

C2021/12 - Information Note 1

Arrangements for the 42nd Session of the Conference

1. Following the receipt of certain questions from some Members related to legal and procedural aspects of the arrangements for the Conference, this Note has been prepared to provide clarifications to Members on the recommended procedures for the 42nd Session of the FAO Conference.

Virtual modality

2. It is recalled that the Council decided, at its 166th Session, to hold the 42nd Session of the Conference from 14 to 18 June 2021, and in virtual modality, in light of the impact of the COVID-19 pandemic. As reflected in paragraph 28 of the Council Report (CL 166/REP), this decision was taken pursuant to Rule I-1 of the General Rules of the Organization (GROs), which allows the Council to decide, in exceptional circumstances, that a regular session of the Conference be held at a different place than the seat of the Organization¹. Thus, no further decision by the Conference regarding the conduct by virtual modality of its 42nd Session is required.

Decision-making using alternative voting modalities

3. In light of the guidance of Members, the procedures governing decision-making should adhere, as far as possible, to the Basic Texts and established practices. As reflected in Rule XII-17, most decisions taken by the Conference are adopted through general consent without recourse to a formal vote, and this can be applied in a virtual setting. Also, Rule XII-8 sets out the procedure for a roll-call vote conducted by electronic means (nominal vote), which can be applicable in the context of the 42nd Session of the Conference. Thus, a vote by secret ballot is the only decision-making that requires special procedures, with other aspects of the conduct of the meeting following the usual procedures, albeit via the Zoom platform.

4. In this respect, the Council has recommended that the Conference consider for approval, for implementation at its 42nd Session and on an exceptional basis, without setting a precedent, and as a one-time arrangement, either (i) in-person voting through a physical secret ballot by appointment, (ii) online voting through an electronic voting system, or (iii) a hybrid of the in-person and online vote. It also requested the Secretariat to continue its preparations of the option which conforms with the Basic Texts, as set out in Rule XII.

5. Accordingly, the Secretariat has prepared document C 2021/12 entitled “*Arrangements for the 42nd Session of the Conference*” which outlines, in particular, the above-mentioned three options for alternative voting procedures (online voting, in-person or hybrid), bearing in mind the need to guarantee the complete secrecy of the ballot and the sovereign right of all Members to vote, as emphasized by the Council.

6. From a legal procedural perspective, in view of the necessity that the Conference discharges its functions as the paramount organ of FAO to enable continued delivery of FAO's mandate, that the Conference has to respond to exceptional circumstances, and that the normal procedures cannot be followed, it is recommended that the Conference adopt a set of *ad hoc* special procedures for decision-making using alternative voting modalities for its 42nd Session. This is also in line with a review of the Basic Texts, as well as the recent practices of other UN system organizations.

¹ GRO I-1 “*The regular session of the Conference shall be held at the seat of the Organization in the month of June, unless it is convened elsewhere or at a different time in pursuance of a decision of the Conference at a previous session, or, in exceptional circumstances, of a decision by the Council. (...)*”

7. On this basis, the document C 2021/12 recommends under paragraph 6 that the Conference will adopt the voting arrangements through a **draft Resolution** on Special Procedures at the 42nd Session of the Conference, which is contained in Appendix E of the document, and also attached to this Note for ease of reference.

8. Considering that the Conference has the authority to adopt the General Rules of the Organization, it has also the authority to suspend its rules pursuant to Rule XLIX or equally decide to adopt an alternative *ad hoc* set of rules applicable on an exceptional basis. In that regard, it is noted that the GROs were not drafted with the exceptional circumstances currently being faced. As such, and because the Conference could decide to adopt an alternative *ad hoc* set of rules, it is considered that there may be no need for the Conference to decide to suspend the GROs pursuant to Rule XLIX.

9. It should be noted that the proposed way forward is in line with the decisions taken by the UN General Assembly, which did not proceed with a suspension of its rules. Instead, the Assembly adopted, through a silence procedure, unforeseen in the UNGA rules, decision 74/544 titled '*Procedure for taking decisions of the General Assembly during the Coronavirus disease 2019 (COVID-19) pandemic*' on 27 March 2020. Thus, on the basis of a consensus to take and recognize as valid a decision using a modality not contemplated in its rules of procedure, the General Assembly has been able to adopt essential decisions during the pandemic under a special silence procedure. Decisions adopted under these special arrangements include its Procedure for holding elections by secret ballot without a plenary meeting during the coronavirus disease (COVID-19) pandemic (decision 74/557).

10. As outlined in the draft Resolution, the decision-making during the 42nd Session of the Conference will follow as far as possible the FAO Basic Texts, in the prevailing extraordinary circumstances. Relevant rules set out in the Constitution will continue to apply without any change, such as the right to vote (Article III-4), and so will relevant GROs relating to quorum (Rule XII-2 (a)) and roll call vote by electronic means (referred to as nominal vote pursuant to Rule XII-8). The special procedures set out in the draft Resolution are in fact limited to the conduct of a secret ballot. Prior to its adoption, Members will need to decide on the voting arrangements (online voting, in-person or hybrid) and the Resolution will be accordingly adjusted and finalized.

Process during the 42nd Session of the Conference

11. With regard to the process to be followed during the Conference to adopt the draft Resolution, it is first noted that the General Committee has the mandate to address arrangements and procedural matters of the Conference, including to facilitate its orderly dispatch (GRO Rule X-2 refers). In this context, it is advisable for the General Committee to make a recommendation to the Conference to adopt the draft Resolution on Special Procedures at the 42nd Session of the Conference, as an *ad hoc* and exceptional arrangement. If possible, the General Committee could recommend for adoption the option preferred with respect to voting modalities so that the Resolution recommended for adoption by the Conference be placed in a final format.

12. At the opening of the 42nd Session, on 14 June 2021, the Conference would then proceed as usual in accordance with Rule VI of the GROs. The Chairperson elected pursuant to Rule VIII would address Agenda item 3 "*Adoption of the Agenda and Arrangements for the Session*" and invite, at that time, the Conference to endorse the recommendation of the General Committee to adopt the Resolution, ideally through general consent pursuant to Rule XII-17. Should there be no consensus, the decision would require a simple-majority vote pursuant to Rule XII-3 (a). This decision could be taken by a nominal vote in accordance with Rule XII-7 (a) and Rule XII-8, considering that the vote would be carried out through the Zoom platform. Thereafter, the Conference proceedings would be conducted in accordance with the GROs and any other applicable rules set forth in the Basic Texts, and the special *ad*

hoc procedures for any decision requiring a secret ballot.

13. Should there be any further queries concerning recommendations for the procedures to be applied to the 42nd Session of the Conference, I stand ready to provide any advice that Members may request.

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1 June 2021

**Special procedures and exceptional ad hoc rules for decision-making using
alternative voting modalities**

Executive Summary

1. The Council, at its 166th Session, agreed to hold the 42nd Session of the Conference from 14-18 June 2021, and in virtual modality, in light of the impact of the COVID-19 pandemic.
2. The Council also recommended that the Conference consider for approval, for implementation at its 42nd Session and on an exceptional basis, specific modalities for alternative voting procedures that would guarantee the complete secrecy of the ballot and the sovereign right of all Members to vote.
3. This *Appendix* presents a draft Resolution that is presented for approval by the 42nd Session of the Conference with respect to decision-making during that Conference to be convened in virtual modality.
4. The draft Resolution addresses the three options that the Council recommended the Conference to consider for approval, i.e. the conduct of a secret ballot through a physical in-person vote by appointment, an online voting system through external software, and a hybrid combination of an in-person and online vote through external software. It also recalls that preparations for the 42nd Session of the Conference included preparations for the conduct of secret ballot votes in accordance with established practices and Rule XII of the General Rules of the Organization. The Conference is invited to approve one voting option for implementation at its 42nd Session; the draft Resolution will be adjusted accordingly.

Recommendation

The General Committee recommends to the Conference the adoption of the following draft Resolution:

Draft Resolution .../2021

Special Procedures at the 42nd Session of the Conference

THE CONFERENCE:

Affirming that the procedures of the Conference are governed by the provisions of the FAO Basic Texts, including the General Rules of the Organization (GROs);

Affirming also that the Conference shall, as a rule and in accordance with established practice, always meet in person, and recognizing that the exception to this practice is made only in the most extraordinary circumstances;

Recalling the extraordinary circumstances and unprecedented limitations caused by the coronavirus disease (COVID-19) pandemic;

Recalling also that the Council, at its 166th session, pursuant to Rule I-1 of the GROs, agreed to hold the 42nd Session of the Conference from 14 to 18 June 2021 in virtual modality, in light of the impact of the COVID-19 pandemic, and recommended, *inter alia*:

(i) approval by the Conference at its 42nd Session of the special procedures to be applied on an exceptional basis, in light of the COVID-19 pandemic, for the virtual modality of the Conference (as set out in *Appendix B* of C 2021/12); and

(ii) that the Conference consider for approval, for implementation at its 42nd Session and on an exceptional basis, without setting a precedent, and as a one-time arrangement, either in-person voting through a physical secret ballot by appointment, online voting through an electronic voting system, or a hybrid of the in-person and online vote (as set out in *Appendix C* of C 2021/12);

Recalling further that the Council also requested the Secretariat continue its preparations of the option which conforms with the Basic Texts, as set out in Rule XII;

THE CONFERENCE:

1. **Approves** the special procedures set out herein, and in *Appendix B, C 2021/12*, on an exceptional basis and without creating precedent for any of its future Sessions, for the 42nd Session of the Conference held in virtual format;
2. **Confirms** that decision-making during the 42nd Session of the Conference shall follow as far as possible the FAO Basic Texts, in the prevailing extraordinary circumstances;
3. **Recalling** that each Member Nation in the Conference shall be represented by one delegate and shall have only one vote in accordance with Articles III.1 and III.4 of the Constitution;
4. **Decides** to conduct secret ballot votes by [in-person voting by appointment at headquarters and the FAO Liaison Office in New York] [using an online electronic voting system through external software] [using a combination of in-person voting by appointment at headquarters and an online electronic voting system through external software];
5. **Decides**, for the conduct of a secret ballot, that:
 - a. **For online electronic vote through external software**
 - i. The delegate and one alternate delegate, included in the credentials submitted in accordance with Rule III, shall receive the authentication code to access the virtual voting room;
 - ii. Processes set out in Rule XII-10 shall be conducted within the electronic environment and references to booths, ballot papers and other documentary records shall be deemed to refer to voting procedures and electronic records stored in the online electronic voting system;
 - iii. For the purpose of Rule XII-10 (f), the voting delegates shall receive a message generated by the online electronic system requesting them to confirm the submission of their vote before it is finalized;
 - iv. At the end of the voting period, the tellers and the Elections Officer shall record the result of each ballot as generated by the online electronic system in writing, following the process set out in Rule XII-10, and shall include the result of the ballot in the record, for certification by the tellers.

b. For in-person voting through physical ballot

- i. The procedures under Rule XII-10 paragraphs (a), (d), (e), (f) and (g) shall be conducted by appointment at one of the two locations, which are in FAO headquarters and the FAO Liaison Office in New York;
- ii. For the purpose of Rule XII-10 (g), the count of the votes at locations outside of FAO headquarters will be supervised through the presence of tellers and scrutineers at those outside locations as well as by video-link from the FAO headquarters location;
- iii. The result of the ballot shall be established on the basis of the sum of the votes deposited from the two locations and recorded in writing; the tellers in FAO headquarters shall be responsible for the consolidation of the total number of votes deposited and the certification of the result.

c. For simultaneous in-person and online electronic voting procedures

- i. The provisions set out under paragraphs a. and b. above shall apply, on the understanding that the result of the ballot shall be established on the basis of the sum of the votes deposited through the in-person vote and online electronic vote;
- ii. The tellers shall be responsible for the consolidation of the total number of votes deposited and the certification of the result.