

April 2012



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
Alimentación y la
Agricultura

FINANCE COMMITTEE

Hundred and Forty-third Session

Rome, 7 - 11 May 2012

**Proposed amendments to Rules XXXVII and XL
of the General Rules of the Organization**

Queries on the substantive content of document may be addressed to:

Antonio Tavares

Legal Counsel, Legal Office

Tel: +3906 5705 5132

This document is printed in limited numbers to minimize the environmental impact of FAO's processes and contribute to climate neutrality. Delegates and observers are kindly requested to bring their copies to meetings and to avoid asking for additional copies. Most FAO meeting documents are available on the Internet at www.fao.org

EXECUTIVE SUMMARY

- This document reviews amendments to Rules XXXVII and XL of the General Rules of the Organization (GRO). One of the proposed amendments sets limitations on the authority of the Director-General to make appointments to positions grade D-2 and above during the last six months of his or her term of office. The other proposed amendment requires the Director-General to take measures to ensure that, as far as possible prior to taking office, a Director-General Elect is duly informed of the policies, programmes, staffing and activities of the Organization. The Director-General is also required to make arrangements to ensure that the Director-General Elect will have the benefit of technical and administrative support during that period. In future, the period between an election and the assumption of duties by a Director-General Elect will last for some 5 weeks. It is proposed that any technical and administrative facilities provided during that period be accommodated under existing allotments and that any such facilities of a limited nature be reported to the first session of the Finance Committee following the election and the assumption of duties by a new Director-General.

GUIDANCE SOUGHT FROM THE FINANCE COMMITTEE

- The Committee is invited to review the amendments to Rules XXXVII and XL of the GRO. In particular, the Committee is invited to note that any financial implications of the implementation of proposed new Rule XXXVII, paragraph 6 of the GRO would be accommodated under existing budgetary allocations and that any facilities and support made available to a Director-General Elect would be reported to the first session of the Finance Committee following the assumption of duties.

Draft Advice

The Committee:

- **Noted that any financial implications of the implementation of proposed new Rule XXXVII, paragraph 6 of the GRO would be accommodated under existing budgetary allocations;**
- **Requested that any facilities and support made available to a Director-General Elect would be reported to the first session of the Finance Committee taking place after the assumption of duties.**

I. BACKGROUND

1. At its Ninety-fourth Session held from 19 to 21 March 2012, the Committee on Constitutional and Legal Matters recommended amendments to Rule XXXVII and Rule XL of the General Rules of the Organization (GRO). The proposed amendments are set out in the draft Conference Resolution contained in the **Appendix** to this document. The CCLM endorsed, *inter alia*, two proposed amendments. One of the proposed amendments sets limitations on the authority of the Director-General to make appointments to positions grade D-2 and above during the last six months of his or her term of office. The other deals with the period during which there will be an outgoing Director-General and a Director-General Elect and a number of facilities are to be given to the Director-General Elect.

2. As a general preliminary observation, it is important to underline that the Director-General Elect when addressing the Hundred and Forty-third Session of the Council, on 1 December 2011, prior to taking office, indicated that he wished “*to suggest that Members define a clear set of procedures to assure a formal and smoother transition in the future, that would not rely only on the good-will and the friendly relationship between the incumbent and the newly elected Director-General*”¹. Thus, the Director-General made a set of proposed amendments to the CCLM. The proposed amendments were made in the interest of the Organization and not in the interest of the Director-General as such, especially as these involve self-limitation of his own authority. The proposals will primarily benefit FAO and future Directors-General and reflect the above commitment of the Director-General Elect undertaken prior to taking office. Whether or not they should be approved is a matter for the Governing Bodies and ultimately for the Conference.

II. PROPOSED NEW RULE XL, PARAGRAPH 2 OF THE GRO

3. Under this new Rule, “*appointments made by the Director-General during the last six months of his or her term of office to positions at grade D-2 and above shall expire not later than five months after the end of that term of office. The new Director-General may extend any such appointments*”.

4. In practical terms, this proposal, without eliminating entirely the authority of the Director-General to make appointments to senior positions, would considerably restrict that authority. In the event that any appointments were to be exceptionally made, the new Director-General would have the option to confirm them. Subject to such views as the Finance Committee may hold on this matter, the proposal would not seem to have financial implications in the sense that its practical implication is, in fact, to dissuade the head of agency from making appointments during a period of six months prior to the expiry of the term of office.

III. PROPOSED NEW RULE XXXVII, PARAGRAPH 6 OF THE GRO

5. The CCLM endorsed, *inter alia*, an addition to Rule XXXVII whereby the Director-General shall take such measures as required to ensure that, as far as possible prior to taking office, a Director-General Elect is duly informed of the policies, programmes, staffing and activities of the Organization. The Director-General is required to make arrangements to ensure that the Director-General Elect shall have the benefit of technical and administrative support during that period.

6. The CCLM noted that, in view of the new pattern of sessions of the Conference, in future the period of time between the election of a new Director-General - which will take place normally during the third week of the month of June of an election year - and his or her assumption of duties, on 1 August, would have a duration of some 5 weeks (i.e. even less than in the situation which prevailed prior to the change in the cycle of the sessions of the Conference in 2011) and, therefore, the exceptional situation that occurred in 2011 would not arise again. The CCLM recommended that any financial implications of this amendment be examined by the Finance Committee.

¹ Statement of the Director-General Elect José Graziano da Silva to the FAO Council, Hundred and Forty-third Session, Rome, 28 November-2 December 2011.

7. The above amendment is of a general nature, consistent with the nature of the provisions of the GRO, and intended to provide a basis for a new Director-General to be effectively informed of the policies, programmes, staffing and activities of the Organization. In addition, the outgoing Director-General should be under an obligation to make arrangements to ensure that the Director-General should have the benefit of technical and administrative support during that period. In this connection, it may be of interest to mention that this is generally in line with the report of the Joint Inspection Unit on "*Selection and Conditions of Service of Executive Heads in the United Nations System Organizations*" which called for a number of measures intended to facilitate a smooth transition and the assumption of duties by the new executive head².

8. As a general principle, technical and administrative support during that limited period of some five weeks from the date of an election until the assumption of duties would be accommodated under existing allotments and, as necessary, temporary assignment of staff and would not involve any additional obligations for Members. Such facilities would be seen primarily as a possibility of acceding to appropriate channels of information. Depending on the circumstances, the Director-General Elect should be able to benefit from the services of one or two liaison officers, secretarial assistance and office facilities. An allocation for the recruitment of consultants could be foreseen. Insofar as it would be neither feasible, nor appropriate to define such facilities now, it is proposed they be reported to the first session of the Finance Committee following immediately the election and the assumption of duties by a new Director-General. This would be the Autumn session of the Finance Committee in an election year.

IV. SUGGESTED ACTION BY THE COMMITTEE

9. The Finance Committee is invited to review the above proposals and provide such views thereon as appropriate. In doing so, the Committee is invited to take into due consideration the position of the Director-General as outlined in paragraph 2 of this document above and note that the matter is one for the membership and ultimately the Conference.

10. The Committee is invited to note that any financial implications of the implementation of proposed new Rule XXXVII, paragraph 6 of the GRO would be accommodated under existing budgetary allocations and that any facilities and support made available to a Director-General Elect would be reported to the first session of the Finance Committee following the assumption of duties.

11. Subject to such views as the Finance Committee may have, the draft Conference Resolution would be forward through the Council to the Conference, for approval.

² CL 141/INF/12 and JIU/REP/2009/8.

APPENDIX

Resolution ___/2013

Amendments to Rules XXXVII and XL of the General Rules of the Organization

THE CONFERENCE:

Recalling that the Conference at its Thirty-sixth Session, 18-23 November 2009, approved amendments to Rule XXXVII of the General Rules of the Organization and that the implementation of this Rule in 2011 underlined the desirability of further amendments thereto in order to better reflect the spirit of the Immediate Plan of Action for FAO Renewal (2009-11);

Recalling that the Committee on Constitutional and Legal Matters (CCLM) at its Ninety-fourth Session, from 19 to 21 March 2012, proposed amendments to Rules XXXVII and XL of the General Rules of the Organization;

Noting that the Finance Committee at its Hundred and Forty-third Session reviewed the financial implications of proposed new paragraph 6 of Rule XXXVII and new paragraph 2 of Rule XL of the General Rules of the Organization;

Noting that the Council, at its Hundred and Forty-fourth Session, from 11 to 15 June 2012, endorsed the proposed amendments to Rules XXXVII and XL of the General Rules of the Organization;

Decides to adopt the following amendments to Rule XXXVII (Appointment of the Director-General) of the General Rules of the Organization:³

Rule XXXVII – Appointment of the Director-General

1. In pursuance of paragraph 1 of Article VII of the Constitution, the Director-General of the Organization shall be appointed under the following conditions:

(...)

(b) In consideration of the expiry of the term of office of the Director-General, the Council shall set the dates for a period during which Member Nations may submit nominations for the office of Director-General. The nomination period shall have a duration of ~~not less than 12~~ 3 months and end at least ~~60~~ 30 days prior to the beginning of the session of the Council referred to in subparagraph (c) of this paragraph. The nomination period shall be communicated to all Member Nations and Associate Members by the Secretary-General of the Conference and Council. Nominations validly made in accordance with Rule XII, paragraph 5

³ Deletions are indicated using ~~strike out text~~ and insertions are indicated using underlined italics

of these Rules shall be communicated to the Secretary-General of the Conference and Council by the date set by the Council. The Secretary-General shall circulate these nominations to all Member Nations and Associate Members by the date likewise set by the Council, it being understood that in the case of an election taking place at a regular session of the Conference, such date set by the Council shall be not later than 30 days before the session of the Council provided for in subparagraph (c) of this paragraph.

(...)

6. The Director-General shall take such measures as required to ensure that, as far as possible prior to taking office, a Director-General Elect is duly informed of the policies, programmes, staffing and activities of the Organization. The Director-General shall make arrangements to ensure that the Director-General Elect shall have the benefit of technical and administrative support during that period.

Decides to adopt the following amendments to Rule XL (Provisions Relating to Staff) of the General Rules of the Organization:

Rule XL – Provisions Relating to Staff

1. The staff of the Organization shall be appointed by the Director-General, having regard to paragraph 3 of Article VIII of the Constitution. Selection and remuneration shall be made without regard to race, nationality, creed or sex. The terms and conditions of appointment shall be fixed in contracts concluded between the Director-General and each member of the staff. Appointments to the posts of Deputy Directors-General shall be made by the Director-General, subject to confirmation by the Council.

2. Appointments made by the Director-General during the last six months of his or her term of office to positions at grade D-2 and above shall expire not later than five months after the end of that term of office. The new Director-General may extend any such appointments.

2.3. The Director-General shall submit proposals to the Finance Committee on the scale of salaries and conditions of recruitment and service of the staff and shall report to the Finance Committee and the Council any decisions or recommendations of the International Civil Service Commission relating to such matters. He shall submit proposals to the Finance Committee on the general structure of the administrative and technical services of the Organization. He shall, insofar as may be feasible, arrange for public announcements of staff vacancies and shall fill vacancies in accordance with such competitive methods of selection as he may consider most suitable for various types of appointment.

(other sub-paragraphs renumbered)