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FOOD AND AGRICULTURE
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Agenda Item 9

CX/GP 99/13

JOINT FAO/WHO FOOD STANDARDS PROGRAMME CODEX COMMITTEE ON GENERAL PRINCIPLES

Fourteenth Session

Paris, France, 19 – 23 April 1999

APPLICATION OF RULE VII OF THE COMMISSION'S RULES OF PROCEDURE (ATTENDANCE OF MEMBERS AT SESSIONS OF THE SUBSIDIARY BODIES)

The 21st Session of the Codex Coordinating Committee for Europe asked for some clarification on the application of Rule VII concerning the participation of Members as observers in the subsidiary bodies of the Commission in Relation to Rule III establishing the composition of the Executive Committee (ALINORM 99/19, para. 46), in order to determine to what extent they could have the possibility to attend the CCEXEC in that capacity.

The last session of the CCGP noted that request and agreed that a paper would be prepared for consideration by the next session with a view to clarifying the application of Rule VII (ALINORM 99/33, para. 11). The following advice was provided by the Legal Counsel of FAO on this question (text in italics).

Rule VII.1 of the Rules of Procedure of the Codex Alimentarius Commission states that "any Member Nation and any Associate Member of FAO or WHO which is not a Member of the Commission but has a special interest in the work of the Commission may, upon request communicated to the Director-General of FAO or WHO, attend sessions of the Commission and of its subsidiary bodies as an observer. It may submit memoranda and participate without vote in the discussion." In addition Paragraph 3 of that Rule states that "any Member of the Commission may attend as an observer the sessions of the subsidiary bodies and may submit memoranda and participate without vote in the discussions."

Article 6 of the Statutes of the Commission provides for the establishment of an Executive Committee, while Article 7 of the same Statutes empowers the Commission to establish "such other subsidiary bodies (emphasis added) as it deems necessary for the accomplishment of the task". The reference to other subsidiary bodies immediately following the reference to the Executive Committee would seem to indicate that the drafters of the Statutes considered the Executive Committee, itself, to be a subsidiary body of the Commission. Consequently, in line with the above provisions, any Member of the Commission who has a special interest in the work of the Commission may attend the sessions of the Executive Committee, as an observer.

However, it would appear that, in practice, member nations of the Commission that are not members of the CCEXEC have not participated in meetings of the CCEXEC as observers and that, neither the Commission, nor the CCEXEC, have received any requests to that effect. This is in fact in line with the practice of other FAO bodies, where the meetings of the Executive Committees are not open to observers, e.g. the Executive Committees of the General Fisheries Commission for the Mediterranean and the European Commission for the Control of Foot-and-Mouth Disease.

In 1989, following a review by the Committee on General Principles of the question of the composition and participation of observers in meetings of the Executive Committee, the Commission agreed, inter alia, that “Regional Coordinators (should) be invited to attend meetings of the Executive Committee, as observers” and that “only members or, with the permission of the Chairman, observers, (could) take part in the discussions”. However, as noted above, the practice and the decision taken by the Commission would not preclude legally Member Nations of the Commission from participating in sessions of the Executive Committee, as observers, as provided for in Rules VII.1 and VII.3 of the Rules of Procedure of the Commission.

In view of the foregoing, the matter should be referred again to the Codex Alimentarius Commission, through the Committee on General Principles, so that the Commission could provide further guidance on the question of the participation of Members of the Commission in the meetings of the Executive Committee, as observers, in accordance with the relevant provisions of Rule VII of the Rules of Procedure, and taking into account any other pertinent considerations and the need, if any, to revise the Rules of Procedures and/or the Statutes of the Commission.

In addition, it may be recalled that the 18th Session of the Commission (1989), considered the recommendations of the CCGP concerning the composition and procedures of the Executive Committee, particularly with regard to regional representation (ALINORM 89/33, paras. 13-17). The CCGP had concluded there was no need to change the Rules of Procedure, but indicated that its practices had evolved and that the Representatives were more frequently accompanied by advisors at the Executive Committee’s sessions. This was seen as a positive trend allowing more senior officials to take part in the CCEXEC’s work. The Commission concurred with this view and adopted the following understanding in respect of Rule III.1:

- (i) Except for the Chairman and the three Vice-Chairmen, the six further members of the Executive Committee elected by the Commission to represent the geographic locations are countries not individuals
- (ii) The delegate of a Member may be accompanied by not more than two advisors from the same geographic location
- (iii) Regional Coordinators shall be invited to attend meetings of the Executive Committee as observers
- (iv) Only members or, with the permission of the Chairman, observers, may take part in the discussions¹

The CCGP may therefore note that according to current working procedures, the Regional Representatives, who attend in their capacity of elected officers of the Commission, may be assisted by two advisors when attending CCEXEC. This is with the understanding that Members cannot be present as observers when they are already represented at the level of the Regional Representation. This practice allows countries, in consultation with the Regional Representative, to be present if matters of special interest to them are being discussed. The participation of advisors from one or two additional countries from each Region contributes to ensuring that the views of each Region as a whole are better represented, and this has proved to be a satisfactory arrangement to Member Nations so far. The modalities of participation applicable to the Regional Representative and the attendance of the Regional Coordinators as observers should therefore ensure that the interests of each Region are taken into account satisfactorily in the CCEXEC.

In this perspective, and as no requests have been received for attendance at CCEXEC from Members of the Commission as observers, the CCGP may wish to recommend that the current Rules of Procedure remain unchanged and that the current composition of the Executive Committee be retained, while confirming the interpretation made earlier by the Commission in this respect.

¹ ALINORM 89/40, paras. 183-185