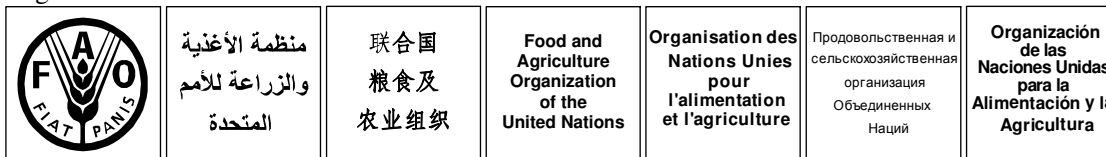


August 2012



COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

Ninety-fifth Session

Rome, 8 - 11 October 2012

Membership Rules of Technical Committees: Proposed Amendments to Rules XXIX, XXX, XXXI and XXXII of the General Rules of the Organization

I. Background

1. As per Article V.6(b) of the FAO Constitution, the Council is assisted in the performance of its functions by four Technical Committees: the Committee on Commodity Problems (CCP), the Committee on Fisheries (COFI), the Committee on Forestry (COFO) and the Committee on Agriculture (COAG).¹ Pursuant to the adoption of amendments to the Basic Texts for the implementation of the Immediate Plan of Action (IPA) for FAO Renewal (2009-11), the status of these Committees has been enhanced; their reporting lines have been streamlined and a number of changes in their modes of operation have been effected. Moreover, the Committees are in the process of reviewing, or have already reviewed, their Rules of Procedure in light of the IPA actions.

2. In the context of the above-mentioned review, extensive discussions have been held concerning the need to reexamine the procedure for acquiring membership in these Committees. In particular, it has been noted that the possibility of acquiring membership “*at any time*”, as provided for in the General Rules of the Organization (GRO), may lead to a situation in which the composition of

¹ See paragraph 6 (b) of Article V of the FAO Constitution:

“6. In the performance of its functions, the Council shall be assisted: (...) (b) by a Committee on Commodity Problems, a Committee on Fisheries, a Committee on Forestry, and a Committee on Agriculture which shall report to the Council on programme and budget matters and to the Conference on policy and regulatory matters.”

these Committees (and accordingly the necessary quorum for meetings and decision-making) can vary greatly even while the Committees are in session. Due to the high degree of uncertainty that arises and potentially hinders the endeavors of the Members and the satisfactory outcome of sessions, it is sought to establish a time frame for the submission of new notifications of membership.

3. This document has been prepared to enable the CCLM to review the matter and suggest any amendments to the current system that may be considered appropriate.

II. Membership Rules of the Technical Committees of the FAO Council

4. According to the relevant provisions of the General Rules of the Organization (GRO), Technical Committees are open to all Member Nations of the Organization. However, since it is important to ensure that the number of Members of each Committee be as close as possible to the number attending any particular session (thereby ensuring a realistic quorum which allows meetings to be held and votes/elections to take place), a notification by interested Members must be submitted, for the purposes of acquiring membership in the said Committees.

5. The GRO include a specific Rule for each of these Committees (Rule XXIX for the CCP, Rule XXX for COFI, Rule XXXI for COFO and Rule XXXII for COAG), which contain the same provisions on membership in paragraphs 1 and 2 as follows:

“1. The Committee (...) shall be open to all Member Nations of the Organization. It shall be composed of those Member Nations which notify the Director-General in writing of their desire to become Members of the Committee and of their intention to participate in the work of the Committee.

2. The notification referred to in paragraph 1 may be made at any time and Membership acquired on the basis thereof shall be considered valid unless the Member has not been represented at two consecutive sessions of the Committee, or has notified its withdrawal from it. The Director-General shall circulate, at the beginning of each session of the Committee, a document listing the Members of the Committee.”

6. Before 2007, the notification had to be made once every two years, as membership expired at the end of each biennium. However, it was found that this system entailed cumbersome and time-consuming administrative processes, and significant burdens for Permanent Representatives, Government Offices and the Organization’s secretariat. Accordingly, the Conference at its Thirty-fourth Session (17-24 November 2007), approved changes to the above-mentioned system, so that the notification could be made “*at any time*”².

7. In the current system, membership can be carried from one biennium to the next unless membership is lost under the circumstances set out in the relevant provisions, i.e. because a Member has not been represented at two consecutive sessions of a Committee, or has notified its withdrawal from it. When a Member has not been represented at two consecutive sessions of a Committee, the secretariat issues a communication whereby the Member Nation is informed of its loss of membership. The said Member Nation is invited to the next session of the Committee as an observer and not as a Member.

² Resolution No. 8/2007 “*Amendment to Rule XXIX.2, Rule XXX.2, Rule XXXI.2, Rule XXXII.2 and Rule XXXIII.2 of the General Rules of the Organization*”, adopted on 24 November 2007 by the Thirty-fourth Session of the Conference, paragraph 115 of document C 2007/REP.

8. However, under the current system, Member Nations may apply for membership at any time and gain or regain membership even while the Committee is already in session. These last-minute changes in membership led to situations in which there was significant uncertainty as to the quorum necessary for meetings to be held or elections to take place. As may be evident, certainty in these matters is vital to avoid the validity of deliberations being questioned.

9. In order for this presentation to be a complete one it is important to mention that references were made by a few delegates to the possibility Members of FAO be automatically considered Members of each Committee without any need for notification of membership. FAO has currently 192 Member Nations and one Member Organization. A substantial number of those Member Nations do not participate systematically in all sessions of the Committees and if they were to be considered Members of the Committees irrespective of a requirement of notification of membership this could lead to major practical difficulties for the Committees to reach a quorum and be able to take decisions. For these reasons, this document does not address this option which is not considered a viable one to address the concerns underlying this paper. The CCLM may wish to offer its views on this particular issue.

III. Proposed Amendments

10. To avoid the uncertainty entailed by constant changes in membership during a Committee's session, it is proposed to insert a time frame within which a notification of membership cannot be submitted. In particular, it is suggested that notifications may be made at any time "*but not later than 10 days before the opening date of a session or while the Committee is in session*".

11. The CCLM is therefore invited to review the following proposed amendments to paragraph 2 of Rules XXIX (CCP), XXX (COFI), XXXI (COFO) and XXXII (COAG) of the GRO as follows³:

"2. The notification referred to in paragraph 1 may be made at any time but not later than 10 days before the opening date of a session or while the Committee is in session. ~~and~~ Membership acquired on the basis thereof shall be considered valid unless the Member has not been represented at two consecutive sessions of the Committee, or has notified its withdrawal from it. The Director-General shall circulate, at the beginning of each session of the Committee, a document listing the Members of the Committee."

12. It should be noted that the procedural conditions for the amendment of the GRO are set out in paragraph 2 of Rule XLIX which provides, *inter alia*, that "*amendments of, or additions to, these Rules may be adopted by a two-thirds majority of the votes cast at a plenary meeting of the Conference, provided that the intention to propose the amendment or addition has been communicated to the delegates not less than 24 hours before the meeting at which the proposal is to be considered*". Rule XLIX, paragraph 3, provides that the Council may propose amendments and additions to these Rules and any such proposals may be considered at the next session of the Conference.

IV. Suggested Action by the Committee

13. The CCLM is invited to review this document and make such recommendations as appropriate.

³ Deletions are indicated using ~~strikethrough text~~ and insertions are indicated using *underlined italics*.

The Committee is, in particular, invited to endorse the draft Conference resolution containing the proposed amendments to Rule XXIX.2, Rule XXX.2, Rule XXXI.2 and Rule XXXII.2 of the GRO attached as **Appendix**.

Appendix

RESOLUTION /2013

Amendments to Rule XXIX.2, Rule XXX.2, Rule XXXI.2 and Rule XXXII.2 of the General Rules of the Organization

THE CONFERENCE,

Having taken note of the views of the Committee on Constitutional and Legal Matters (CCLM), at its Ninety-fifth session (Rome, 8-11 October 2012) on the proposed amendments to Rule XXIX.2 (Committee on Commodity Problems), Rule XXX.2 (Committee on Fisheries), Rule XXXI.2 (Committee on Forestry) and Rule XXXII.2 (Committee on Agriculture) of the General Rules of the Organization;

Considering that the Council, at its Hundred and Forty-fifth Session (Rome, 3-7 December 2012), endorsed the amendments proposed by the CCLM and agreed to transmit them to the Conference for approval;

Having noted that the Rules on membership require the effective presence of Members at the meetings of the above Committees to avoid the validity of deliberations being questioned;

Having further noted that allowing a notification of membership to be made at “*any time*” creates a high degree of uncertainty and that the proposed amendments would contribute to eliminate this uncertainty by setting a time frame during which no further changes in membership are allowed in respect of an upcoming session of a Committee;

Decides to amend Rule XXIX.2, Rule XXX.2, Rule XXXI.2 and Rule XXXII.2 of the General Rules of the Organization as follows⁴:

“2. The notification referred to in paragraph 1 may be made at any time *but not later than 10 days before the opening date of a session or while the Committee is in session.* ~~and~~ ~~Membership~~ *Membership* acquired on the basis thereof shall be considered valid unless the Member has not been represented at two consecutive sessions of the Committee, or has notified its withdrawal from it. The Director-General shall circulate, at the beginning of each session of the Committee, a document listing the Members of the Committee.”

(Adopted onJune 2013)

⁴ Deletions are indicated using ~~strikethrough text~~ and insertions are indicated using *underlined italics*.