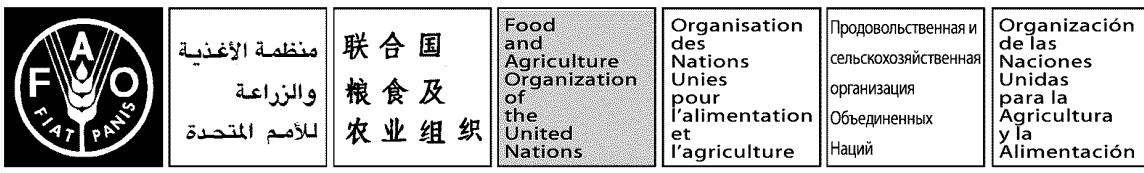


February 2010



## COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

### Ninetieth Session

Rome, 28 - 29 April 2010

### ADDRESS TO THE COUNCIL AND THE CONFERENCE BY CANDIDATES FOR THE OFFICE OF DIRECTOR-GENERAL

#### I. BACKGROUND

1. Under revised Rule XXXVII, paragraph 1 of the General Rules of the Organization (GRO), as approved by the Conference at its Thirty-sixth Session held in Rome from 18 to 23 November 2009, candidates for the office of Director-General are required to address the Council and the Conference.
2. This document proposes a procedure to that effect taking into account the framework established by the Immediate Plan of Action of Action (IPA) for FAO Renewal (2009-11) approved by the Thirty-fifth (Special) Session of the Conference; Rule XXXVII, paragraph 1 of the GRO; and the procedures and practices followed in some organizations of the United Nations system.

#### II. GENERAL FRAMEWORK

3. The IPA includes a matrix calling for a number of actions regarding the appointment and term of office of the Director-General, with the following passages being of particular relevance to this document:

*“(...) Measures will be enhanced to require the candidates to formally make a presentation to the Council and Conference and respond to questions prior to election” (para. 32);*

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*Introduce procedures and Basic Text changes to strengthen opportunity for the FAO membership to appraise candidates for the post of Director-General prior to election, including (action 2.95):*

*(a) Candidates for the post of the Director-General will address the Conference at which the election will be held. Members will have the opportunity to put questions to candidates (....) (action 2.96)*

*(b) Candidates for the post of the Director-General will address a session of the FAO Council not less than 60 days prior to the Conference at which the election is to be held. At that session both Members and observers to the Council will have the opportunity to put questions to candidates (the meeting with candidates is for information only and no recommendation or conclusion of the discussion will be made ...)” (action 2.97).*

4. The Committee on Constitutional and Legal Matters (CCLM) reviewed the action matrix regarding the appointment and term of office of the Director-General at its Eighty-fourth (2-4 February 2009) and Eighty-fifth (23-24 February 2009) Sessions. The proposals made by the CCLM were endorsed by the Conference Committee for the Follow-up to the Independent External Evaluation of FAO (CoC-IEE) and the Council at its Hundred and Thirty-sixth (15-19 June 2009) and Hundred and Thirty-seventh (28 September-2 October 2009) Sessions. The Conference, at its Thirty-sixth Session, adopted a number of amendments to the Basic Texts of the Organization. In particular, through Resolution 5/2009, the Conference approved a set of amendments to the General Rules of the Organization.

5. Rule XXXVII, paragraph 1 of the GRO deals with the conditions for the appointment of the Director-General as follows:

*“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:*

*(a) When the term of office of the Director-General is due to expire, the appointment of a new Director-General shall be placed on the agenda of the regular session of the Conference immediately preceding the expiry of the term of office; whenever, for other reasons, the office of the Director-General is vacant, or notice is received of a pending vacancy, the appointment of a new Director-General shall be placed on the agenda of the next session of the Conference which opens not less than 120 days from the occurrence or notice of the pending vacancy.*

*(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 twelve months and end at least 60 days prior to the beginning of the session of the Council referred to in sub-paragraph (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.5 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.*

- (c) *Subject to such arrangements as the Council may make consistent with these Rules aimed at ensuring equality among candidates, candidates shall address the session of the Council which will be scheduled not less than sixty days before the session of the Conference and respond to such questions as may be put to them by Member Nations and Associate Members of the Organization. There shall be no debate and the Council shall not draw any conclusion or recommendation from any of the statements or interventions made.*
- (d) *As soon as possible after the opening of the Conference session, the General Committee shall determine and announce the date of the election, it being understood that the appointment of the Director-General at a regular session shall begin and be effected within three working days following the opening date of such session. Candidates shall address the Conference and respond to questions that Member Nations and Associate Members may put to them, subject to such arrangements as the Conference may make consistent with these Rules aimed at ensuring equality among candidates<sup>1</sup>.*

### **III. PRACTICES FOLLOWED IN OTHER ORGANIZATIONS**

6. The Secretariat contacted a number of organizations in order to obtain information on the practices which they have followed in connection with recent elections of their executive heads.

7. At the International Atomic Energy Agency, no provision is made for candidates for the office of Director-General to address the Governing Bodies. Similarly, at the International Labor Organization, no provision is made for candidates to address the relevant Governing Bodies.

8. At the World Intellectual Property Organization, in 1988 the General Assembly adopted procedures for the nomination by the Coordinating Committee of a candidate to the post of Director-General. These procedures do not foresee any interview of candidates by the Coordinating Committee. However, during the last election process that took place in 2008, the Chairperson of the Coordinating Committee conducted some interviews, but this was done on an informal and voluntary basis. In particular, the Chairperson of the Coordinating Committee

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<sup>1</sup> Rule XXXVI, paragraph 1(e) of the GRO further provides that “travel expenses of each candidate, properly incurred in traveling, by the most direct route from his/her duty station to the site of the Council and Conference sessions referred to in sub-paragraphs (c) and (d) of this paragraph and return to his/her duty station, as well as a subsistence allowance for up to five days per session, shall be borne by the Organization in accordance with its travel regulations”.

invited the candidates to meet with Members and Observers at the Coordinating Committee where they were asked to make a presentation and to take questions.

9. At the International Fund for Agricultural Development (IFAD), in accordance with the established procedure, prior to the expiry of the term of office of the President, a call for nominations is sent out to all Members. Nominations are made in writing by the Governments of Members and are submitted to the Secretary of the Fund accompanied by candidates' curricula vitae. Upon receipt of nominations, IFAD verifies the "*validity of the credentials presented for nominees*", in particular whether the nominations originate from a Member. The information is communicated to all Members and to the Bureau of the Governing Council by the President in a timely manner and not less than forty days prior to the session of the Council in which the new President is to be appointed.

10. At the initiative of some Members, prior to the session of the Governing Council of February 2009 where the new President was to be elected, a special meeting of interested Members was convened at IFAD headquarters. This was an ad hoc arrangement. The meeting lasted approximately 5 hours, and each candidate running for the presidency had the opportunity to explain and give an overview of his/her background, vision and expectations deriving from the mandate of the position. Approximately 45 minutes were allocated to each candidate, 15 minutes of which were devoted to a presentation given by the candidate and the remaining 30 minutes to questions posed by Members<sup>2</sup>.

11. The World Health Organization (WHO) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) have both developed procedures for the interview of candidates to the office of Director-General.

12. At WHO the Director-General is nominated by the Executive Board, consisting of 34 Member States, which is required to put forward one single candidate to the Health Assembly. Rule 52 of the Rules of Procedure of the Executive Board includes the following provisions:

*"All members of the Board shall have the opportunity to participate in an initial screening of all candidatures in order to eliminate those candidates not meeting the criteria proposed by the Board and approved by the Health Assembly.*

*The Board shall decide, by a mechanism to be determined by it, on a short list of candidates. This short list shall be drawn up at the commencement of its session, and the selected candidates shall be interviewed by the Board meeting as a whole as soon as possible thereafter.*

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<sup>2</sup> The arrangements were set out in a letter sent to the candidates on 20 January 2009 by the Convenors of Lists A, B and C. The relevant sections of the letter read as follows: "We are now writing to confirm final arrangements and attach the schedule for the day, based on the alphabetical order of the nominating Member States. As outlined in the invitation, each candidate will have a session of 45 minutes. This will include up to 15 minutes for a presentation, which would be an opportunity for you to share your ideas and views in the following areas: 1. What, in your view, is IFAD's comparative advantage and how would you envision IFAD focusing on this to meet its mandate over the medium to long term? 2. How do you see IFAD building upon its reform into the future? 3. How would you describe your management style and how do you propose to employ it to continue to make IFAD more effective, efficient, and responsive? Please also elaborate on your managerial and development experience. The remaining time will be allocated to questions and answers. 15 minutes will be given to questions posed by Member States through the Chair, who will then give the floor to candidates to respond for the final 15 minutes".

*The interviews should consist of a presentation by each selected candidate in addition to answers to questions from members of the Board. If necessary, the Board may extend the session in order to hold the interviews and make its selection. The Board shall fix a date for the meeting at which it shall elect a person by secret ballot from among the candidates on the short list".*

13. The Executive Board defined a procedure for the establishment, through ballot, of a short-list of five candidates<sup>3</sup> and a procedure for the conduct of "interviews"<sup>4</sup>. The process takes place at an "open meeting" of the Executive Board<sup>5</sup>. As regards the conduct of the interviews –

*"Once the short list has been determined, these candidates will be interviewed by the Board. Rule 52 specifies that the interviews should be held 'as soon as possible' after the establishment of the short-list. In the present case, since the 119<sup>th</sup> session of the Board has been convened for three days for the sole purpose of nominating the Director-General, the interviews have been scheduled for the second day, i.e. Tuesday, 7 November. Each interview will last not more than 60 minutes. It will be equally divided between (i) an oral presentation of the candidate's vision of the future priorities for the Organization, with an analysis of current problems facing it and suggestions as to how those should be addressed, and (ii) a question-and-answer period. Should questions be insufficient to fill the allotted time, the candidate may make such additional statements as desired until the end of the period set for the interview, but the total time of 60 minutes may not be exceeded."<sup>6</sup>*

14. Under the above framework, the conduct of the "interviews" adheres to a "very codified and stable practice" which can be summarized as follows<sup>7</sup>:

- (a) The order in which candidates are interviewed is drawn by lots and the candidates are advised accordingly;
- (b) Each candidate has half an hour to make a presentation in one of the official languages of the Organization. A "traffic lights system" was introduced whereby

<sup>3</sup> The number of short-listed candidates was set at five on the basis of a decision taken by the Executive Board [EB100 (7)].

<sup>4</sup> EB 119/INF.DOC./1, 6 September 2006, *Director-General: nomination for the post: Note by the Legal Counsel*. This note describes and consolidates the practice followed by the Executive Board of WHO since its establishment in the late Nineties. The note contains, as appendixes thereto, all relevant provisions and decisions of the Executive Board regarding the appointment of the Director-General.

<sup>5</sup> Rule 7 of the Rules of Procedure of the Executive Board of WHO reads as follows: "Attendance at meetings of the Board shall, in addition to members of the Board, their alternates and advisers, be as follows: (a) public meetings: Member States not represented on the Board, Associate Members, representatives of the United Nations and other organizations identified in Rule 4 and members of the public; or (b) open meetings: Member States not represented on the Board and Associate Members and the Secretariat; or (c) restricted meetings, held for a specific purpose and under exceptional circumstances: essential Secretariat staff, and such others as may be decided by the Board. Meetings of the Board related to the nomination of the Director-General as provided for in Rule 52, and for the appointment of the Regional Directors, shall be as provided in subparagraph (b) above, except that only one representative of each Member State not represented on the Board and of each Associate Member may attend without the right to participate, and that no official record shall be made".

<sup>6</sup> EB 119/INF.DOC./1, 6 September 2006, *Director-General: nomination for the post: Note by the Legal Counsel*, paragraph 11.

<sup>7</sup> Communication from the Legal Counsel of WHO dated 9 February 2010.

a green light, turned on when the candidate begins the presentation, turns yellow when there are three minutes left and then red at the end of the allocated 30 minutes. The Chairperson enforces the time limits.

- (c) In order to avoid fixed questions that may leak to other candidates and to be as fair as possible, each Member receives a paper where it may write one question if it so wishes. At the end of the presentation a conference officer collects the papers in a box and then the Chairperson picks them up randomly one at a time and reads the question, identifying the delegation which has written it. Interpreters are available behind the Chairperson in the event that a question should be written in a language which the Chairperson does not understand.
- (d) The candidate has a total of 30 minutes to respond to questions, and up to 3 minutes for each question. A complex traffic light system with two sets of lights is established. In one set, the light turns green when the Chairperson reads the first question and then turns yellow after 27 minutes and red after 30 minutes. The other set of lights measures the time for each question: the light turns green when the Chairperson starts reading each question, turns yellow after 2 minutes and red after 3 minutes, at which time the candidate may finish his or her sentence, but otherwise must stop. This procedure is carefully and repeatedly explained to each candidate by the Chairperson.
- (e) Candidates continue to respond to questions until their allocated 30 minutes expire. If there are not enough questions to fill the 30 minutes (which has never happened), a candidate may choose to make an additional statement to fill the remaining time.

15. A vote on the candidate to be nominated by the Executive Board to the Health Assembly takes place after the above process is carried out<sup>8</sup>.

16. At UNESCO, it is also the Executive Board which nominates one candidate for the office of Director-General for approval by the Conference. At its 181<sup>st</sup> Session, held from 14 to 30 April 2009, the Executive Board approved the following procedure:

- “(i) *The Board has set 31 May 2009 as the deadline for the receipt of the names of candidates proposed by the Member States.*
- “(ii) *The Chairman will make a public announcement no later than 8 June 2009 concerning the names of candidates thus proposed.*
- “(iii) *The Chairman will invite the candidates to submit to him, on behalf of the Executive Board, no later than 1 August 2009, a text not exceeding 2,000 words, in one of the six working languages of the Executive Board, setting out their vision for UNESCO.*

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<sup>8</sup> Usually the vote takes place on the day following the interviews.

- (iv) *The Board shall consider, in private meeting, all the names of the candidates so suggested, provided that no candidature shall be considered unless biographical details are available, in accordance with Rule 58, paragraph 2, of the Rules of Procedure of the Executive Board<sup>9</sup>.*
- (v) *The candidates will be interviewed in private meeting at the 182<sup>nd</sup> session.*
- (vi) *The duration of each interview will be a maximum of one hour. It will consist of two parts:*

*First part: Oral presentation by the candidate, lasting up to 20 minutes.*

*Second part:*

- (i) *Each electoral group will designate its representative(s), who will ask each candidate one question;*
- (ii) *The questions, which should not exceed two minutes each, may be asked in any of the six working languages of the Executive Board, and the candidates will reply in English or French. In the interview, they will be encouraged to state their ability to handle the two working languages of the UNESCO Secretariat or to develop it further.*
- (iii) *The candidate will have a maximum of five minutes in which to answer each question.*
- (iv) *The candidate will have up to 30 minutes in which to answer the six questions asked by the electoral groups.*
- (v) *The order of the interviews of the candidates and the order in which the electoral groups ask their questions will be determined by lots drawn at the first private meeting of the 182<sup>nd</sup> session.*
- (vi) *The interviews of the candidates will be broadcast simultaneously on-screen in Room XI, access to which will be limited to one representative per Member State of UNESCO not a Member of the Executive Board, pursuant to Rule 29, paragraph 1, of the Rules of Procedure of the Executive Board (...)"<sup>10</sup>.*

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<sup>9</sup> Rule 58, paragraph 2 of the Rules of Procedure of the Executive Board reads as follows: "The Executive Board shall consider in private meeting all the names so suggested, together with any proposed by Members of the Board, provided that no candidature shall be considered unless biographical details are available".

<sup>10</sup> Rule 29, paragraph 1 of the Rules of Procedure of the Executive Board of UNESCO reads as follows: "When, in exceptional circumstance, the Board decides to hold a private meeting it shall determine the persons who shall be present, having regard to Article VI.3 of the Constitution, to the right of Members to be accompanied by advisers or experts, and to agreements entered into with the United Nations and the specialized agencies".

## IV. POSSIBLE PROCEDURE TO BE FOLLOWED IN FAO

### A. Preliminary considerations

17. In seeking to design a procedure for FAO, the following considerations could be taken into account.

18. First, there is a major difference in the nature of the “appointing authority” of the Director-General in FAO, as compared to that at WHO and UNESCO. In these organizations, the critical step in the process of appointment is, in fact, the nomination of one single candidate by the Executive Board (equivalent to the FAO Council) to the plenary body of the Organization. Such a nomination of one individual is made by 34 Member States in the case of the Executive Board of WHO and by 58 Member States in the case of the Executive Board of UNESCO. In FAO’s case, the appointment is made by the Conference which is open to all Members of the Organization. At present there are 191 Members Nations of FAO which may participate in the election of the Director-General.

19. Second, any procedures to be applied in FAO could take into account the recent experience of IFAD and draw from those in force at WHO and UNESCO, while noting that other organizations have not defined procedures on the matter. The interview process was applied three times at WHO, whereas at IFAD and UNESCO it was applied only once. In any case, it would be necessary to make a number of adjustments, including on matters of detail, in order to take due account of the situation at FAO. In particular, in the case of FAO, the candidates are required to address both the Council at the session which takes place some sixty days before the session of the Conference at which the election is to take place, and the Conference itself. In 2008, the nomination process at the Executive Board of WHO took place over a period of three days. If a similar process were to be implemented both at the Council and the Conference of FAO, and depending of course on the number of candidates, it might require cumulatively several days of discussion.

20. Third, in broad terms, the format of the addresses by candidates in the three organizations is comparable and it would be proposed that the candidates should make a statement for a given period of time, followed by questions. Rule XXXVII, paragraph 1 calls for the implementation of arrangements that ensure strict equality among candidates. The proposal below refers to a statement of a maximum of 15 minutes. As regards questions, consideration could be given to a pre-determined number of questions by representatives of regional groups. The questions would need to be asked within a given period of time and also answered within a given period of time which would be tightly monitored, as is the case at WHO. There are seven regional groups in FAO and representatives of each group could be allowed to ask one question. Given inevitable interruptions in the course of the proceedings, the overall time required for the whole process would be rather substantial. It should be noted in this connection that the framework established by the Constitution and the GRO of FAO do not allow for the establishment of an upper number of candidates who would address the Governing Bodies<sup>11</sup>.

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<sup>11</sup> It would not be possible in FAO to limit the number of short-listed candidates to 5 as is done at WHO.

21. Fourth, the addresses to, and interviews held at, the Executive Boards of WHO and UNESCO are carried out at meetings where attendance is restricted. In the case of the Executive Board of WHO, an open meeting is held as distinct from a public or a private meeting. At UNESCO the meeting is a private one. However, in both cases, in the past the meetings were open to a large number of participants. In the case of FAO, it is proposed that the meetings be “*standard public meetings*” of the Council and Conference, for a number of reasons. The Secretariat is not aware of situations where plenary meetings of the Conference were not public meetings within the meaning of Rule V, paragraph 2 of the GRO. In the mid-nineties a decision to hold a closed meeting of the Council resulted in a debate over the extent of the restrictions on attendance. Thus, in FAO’s practice, meetings of the Conference and Council are public meetings and the Membership as well as observers invited to sessions are much attached to that principle, as evidenced by the deliberations of the CCLM at its Seventy-ninth Session in October 2005 regarding restrictions of attendance by the “*general public*” at meetings of the Organization for reasons of security. It is therefore proposed that the meetings should be public for the transparency of the process. Of course, it might be necessary for the Secretariat, acting under the authority of the Independent Chairperson of the Council and the General Committee of the Conference, as appropriate, to establish any restrictions for reasons of availability of space.

22. Finally, subject to such views as the CCLM may hold, although the procedure is similar, it is proposed to make a distinction between the address by candidates to the Council and the address by candidates to the Conference.

## **B. Proposed procedure**

23. The following procedure could be considered by the Committee:

**(a) Address to the Council by candidates for the office of Director-General**

(i) *Each candidate, validly nominated in accordance with Rule XII, paragraph 5 of the General Rules of the Organization, makes a statement to a plenary meeting of the Council, of up to 15 minutes. The order in which candidates make statements is defined by lots drawn by the Chairperson. The statements should include a presentation of the candidate’s vision of the future priorities of the Organization, with an analysis of their views on current problems and suggestions as to how these should be addressed.*

(ii) *After each statement, representatives of each regional group may ask a candidate one question. The formulation of each question shall not exceed 1 minute and the answers to each question shall not exceed 3 minutes.*

(iii) *The Chairperson, with the assistance of the Secretary-General of the Conference and Council, ensures that the allocated time, both for the statements and for the questions and answers, is strictly enforced.*

(iv) *A candidate may speak in any language of the Organization.*

(v) Once all statements and questions and answers have been completed, the Chairperson shall declare the relevant agenda item closed. There shall be no debate, nor any conclusions drawn from the statements, questions or answers.

(b) **Address to the Conference by candidates for the office of Director-General**

(i) Subject to such arrangements as the Conference may approve on the recommendation of the General Committee, each candidate, validly nominated in accordance with Rule XII, paragraph 5 of the General Rules of the Organization, makes a statement to a plenary meeting of the Conference, of up to 15 minutes. The order in which candidates make statements is defined by lots drawn by the Chairperson. The statements should include a presentation of the candidate's vision of the future priorities of the Organization, with an analysis of their views on current problems and suggestions as to how these should be addressed.

(ii) After each statement, a representative of each regional group may ask the candidate one question. The formulation of each question shall not exceed 1 minute and each answer shall not exceed 3 minutes.

(iii) The Chairperson, with the assistance of the Secretary-General of the Conference and Council, ensures that the allocated time, both for the statements and for the questions and answers, is strictly enforced.

(iv) A candidate may speak in any language of the Organization.

(v) Once all statements and questions and answers have been completed, the Chairperson shall declare this process closed. There shall be no debate, nor any conclusions drawn from the statements, questions or answers.

(vi) The Conference, on the basis of the recommendation of the General Committee and Rule XXXVII, paragraph 2 of the General Rules of the Organization, shall proceed to the appointment of the Director-General.

## **V. SUGGESTED ACTION BY THE COMMITTEE**

24. The CCLM is invited to review the proposed procedure concerning the address to the Council and the Conference by candidates for the office of Director-General and make such comments thereon as appropriate in the light of the information regarding the practices of other organizations and the information provided in this document.

25. In particular, the CCLM is invited to recommend to the CoC-IEE and to the Council, as appropriate, including for on-forwarding to the Conference, procedures concerning the address to the Council and the Conference by candidates for the office of Director-General.