

# CODEX ALIMENTARIUS COMMISSION



Food and Agriculture  
Organization of the  
United Nations



World Health  
Organization

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Viale delle Terme di Caracalla, 00153 Rome, Italy - Tel: (+39) 06 57051 - E-mail: [codex@fao.org](mailto:codex@fao.org) - [www.codexalimentarius.org](http://www.codexalimentarius.org)

**Agenda Item 13**

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## JOINT FAO/WHO FOOD STANDARDS PROGRAMME

### CODEX ALIMENTARIUS COMMISSION

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### POTENTIAL WEBCASTING OF THE EXECUTIVE COMMITTEE OF THE CODEX ALIMENTARIUS COMMISSION

*(Prepared by the Legal Office of FAO in consultation with the Codex Secretariat)*

#### Introduction

1. The issue of webcasting sessions of the Executive Committee of the Codex Alimentarius Commission (CCEXEC) has been the subject of discussions over the past years.
2. Recently, at CCEXEC80 in November 2021, the Member for Europe requested that CCEXEC sessions be webcast on the basis that this would enhance the “*transparency of the work of the Committee, which is acting on behalf of CAC between sessions*” and that “*sessions of CAC were already being webcast*”<sup>1</sup>.
3. Some Members supported the views of the Member for Europe, stating that webcasting of CCEXEC sessions “*would facilitate transparency and better understanding of CCEXEC recommendations; help Regional Coordinators in their tasks of engaging Members in their region; and that webcasting of CCEXEC to Members only on a trial basis could be a feasible next step*”<sup>2</sup>. Other Members affirmed the restricted membership of CCEXEC and expressed concerns that “[o]pening up the proceedings to many observers might lead Members to come under pressure from different groups” and that the “*Regional Coordinators in their role already ensured input from and feedback to the wider Codex Membership*”<sup>3</sup>.
4. In this context, the Legal Representative of FAO, speaking on behalf of the Legal Offices of FAO and WHO, stated that: “*CCEXEC is a committee of restrictive membership as outlined in Rule V of the Codex Rules of Procedure and that unlike for the Commission, the rules do not provide that CCEXEC meetings are public*”<sup>4</sup>. The Legal Representative noted that in the absence of any specific rule in the Codex Procedural Manual, the FAO General Rules of the Organization (GROs) apply and referred, in this respect, to the General Committee, which acts as the bureau of the FAO Conference and is held in private, unless otherwise determined by the Conference<sup>5</sup>. In sum, the preliminary views of the Legal Representative were that “*due to the bureau-like nature of CCEXEC, the sessions of the Committee should be held in private, unless the Codex Alimentarius Commission decided to authorize CCEXEC’s meetings to be webcast on an ad hoc basis*”<sup>6</sup>.
5. At the 46th session of the Codex Alimentarius Commission (CAC46) in November 2023, recalling the legal advice provided at CCEXEC80, the Coordinator for Europe noted that “*CCEXEC had in the past agreed to public audio recordings of its sessions*” and suggested that webcasting of CCEXEC “*be started on a pilot basis in 2024*” to “*promote confidence in the integrity of meeting practices and the conduct of CCEXEC, and to allow potential future CCEXEC Members to learn about CCEXEC’s ways of working*”<sup>7</sup>.

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<sup>1</sup> REP21/EXEC1, par. 64.

<sup>2</sup> REP21/EXEC1, par. 66.

<sup>3</sup> REP21/EXEC1, par. 67.

<sup>4</sup> REP21/EXEC1, par. 68.

<sup>5</sup> Rule X(1) of the GROs refers.

<sup>6</sup> REP21/EXEC1, paras. 69 and 70.

<sup>7</sup> REP23/CAC, par. 179.

6. While some Members supported the webcasting of CCEXEC to “*improve transparency and provide an opportunity for delegates participating in CAC to better prepare for the meeting*”, other Members considered that “*more information was needed, including on how similar committees operated in FAO*”<sup>8</sup>. Thus, CAC46 noted “*the interest in webcasting of CCEXEC and requested the Codex Secretariat to further explore this issue considering the existing practices in other similar FAO bodies, and to present a paper at CAC47 (2024)*”.
7. In this context, the FAO Legal Office, in consultation with the Codex Secretariat, have prepared this document, which sets out an outline of the relevant rules and practices of FAO Governing and Statutory Bodies, as well as other considerations that may assist the Membership’s discussions on the matter.

### Relevant rules and practices<sup>9</sup>

#### (i) **The composition, functions and meetings of CCEXEC**

8. The Executive Committee is established pursuant to Article 6 of the Statutes of the Codex Alimentarius Commission (“Statutes”), which specifically provides that its membership should ensure appropriate geographical representation of the Codex Membership and that it shall act as the executive organ of the Codex Alimentarius Commission between sessions of the Commission.
9. In the same vein, Rule V (1) details the composition of CCEXEC, stating that it shall consist of the Chairperson and the Vice-Chairpersons of the Commission, the Coordinators appointed pursuant to Rule IV of the Codex Rules of Procedure, as well as “*seven further Members elected by the Commission at regular sessions from among the Members of the Commission, i.e. Africa, Asia, Europe, Latin America and the Caribbean, Near East, North America, South-West Pacific*”.
10. The composition of the Executive Committee has evolved over time, particularly in view of the practice that Members are accompanied by advisors at CCEXEC sessions. At its 18<sup>th</sup> Session in July 1989, the Commission adopted the recommendation of CCGP confirming that the “*delegate of a Member may be accompanied by not more than two advisors from the same geographic location*”, that the “*Regional Coordinators shall be invited to attend meetings of the Executive Committee as observers*” and that “[o]nly members or, with the permission of the Chairman, observers, may take part in the discussions”<sup>10</sup>. The Regional Coordinators subsequently became members of CCEXEC following the amendments to Rules IV and V of the Codex Rules of Procedure adopted at CAC28.<sup>11</sup> Accordingly, the Executive Committee remains a committee of restricted membership, while at the same time, allowing a proper representation of the geographical areas of its Members as required by Article 6 of the Statutes.
11. As regards its functions, CCEXEC is responsible *inter alia* for making proposals to the Commission regarding its general orientation, strategic planning, and programming of work, as well as assisting in the management of the Commission’s programme of standards development, such as by conducting a critical review of proposals to undertake work and monitoring the progress of standards development<sup>12</sup>. CCEXEC also considers “*specific matters referred to it by the Directors-General of FAO and WHO as well as the estimate of expenditure for the Commission’s proposed programme of work as described in Rule XIII.1*”<sup>13</sup> In addition, CCEXEC may establish subcommittees from among its Members, as may be necessary, to enable it to exercise its functions effectively<sup>14</sup>. In line with Rule V (1), Members of CCEXEC are required to “*act within the Executive Committee in the interest of the Commission as a whole*” and according to Rule V (7), the Executive Committee shall report to the Commission. CCEXEC’s functions are mostly advisory in nature.
12. Regarding the holding of CCEXEC meetings, Rule V (6) provides that sessions may be convened “*as often as necessary by the Directors-General of FAO and WHO, in consultation with the Chairperson*” and that it “*shall normally meet immediately prior to each session of the Commission*”. The modality of meeting is not, however, provided in the Codex Rules of Procedure, unlike the sessions of the Commission, which shall be “*held in public unless the Commission decides otherwise*” (Rule VI (6) refers).

<sup>8</sup> REP23/CAC, paras. 180 and 181.

<sup>9</sup> The discussions on this matter began in 2004 (see documents ALINORM03/41, par. 161; ALINORM 04/27/33, paras. 40-45. ; ALINORM 05/28/33, paras. 62-69 and CX/GP 04/21/6). Nevertheless, the focus of this document is on the assessment of the current practices of FAO bodies, which have evolved considerably since the pandemic.

<sup>10</sup> ALINORM89/40, par. 183.

<sup>11</sup> ALINORM 05/28/41, paras. 21-35 and ALINORM 05/28/4, Appendix I

<sup>12</sup> Rule V (2) of the Codex Rules of Procedure.

<sup>13</sup> Rule V (3) of the Codex Rules of Procedure.

<sup>14</sup> Rule V (4) of the Codex Rules of Procedure.

13. That said, a practice has developed to hold CCEXEC sessions in private. This is in view of the composition and role of the Executive Committee, the absence of a specific rule in the Codex Procedural Manual regarding its meeting modality, and the FAO rules and practice in other similar committees of FAO Governing and Statutory Bodies, as detailed below.

**(ii) Practice of FAO Governing and Statutory Bodies with respect to webcasting**

14. Within FAO, webcasting refers to the public livestreaming of events held at FAO headquarters, including meetings of the Organization's Governing and Statutory Bodies, on the FAO webcast page: <https://www.fao.org/webcast>. A recording of past webcasts is available on the FAO webcast archives on the FAO website: <https://www.fao.org/webcast/archive>.

15. Webcasting is limited to plenary meetings of Governing and Statutory Bodies, which are held in public and open to broad participation by Members and observers in accordance with the requirements under the applicable rules. The rationale for webcasting plenary sessions is to provide the public with real-time access to key deliberations and decisions of the FAO Membership, in line with the public nature of these meetings and their role as decision-making fora. In fact, the primary purpose of webcasting is not to facilitate the deliberations of a particular body, but to ensure that meetings and events open to the public are made accessible to the widest possible audience through the use of new technologies.

*FAO Governing Bodies*

16. The GROs explicitly provide that sessions of the Conference and Council must be held in public, unless a decision is made to hold them privately. In particular, Rule V of the GROs on "Attendance at Plenary Meetings of the Conference" states that:

*"1. Plenary meetings of the Conference shall be open to attendance by all delegations, the representatives of participating international organizations, and such members of the staff of the Organization as the Director-General may designate.*

*2. Plenary meetings of the Conference shall be held in public unless the Conference decides otherwise.*

*3. Subject to any decision of the Conference, the Director-General shall, taking into account all relevant security concerns, make appropriate arrangements for the admission of the public to Plenary Meetings of the Conference. Subject to any decision of the Conference, the Director-General shall also make arrangements for the admission of representatives of the press and other information agencies to Plenary Meetings of the Conference.*

17. As concerns the Council meetings, Rule XXV, paragraph 8, of the GROs provides as follows:

*"(a) Subject to the provisions of subparagraphs (b) and (c) below, meetings of the Council and of such of its Committees as are open to all of its Members shall be public. Rule V, paragraph 3 applies mutatis mutandis to the meetings of the Council and of such of its Committees as are open to all its Members.*

*(b) The Council may decide to meet in private for the discussion of any particular item on its agenda.*

*c) Any Member Nation not represented on the Council and any Associate Member may submit memoranda on any item on the agenda of the Council and participate without vote in any discussion at a public or private meeting of the Council or of such of its committees as are open to all of its Members, unless, in exceptional circumstances, the Council decides that it is necessary in the interests of the Organization to restrict attendance to the representative of each Member of the Council."*

18. As Conference and Council sessions are by default public pursuant to the legal framework, arrangements may be made for the public to access their plenary meetings, including virtually through webcasting, in accordance with Rule V, paragraph 3 of the GROs. It is recalled that the Conference is the supreme Governing Body of the Organization, responsible for determining the policy and approving the budget of the Organization<sup>15</sup>. The Council is responsible *inter alia* for defining the Organization's strategies and priorities, establishing its budget and approving and overseeing organizational changes that do not require the Conference's approval<sup>16</sup>; thus,

<sup>15</sup> Article IV, paragraph 1, of the FAO Constitution.

<sup>16</sup> Volume II, Section D of the Basic Texts, Implementation of the IPA regarding the Council; Resolution 8/2009 of the Thirty-sixth Session of the Conference.

the Council has decision-making authority on certain matters as determined by the Conference and the Basic Texts.

19. Similarly, the Regional Conferences<sup>17</sup> and the Technical Committees<sup>18</sup> hold their meetings in public, unless decided otherwise. This is consistent with Rule XXXV(5) of the GROs providing that the procedure followed by Regional Conferences shall be consistent with the Constitution and GROs, the Rules of Procedure of the Technical Committees<sup>19</sup>, as well as the Rules of Procedure for the Regional Conference for Europe,<sup>20</sup> which have been guided by the Members's requirements in terms of publicity of these meetings. It is noted that the Regional Conferences provide a forum for consultation on all matters pertaining to the mandate of the Organization within the region including relating to global policy and regulatory issues, whereas the Technical Committees review matters and issues arising within their respective area of technical competence, including policy and regulatory matters. The sessions of the Regional Conferences and Technical Committees are accessible to the general public, and they are therefore webcast on the FAO website.
20. Regarding Council Committees<sup>21</sup>, these are committees of restricted membership comprised of a chairperson and 12 Member Nations, for the Programme Committee (PC) and Finance Committee (FC), and a chairperson and 7 Member Nations for the Committee on Constitutional and Legal Matters (CCLM)<sup>22</sup>. While the Rules of Procedure of the PC and FC provide that "*meetings (...) shall be held in private, unless otherwise determined by the Committee*"<sup>23</sup>, the Rules of Procedure of the CCLM state that the "*meetings (...) shall be open to silent observers, unless otherwise decided by the Committee*" and that "[s]ilent observers shall not take part in any debates"<sup>24</sup>.
21. In this context, a practice has developed within FAO where meetings of the Council Committees are held in private, with silent observers admitted attending the session via Zoom webinar mode, on a case-by-case basis and upon prior registration<sup>25</sup>. However, meetings of Council Committees are not open to the public and are not, therefore, webcast. Nor are any recordings made of their sessions. This approach was found to ensure a proper application of the rules in the context of new technologies.
22. Lastly, the General Committee of the Conference, established under Rule X of the GROs, is composed of the Chairperson and Vice-Chairperson of the Conference and seven Member Nations elected by the Conference. In view of the General Committee's restricted membership, Rule X, paragraph 1 of the GROs specifically provides that its meetings are held in private unless determined otherwise by the Conference. The holding of private meetings of the General Committee is guided by its functions as the bureau of the Conference, where it is responsible *inter alia* for reviewing the progress of the Conference, coordinating work of all commissions and committees, as well as dealing with procedural matters and ensuring the continuity of the work of the Conference between its regular sessions<sup>26</sup>. In view of this framework, the privacy of the General Committee's meetings is strictly maintained. Its meetings are not open to observers and thus, they are also not webcast.

#### FAO Statutory Bodies

23. For meetings of FAO Statutory Bodies established under Article VI and Article XIV of the Constitution, webcasting is only available for plenary sessions of their primary organs, which are public in nature, as specified in their respective rules. For instance, the rules applicable to the Commission on Phytosanitary Measures (CPM) of the International Plant Protection Convention (IPPC)<sup>27</sup>, the European Commission for the

<sup>17</sup> Rule XXXV of the GROs provides that "[t]here shall be Regional Conferences for Africa, Asia and the Pacific, Europe, Latin America and the Caribbean, and the Near East".

<sup>18</sup> Article V, paragraph 6 of the Constitution provides that the "Council shall be assisted: (...) (b) by a Committee on Commodity Problems [CCP], a Committee on Fisheries [COFI], a Committee on Forestry [COFO], and a Committee on Agriculture [COAG], which shall report to the Council on programme and budget matters and to the Conference on policy and regulatory matters".

<sup>19</sup> See Rule III, paragraph 3 (a) of the Rules of Procedure of CCP, COFI, COFO and COAG, respectively, providing that: "[m]eetings of the Committee shall be held in public, unless the Committee decides to meet in private for discussion of any items on its agenda".

<sup>20</sup> Rule III (4) of the Rules of Procedure for the Regional Conference for Europe: "Meetings of the Regional Conference shall be held in public, unless the Regional conference decides to meet in private for discussions of any items on its agenda".

<sup>21</sup> Article V, paragraph 6, of the Constitution provides that the "Council shall be assisted: (a) by a Programme Committee, a Finance Committee, and a Committee on Constitutional and Legal Matters (...)".

<sup>22</sup> See Rule XXVI, paragraph 1; Rule XXVII, paragraph 1; and Rule XXXIV, paragraph 1, of the GROs.

<sup>23</sup> Rule II, paragraph 4, of the Rules of Procedure of the PC and FC (Volume I, Sections E and F of the Basic Texts).

<sup>24</sup> Rule II, paragraph 3, of the Rules of Procedure of the CCLM (Volume I, Section G of the Basic Texts).

<sup>25</sup> Silent observers are typically FAO Members who are not members of the specific committee.

<sup>26</sup> Rule X, paragraph 2, of the GROs.

<sup>27</sup> See Rule IV, paragraph 5, of the Rules of Procedure of the Commission on Phytosanitary Measures

Control of Foot-and-Mouth Disease (EuFMD)<sup>28</sup>, the Asia-Pacific Fishery Commission (APFIC)<sup>29</sup>, the Commission for Inland Fisheries and Aquaculture of Latin America and the Caribbean (COPESCAALC)<sup>30</sup>, and the African Forestry and Wildlife Commission (AFWC)<sup>31</sup>, amongst others, provide that meetings of the Commission are public unless determined otherwise.

24. All committees of restrictive membership and bureaux of FAO Statutory Bodies hold their meetings in private and, consequently, sessions of these committees are not webcast. In some instances, the private nature of these committees is explicitly stated in the rules of procedure of the relevant Statutory Body. For example, the Rules of Procedure of the IPPC CPM<sup>32</sup> and the Rules of Procedure of the EuFMD provide that the CPM Bureau and the EuFMD Executive Committee<sup>33</sup>, respectively, hold their meetings in private unless decided otherwise. In other cases, where the rules of procedure of the Statutory Body do not explicitly address the matter, the meetings of such committees are still held in private, in accordance with the Organization's general practice and legal framework.
25. The rules of procedure of Statutory Bodies are typically silent with respect to the participation of observers in those committees and the practice has been not to allow them in view of the closed nature of their meetings.

### **Considerations and Recommendations**

26. As noted in the preceding paragraphs, CCEXEC is a committee of restrictive membership, which acts as the bureau of the Commission and is typically held in private, in line with FAO's applicable rules and the established practice with respect to similar committees within FAO Governing and Statutory Bodies. Moreover, as mentioned above, the functions of CCEXEC are mostly advisory in nature.
27. Considering the above, it is recommended that the webcasting sessions of CCEXEC be carefully considered by the Members, taking into account the functions of CCEXEC as a bureau-like body, as well as the fact that *"transparency and consultation processes are duly ensured through the participation of Members and Regional Coordinators, the reports of the Committee, as well as the practice of audio recording"*, which has been in place since 2005, as noted at CCEXEC80.
28. It appears that the primary change that would result from introducing webcasting of CCEXEC sessions would be the ability for non-Members of the Committee to contemporaneously follow the deliberations of CCEXEC, rather than accessing them after the conclusion of each session, as is currently the case. In this respect, it is noted that the current approach at CCEXEC aligns with the practices of other committees within FAO Governing and Statutory Bodies that are entrusted with similar functions. As set out in this document, committees dealing with the internal working of main bodies are held in private and as a result, their meetings are neither webcast nor open to the participation of observers. This is the case of the General Committee of the FAO Conference and all bureau-like committees of other FAO Governing and Statutory Bodies, whose deliberations and conclusions are made available only after the conclusion of each session.

### **Proposed actions by the Commission**

29. Accordingly, the Commission is invited to review the present document and discuss the matter, as appropriate.

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<sup>28</sup> See Rule V, paragraphs 1 and 2, of the Rules of Procedure of EuFMD

<sup>29</sup> See Rule V of the Rules of Procedure of APFIC

<sup>30</sup> See Rule IV, paragraph 5, of the Rules of Procedure of COPESCAALC

<sup>31</sup> See Rule IV, paragraph 5, of the Rules of Procedure of AFWC

<sup>32</sup> Rule VI, paragraph 3, of the Rules of Procedure for the CPM Bureau (Rules of Procedure of the CPM, Appendix 1) provides that: *"Meetings of the Bureau shall be closed unless otherwise determined by the Bureau."*

<sup>33</sup> Rule VII, paragraph 1, of the Rules of Procedure of the EuFMD provides that: *"Meetings of the Committee shall be held in private unless otherwise determined by the Executive Committee."*