

JM 2016.2/6 – Procedure for the selection and appointment of secretaries of bodies under Article XIV of the FAO Constitution and other entities hosted in FAO

Information Note (revised) – November 2016

Extract from Report of the 103rd Session of the Committee on Constitutional and Legal Matters (Rome, 24-26 October 2016)

5. The CCLM examined document CCLM 103/2 “*Procedure for the selection and appointment of secretaries of bodies under Article XIV of the FAO Constitution and other entities hosted in FAO.*”

6. In introducing the document, the Legal Counsel observed that the establishing treaties of some Bodies under Article XIV of the FAO Constitution (“*Article XIV Bodies*”) made provision for the appointment of the secretaries by the Director-General with the approval of the Body concerned. Concerns were raised by the Secretariat regarding the selection of secretaries through elections, as had become a practice for these Bodies. Summarizing the issues of concern that had resulted from these processes, the Legal Counsel – noting that there was no basis for elections in the relevant establishing agreements, nor in the practice of the United Nations System – underlined that the selection and appointment of secretaries involved two parties: the Body concerned and the Director-General. He observed that, through the conduct of elections, the Director-General was effectively being excluded from discharging the statutory role attributed to him. The distinction between governance and management roles was highlighted. He proposed that the standard processes for the selection of senior staff be applied to the selection of secretaries, with some adjustments – such as the inclusion of one or two representatives of members in the selection panel – with subsequent submission of the proposed candidate to the Body concerned for approval. This alternative option for a possible future mechanism would allow both concerned parties to engage in their respective statutory roles.

7. The Legal Counsel informed the CCLM that the Secretariat was committed to ensuring full continuity in the operation of the Bodies concerned.

8. Following an extensive exchange of information, the CCLM acknowledged the need to balance the functional autonomy of Article XIV Bodies with legal and administrative responsibilities borne by the Organization for such Bodies.

9. The CCLM stressed that this matter involved policy, governance and legal issues. It noted that it would also be considered during the forthcoming Joint Meeting of the Programme and Finance Committees and would ultimately be referred to the Council. Some members were in favour of the option proposed by the Secretariat, while others would have preferred the Secretariat to present alternative options. The CCLM agreed that further consultations would be needed with wider participation – including with the Bodies themselves – and with the background reference material.

Additional Information

Indian Ocean Tuna Commission;

General Fisheries Commission for the Mediterranean

International Treaty on Plant genetic resources for Food and Agriculture.



Indian Ocean Tuna Commission (IOTC)

Extract of the Agreement for the Establishment of the Indian Ocean Tuna Commission (info on Item 2 of the 103rd CCLM)

ARTICLE VIII

Administration

1. The Secretary of the Commission (hereinafter referred to as the "Secretary") shall be appointed by the Director-General with the approval of the Commission, or in the event of appointment between regular sessions of the Commission, with the approval of the Members of the Commission. The staff of the Commission shall be appointed by the Secretary and shall be under the Secretary's direct supervision. The Secretary and staff of the Commission shall be appointed under the same terms and conditions as staff members of FAO; they shall, for administrative purposes, be responsible to the Director-General.

[...]

Rules of Procedures, 2014

RULE V: The Secretariat

1. [...]

2. The Executive Secretary of the Commission shall be elected by the Commission and appointed by the Director-General, in accordance with the procedure set out at Appendix II

[...]

Appendix II of Rule V: The Secretariat

Procedure for the Selection and Appointment of the Executive Secretary of the Commission

1. The vacancy announcement will be advertised (including required qualifications and the terms of reference (detailed below)) through international means, including the FAO website and the Commission's website;

2. Applications to be received by the Secretariat with a deadline of 45 days after the publication of the vacancy announcement and distributed to Members no later than 15 days after the deadline;

3. Five candidates are to be classed in order of preference by Members on a point score of five to one within 60 days of receiving the applications from the Secretariat. Rankings to be transmitted by each Member to the Secretariat, collated, and the ranking of all qualified candidates conveyed to all Members as soon as possible;

4. The three candidates with the greatest number of points are to be invited to the next Session of the Commission for interview by Heads of Delegation of Members of the Commission. The interviews may take place immediately prior to, or during the regular Session;

5. The new Executive Secretary to be elected by the Heads of Delegation of Members of the Commission, via a secret ballot;

6. The Director General of FAO to be informed of the decision of the Commission in order to proceed with the appointment of the new Executive Secretary.

General Fisheries Commission for the Mediterranean (GFCM)

Extract of the Agreement for the Establishment of the General Fisheries Commission for the Mediterranean (info on Item 2 of the 103rd CCLM)

Article 10: The Secretariat

1. [...]

2. The Executive Secretary of the Commission shall be appointed by the Director-General with the approval of the Commission, or in the event of appointment between regular sessions of the Commission, with the approval of the Contracting Parties.

[...]

Rules of Procedure, as amended in 2015

Annex 2 - Requirements for the selection, appointment and term of office of the Executive Secretary

[...]

Part II – Procedure for the selection of the Executive Secretary

2. The procedure, for the selection of the Executive Secretary, shall be as follows:

(a) The Commission shall agree to a text for the vacancy announcement, including the required qualifications and the job description for the post of Executive Secretary.

(b) The Director-General shall post the vacancy announcement on the Organization and GFCM websites and also publicize it elsewhere, as appropriate, in accordance with guidelines as may be agreed upon by the Commission.

(c) The closing date for applications shall be six weeks from the date of announcement of the vacancy notice.

(d) A Selection Committee shall be established to review the applications and rank candidates. It shall comprise:

(i) the Chairperson and two Vice-Chairpersons of the Commission;

(ii) the Chairperson of the Committee on Administration and Finance;

(iii) the Chairperson of the Compliance Committee;

(iv) two representatives of the Director-General;

(v) one representative from EU Member States; and

(vi) one representative from non EU Member States; and

(vii) other member(s) at the discretion of the Commission.

(e) The Selection Committee shall meet within four weeks of the date of closure of the receipt of applications, and shall, with the assistance of the Organization Secretariat identify a maximum of 20 candidates that meet or exceed the required qualifications for the post.

(f) The Executive Secretary shall communicate to the Contracting Parties a list of all applicants and shall identify those which have been selected as candidates in accordance with these procedures.

(g) Within four weeks of receipt of the communication from the Executive Secretary under paragraph f, each Contracting Party shall rank five candidates by order of preference, taking into account the required qualifications set out in Part I of this Appendix, on a scale of one (lowest) to five (highest), and shall notify the Secretariat of such designation.

(h) The Selection Committee shall compile the rankings and notify the Contracting Parties the names and relevant information on the five candidates that scored the highest number of points.

(i) The Chairperson shall invite the five candidates designated pursuant to paragraph h to be interviewed at the regular or extraordinary session of the Commission, as determined by the Commission.

(j) The Chairperson shall preside over the interviews, which shall be conducted at the session by the representatives of the Contracting Parties designated in accordance with Article 6 of the Agreement. Interpretation in the languages of the Organization shall be made available.

(k) The Chairperson, with the approval of the representatives of the Contracting Parties, shall prepare five questions to be used as a basis for the interview.

(l) The interview of each candidate shall have a maximum duration of 50 minutes.

3. The voting for the Executive Secretary shall take place at the same session at which the interviews were conducted, and shall proceed as follows:

(a) Balloting shall take place as follows until one candidate attains the required majority of more than half of the votes cast:

(i) A first ballot shall be held for all five candidates. The two candidates receiving the least votes shall be eliminated from the selection process.

(ii) A second ballot shall be held for the remaining three candidates. The candidate receiving the least votes shall be eliminated.

(iii) A third ballot shall be held between the remaining two candidates. The candidate receiving the most votes shall be selected.

(b) If, during the course of a ballot, two candidates receive the same number of votes, a separate round of voting shall be held to eliminate one candidate.

(c) In accordance with Rule IX(8) of these Rules, matters not specifically provided for in this procedure are governed, *mutatis mutandis*, by the provisions of Article XII of the General Rules of the Organization.

Part III – Appointment

4. The Chairperson shall transmit the name of the candidate selected by the Commission in accordance with the above procedures to the Director-General for appointment.

Part IV – Term of Office

5. Entry into duty by the appointee should, to the extent possible, be achieved as soon as possible after his/her selection and, in any case, within a maximum period of four months.

6. The Executive Secretary shall be appointed for a period of five years and may be reselected for a further consecutive term of five years. At the third regular session following the regular session of the Commission during which the Executive Secretary was selected, or at the fourth regular session following the selection of the Executive Secretary (in the case that selection took place at an extraordinary session of the Commission), selection of the next Executive Secretary should be placed on the Commission's agenda. The Commission shall decide the necessary arrangements for the next selection of Executive Secretary, in accordance with the procedure in place.

International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA)

Extract of the International Treaty on Plant Genetic Resources for Food and Agriculture (info on Item 2 of the 103rd CCLM)

Article 20 - Secretary

20.1 The Secretary of the Governing Body shall be appointed by the Director-General of FAO, with the approval of the Governing Body. The Secretary shall be assisted by such staff as may be required.

20.2 [...]

Extract from the Report of the 1st Session of the Governing Body

[...]

Appendix J.2

Procedures for the Appointment of the Secretary of the Governing Body of the International Treaty

1. The Governing Body agrees on the required qualifications and job description, and invites the Director-General of the FAO to advertise the post through international means.
2. The Governing Body establishes a Screening Committee to review applications for the post of Secretary of the Governing Body of the International Treaty, composed of:
 - The Bureau of the Governing Body, and
 - Two representatives nominated by the Director-General of FAO.

The Chair of the Governing Body will chair the Screening Committee.

3. The deadline for the receipt by FAO of applications will be six weeks from the advertisement of the post.
4. The Screening Committee shall meet at the FAO within a suitable period from the closure of the vacancy notice. The Screening Committee will first eliminate candidates who do not explicitly fulfil the qualifications required for the post, and will then identify a roster of five leading candidates. These candidates will be invited to Rome for interviews.
5. The Screening Committee will meet again in Rome at a suitable time to interview the five leading candidates. The Chair, in consultation with the other of the Screening Committee, shall establish a list of five questions, which shall be posed to all five candidates during their separate interviews lasting a maximum of 50 minutes each.
6. At the end of all interviews, a first round of voting shall be held and the two candidates receiving the least number of votes shall be eliminated from the selection process. A second round of voting shall then be held between the remaining three candidates and the candidate receiving the least number of votes shall be eliminated. A vote shall then take place between the final two candidates and he or she receiving the most votes shall be selected.
7. Upon approval by the Governing Body, the Chair of the Governing Body shall propose the candidate selected to the Director-General of FAO, for appointment as the Secretary of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture.
8. Exceptionally, on a specific mandate from the Governing Body, the Chair of the Governing Body shall propose the candidate to the Director-General of FAO, on the basis of the recommendation of the Screening Committee, without the prior approval of the Governing Body.

Resolution 12/2015 – Secretary for the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture – (extract from the report of the 6th session of the Governing Body)

Appendix A.12 - Resolution 12/2015 - Secretary of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture

The Governing Body,

1. **Notes** that the process for the appointment of a Secretary of the Governing Body of the Treaty under Article 20 thereof is set forth in Appendix J of the Report of the First Session of the Governing Body entitled “*Terms of Reference of the Secretary of the Governing Body and Procedures for the Appointment of the Secretary*” (Document IT/GB-1/06/Report Appendix J), hereinafter referred to as “*the 2006 Procedures*”.
2. With a view to implementing the 2006 Procedures, **decides** to include the following item on the Provisional Agenda of the Seventh Session of the Governing Body in 2017: “*Appointment of the Secretary of the Governing Body of the International Treaty on Plant Genetic Resources for Food and Agriculture*”.
3. **Invites** the Director-General to extend the appointment of the current Secretary of the Governing Body of the Treaty until a new appointment of a Secretary has been made, following approval of the Governing Body, at its Seventh Session in 2017.
4. **Agrees** that the current Secretary of the Governing Body of the Treaty shall be allowed to apply for the position of Secretary of the Governing Body of the Treaty to be filled in 2017.
5. **Requests** the FAO Secretariat to prepare, in close consultation with the Bureau, a procedure for renewal of the appointment of the Secretary of the Governing Body of the Treaty, for consideration and adoption by the Governing Body at its next session in 2017, as well as to propose any adjustments to the appointment procedure which would be necessary in response to the development of a renewal procedure of the Secretary of the Governing Body of the Treaty and which would apply to future selection processes. In preparing the renewal procedure consideration shall be given to defining a maximum term limit for the appointment of the Secretary.
6. **Requests** the Legal Office of FAO to examine, in the context of the work to be undertaken by the FAO Secretariat under paragraph 5 of this Resolution, the possibility that, subject to considerations of confidentiality, the list of applicants received under Paragraph 3 of the 2006 Procedures be circulated for information to all Contracting Parties.