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	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	Продовольствен ная и сельскохозяйств енная организация Объединенных Наций	Organización de las Naciones Unidas para la Agricultura y la Alimentación
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COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

Ninety-Second Session

Rome, 7 - 9 March 2011

**Preparation of the provisional agenda of the Regional Conferences
Rule XXXV, paragraph 4 of the General Rules of the Organization**

BACKGROUND

1. The Council at its Hundred and Fortieth Session (29 November – 3 December 2010), when reviewing the report of the Ninety-first Session of the report of the Committee on Constitutional and Legal Matters (CCLM), “*endorsed a proposal that the CCLM should, at its forthcoming session, review proposals for amendment of Rule XXXV.4 of the GRO regarding the preparation of the provisional agendas of Regional Conferences*”.
2. It may be useful to note that Council, at the same Session, also on the occasion of the review of the report of the Ninety-first Session of the report of the CCLM, noted that the Committee had proposed Rules of Procedure for the Regional Conferences set out in an appendix to its report, and formulated a number of observations in that connection. After a debate, the Council recommended that the proposed Rules of Procedure be further reviewed by the Regional Groups, with assistance from the Legal Office and the Secretariat as necessary, taking into account all relevant considerations, including the provisions of the Constitution and the General Rules of the Organization (GRO) regarding the status of the Regional Conferences. The Council noted that, insofar as the Regional Conferences would consider proposals for their Rules of Procedure only at their sessions of 2012, the Regional Groups would have time to review the proposals.

CURRENT RULES ON THE PREPARATION OF THE PROVISIONAL AGENDAS OF THE REGIONAL CONFERENCES

3. The current regime of the Regional Conferences flows from Article IV paragraph 6 of the Constitution and in Rule XXXV of the GRO. These provisions were designed to provide a basis for the implementation of the action matrix of the Immediate Plan of Action for FAO Renewal (IPA) on Regional Conferences. They establish a general framework for the operation of the Regional Conferences, to be supplemented by Rules of Procedure and additional arrangements. This was reflected in revised Rule XXXV, paragraph 5 of the GRO whereby “*the Regional Conferences will*

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adopt such arrangements, consistent with the Constitution and these Rules, as may be necessary for their internal working, including the appointment of a rapporteur. The Regional Conferences may also adopt and amend their own Rules of Procedure, which shall be consistent with the Constitution and these Rules”.

4. Rule XXXV, paragraph 4 of the GRO contains the following rules governing the preparation of the provisional agendas of the Regional Conferences:

- “(a) At least six months prior to the proposed date for the Regional Conference, the Regional Representative of the Organization in the concerned region, after consultation with the Chairperson shall send a communication to the Members of the Regional Conference. The communication shall contain a brief outline of the programmes of the Organization of interest to the region and of the outcome of the previous session of the Regional Conference and invite Members to formulate suggestions as to the organization of the next session of the Regional Conference, with particular reference to the agenda of the session.*
- (b) The Director-General shall, in consultation with the Chairperson of the Regional Conference, and taking into account the process mentioned in subparagraph (a) above, prepare a provisional agenda and dispatch it to Members not less than 60 days in advance of the session.*
- (c) Any Member of the Regional Conference may request the Director-General, not less than 30 days before the date of a session, to insert an item in the provisional agenda. The Director-General shall thereupon, if necessary, circulate a revised provisional agenda to all Members together with any necessary papers”.*

5. Rule XXXV, paragraph 4 of the GRO, which is the result of discussions carried out throughout 2009, was recommended by the CCLM to the Council and the Conference. In substance, Rule XXXV, paragraph 4 of the GRO aims at reconciling: (i) the content and purpose of IPA action 2.54 calling for full consultation among Members of the regions on matters such as agendas and formats of the Regional Conference and seeking, therefore to establish a more participatory and inclusive process for their preparation; and (ii) traditional provisions and practices of FAO, common to other organizations of the United Nations System, whereby provisional agendas are prepared by the secretariat (in this case both at regional and headquarters levels) in consultation with the Chairpersons of the concerned bodies. Seeing the issue under this light, it is considered that the process outlined in Rule XXXV, paragraph 4 of the GRO does safeguard the interests of all parties involved, which are able to have their concerns and interests reflected in the provisional agendas of Regional Conferences.

6. Under the circumstances, in the absence of guidance from the Council or from the membership of FAO as to the content of revised Rule XXXV, paragraph 4 of the GRO, the Secretariat would have difficulties to propose amendments to the Rule on its own initiative. There have been similar situations where, in the absence of substantive proposals or guidance on the part of the membership on matters involving policy issues, the Secretariat has not been able to formulate legal proposals on given topics¹. In order for the Secretariat to be able to be able to formulate proposals for

¹ For instance, at the Hundred and Twenty-second Session of the Council in November 2001, Members of the Asia and the Pacific Region proposed that the existing formulae for the representation of different regions on the Programme and Finance Committees be reviewed. The proposal was supported by Members from other regions and the Council agreed to discuss the matter on the basis of a report of the CCLM. The CCLM at its Seventy-fourth Session in October 2002 examined a detailed document containing the full historical and factual process which led to the provisions of the General Rules of the Organization regarding the composition of the Programme and Finance Committees as in force at the time. The CCLM concluded that the whole question was essentially of a political nature. While expressing its readiness to consider the matter again in future, as required, the CCLM could do so only on the basis of appropriate orientations and guidance by the Council itself. Cf. CL

amendments to Rule XXXV, paragraph 4 of the GRO reflecting proper guidance from the membership, two options could be considered.

- 6.1. First option: the CCLM could consider itself in a position to recommend amendments to Rule XXXV, paragraph 4. Should the CCLM provide such guidance the Secretariat could prepare a revised text, including a draft Conference resolution for review and endorsement by the Council and approval by the Conference at its session of June 2011.
- 6.2. Second option: the CCLM could note that the issue of the preparation of the provisional agenda for Regional Conferences is related to the future *modus operandi* of the Regional Conferences, which is still work in progress. As mentioned above, on the occasion of the review of the report of the Ninety-first Session of the report of CCLM, the Council observed that the Committee had proposed Rules of Procedure for the Regional Conferences, contained in an appendix to its report, and formulated a number of options and observations in that connection. After a debate, the Council recommended that the proposed Rules of Procedure be further reviewed by the Regional Groups, with assistance from the Legal Office and the Secretariat as necessary, taking into account all relevant considerations, including the provisions of the Constitution and the GRO regarding the status of the Regional Conferences. The Council noted that, insofar as the Regional Conferences would consider proposals for their Rules of Procedure only at their sessions of 2012, the Regional Groups would have time to review the proposals. The CCLM could consider that the above consultations would offer a suitable occasion to consider proposed amendments to Rule XXXV, paragraph 4 of the GRO in a proper context, also in light of the interrelated nature of matters regarding the *modus operandi* of the Regional Conferences.

SUGGESTED ACTION BY THE COMMITTEE

7. The CCLM is invited to review this document and make such observations thereon as appropriate. The CCLM may wish to: (i) either recommend amendments to Rule XXXV, paragraph 4 of the GRO; or (ii) in view of the interrelated nature of matters regarding the operation of the Regional Conferences, recommend that the matter be considered in the context of the forthcoming consultations with Regional Groups aimed at proposing Rules of Procedure for the Regional Conference.

123/16, paragraphs 3 and 4. There are many situations where the CCLM only deals with substantive proposals made by other Governing Bodies.