

codex alimentarius commission



FOOD AND AGRICULTURE
ORGANIZATION
OF THE UNITED NATIONS

WORLD
HEALTH
ORGANIZATION



JOINT OFFICE: Viale delle Terme di Caracalla 00100 ROME Tel: 39 06 57051 www.codexalimentarius.net Email: codex@fao.org Facsimile: 39 06 5705 4593

Agenda Item 3a)

CX/GP 03/19/3

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

Nineteenth (Extraordinary) Session
Paris, France, 17 - 21 November 2003

PROPOSED AMENDMENTS TO THE RULES OF PROCEDURE, INCLUDING THE STRUCTURE AND FUNCTIONS OF THE EXECUTIVE COMMITTEE

I. BACKGROUND

1. The Codex Alimentarius Commission, at its 26th Session, Rome, 30 June – 7 July 2003, when considering the Joint FAO/WHO Evaluation of the Codex Alimentarius and other FAO and WHO Work on Food Standards, decided that the review of the Rules of Procedure of the Codex Alimentarius Commission and other Procedural Matters should be undertaken by the Codex Committee on General Principles, at special sessions and under a limited-time frame. In that connection, the Commission emphasized that the Committee would need clear instructions from the Commission.
2. The Commission, either directly in its report, or by reference to the documents on the basis of which it had considered the review of the Rules of Procedure and other Procedural Matters¹, as recommended by the Joint FAO/WHO Evaluation, identified proposals that need to be reflected in revised Rules of Procedure.
3. This document concentrates on proposals involving amendments to the Rules of Procedure, to the exclusion of those amendments requiring changes to other procedural documents contained in the Procedural Manual. In this connection, it may be of interest to mention that the distinction between matters that are to be dealt with through formal amendments to the Rules of Procedure and those that may be handled through other procedural documents may not always be easy to make. In any case, as a general rule, amendments to the Rules of Procedure which, together with the Statutes of the Commission are the two main documents defining the status and *modus operandi* of the Codex Alimentarius Commission, should be kept to a minimum. Accordingly, to the greatest extent possible consideration should be given to addressing relevant issues and proposals through amendments to procedural documents or the development of appropriate working methods. In addition, in view of the specific nature of the issues regarding a proposed amendment to Rule VII.5 of the Rules of Procedure, as well as the question of the status of observers in the Executive Committee, these matters will be handled separately².
4. The proposals set out in this document present essentially the substantive content of proposed amendments to the Rules of Procedure. In many, if not in all, cases, such proposed amendments will involve consequential changes to other provisions of the Rules of Procedure. However, such consequential amendments are not presented in this document, unless there is special reason, of a substantive nature, to

¹ ALINORM 03/26/11 + Addenda 1-6, ALINORM 03/25/5, paragraph 25 (Report of the 25th (extraordinary) session of the Codex Alimentarius Commission), ALINORM 03/4 (Report of the 52nd session of the Executive Committee), as well as a number of documents containing comments made by Members and international organizations.

² See documents CX/GP 03/19/3-Add. 1 and CX/GP 03/19/3-Add.2.

refer to them. Finally, in order to consider this document, it is important to refer, as required, to the report of the 26th Session of the Codex Alimentarius Commission, as well as to documents ALINORM 03/26/11 + Addenda 1-6.

II. ENLARGEMENT OF THE EXECUTIVE COMMITTEE

5. “The Commission decided that the Executive Committee should be enlarged by appointing the Regional Coordinators as Members”. However, “a number of countries questioned the effectiveness of an enlarged committee as a strategic management body and it was noted that the respective roles of the regional coordinators and the regional members may require clarification”³. In addition, the “Commission did not achieve a consensus on the proposal to limit participation in meetings of the Executive Committee to one delegate representing the Members”.

6. As a first proposal under this item, it is suggested to make provision for the enlargement of the Executive Committee, through the appointment of Coordinators as Members of the Committee. In making this proposal account is taken of the fact that, during the past few years, there has been a desire on the part of Members of the Commission that there should be an enlargement of the membership of the Executive Committee. The fact that the “Commission did not achieve a consensus on the proposal to limit participation in meetings of the Executive Committee to one delegate representing the Members”⁴ is also noted.

7. Subject to such views as the Committee on General Principles may wish to offer, it is suggested that the arrangements agreed upon by the Commission at its 18th Session in 1989 continue to apply subject however to the fact that regional coordinators would no longer be invited to attend meetings of the Executive Committee as observers. The arrangements agreed upon in 1989 regarding the composition of the Executive Committee, as revised to take into account the proposal under consideration, would be as follows:

- “(i) *Except for the Chairman and the three Vice-Chairmen, the (seven) 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) *Superseded;*]
- (iv) *Only members or, with the permission of the Chairman, observers, may take part in the discussions”.*

8. As explained elsewhere in this document, it is proposed that the provisions regarding Coordinators, currently set forth in Rule II of the Rules of Procedure, be set out in a separate Rule. The Committee on General Principles may wish to provide further guidance on the issue of the possible clarification of the roles of the regional coordinators and the regional members, as mentioned by a number of countries during 26th Session of the Commission. In doing so, the Committee may wish to recall that the functions of the Coordinators are described in the Rules of Procedure as they stand at present. If it were possible to clarify further the respective roles of the “regional members” and the “regional coordinators” it is suggested that this be done in a document other than the Rules of Procedure. In this connection, it should be recalled, again, that the present proposal aims primarily at enlarging the membership of the Executive Committee. In addition, any possible clarification of roles could also emerge from informal consultation among all the members of the Executive Committee of a particular region.

9. Taking into consideration the above, a revised Rule on the composition of the Executive Committee could, therefore, read as follows:

³ ALINORM 03/41, paragraph 158.

⁴ ALINORM 03/41, paragraph 158 b).

“The Executive Committee shall consist of the Chairperson and the Vice-Chairperson of the Commission, and the Coordinators appointed on the basis of Rule (...), together with seven further Members elected by the Commission at regular sessions from among the Members of the Commission, one each coming from the following geographic locations: Africa, Asia, Europe, Latin America and the Caribbean, Near East, North America, South-West Pacific; it being understood that not more than one delegate from any one country shall be a member of the Executive Committee. Members elected on a geographic basis shall hold office from the end of the session of the Commission at which they were elected until the end of the second succeeding regular session and shall be eligible for re-election, but after having served two consecutive terms shall be ineligible to hold such office for the next succeeding term”.

10. In order to take into consideration the particular situation of the North America region, which consists of two members, there might be a need to clarify the above provision with a footnote. A footnote would clarify that the requirement that not more than one delegate of any one country shall be a member of the Executive Committee, does not prevent a member from being represented on the Executive Committee if a delegate of the same Member is the Chairperson or the Vice-Chairperson.

III. FUNCTIONS OF THE EXECUTIVE COMMITTEE

11. A number of proposals were made by the Joint Evaluation, and endorsed by the Commission at its 26th Session, regarding a review of the functions of the Executive Committee. Thus, the Commission “*decided that the Executive Committee should work together with the Secretariat*” in respect of “*Strategic and Managerial Functions*” and “*Budgetary, Planning and Programming Functions*”. “*The need to consider the development of performance measures for both itself and the Executive Committee at a future session was noted*”. “*The Commission decided to retain the Executive Committee as a Strategic and Standards Management Body, on the basis of the support expressed by majority of countries. A few delegations preferred retaining it as a Strategic Management Body only, expressing a concern not to overburden the Executive Committee*”. The Commission also “*decided that the Rules of Procedure should be amended to remove the obsolete functions of the Executive Committee*”. Finally, still in connection with the functions of the Executive Committee, the Commission decided that it “*should have the flexibility to establish sub-committees from among its members. It was noted however that any proposed new body would be subject to analysis of costs and that there would only be a limited number. It was noted that a sub-committee could be established for programming, budget and planning*”⁵.

12. In line with the observation made in paragraph 4 of this document, notwithstanding their importance, not all of these observations need to be reflected in revised Rules of Procedure.

13. Subject to such views as the Committee on General Principles may wish to provide, the following substantive amendments, which build upon existing provisions of the Rules of Procedure, are being proposed to the Rule regarding the Executive Committee:

“The Executive Committee shall, between sessions of the Commission, act on behalf of the Commission as its executive organ. In particular, the Executive Committee may make proposals to the Commission regarding general orientation, strategic planning, and programming of the work of the Commission, study special problems and shall assist in the management of the Commission’s programme of standards development”.

14. It is also recommended to delete the provisions on obsolete functions of the Executive Committee, currently set out in the second sentence of Rule III.2.

15. In addition, subject to such views as the Committee on General Principles may wish to submit, the following clause could be added to the Rules of Procedure:

“The Executive Committee shall consider specific matters referred to it by the Directors-General of FAO and WHO as well as the estimate of expenditure for the Commission’s

⁵ ALINORM 03/41, paragraphs 155 to 159.

proposed programme of work as described in Rule (current Rule XI.1 of the Rules of Procedure)”.

16. Again, subject to such guidance as the Committee on General Principles may wish to provide, the following clause could be added to the Rules of Procedure:

“The Executive Committee may establish such sub-committees from among its Members as it may deem necessary to exercise its functions. The Executive Committee shall appoint one of the Vice-Chairpersons of the Commission to serve as chairpersons of any such sub-committee”⁶.

IV. COORDINATORS

17. Regional coordinators are a specific feature of the Codex Alimentarius Commission which evolved over time. Initially, when they were instituted, they were appointed *ad persona* and their functions were seen as the holding of an individual office. At that time, the relevant Rule of the Rules of the Procedure made provision for the appointment of “*a Coordinator from among the delegates of the Members of the Commission for any of the geographic locations (...)*”. In 1999, at the 23rd Session of the Commission, the relevant provisions were amended to read as follows : “*The Commission may appoint a Coordinator from among the Members of the Commission (...)*”. This confirmed an evolution whereby, although the Regional Coordinators continued to be generally seen as individuals, their functions became progressively those of a Member performing coordinating functions for Members of particular regions. Whenever the individuals in question were unable to perform their functions, the Governments of their countries appointed replacements of the same countries. This became a very well-established practice.

18. Accordingly, the functions of the Coordinators should no longer be seen in terms of the holding of office of an individual nature. In particular, the Rules regarding their appointment and functions should be removed from the Rule concerning the Officers of the Commission and, instead, should be organized under a specific Rule dealing only with Coordinators.

V. BUDGET AND EXPENSES (FUNDING THE PARTICIPATION OF MEMBERS)

19. “*The Commission decided that (the) budget of the Codex Alimentarius Commission (not the FAO/WHO Trust Fund) should make provision for the funding of the participation of members of the Executive Committee at its meetings. A number of countries considered that this should be limited to members from developing countries*”⁷.

20. Taking into account the above, and subject to such changes as the Committee on General Principles may wish to make in consideration of the fact that a number of countries took the view that funding should be limited to Members from developing countries, the following addition could be made to the Rule of the Rules of Procedure on budget and expenses:

“The estimate of expenditure shall make provision for the travel expenses (including a daily subsistence allowance) of members of the Executive Committee for the purpose of participating in meetings of the Executive Committee”⁸.

⁶ It is felt that there is no need to be more specific. The broad wording of this provision would accommodate the various proposals made by the Joint Evaluation regarding subsidiary committees of the Executive Committee.

⁷ ALINORM 03/41, paragraph 160.

⁸ In the case of FAO, this proposal falls under the scope of Financial Regulation 13.1 whereby “*before taking any decision involving expenditures, the Council or the Conference shall have before it a report from the Director-General on the administrative and financial implications of the proposals*”. As the proposal will have an impact upon the budget of the Joint FAO/WHO Food Standards Programme which, in turn, is borne by each Organization, at the time of issuance of this document, its financial implications are still under review.

21. *“The Commission decided to ask the Committee on General Principles to submit a proposal to the Commission by 2004 to revise Rule XI.4 to remove the possible impediments to the participation of recipients of funding from the FAO/WHO Trust Fund for the Participation of Developing Countries in Codex Standard Setting Procedures in the Work of the Codex Alimentarius Commission. It also requested that the revised Rule should take into account the Commission’s decision concerning funding of participation of Members of the Executive Committee from the Codex budget”⁹.*

22. At present, the above mentioned Rule provides that *“expenses incurred in connection with attendance at sessions of the Commission and its subsidiary bodies and travel of delegations of the Members of the Commission and of observers referred to in Rule VII, shall be borne by the governments or organizations concerned. Should experts be invited by the Directors-General of FAO or WHO to attend sessions of the Commission and its subsidiary bodies in their individual capacity, their expenses shall be borne out of the regular budgetary funds available for the work of the Commission”*.

23. Taking into account both the fact that provision is being made for the funding of the participation of Members of the Executive Committee and the fact that the impediment to financing of participants from developing countries with resources from the above-mentioned Trust Fund should be removed, it is suggested that a new Rule read as follows:

“Except as provided for in Rule ____ (the proposed Rule set out in paragraph 20 of this document), the estimate of expenditure shall make no provision for expenses, including travel, incurred by delegations of the Members of the Commission or of observers referred to in Rule ____, in connection with their attendance at sessions of the Commission or its subsidiary bodies. Should experts be invited by the Directors-General of FAO or WHO to attend sessions of the Commission and its subsidiary bodies in their individual capacity, their expenses shall be borne out of the regular budgetary funds available for the work of the Commission”.

VII. POSSIBLE ACTION BY THE COMMITTEE

24. The Committee is invited to review the above proposed amendments to the Rules of Procedure and provide such comments and observations thereon as appropriate. The Committee is invited to concentrate on the content of the proposed amendments, on the understanding that the Secretariat will deal with editorial and consequential proposed amendments to the Rules of Procedure.

⁹ ALINORM 03/41, paragraph 171.