

# codex alimentarius commission



FOOD AND AGRICULTURE  
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Agenda Item 5 b)

CX/GP 06/23/5 Part II

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

Twenty-third Session  
Paris, France, 10 – 14 April 2006

### RESPECTIVE ROLES OF THE REGIONAL COORDINATORS AND THE MEMBERS OF THE EXECUTIVE COMMITTEE ELECTED ON A GEOGRAPHIC BASIS

#### I. INTRODUCTION

1. At its 26<sup>th</sup> Session, the Codex Alimentarius Commission decided, on the basis of recommendations of the Report of the Joint FAO/WHO Evaluation of the Codex Alimentarius and other FAO and WHO Work on Food Standards, that the Executive Committee should be enlarged and that Coordinators should become full members of the Executive Committee<sup>1</sup> and requested the Codex Committee on General Principles (CCGP) to prepare amendments to the Rules of Procedure to that effect. These specific amendments were prepared in parallel to a set of other amendments to the Rules of Procedure which had been recommended by, or as a result of, the review of the Evaluation Report and which were eventually adopted by the Commission at its 28<sup>th</sup> Session, in July 2005.<sup>2</sup>

2. In the course of the process of review of the above proposed amendments, the CCGP, at its 19<sup>th</sup> (extraordinary) Session held in November 2003, noted that a request for discussion of an item on “*clarification of the roles of Members of the Executive Committee elected on a geographic basis and those of Coordinators*” had been made, but there had been no time to discuss it. At its 20<sup>th</sup> Session, in May 2004, the CCGP considered the matter in some detail. At that time, the CCGP endorsed the proposal of the Codex Secretariat to send a Circular Letter, with the concurrence of the Commission, to the Governments requesting their views as to the way in which the Coordinators and the Member(s) elected by the Commission on a geographic basis should represent the interest of the Region within the Executive Committee. The comments received would be discussed at the forthcoming session of Coordinating Committees and the views of these Committees would then be presented to the 28<sup>th</sup> Session of the Codex Commission for further consideration. The delegation of Chile stressed the importance for the Regional Coordinators to be Members of the Executive

<sup>1</sup> ALINORM 03/41 paragraph 158; the Commission also noted that the respective roles of the regional coordinators and the regional members (*sic*) may require clarification.

<sup>2</sup> ALINORM 05/28/41 paragraph 20

Committee to ensure that geographically large regions with a large number of members have an adequate representation. For this purpose, the Regional Coordinator and “*Regional Representative*” should come from different sub-regions. In practice, the members elected on a geographic basis could, for instance, act as Vice-Chair in the Regional Committee. The delegation of the United States expressed its opinion that the Coordinator should be considered as the principal representative of the Region and should, thus, have the benefit of being accompanied by two advisers, while the established practice that the Members of the Executive Committee elected on a geographic basis could be accompanied by advisers should be reviewed. This delegation hoped that the points of discussion contained in the Circular Letter would be construed in such a way as to allow for a broad reflection by Governments on the new composition of the Executive Committee.<sup>3</sup>

## II. RELEVANT LEGAL PROVISIONS AND BACKGROUND TO THE PRESENT SITUATION

### (a) Provisions regarding the composition of the Executive Committee and the respective functions of the members elected on a geographic basis and the Coordinators

3. The current provisions regarding the composition of the Executive Committee are set out in Rule V, paragraph 1, of the Rules of Procedure. This Rule was amended by the Commission at its 28<sup>th</sup> Session, in 2005, and reads as follows:

*“The Executive Committee shall consist of the Chairperson and the Vice-Chairpersons of the Commission, and the Coordinators appointed on the basis of Rule IV 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 and the South-West Pacific. Not more than one delegate from any one country shall be a member of the Executive Committee (...).”*

4. The Rules of Procedure of the Commission do not specify the functions of the Members elected on a geographic basis, which were originally, together with the Chairperson and the Vice-Chairpersons, the members of the Executive Committee.

5. As to the Coordinators, Rule IV, paragraph 1 provides that the Commission may appoint a Coordinator from among the Members of the Commission for any of the geographic locations enumerated in Rule V, paragraph 1. Rule IV, paragraph 3, of the Rules of Procedure, provides that the functions of the Coordinators shall be:

- “(i) to assist and coordinate the work of the Codex Committees set up under Rule XI.1(b)(i) in their region or group of countries in the preparation of draft standards, guidelines and other recommendations for submission to the Commission;*
- (ii) to assist the Executive Committee and the Commission, as required, by advising them of the views of countries and recognized regional intergovernmental and non-government organizations in their respective regions on matters under discussion or of interest”.*

### (b) Background to current provisions

6. Both the provisions regarding the composition of the Executive Committee and the respective functions of its members, and regional coordinators, who used to participate in its

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<sup>3</sup> ALINORM 04/27/33A paragraphs 121-124

proceedings as observers, were considered by the Commission and the CCGP on a number of past occasions in some detail.

7. Thus, in 1989, at its 18<sup>th</sup> Session, the Commission examined the question of the composition of the Executive Committee and took a decision which was to remain in force, in all its components, until to date<sup>4</sup>. On that occasion, the Commission recalled that it had, at its previous session, requested the CCGP to examine the composition and procedures of the Executive Committee, particularly with regard to regional representation. The CCGP, in studying the question, had concluded that there was no need to change the Rules of Procedure, but indicated that the practices of the Executive Committee had evolved, especially over recent years, such that its members which were “*regional representatives of geographical regions*” 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 Executive Committee’s work. The Commission concurred with this point of view and adopted the following understanding in respect of Rule III<sup>5</sup>, paragraph 1, recommended to it by the Committee:

“(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 discussions.*

The Commission expressed its appreciation for the advice of the CCGP and agreed that the matter had been effectively resolved”<sup>6</sup>.

8. The matter continued, however, to be under discussion, or at least continued to be raised occasionally<sup>7</sup>. In 1990, an FAO/WHO Conference on Food Standards, Chemicals in Food and Food Trade made a large number of recommendations on various subject matters of interest to the Codex Commission, including a request that the role of the “*Regional Representative*” within the Executive Committee be clarified. When examining the recommendations of the Conference, on the basis of a review by the Executive Committee, the Commission was of the view that this was not considered of immediate importance and that the matter should be reviewed in more detail by the Executive Committee and the CCGP<sup>8</sup>.

9. In 1992, a discussion took place within the CCGP, at its 10<sup>th</sup> Session, as to the desirability of amending the functions of the Members elected on a geographic basis. An amendment proposed by the secretariat after consultation with Members was considered at the time whereby:

“*Members of the Executive elected on a geographic basis shall be responsible for determining the opinions of the countries of their respective regions on matters under discussion by the Executive Committee, and shall make these views known to the Executive Committee*”.

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<sup>4</sup> Except for the fact that the Coordinators became members of the Executive Committee.

<sup>5</sup> Current Rule IV

<sup>6</sup> ALINORM 89/40, paragraphs 182-184.

<sup>7</sup> This may be linked to the fact that with the establishment of the Coordinating Committee for North America and the South-west Pacific in 1989, the Coordinating Committees covered all geographic locations for the first time; previously there were countries that did not belong to any Coordinating Committee.

<sup>8</sup> ALINORM 91/40, paragraph 75.

10. However, the CCGP did not agree to this proposal. Given the importance and the manner in which the Committee articulated its views on the matter at the time, it is worth presenting an extract of its reports *in extenso*:

“7. The Committee noted the proposal of the Secretariat contained in Annex I of document CX/GP 92/3 to amend Rule III so as to assign certain specific responsibilities to Members of the Executive Committee elected on a geographical basis. The Committee considered that a clear distinction should be drawn between the status of the Members of the Executive Committee elected on a geographical basis and the status of the Regional Coordinators. The Committee noted that the concept of electing Members on a geographical basis was intended to ensure the widest possible equitable representation of the Member States of FAO and WHO on the Executive Committee. Such Members were elected on a regional basis and they had firstly the main responsibility of being members of the Executive Committee. They were not therefore expected to present the views of the countries of that region *per se* but rather to ensure that the general concerns and interests of the region were reflected in the Executive Committee decisions. On the other hand, the Committee was of the view that it would be more appropriate to enhance the roles of the Regional Coordinators at Sessions of the Executive Committee because they were better placed to be able to ascertain the views of the countries of their region. Consequently, they should be able to play a more active role in their status as observers to the Executive Committee

8. The Committee therefore agreed that the proposed amendment should be redrafted so as to assign the responsibilities of reporting on the views of the countries of the respective regions to the Regional Coordinators, thus assisting the Executive Committee in its deliberations. (...)

9. The Committee did not accept the views of some delegations that the roles of Regional Coordinators and Members of the Executive Committee elected on a geographical basis should be combined; nor did it accept that Members of the Executive Committee elected on a geographical basis should be elected *ad personam*”<sup>9</sup>.

11. The CCGP recommended, at the time, to the Commission that the functions of the Coordinators, instead of those of the members elected on a geographic basis, be set out in the Rules of Procedure. The proposed amendments, recommended at the time, were adopted by the Commission in 1995<sup>10</sup> and are set out in Rule IV, paragraph 3 of the Rules of Procedure (Cf. above).

12. Subsequently, in 1999, at its 23<sup>rd</sup> Session, the Commission, on the basis of a recommendation which had been made by the 12<sup>th</sup> Session of the CCGP in 1996<sup>11</sup>, amended the provisions of the Rules of Procedure whereby the Coordinators, which had been until then “*delegates*” (i.e. individuals), should henceforth be “*Members*”. On that occasion, the Commission also added to the Rules of Procedure [i.e. Rule IV, paragraph 3 (d)] a provision reflecting the understanding reached by the Commission in 1989 whereby the Coordinators would participate as observers in the sessions of the Executive Committee in order to carry out their functions. Provision was also made for a member elected on a geographic basis from the Near East region to be included in the Executive Committee.

13. As mentioned above, and is well known to the CCGP, the Commission, at its 28<sup>th</sup> Session, adopted a set of amendments to the Rules of Procedure, including those whereby the Coordinators should become full members of the Executive Committee.

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<sup>9</sup> ALINORM 93/33, paragraphs 7-9.

<sup>10</sup> Because of lack of quorum at the session of 1993. ALINORM 95/37, paragraphs 33, 34 and appendix 3 thereto.

<sup>11</sup> ALINORM 97/33, paragraph 22.

### III. VIEWS EXPRESSED RECENTLY ON THE MATTER WITHIN THE FAO/WHO COORDINATING COMMITTEES AND THE COMMISSION

14. In 2004, the Secretariat sent a Circular Letter to Members inviting Government's comments on a number of issues related broadly to the Regional Coordinating Committees, including the respective role of the Regional Coordinator, as Chairperson of the Regional Coordinating Committees, as compared to those of the Member(s) of the Executive Committee elected on a geographic basis, within the framework of the Executive Committee. The comments were intended to be discussed within the Coordinating Committees and, subsequently, within the Codex Commission. The Regional Coordinating Committees expressed their views on the matter, but the positions remain fairly differentiated, as it appears from the following developments.

15. The Coordinating Committee for Africa, at its 16<sup>th</sup> Session, did not examine the matter in great detail. It noted the view of some delegations that while the coordinator should maintain its current functions as *ex officio* Chair of the Coordinating Committee, the role of the Members of the Executive Committee elected on a geographic basis was ambiguous and needed to be clarified<sup>12</sup>.

16. The Coordinating Committee for the Near East, at its 3<sup>rd</sup> Session, noted various issues regarding the functioning of the regional committees. Several delegations pointed out that the Regional Coordinators and the Members elected on a geographic basis should continue to serve in the Executive Committee<sup>13</sup>.

17. The Coordinating Committee for Latin America and the Caribbean, at its 14<sup>th</sup> Session, reviewed the Regional Coordinating Committees in great detail. The relevant extract of the report of this Committee reads as follows:

*“64. Several delegations expressed the view that the lack of definition of the role of the members elected on a geographical basis created confusion and did not facilitate coordination at the regional level.*

*65. The delegation of Chile expressed the view that the Coordinator should be a member of the CCEXEC, that the Member should be Vice-Chair of the Coordinating Committee and originate from another sub-region, and their mandates should have the same duration.*

*66. The delegation of Mexico informed the Committee of its efforts to ensure the representation of the Region in the CCEXEC and noted the difficulties resulting from time constraints in developing a regional position on the basis of comments received from the countries in the Region and invited the Members of the Committee to express their views in a proactive manner. In this connection, the Delegation acting as Regional Representative on the Executive Committee would identify items of regional interest and would have these circulated so that they could benefit from the comments of the other Members of the Committee.*

*67. The delegation of Uruguay highlighted the importance of ensuring continuity in the work carried out in the Region, especially when a new Member or Coordinator was elected, and noted that the duration of the mandates should be considered in that perspective. Several delegations stressed the need for close communication and interaction between Member Countries, the Coordinator and the Member elected on a geographical basis (...)<sup>14</sup>.*

18. The Coordinating Committee for Asia, at its 14<sup>th</sup> Session, in regard to the roles of Regional Coordinator and the Member of the Executive Committee elected on a geographic basis, noted that the

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<sup>12</sup> ALINORM 05/28/28, paragraph 23.

<sup>13</sup> ALINORM 05/28/40, paragraph 10.

<sup>14</sup> ALINORM 05/28/36, paragraphs 64-67.

*“(…) delegation of Malaysia suggested that these two roles could be combined as proposed in document ALINORM 03/26/11 Add. 1<sup>15</sup>. The delegation proposed that the Coordinator and the Member should meet each other before each session of the Executive Committee to discuss the issues of interest to the Region. It further proposed that the election process of the Members of the Executive Committee be made clear and transparent and that the term of office be the same for both the Coordinator and the Member” (…)* *“The proposals of Malaysia were supported by India and Thailand”<sup>16</sup>.*

19. The Coordinating Committee for Europe, at its 24<sup>th</sup> Session, considered an item entitled “review of the Regional Coordinating Committees” and “agreed to reply as follows to the questions from the Commission:

- *The respective roles of the Regional Coordinator and the Member of the Executive Committee elected on a geographic basis would require further consideration but no position could be taken at this stage; and*

- *A main objective of the Committee should be to give the Regional Coordinator and the Member elected on a geographical basis information, support and a basis for their participation in the Executive Committee”<sup>17</sup>.*

20. The Coordinating Committee for North America and the South West Pacific, considered the matter at its 8<sup>th</sup> Session. The following is the relevant extract of the report:

*“85. The Delegation of the United States of America recognized that this matter was extremely important for the region in view of the enlargement of the Executive Committee to include Regional Coordinators and in regard to the new responsibilities of the Executive Committee. The Delegate pointed out that, once the enlargement of the Executive Committee would become effective, there would be a definite need to clarify the role of the Regional Coordinator and the role of the member elected on a geographic basis. In this regard, it was noted that the Codex Rules of Procedure were largely silent on the role and responsibilities of “members elected on a geographic basis (Rule IV.1). The role of these members should not be to advocate as their primary concern their country specific interests, rather they should have the overall successful operation of Codex as their primary goal.*

*86. The Delegate mentioned that the Regional Coordinators should have a responsibility to represent the views of Countries of the region and should solicit their views on issues and attempt to arrive at a regional consensus position before coming to the Executive Committee. To fully represent the views of the region, the Regional Coordinators should be permitted to be accompanied by advisors (limited to two) from other countries in the region.*

*87. The Delegate said that with Regional Coordinators as members of the Executive Committee, there appeared to be less reason for Members elected on a geographic basis to be accompanied by advisors.*

*88. The Coordinating Committee generally supported the enlargement of the Executive Committee to include Regional Coordinators. It agreed that this was a very important issue for the region and there was a need to clarify the respective role and responsibilities of Regional Coordinators and of “members elected on a geographic basis” especially in view of*

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<sup>15</sup> ALINORM 03/26/11 Add.1 [Joint FAO/WHO Evaluation of the Codex Alimentarius and other FAO and WHO Work on Food Standards – Addendum 1: Review of the Codex Committee Structure and Mandates of Codex Committees and Task Forces, including Regional Committees] indicates that the Evaluation report recommended that in reviewing the roles of Regional Coordinating Committees the following should be taken into account ... “combining the roles of regional representative and regional coordinator”. A footnote to this paragraph reads as follows: “See, however, Addendum 2 on the Functions of the Executive Committee, where it is recommended that the two functions remain separate, but that Regional Coordinators become members of the Executive Committee (ALINORM 03/26/11 Add.2). This position seems to have been that adopted by the Commission, at least insofar as the two did become members of the Executive Committee.

<sup>16</sup> ALINORM 05/28/15, paragraphs 11 and 12.

<sup>17</sup> ALINORM 05/28/19, paragraph 14.

*the expansion and changed functions of the Executive Committee as a Strategic and Standards Management Body. However, many Delegations were of the opinion that more time and reflection were needed to develop a clear position on this matter and, for this purpose, propose to develop a coordinated mechanism to share views. The peculiarity of the North America and South West Pacific Regions within Codex with one Regional Coordinator and two members elected on a geographic basis, i.e. one for North America and one for the South West Pacific, was also pointed out as well as the different level of development of the Countries of the region.*

89. *The Coordinating Committee, in concluding the discussion on this matter, reiterated its general support to the enlargement of the Executive Committee to include Regional Coordinators as full Members. It was further agreed that, in view of the changed composition and new function of the Executive Committee, there was a need to clarify the respective roles of the Regional Coordinators and the members elected on a geographic basis and to refer this matter to the Codex Committee on General Principles at its 21<sup>st</sup> Session.*

91. *In order to facilitate the development of national positions on this issue, the Coordinating Committee agreed that the Members would start sharing their views on this issue by working through electronic means and that the Delegation of the United States of America would prepare an initial document to facilitate the discussion”<sup>18</sup>.*

21. At its 28<sup>th</sup> Session in July 2005, the Commission recognized the need for clarification of the respective roles of the Coordinator and the Member elected on a geographical basis, especially in view of the new status of the Coordinator as Member of the Executive Committee. The Commission therefore agreed to recommend that the Committee on General Principles consider this issue at its next session and develop proposals for consideration by the 29<sup>th</sup> Session of the Commission.<sup>19</sup>

#### **IV. RELEVANT CONSIDERATIONS FOR REVIEW BY THE CCGP**

22. In order for the Committee to provide the guidance that has been requested, it may useful, when considering this matter, to keep in mind the above developments regarding the relevant legal provisions on the membership and functions of the members of the Executive Committee, including the background to such provisions, as well as the views presented recently within various subsidiary bodies of the Commission, with particular reference to the CCGP and the Regional Coordinating Committees.

23. The definition of what should be the respective functions of the members elected on a geographic basis, on the one hand, and the Coordinators, on the other hand, is a matter for the CCGP and ultimately for the Commission to decide, from the view point of furthering the objectives of the Commission through its effective operation. In fact, this exercise is not primarily of a legal nature. There are, however, two series of legal considerations which the Committee may wish to keep in mind, regarding the functions of the member elected on a geographic basis and that both the Coordinators and the members elected on a geographic basis are Codex members, not individuals elected *ad personam*. These legal considerations are presented below for the benefit of the CCGP.

(a) **Legal considerations pertaining to the functions of the member elected on a geographic basis**

24. For reasons which may not be entirely known and might be associated with a particular practice, for very many years references have been made within the Codex Alimentarius

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<sup>18</sup> ALINORM 05/28/32, paragraphs 85-90.

<sup>19</sup> ALINORM 05/28/41 paragraph 134

Commission to the Regional Coordinators and the “*Regional Representatives*”, as the members elected on a geographic basis have often been constantly referred to. It is only recently, that this has been partly corrected and that the reference to Members elected on a geographic basis (as per Rule V, paragraph 1) is being used in an increasing manner, thus replacing the designation “*Regional Representative*”. This designation, which has no legal basis in the Rules of Procedure of the Commission, is inappropriate, if not erroneous.

25. The designation of the members of the Executive Committee elected on a geographic basis as “*Regional Representatives*” may have contributed to a misconception as to their role within the Executive Committee, or constituted otherwise an expression of a prevailing misconception as to their functions. Indeed, the CCGP, at its 10<sup>th</sup> Session<sup>20</sup>, perceived their role within the Executive Committee not primarily as representing within the Executive Committee the views of the countries of their region, but as having the main responsibility of being members of the Committee and thus acting in the overall interest of the Commission. At most, as pointed out by the CCGP, they would have rather to ensure that the general concerns and interest of the region were reflected in the Executive Committee’s decisions<sup>21</sup>.

26. This approach is fully consistent with the legal position of principle generally accepted throughout the United Nations system regarding the functions of members of committees of restricted membership. Indeed, if the election of members of such committees must take into account a particular distribution of seats on a geographic basis, once elected, members are expected to act in the interest of the body as a whole, in light of its statutory objectives. The members are not expected primarily to defend or represent the views of their region. It is obviously not denied that the matter can be approached from a political angle. However, any such approach does not change the legal position<sup>22</sup>.

27. Therefore, it would seem desirable that, in the event that there should be any need to clarify, in any manner, the functions of the member elected on a geographic basis, any such clarification should reflect the above considerations. However, insofar as the above is the position generally followed in all similar bodies of the parent organizations, and indeed, in all organizations of the system, there does not seem to be a compelling need to clarify in the Rules of Procedure the functions which the members elected on a geographic basis are expected to carry out once elected. This is obviously subject to any views which the CCGP may hold on the matter.

28. The status of the Coordinators is different, in view of the functions which they exercise in respect of the Regional Coordinating Committees and the provisions of Rule IV, paragraph 3 of the Rules of Procedure setting out their functions and responsibilities.

29. In this regard it may be worth noting that that the Rules of Procedure of the Commission are silent as regards the function of the Coordinator as the *ex officio* chairing country of the Coordinating Committee, except for a general provision in Rule XI, paragraph 10. Guidance to this effect in the Procedural Manual is found only in the “Membership” section that precedes the terms of reference of the FAO/WHO Coordinating Committee for Europe. This provision, which appears to be based on the former *ad personam* status of the Coordinator, may require amendment.

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<sup>20</sup> Cf. paragraph 10 of this document.

<sup>21</sup> ALINORM 93/33, paragraph 7.

<sup>22</sup> This reflects principles accepted in constitutional law of a number of countries, where a member of Parliament is elected by his constituency but, once elected, is expected to represent national interests. The constitutions of a number of countries go as far as precluding the so-called imperative mandate (cf. Article 27 of the Constitution of the French Republic). Similarly, in countries where the President is elected by direct universal vote, the President, once elected, is no longer the President of the majority that elected him, but is expected to represent the interests of the whole national constituency.



(b) **The Coordinators and the members elected on a geographic basis are Codex Members and not individuals elected *ad personam***

30. As can be seen from some of the developments regarding past consideration of this matter by the various subsidiary committees of the Codex Alimentarius Commission, various references were made to the fact that there might be no longer justification that the members of the Executive Committee elected on a geographic basis be accompanied by advisers. Instead, it was proposed that the Coordinators should be accompanied by advisers in order to be able to present adequately the views and concerns of their region. This would involve changes to the understanding reached by the Commission at its 18<sup>th</sup> Session of 1989 (Cf. above).

31. There has been little follow-up discussion as to the above proposal and, obviously, any decisions on the matter are entirely issues for the Committee and ultimately the Commission.

32. However, in examining this question it is useful to examine the status of the various members of the Executive Committee in the light of a distinction that is generally made in respect of bodies of the parent organizations concerning the issue of whether the members of the Committee are delegations (i.e. Members) or individuals.

33. Thus, the Chairperson and the three Vice-Chairpersons of the Commission are individuals, designated *ad personam*<sup>23</sup>. A number of consequences flow from this status. One of these consequences is that if for some reason the Chairperson is not able to preside a particular meeting, the Member of which he is a national may not appoint a replacement. The functions of the Chairperson are to be exercised by a Vice-Chairperson, as stated in Rule III, paragraph 2 of the Rules of Procedure. The members elected on a geographic basis are delegations (i.e. Codex Members) as recalled by the CCGP at the above mentioned session of 1992. At that time, the CCGP did not favour a proposal whereby the Members would be elected *ad personam*. For a very considerable period of time, the Coordinators were appointed *ad personam*. However, in 1999, at its 23<sup>rd</sup> Session, the Commission decided that the Coordinators who, until then were delegates (i.e. individuals) should become Members. This status of the Coordinators is reflected in the detailed annex to a document presented earlier to the CCGP at its 23<sup>rd</sup> Session<sup>24</sup>.

34. It flows from the above that in bodies consisting of Members or delegations, the composition of the actual delegation is not, in normal circumstances, limited in number. Insofar as the member is a collective entity, as opposed to an individual appointed *ad personam*, there is some justification for its delegation to consist of as many individuals as the member deems appropriate. From a legal point of view, this consideration of principle applies both to the Members elected on a geographic basis and to the Coordinators.

35. This reflects a position generally taken in respect of the composition of delegations of intergovernmental bodies. However, this position, generally followed, does not mean that special arrangements regarding the composition of delegations in bodies of restricted membership may not be adopted. It is open to the parent body to make such organizational arrangements as may appear convenient. In this connection, it may be of interest to mention that it is not unusual that the composition of delegations to bodies of restricted membership dealing with the internal working of a main body – as opposed to the composition of delegations to the main body – may be subject to

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<sup>23</sup> Under Rule III, paragraph 1 of the Rules of Procedure, no delegate may be elected to this position without the concurrence of the head of his delegation. In addition, the Chairperson and the Vice-Chairpersons may remain in office only with the continuing endorsement of the respective Member of the Commission of which they were a delegate at the time of election.

<sup>24</sup> CX/GP 05/22/9

particular arrangements made in light of the objectives or functional exigencies of the committee of restricted membership. In practice, in so far as the Executive Committee of the Commission is concerned, it has been understood that both the Member elected on a geographic basis and the Coordinator are represented by one representative, with the former being able to be accompanied by up to two advisors, in accordance with the decision of the 18<sup>th</sup> Session of the Commission (cf. above)<sup>25</sup>.

36. In the particular case at hand, nothing would prevent the Committee from making such recommendations incidental to the clarification of the functions of the members of the Executive Committee, as it may deem appropriate, which would deal with the composition of delegations and the Commission would be free to adopt any such recommendations<sup>26</sup>. Indeed, a similar clarification was adopted by the Commission at its 18<sup>th</sup> Session in 1989, in light of the Rules of Procedure which were at the time in operation.

37. In conclusion, any clarification of the respective functions of the Coordinators and the members elected on a geographic basis, as well as any related determination as to the composition of delegations to the Executive Committee, are matters for review by CCGP and ultimately the Commission, in light of the above two series of observations of a legal nature, as well as any other pertinent consideration.

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

38. The CCGP is invited to review this document and offer such guidance on the respective functions of the Coordinators and the members elected on a geographic basis in the context of the Executive Committee, including on any related matter such as the composition of delegations to the Executive Committee, as appropriate. In particular, considerations could be given to how to address the issues raised in paragraphs 29 and 36.

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<sup>25</sup> This is also consistent with established practice in intergovernmental bodies where although delegations may consist of several individuals only the representative or the head of delegation intervenes in debates.

<sup>26</sup> It is noted that the matter appears to be linked to the broader issue of the composition of the Executive Committee which was under discussion in the past.