director-General/Legal Counsel.

31. The CCLM noted that Mr. Giuliano Pucci, Assistant Director-General/Legal Counsel from March 2000 until February 2010 had retired from the Organization. The CCLM wished to place on record its deepest appreciation for the outstanding services provided by Mr. Pucci to the Committee and wished him the greatest success in his future endeavours. The CCLM also wished to acknowledge the exceptionally long and successful career of Mr. Pucci, who joined the Organization as General Service staff member grade G-1 and retired 43 years later, as Assistant Director-General.

APPENDIX I

**PROCEDURE CONCERNING THE ADDRESS
TO THE COUNCIL AND THE CONFERENCE
BY CANDIDATES FOR THE OFFICE OF DIRECTOR-GENERAL****(a) Address to the Council by candidates for the office of Director-General**

(i) *Each candidate, validly nominated in accordance with Rule XII, paragraph 5 of the General Rules of the Organization, will make a statement to a plenary meeting of the Council, of up to 15 minutes. The sequential order in which candidates make statements and answer questions is defined by lots drawn by the Chairperson. The statements should include a presentation of the candidate's vision of the future priorities for the Organization.*

(ii) *After each statement, up to 15 minutes will be made available to Members of the Council to ask questions through the Chairperson who will then give the floor to each candidate to respond for up to 15 minutes.*

(iii) *The Chairperson may adjust the time allotted for questions and answers foreseen in paragraph (ii) above, subject to a requirement of equality of time among all candidates. In determining the time allotted, the Chairperson should bear in mind that, as far as possible, all candidates should address the Council on the same day.*

(iv) *The Chairperson, with the assistance of the Secretary-General of the Conference and Council, ensures that the allocated time, both for the statements and for the questions and answers, is strictly enforced.*

(v) *A candidate may speak in any language of the Organization.*

(vi) *Once all statements and questions and answers have been completed, the Chairperson shall declare the relevant agenda item closed. There shall be no debate, nor any conclusions drawn from the statements, questions or answers.*

(b) **Address to the Conference by candidates for the office of Director-General**

(i) *Each candidate, validly nominated in accordance with Rule XII, paragraph 5 of the General Rules of the Organization, will make a statement to a plenary meeting of the Conference, of up to 15 minutes. The sequential order in which candidates make statements and answer questions is defined by lots drawn by the Chairperson. The statements should include a presentation of the candidate's vision of the future priorities for the Organization.*

(ii) *After each statement, up to 15 minutes will be made available to Member Nations of the Organization to ask questions through the Chairperson who will then give the floor to candidates to respond for up to 15 minutes.*

(iii) *The Chairperson may adjust the time allotted for questions and answers foreseen in paragraph (ii) above, subject to a requirement of equality of time among all candidates. In determining the time allotted, the Chairperson should bear in mind that, as far as possible, all candidates should address the Conference on the same day.*

(iv) *The Chairperson, with the assistance of the Secretary-General of the Conference and Council, ensures that the allocated time, both for the statements and for the questions and answers, is strictly enforced.*

(v) *A candidate may speak in any language of the Organization.*

(vi) *Once all statements and questions and answers have been completed, the Chairperson shall declare this process closed. There shall be no debate, nor any conclusions drawn from the statements, questions or answers.*

(vii) *The Conference proceeds to the appointment of the Director-General, in accordance with the provisions of Rule XXXVII of the General Rules of the Organization.*

APPENDIX II

RESOLUTION .../..**AFRICAN FORESTRY AND WILDLIFE COMMISSION (AFWC)**

THE COUNCIL,

Recognizing that the Tenth Session of the Conference, held from 31 October to 20 November 1959, established the African Forestry Commission through Resolution 26/59 and adopted its Statutes;

Recalling that the Ninety-fourth Session of the Council, held from 15 to 26 November 1988, approved a change in the name of the Commission to “African Forestry and Wildlife Commission” (AFWC);

Recalling further that the Ninety-fourth Session of the Council noted that the change of title did not entail changes in the terms of reference of the Commission because it had been the practice of FAO, as well as that of the Commission, that the concept of forestry be interpreted in its widest sense, to include wildlife and allied subjects;

Taking note that the Sixteenth Session of the Commission, held in Khartoum, Republic of Sudan, from 18 to 21 February 2008, and the Seventeenth Session of the Commission, held in Brazzaville, Republic of Congo, from 22 to 26 February 2010, requested the Organization to amend Article 1 of the Commission’s Statutes, in order to add, among its functions, that of advising on the formulation of “wildlife” policy;

Decides, under Article VI, paragraph 1 of the Constitution, to amend Article 1 of the Statutes of the African Forestry and Wildlife Commission as follows:

“1. The functions of the Commission shall be to advise on the formulation of forest and wildlife policy and to review and coordinate its implementation on the regional plane, to exchange information and, generally, through subsidiary bodies, advise on suitable practices and action in relation to technical problems and make appropriate recommendations in relation to the foregoing.” (insertions are indicated using underlined text).

APPENDIX III

RESOLUTION .../..

NEAR EAST FORESTRY AND RANGE COMMISSION (NEFRC)

THE COUNCIL,

Recognizing that the Seventh Session of the Conference, held from 23 November to 11 December 1953, established the Near East Forestry Commission through Resolution 24/53;

Recognizing further that the Tenth Session of the Conference, held from 31 October to 20 November 1959, adopted the Commission's Statutes through Resolution 62/59;

Taking note that the Eighteenth Session of the Commission, held in Khartoum, Republic of Sudan, from 18 to 21 February 2008, requested the Organization to amend its title and mandate "in order to include range concerns";

Taking also note that the Nineteenth Session of the Commission, held in Hammamet, Republic of Tunisia, from 5 to 9 April 2010, approved a change in the name of the Commission and an amendment to Article 1 of its Statutes.

1. Decides, under Article VI, paragraph 1 of the Constitution, to change the name of the Near East Forestry Commission to "Near East Forestry and Range Commission (NEFRC)".
2. Decides further to amend Article 1 of the Statutes of the Commission as follows:

"1. The functions of the Near East Forestry and Range Commission shall be to advise on the formulation of management policy of forests, trees, range and their products ~~policy~~, and to review and coordinate its implementation at ~~on~~ the national and regional levels ~~plane~~; to exchange views and experiences ~~information~~ and, generally, through special subsidiary bodies, advise on suitable practices and action in regard to technical problems and make appropriate recommendations in relation to the foregoing. The Commission shall examine the widening gap between present trends and the potential of forests and rangelands. It shall identify the threats to forests and rangelands and recommend possible action. The outcomes of the Commission reflect the views of its members and their will to work together towards common goals." (insertions are indicated using underlined text, deletions are indicated using ~~struck out text~~).