



COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

Hundred and Eighteenth Session

Rome, 6-8 March 2023

Process of election of the Chairperson of the Committee on Forestry (COFO)

I. Introduction

1. At its 171st Session in December 2022, the Council “*recommended the Committee on Constitutional and Legal Matters (CCLM) to review the process of election of the Chairperson of COFO for consistency of processes across Technical Committees, recognizing their distinct nature, and to provide recommendations to the next session of the Council*”.¹

2. This matter is referred to the Committee on Constitutional and Legal Matters (CCLM) under Rule XXXIV, paragraphs (7) (a) and (j) of the General Rules of the Organization (GRO), pursuant to which the CCLM may “*consider specific items referred to it by the Council or the Director-General which may arise out of: (a) the application or interpretation of the Constitution, these Rules and the Financial Regulations or amendments thereto; (...) (j) problems relating to elections and procedure for nominations*”.

II. Background

3. A process of review of the Rules of Procedure of the Technical Committees was initiated following the adoption of the Immediate Plan of Action (IPA) for FAO Renewal by the Conference at its 35th (Special) Session in November 2008.

A. *The Immediate Plan of Action for FAO Renewal in 2008 and ensuing discussions within the Governing Bodies regarding the Technical Committees*

4. The IPA contained several observations and actions regarding the Technical Committees, which contributed to the enhancement of their status and, as a result, required amendments to the Basic Texts. In particular, the IPA observed that:

“The Technical Committees are fundamental to FAO’s work. They are committees of the whole membership and have distinct roles: Firstly, developing global information exchange, policy coherence and instruments for their areas of competence; and secondly, providing proposals to the Council and the Conference on the Strategy and Programme of the Organization. Technical Committees, as committees of the whole,

¹ CL 171/REP, paragraph 26.

deal with world issues as well as FAO's programme and will report directly to the FAO Conference on global issues and to the Council on FAO programme priorities and performance".²

5. By its Resolution 1/2008 "*Adoption of the Immediate Plan of Action (IPA) for FAO Renewal (2009-11)*", the Conference decided, under paragraph 2, that "*amendments to the Basic Texts should be developed*" and that "*pending such amendments to the Basic Texts: a) the Technical Committees of the Council will report to the Conference on global policy and regulatory matters and to the Council on programme and budgetary matters*".³ As a result of these new reporting lines for the Technical Committees, proposed amendments to the Basic Texts were reviewed by the CCLM⁴ and the Council⁵ in 2009.

6. At its 36th Session in November 2009,⁶ the Conference adopted Resolution 5/2009 "*Implementation of the Immediate Plan of Action for FAO Renewal (2009-11). Amendments to the Constitution*". Amongst the amendments adopted by the Conference, Article V, paragraph 6 (b) of the Constitution was revised to indicate that the Technical Committees "*shall report to the Council on programme and budget matters and to the Conference on policy and regulatory matters*". Other amendments to the General Rules of the Organization (GRO) were also adopted to reflect these revised reporting lines.⁷ Formerly Committees of the Council, these amendments granted the Technical Committees an enhanced status, in line with the IPA's observations as reflected in paragraph 4 above.

7. Subsequently, at its 90th Session in April 2010, the CCLM reviewed possible amendments to the Rules of Procedure of the Technical Committees for the implementation of the IPA, stressing that the "*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*".⁸ In particular, 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*".⁹ It also 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 [Committee on Fisheries] and COFO*". That said, the CCLM underlined that this was a "*matter to be reviewed by each Technical Committee taking into account all relevant considerations*".¹⁰

8. In line with the CCLM's guidance, the Council, at its 139th Session in May 2010, invited the Technical Committees to "*examine their Rules of Procedure, taking into account the [CCLM's] considerations*". It also "*acknowledged that authority to amend the Rules of Procedure was vested in the Technical Committees, which had their own specific functional requirements*". The Council stressed, however, the "*desirability of consistency among the Rules of Procedure of all Technical Committees*".¹¹

² C 2008/REP, paragraph 26.

³ C 2008/REP, Resolution 1/2008 "*Adoption of the Immediate Plan of Action (IPA) for FAO Renewal (2009-11)*".

⁴ CL 136/11, paragraphs 21-35; and document CCLM 84/3 entitled "*Technical Committees*".

⁵ CL 136/REP, paragraphs 92-95; and CL 137/REP, paragraphs 46-52.

⁶ C 2009/REP, paragraphs 136-143.

⁷ See C 2009/REP, Resolution 5/2009 "*Implementation of the Immediate Plan of Action for FAO Renewal (2009-11). Amendments to the General Rules of the Organization and to the Financial Regulations*".

⁸ CL 139/6, paragraph 9.

⁹ CL 139/6, paragraph 10.

¹⁰ CL 139/6, paragraph 12.

¹¹ CL 139/REP, paragraphs 55 and 56.

B. *Process of amendment to the Rules of Procedure of the Technical Committees with respect to the election of the Chairperson*

9. A process of review of the Rules of Procedure of the Technical Committees was initiated following the Governing Bodies' guidance in 2010. At the outset, it is noted that while the Technical Committees reviewed, as part of this exercise, the process of election of their Chairpersons, the relevant provisions of the GRO remained unchanged, establishing that each Committee "*shall elect its own Chairperson from among its Members*".¹²

10. At its 20th Session in October 2010, COFO introduced several amendments to Rule I (Officers) of its Rules of Procedure, including a new paragraph providing as follows: "[w]hen electing the Chairperson, the Committee shall give due consideration to the desirability of ensuring equitable rotation of the office among the regions".¹³ The requirement that the Committee shall "*elect a Chairperson from among the representatives of its Members*" under Rule I, paragraph 1, was not amended.

11. Similarly, at its 30th Session in July 2012, COFI adopted amendments to Rule I (Officers) of its Rules of Procedure, while maintaining the process requiring that the Committee elect the "*Chairperson (...) from among the representatives of its Members*".¹⁴ COFI noted *inter alia* that it intended to consider, at its next session, whether to "*change [the] current practice of granting the first Vice-Chairperson the right of claiming the office of Chairperson in the succeeding session*".¹⁵

12. At its 69th Session in May 2012, the Committee on Commodity Problems (CCP) approved a proposal to amend its Rules of Procedure. The proposal included, *inter alia*, a new provision stating as follows: "[t]he Chairperson and six Vice-Chairpersons shall be elected from the following regions: one representative each from Africa, Asia, Europe, Latin America and the Caribbean, Near East, North America, and South West Pacific".¹⁶ The Committee on Agriculture (COAG) did not formally adopt any amendments at its 23rd Session in May 2012.¹⁷

13. The CCLM noted, at its 97th Session in October 2013, the approaches taken by the Technical Committees with respect to the election of the officers and considered that it would be desirable to ensure a consistent approach, with "*due account being taken on the specific functional requirements of the Committees*". In particular, the CCLM examined whether a "*provision regarding rotation of the position of the Chairperson drafted in generic terms, as adopted by COFO (...) should be adopted*".¹⁸ However, the CCLM "*decided to review the matter again at a future session*", considering that the "*issues (...) were under negotiation by the membership of Technical Committees*".¹⁹

14. Following the 97th Session of the CCLM, COFO did not address any further changes to its Rules of Procedure governing the election process of the Chairperson. As concerns COFI, at its 31st Session in June 2014, the Committee adopted further changes to its Rules of Procedure, including a new paragraph providing that: "[w]hen electing the Chairperson, the Committee shall give due consideration to the desirability of ensuring rotation of the office among the regions".²⁰ COFI specifically stated that this insertion was proposed in response to the proposal made at its previous Session to "*change [the] current practice of granting the first Vice-Chairperson the right of claiming*

¹² See Rule XXXI (9); Rule XXX (3); Rule XXXII (11); Rule XXIX (3) of the GRO.

¹³ COFO 2010/REP, paragraph 37, and Annex 1. See also Part J of Volume I of the Basic Texts, Rules of Procedure of COFO.

¹⁴ Rule I, paragraph 1, of the Rules of Procedure of COFI.

¹⁵ C 2013/24, paragraph 12.

¹⁶ C 2013/23, Appendix B.

¹⁷ C 2013/22, paragraph 27.

¹⁸ CCLM 97/3, paragraph 21.

¹⁹ CL 148/2 Rev. 1, paragraph 7.

²⁰ FIPI/R1101, paragraph 90, and Appendix J. See also Rule I, paragraph 3, of the Rules of Procedure of COFI.

the office of Chairperson in the succeeding session”²¹ and that the “*proposed phrasing is similar to Rule I, paragraph 2, of the RoP of the Committee on Forestry*”.²² Moreover, in recognition of its Rules providing that the Chairperson is elected from the representatives of its Members and that a rotation among the regions must be observed, COFI adopted a paragraph indicating the seven regions from which the Chairperson may be elected.²³

15. Subsequently, at its 70th Session in October 2014, CCP noted that “*COFI and COFO both have provisions on rotation in their Rules of Procedure*”²⁴ and decided to adopt the following provision: “[w]hen electing the Chairperson, the Committee should ensure the equitable rotation of the office among the regions.”²⁵ Other changes to the Rules of Procedure of CCP were adopted on that occasion. These changes included a new paragraph regarding the process for the nominations for the office of Chairperson, stating that “[t]he Member Nations through their Regional Groups may submit nominations for the office of Chairperson of the Committee. The nominations shall be submitted at least 30 days before the beginning of the session of the Committee in which the election shall take place”.²⁶

16. COAG, at its 24th Session in October 2014, adopted similar amendments to those of CCP, recognizing “*the operational similarities between COAG and CCP*”.²⁷ As concerns the election of the Chairperson, the Committee noted that “*the inclusion of a provision on ensuring rotation of the office among FAO’s seven regions is proposed*”,²⁸ and adopted a new paragraph stating that “[w]hen electing the Chairperson, the Committee should ensure the equitable rotation of the office among the regions”.²⁹ Similarly to the CCP, the Committee adopted a paragraph regarding the process for the nominations for the office of Chairperson.³⁰ The report of COAG indicated that “*the past practice of the rotation of the office of Chairperson of the Committee among the ‘OECD plus’ Group and the ‘G77 and China’ should be observed in the future. The Members agreed that this arrangement should not constitute a precedent for other FAO Governing Bodies*”.³¹

17. Following this process of review and amendment of the Rules of Procedure of the Technical Committee, the CCLM was not requested to review the matter further. For ease of reference, an excerpt of the current GRO and the Rules of Procedure of each Technical Committee relating to the election of the Chairperson is set out in **Annex 1**.

III. Summary of findings

18. The review of the legal framework applicable to the Technical Committees has shown that the Rules of Procedure of COFO governing the election of the Chairperson are consistent with those of the other Technical Committees.

A. Election of the Chairperson from among the Committee’s Members

19. In particular, the review confirms that each Committee shall elect its Chairperson from among its Members, as provided under the GRO. Moreover, Rule I of the Rules of Procedure of COFO and

²¹ C 2013/24, paragraph 12.

²² See footnote 3 of Appendix J.

²³ Rule I, paragraph 2, of the Rules of Procedure of COFI.

²⁴ CCP 14/6, paragraph 12.

²⁵ See Rule I, paragraph 3, of the Rules of Procedure of CCP.

²⁶ C 2015/22, paragraph 26, and Appendix C. See also Rule I, paragraph 2 of the Rules of Procedure of CCP.

²⁷ COAG/2014/8, paragraph 6.

²⁸ *Idem*, paragraph 8.

²⁹ C 2015/21, paragraph 21 and Appendix C. See also Rule I, paragraph 3 of the Rules of Procedure of COAG.

³⁰ C 2015/21, paragraph 20. Also see Rule I, paragraphs 1 and 2 of the Rules of Procedure of COAG: “[t]he Member Nations through their Regional Groups may submit nominations for the office of Chairperson of the Committee. The nominations shall be submitted at least 30 days before the beginning of the session of the Committee in which the election shall take place”.

³¹ C 2015/21, paragraph 22.

COFI explicitly match this text, providing that the Chairperson shall be elected from “*among the representatives of its Members*”, while the Rules of CCP and COAG refer to the Committee’s duty to “*elect a Chairperson*” and specify that nominations for the Chairperson must be submitted by “*Member Nations*”.³²

B. Rotation of the office of Chairperson among the regions

20. The review has further confirmed that the Rules of Procedure of all Technical Committees call for a regional rotation to be observed when electing the Chairperson. It is recalled that the Rules of Procedure of COFI and COFO are very similar, providing that the Committee shall give “*due consideration*” to the desirability of ensuring a rotation of the office “*among the regions*”. In turn, the Rules of Procedure of CCP and COAG also state that “[w]hen electing the Chairperson, the Committee should ensure the equitable rotation of the office among the regions”.

21. As concerns the term “regions”, the Basic Texts refer to seven regions, i.e. Africa, Asia, Europe, Latin America and the Caribbean, Near East, North America, and Southwest Pacific. These are the regions explicitly applied in the Basic Texts with respect to the composition of the Council Committees.³³ Also, the Rules of Procedure of COFI, CCP, and COAG explicitly refer to these regions and thus, the election of the Chairperson and Vice-Chairpersons from “*among the regions*” is understood to refer to the seven FAO regions.³⁴ Indeed, COAG further acknowledged that the rotation of the office of Chairperson should be “*among FAO’s seven regions*”.³⁵

22. Regarding COFO, in practice, the Committee followed a process that appears to suggest that the Chairperson is elected following a rotation among the following regions: Near East, Asia and Pacific, North America, Europe, Africa, and Latin America and the Caribbean, as reflected in the table included in **Annex 2**. It is noted that these regions are aligned with the membership of the FAO Regional Forestry Commissions (RFCs), which are statutory bodies of FAO.³⁶

C. Nominations for the office of Chairperson

23. The Rules of Procedure of CCP and COAG specify that nominations for the office of Chairperson should be submitted by the Member Nations through their Regional Groups.³⁷ On the other hand, the Rules of Procedure of COFO and COFI are silent in that regard. Nonetheless, it is noted that some reports of the RFCs reflect, albeit inconsistently, their support for the nomination of candidates when rotation indicates that the future Chairperson should come from their respective regions.³⁸ It is understood that this reflects what COFO determined to be its own functional requirements when it amended its Rules of Procedure following the guidance from CCLM and the Council, as reflected in paragraph 8 above.

D. Conclusion

24. In light of the foregoing, it is considered that the rules governing the election of the Chairperson of the respective Committees, i.e. the General Rules of the Organization as well as the Rules of Procedure of the Technical Committees, are similar.

³² See Rule XXXI (9); Rule XXX (3); Rule XXXII (11); Rule XXIX (3) of the GRO and Annex 1 to this document.

³³ See, for example, Rule XXVI (3) (c) (Programme Committee), Rule XXVII (3) (c) (Finance Committee) or Rule XXXIV (3) (c) (CCLM).

³⁴ Rule I, paragraph 2 of the COFI RoP; Rule I, paragraph 5 of the CCP RoP; Rule I, paragraph 5 of the COAG RoP.

³⁵ COAG/2014/8, paragraph 8.

³⁶ The six RFCs are: Near East Forestry and Range Commission (NEFRC), Asia-Pacific Forestry Commission (APFC), North American Forest Commission (NAFC), European Forestry Commission (EFC), African Forestry and Wildlife Commission (AFWC), and Latin American and Caribbean Forestry Commission (LACFC).

³⁷ Rule I, paragraph 2, of the Rules of Procedure of CCP and COAG.

³⁸ See for example the report of the 22nd Session of NEFRC in 2015 (NEFRC/2015/REP, paragraph 30), or the report of the 27th Session of APFC (APFC/2017/REP, paragraph 38.e).

25. With respect to the rotation of the Chairperson among regions, the Rules of Procedure of the Technical Committees are equally similar as they provide for a rotation of the office among the regions when electing the Chairperson. The manner in which these rules have been applied by COFO differs from the practice applied by the other Technical Committees in that the “regions” are aligned with the membership of the FAO Regional Forestry Commissions (RFCs).

26. In this regard, the CCLM recalls that should the Membership of COFO consider that there is a gap in its Rules of Procedure, it is within the Committee’s authority to amend them, pursuant to Rule XXXI (9) of the GRO and Rule IX of the Rules of Procedure of COFO.

IV. Suggested action by the Committee

27. The Committee is invited to review this document, make observations and provide guidance, as deemed appropriate.

ANNEX 1

Excerpts of the Rules of Procedure of the Technical Committees

Committee on Forestry (COFO)	Committee on Fisheries (COFI)
<ul style="list-style-type: none"> ▪ GRO <p>Rule XXXI, paragraph 9: <i>“The Committee shall elect its own Chairperson from among its Members. It may adopt and amend its own Rules of Procedure, (...)”.</i></p> <ul style="list-style-type: none"> ▪ Rules of Procedure <p>Rule I, paragraph I: <i>“At the first session in each biennium, the Committee shall elect a Chairperson from among the representatives of its Members. The Chairperson and the six Chairpersons of the FAO Regional Forestry Commissions will act as a Steering Committee during sessions. The six Chairpersons of the FAO Regional Forestry Commissions shall act as Vice-Chairpersons. The Chairperson shall remain in office until the election of a new Chairperson. The Vice-Chairpersons shall remain in office until they complete their term as Chairpersons in their respective Regional Forestry Commissions. A newly elected Chairperson of a Regional Forestry Commission shall automatically replace his/her predecessor in the Steering Committee”.</i></p> <p>Rule I, paragraph 2: <i>“When electing the Chairperson, the Committee shall give due consideration to the desirability of ensuring equitable rotation of the office among the regions”.</i></p>	<ul style="list-style-type: none"> ▪ GRO <p>Rule XXX, paragraph 3: <i>“The Committee shall elect its own Chairperson from among its Members”.</i></p> <ul style="list-style-type: none"> ▪ Rules of Procedure <p>Rule I, paragraph 1: <i>“At the first session in each biennium, the Committee shall elect a Chairperson, a first Vice-Chairperson and five other Vice-Chairpersons from among the representatives of its Members, who shall remain in office until the election of a new Chairperson and new Vice-Chairpersons and who will act as a Bureau between sessions and during sessions”.</i></p> <p>Rule I, paragraph 2: <i>“The Chairperson, the first Vice-Chairperson and five other Vice-Chairpersons shall be elected from the following regions: one representative each from Africa, Asia, Europe, Latin America and Caribbean, Near East, North America and Southwest Pacific”.</i></p> <p>Rule I, paragraph 3. <i>“When electing the Chairperson, the Committee shall give due consideration to the desirability of ensuring rotation of the office among the regions”.</i></p>
Committee on Agriculture (COAG)	Committee on Commodity Problems (CCP)
<ul style="list-style-type: none"> ▪ GRO <p>Rule XXXII, paragraph 11: <i>“The Committee shall elect from among its Members its Chairperson and the other officers. (...)”.</i></p> <ul style="list-style-type: none"> ▪ Rules of Procedure <p>Rule I, paragraph 1: <i>“At the first session in each biennium, the Committee shall elect a Chairperson and six Members, which collectively shall constitute the Bureau of the Committee”.</i></p> <p>Rule I, paragraph 2: <i>“The Member Nations through their Regional Groups may submit nominations for the office of Chairperson of the</i></p>	<ul style="list-style-type: none"> ▪ GRO <p>Rule XXIX, paragraph 3: <i>“The Committee shall elect its own Chairperson from among its Members”.</i></p> <ul style="list-style-type: none"> ▪ Rules of Procedure <p>Rule I, paragraph 1: <i>“At the first session in each biennium, the Committee shall elect a Chairperson and six Members, which collectively shall constitute the Bureau of the Committee”.</i></p> <p>Rule I, paragraph 2: <i>“The Member Nations through their Regional Groups may submit nominations for the office of Chairperson of the</i></p>

<p><i>Committee. The nominations shall be submitted at least 30 days before the beginning of the session of the Committee in which the election shall take place”.</i></p> <p><i>Rule I, paragraph 3: “When electing the Chairperson, the Committee should ensure the equitable rotation of the office among the regions”.</i></p> <p><i>Rule I, paragraph 5: “(...) The Chairperson and six Members shall be elected from the following regions: one each from Africa, Asia, Europe, Latin America and the Caribbean, Near East, North America, and Southwest Pacific”.</i></p>	<p><i>Committee. The nominations shall be submitted at least 30 days before the beginning of the session of the Committee in which the election shall take place”.</i></p> <p><i>Rule I, paragraph 3: “When electing the Chairperson, the Committee should ensure the equitable rotation of the office among the regions. (...)”.</i></p> <p><i>Rule I, paragraph 5: “(...) The Chairperson and six Members shall be elected from the following regions: one each from Africa, Asia, Europe, Latin America and the Caribbean, Near East, North America, and Southwest Pacific”.</i></p>
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ANNEX 2**Election of Chairpersons of COFO**

COFO Session	Year	Name	Country / Region
COFO17	2005	Mr A. Mirghani Ibrahim	Sudan (Near East)
COFO18	2007	Mr G.K. Prasad	India (Asia & Pacific)
COFO19	2009	Ms Abigail Kimbell	USA (North America)
COFO20	2010	Mr Anders Lönnblad	Sweden (Europe)
COFO21	2012	Mr Felician Kilahama	United Republic of Tanzania (Africa)
COFO22	2014	Dr Bharrat Jagdeo	Guyana (Latin American & Caribbean)
COFO23	2016	Dr Bharrat Jagdeo	Guyana (Latin American & Caribbean)
COFO24	2018	H.E. Akram Chehayeb	Lebanon (Near East)
COFO25	2020	Mr Won Sop Shin	Republic of Korea (Asia & Pacific)
COFO26	2022	Mr León Jorge Castaños	Mexico (North America)
COFO27	2024	Mr Gunter Walkner	Austria (Europe)