



منظمة الأغذية  
والزراعة  
للأمم المتحدة

联合国  
粮食及  
农业组织

Food  
and  
Agriculture  
Organization  
of  
the  
United  
Nations

Organisation  
des  
Nations  
Unies  
pour  
l'alimentation  
et  
l'agriculture

Продовольственная и  
сельскохозяйственная  
организация  
Объединенных  
Наций

Organización  
de las  
Naciones  
Unidas  
para la  
Agricultura  
y la  
Alimentación

## COUNCIL

### Hundred and Thirty-sixth Session

Rome, 15 – 19 June 2009

### REPORT OF THE EIGHTY-FOURTH SESSION OF THE COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS (CCLM) Rome, 2 – 4 February 2009

#### I. INTRODUCTION

1. The Eighty-fourth Session of the Committee on Constitutional and Legal Matters (CCLM) was held from 2 to 4 February 2009. The Session, open to silent observers, was chaired by Mr. Julio Fiol (Chile). The Members of the Committee, as listed below, were represented:

**Chile, Gabon, Indonesia, Lesotho, Netherlands, Syrian Arab Republic, United States of America**

2. The CCLM paid tribute to the memory of Mr. Theo van Banning (Netherlands) who passed away on 16 December 2008 and observed a minute of silence. Although its work regarding the implementation of the Immediate Plan of Action (IPA) for FAO Renewal (2009-11) was at its early stage, the CCLM acknowledged that Theo van Banning had made an important contribution to the process under way.

#### II. APPOINTMENT AND TERM OF OFFICE OF THE DIRECTOR-GENERAL

3. The CCLM examined document CCLM 84/2 entitled “*Appointment and term of office of the Director-General*” and related issues addressed therein.

**Term of office of the Director-General – Proposed amendment to Article VII, paragraph 1 of the Constitution**

4. The CCLM endorsed the following text for revised Article VII, paragraph 1 of the Constitution:

*“There shall be a Director-General of the Organization who shall be appointed by the Conference for a term of four years. The Director-General shall be eligible for reappointment only once for a term of four years”.*

5. The CCLM recalled that, in accordance with Article XX, paragraph 4 of the Constitution, notice of the proposed amendment would have to be despatched to Member Nations and Associate Members at least 120 days before the opening of the session. As the Session of the Conference is due to start on 14 November 2009, notice of the amendment should be despatched on 16 July 2009 at the latest.

**Procedures for the appointment of the Director-General (IPA actions 2.95 to 2.99)**

6. The CCLM reviewed the proposed procedures for the appointment of the Director-General as set out in revised Rule XXXVI of the General Rules of the Organization (GRO), reproduced in the appendix to this report.

7. Subject to any changes as might be proposed to address any outstanding issues, the CCLM considered that revised Rule XXXVI, paragraph 1 was drafted in proper legal form and reflected the relevant actions of the Immediate Plan of Action.

8. The CCLM noted that the secretariat had proposed a renumbering of the paragraphs of this Rule.

**Unexpected vacancy in the office of the Director-General**

9. The CCLM examined the developments of document CCLM 84/2 regarding the issue of whether the proposed procedures for the election of the Director-General allowed the Organization to address effectively an unexpected vacancy in the office of the Director-General. The CCLM made the following recommendations.

10. First, as regards the procedure to be followed in the event of an unexpected vacancy in the office of Director-General, the CCLM recommended that, building upon current Article VII, paragraph 3 of the Constitution, a reference be made in revised Rule XXXVI, to the adoption by the Council of an *ad hoc* accelerated procedure and requested the secretariat to make a proposal in that connection. The CCLM noted that Article VII, paragraph 3 of the Constitution would, in any case, need to be amended to reflect the new term of office. The CCLM requested the secretariat to submit a proposal to its next session.

11. Second, and in connection with the question of an unexpected vacancy in the office of the Director-General, the CCLM noted that under current Rule XXXVI, paragraph 2 of GRO, the Deputy Director-General acts as Director-General in the case of a vacancy in the office of Director-General. The CCLM noted that in the future organizational structure of FAO there would be two Deputy Directors-General and it would be necessary to define, either in the GRO or through a Conference resolution, which Deputy Director-General would become acting Director-General in the event of an unexpected vacancy in the office of Director-General.

12. The CCLM stressed that a Deputy Director-General acting as Director-General should exercise caretaker functions and functions of an interim nature and facilitate the process of election of a new Director-General.

13. The CCLM recommended that the matter be brought to the attention of the Conference Committee. The CCLM requested the secretariat to make proposals to deal with the matter, following inter-agency consultation, as appropriate.

#### **Future sequence of mandates of the Director-General**

14. The CCLM also noted that, in accordance with applicable provisions and practice, the Directors-General of FAO were elected at sessions of the Conference held in November and took office on 1 January of the next year. The CCLM recommended that this sequence of mandates be changed in future. The period of office of the Director-General could run from 1 August of the year of election and end four years later on 31 July.

#### **Particular situation arising in 2011**

15. The CCLM noted that a particular situation would arise in 2011 insofar as the current Director-General of FAO was appointed at the Thirty-third Session of the Conference in 2005 for the period 1 January 2006 to 31 December 2011, whereas the Conference that will elect the new Director-General will take place in June 2011 in accordance with the new pattern of sessions of the Governing Bodies.

16. The CCLM was informed by the Secretariat that normal practice in the United Nations system is that, in accordance with general principles of international law, changes to the term of office of executive heads are not retroactive. Therefore, the mandate of the current Director-General will run until 31 December 2011 and a new Director-General will take office only on 1 January 2012.

17. The CCLM noted that there would be a need for transitional measures addressing both the issue of the future sequence of mandates and the particular situation arising after 2011. These transitional measures could be set out in the Conference resolution approving the amendments to the Constitution. The CCLM requested the secretariat to make proposals to that effect for review at its next session and subsequent consideration by the Conference Committee and the Council.

### **Status of nominated candidates serving as officials of the Organization**

18. The CCLM examined the observations made in document CCLM 84/2 regarding the status of nominated candidates serving as officials of the Organization and noted that the matter had been recently the subject of discussions in other organizations of the United Nations system.

19. The CCLM noted that there was no common position on the matter and no action was warranted. The CCLM also noted that the matter was not of an urgent nature and could be examined by the Governing Bodies at a later stage should they decided to do so, and should be approached through a perspective of ethics rather than from a legal standpoint. The CCLM noted that consultation with other organizations of the United Nations system would take place.

20. The CCLM was of the view that no other matters required review.

### **III. TECHNICAL COMMITTEES**

21. In reviewing document CCLM 84/3 entitled "*Technical Committees*", the CCLM noted that it was intended to implement the actions of the Immediate Plan of Action from actions 2.56 to 2.65, but did not deal with other actions such as those set out in the action matrices regarding the "*reform of programming, budgeting and results based monitoring*" or "*statutory bodies, conventions, etc*" which would be addressed at a later stage.

### **Proposed amendment to the Constitution (IPA action 2.56)**

22. The CCLM concurred with the draft amendment to Article V, paragraph 6 of the Constitution proposed in document CCLM 84/3, which would respect the general structure of this Article and reflect a distinction between the committees of restricted membership and the technical committees of open membership. Revised Article V, paragraphs 6 and 7 of the Constitution would be as follows:

6. *In the performance of its functions, the Council shall be assisted:*
  - (a) *by a Programme Committee, a Finance Committee and a Committee on Constitutional and Legal Matters which shall report to the Council; and*
  - (b) *by a Committee on Commodity Problems, a Committee on Fisheries, a Committee on Forestry, a Committee on Agriculture and a Committee on World Food Security which shall report to the Council on programme and budget matters and to the Conference on policy and regulatory matters.*
  
7. *The composition and terms of reference of the Committees referred to in paragraph 6 shall be governed by rules adopted by the Conference".*

23. The CCLM stressed that insofar as this is an amendment to the Constitution, notice thereof will have to be despatched by the Director-General to the membership at least 120 days before the opening of the Conference, that is, by 16 July 2009, as the forthcoming session of the Conference is due to start on 14 November 2009.

**Proposed amendments regarding the reporting lines of the Committees (IPA action 2.56)**

24. The CCLM endorsed the following proposed amendment to Rule II, paragraph 2 of the GRO:

*“(2. The provisional agenda for a regular session shall include (...) items approved by the Council after consultation with the Director-General; and)*

*(...) review, in accordance with Article V, paragraph 6 of the Constitution, the reports of the Committee on Commodity Problems, the Committee on Fisheries, the Committee on Forestry, the Committee on Agriculture and the Committee on World Food Security.”*

25. The CCLM recommended that an amendment be made to Rule XXIV of the GRO on the functions of the Council regarding its review of the reports of the Technical Committees on programme and budget matters. An additional sub-paragraph, under Rule XXIV, paragraph 2 of the GRO would be as follows:

*“(The Council shall:)*

*(b) review, in accordance with Article V, paragraph 6 of the Constitution, the reports of the Committee on Commodity Problems, the Committee on Fisheries, the Committee on Forestry, the Committee on Agriculture and the Committee on World Food Security”.*

26. The CCLM recommended to the Council that the Technical Committees be requested to amend their Rules of Procedure along the following lines:

*“At each session, the Committee shall approve a report embodying its views and recommendations, including when requested, a statement of minority views. The Committee shall make every effort to ensure that recommendations are precise and can be implemented. Policy and regulatory matters shall be referred to the Conference whereas programme and budget matters shall be referred to the Council. Any recommendations adopted by the Committee which affect the programme or finances of the Organization shall be reported to the Council with the comments of the appropriate committees of the Council”.*

**Chairpersons to remain in office between sessions and provide their reports to the Council and the Conference (IPA action 2.57)**

27. The CCLM noted that the Rules of Procedure of the Technical Committees made already provision for the Chairpersons to remain in office between sessions until the election of their successors. Therefore, the CCLM concluded that this particular action did not call for any amendments to the Rules of Procedure of the Committees.

28. As regards the presentation of the reports to the Council and the Conference, the CCLM noted the two options proposed by the secretariat including the information provided on past practice of the Organization, as well as a range of related considerations. The CCLM concluded that there was no need to recommend to the Technical Committees that they should amend their Rules of Procedure to the effect that the Chairpersons should present their reports to the Conference and Council, as this could be done through a practice. The CCLM noted that a practice existed already whereby the Chairpersons of the Committees of restricted membership presented their reports to the Council.

**Technical Committees to meet more flexibly as to duration and frequency according to needs, normally once in each biennium, to address priority emerging issues, and may be convened especially for that purpose (IPA action 2.58)**

29. The CCLM concurred with the views expressed in document CCLM 84/3 that the implementation of this action did not require any amendments to the Basic Texts, as the GRO allowed for considerable flexibility in convening sessions of the Committees since they allowed the Committees to meet once or twice every biennium, and to hold additional sessions.

**Chairperson to facilitate full consultation with Members on agendas, formats and duration (IPA action 2.59)**

30. The CCLM reviewed the developments of document CCLM 84/2 on this matter and noted, in particular, that the Rules of Procedure of some Technical Committees made provision for the Chairperson and other officers to perform functions as a Steering Committee during sessions. The CCLM considered that this provision could provide a basis for a revised Rule whereby the Chairperson and the other officers would perform functions as a Steering Committee, not only during sessions, but also during the inter-sessional period.

31. The CCLM recommended to the Council that the Technical Committees be requested to amend their Rules of Procedure along the following lines:

*“At the first session in each biennium, the Committee shall elect a Chairperson [...], who shall remain in office until the election of a new Chairperson and new Vice-Chairpersons and who will act as a Steering Committee between sessions and during sessions”.*

**More use of informal sessions and side events, taking care that countries with small delegations can participate (informal sessions to include NGOs and the private sector, including representation from developing countries) (IPA action 2.60)**

32. The CCLM noted that the above action did not involve amendments to the Basic Texts in view of the informal nature of the events in question. The CCLM also noted that the matter was related to the broader issue of participation in the work of the Organization of non-government organizations and representatives of the private sector.

**Committee on Agriculture to devote adequate time in its agenda to livestock and include a livestock segment (IPA action 2.61)**

33. The CCLM reviewed the options proposed in the document and recommended an amendment to Rule XXXII, paragraph 6 (b) of the GRO. The revised Rule would read as follows:

*“(6. The Committee shall”)*

*(b) advise the Council on the overall medium- and longer-term programme of work of the Organization relating to agriculture **and livestock**, food and nutrition, with emphasis on the integration of all social, technical, economic, institutional and structural aspects related to agricultural and rural development in general”*

**Committee on Commodity Problems to strengthen interaction with UNCTAD and the Common Fund for Commodities (IPA action 2.62)**

34. The CCLM reviewed the options proposed in the document and recommended an amendment to Rule XXIX, paragraph 7 of the GRO. The revised Rule would read as follows:

*“The Committee shall take full account of the responsibilities and activities of the Committee on World Food Security and of the **Executive Board** of the World Food Programme in order to avoid overlapping and unnecessary duplication of work. **In discharging its functions, the Committee shall, as appropriate, seek to strengthen inter-action with the United Nations Conference on Trade and Development, the World Trade Organization and the Common Fund for Commodities.**”*

**Committee on World Food Security to revitalize its role in monitoring and driving progress on the World Food Summit commitment and reviewing the State of Food Insecurity in the World (IPA action 2.65)**

35. The CCLM reviewed the options proposed in the document and recommended an amendment to Rule XXXIII, paragraph 6 (a) of the GRO. This revised Rule would read as follows:

*“The Committee shall serve as a forum in the United Nations system for review and follow-up of policies concerning world food security, including food production, sustainable use of the natural resource base for food security,*

*nutrition, physical and economic access to food and other food security-related aspects of poverty eradication, the implications of food trade for world food security and other related matters and shall in particular:*

- (a) *examine major problems and issues affecting the world food situation, including through the report on the State of Food Insecurity in the World, and the steps being proposed or taken to resolve them by Governments and relevant international organizations, bearing in mind the need for the adoption of an integrated approach towards their solution;”.*

#### **IV. MINISTERIAL MEETINGS (IPA actions 2.66, 2.67)**

36. The CCLM examined document CCLM 84/4 entitled “*Ministerial Meetings*” providing information on the practice of the Organization regarding the convening of Ministerial Meetings, as well as a number of legal considerations and information received from other organizations of the United Nations system. The CCLM noted that Ministerial Meetings had so far been convened under Article VI, paragraph 5 of the Constitution *whereby “the Conference, the Council or the Director-General on the authority of the Conference or Council, may convene general, regional, technical or other conferences (...)”* for the discussion of particular topics and that, as a general rule, the relevant Governing Bodies had approved the convening of such sessions.

37. The CCLM also noted that as a general rule the Basic Texts of the organizations of the United Nations system did not make provision for representation of Members at a given level, both because this was considered primarily a matter for the Member Nations themselves, and because of the necessary assumption that in an intergovernmental meeting a delegation is inherently expected to represent the position of that Government, irrespective of the rank of the representative officials concerned.

38. Having reviewed the proposed options, the CCLM recommended to the Council that the Conference should approve the following resolution:

**“THE CONFERENCE:**

*Having noted that “Ministerial Meetings” have been held occasionally after sessions of standing committees, established under Article V, paragraph 6 of the Constitution,*

*Having noted further the need to clarify the conditions regarding the convening of such “Ministerial Meetings” in the future, as called for by the Immediate Plan of Action for FAO Renewal (2009-2011),*

*Recalling Article V, paragraph 5 of the Constitution,*



*DECIDES:*

1. *Ministerial Meetings, held in conjunction with sessions of technical committees established under Article V, paragraph 6 of the Constitution, may be convened from time to time as decided by the Conference or Council, when matters developed at technical level are deemed to require political endorsement or visibility.*

2. *Subject to the decision of Conference or Council, Ministerial Meetings should not deal with programme and budget matters which are addressed in the context of the programme of work and budget process, nor with matters primarily of a regional, technical or scientific nature which are normally considered by statutory bodies of the Organization.*

3. *Ministerial Meetings shall normally report to the Conference, except that any relevant issues having programme or budget implications shall be referred to the Council”.*

39. The CCLM recommended that the proposed Conference resolution be incorporated in Volume II of the Basic Texts.

**V. REGIONAL CONFERENCES (IPA actions 2.52, 2.53, 2.54 and 2.55)**

40. The CCLM examined document CCLM 84/5 on “*Regional Conferences*” in conjunction with the relevant action matrix of the IPA. The CCLM noted that the matter had been extensively discussed at the Conference Committee and had already been the subject of a preliminary exchange of views at its previous session. In view of the importance of the matter and the fact that it had not been possible to distribute the document in advance of the session so as to allow adequate consultation, the CCLM agreed to make a first review of the document, on the understanding that it would review the proposed amendments again at its next session.

**Proposed amendment to the Constitution**

41. The CCLM examined a proposed amendment to the Constitution which would read as follows:

*“There shall be such Regional Conferences as the Conference may establish. The status, functions and reporting procedures of the Regional Conferences shall be as determined by the Conference”.*

42. While expressing its concurrence with the substance of the proposed amendment, the CCLM agreed to examine again at its forthcoming session the issue of whether this amendment would be set out in Article IV of the Constitution, or in a distinct new Article dealing only with Regional Conferences, or with both the Regional Conferences and the Technical Committees.

43. The CCLM recalled that, insofar as this would be an amendment to the Constitution, notice thereof would have to be sent by the Director-General to the membership at least 120 days before the opening of the Conference, that is, by 16 July 2009, as the forthcoming session of the Conference is due to start on 14 November 2009.

### **Proposed amendments to the GRO**

44. The CCLM reviewed a set of possible amendments to the GRO the purpose of which was to establish a common, uniform legal framework for the Regional Conferences of the Organization, while allowing the Regional Conferences to adopt their own Rules of Procedure and “*ways of working*”. The CCLM took note of a proposal that the proposed set of Rules be incorporated in a possible new Rule XXXV of the GRO, other Rules being re-numbered accordingly.

45. The CCLM noted the following text for that amendment, which would provide a basis for its deliberations at its forthcoming session:

- “1. *There shall be Regional Conferences for Africa, Asia and the Pacific, Europe, Latin America and the Caribbean and the Near East which shall normally meet once every biennium in non-Conference years.*

### **Functions of the Regional Conferences**

2. *The functions of the Regional Conferences shall be:*
  - (a) *To provide a forum for consultation on all matters pertaining to the mandate of the Organization within the region, including any special issues of interest to the Members in the concerned region;*
  - (b) *To provide a forum for the formulation of regional positions on global policy and regulatory issues within the mandate of the Organization or having implications in respect of the mandate and activities of the Organization, including with a view to promoting regional coherence on global policy and regulatory matters;*
  - (c) *To advise on and identify the special problems of their respective regions and priority areas of work which should be taken into account in the preparation of the planning, programme and budgetary documents of the Organization and suggest adjustments to these documents in respect of future periods;*
  - (d) *To review and advise on the programmes or projects carried out by the Organization which impact upon the region;*

- (e) *To review and advise on the performance of the Organization in the region in contributing to the achievement of results against relevant performance indicators, including any pertinent evaluations.*

### Reporting lines

3. *The Regional Conferences shall report to the Council, through the Programme and Finance Committee, in the areas of their respective mandates, on programme and budget matters and to the Conference on policy and regulatory matters. The reports of the Regional Conferences shall be presented by the Chairperson.*

### Agenda of the Regional Conferences

4. (a) *At least six months prior to the proposed date for the Regional Conference, the Regional Representation of the Organization in the concerned region, after consultation with the Chairperson, shall send a communication to the Members of the Regional Conference. The communication shall contain a brief outline of the programmes of the Organization of interest to the region and of the outcome of the previous session of the Regional Conference and invite Members to formulate suggestions as to the organization of the next session of the Regional Conference, with particular reference to the agenda of the session..*

(b) *The Director-General, in consultation with the Chairperson of the Regional Conference, having regard to suggestions made by any Member of the Regional Conference as a result of the process mentioned in subparagraph (a) above, shall prepare a provisional agenda and despatch it to Members not less than 60 days in advance of the session.*

(c) *Any Member of the Regional Conference may request the Director-General, not less than 30 days before the date of a session, to insert an item in the provisional agenda. The Director-General shall thereupon, if necessary, circulate a revised provisional agenda to all Members together with any necessary papers.*

### Ways of working

5. *The Regional Conferences will adopt such arrangements, consistent with the Constitution and these Rules, as may be necessary for their internal working, including the appointment of a rapporteur. The Regional Conferences may also adopt and amend their own Rules of Procedure, which shall be consistent with the Constitution and these Rules”.*

46. The CCLM asked its Members to enter into such consultations as would be necessary in order to complete the review of the amendments at its next session. The CCLM noted that some issues covered by IPA actions 2.54 were not addressed specifically in the above proposals. The

CCLM also noted the views of the secretariat that there would be a need to distinguish matters that should be addressed in the GRO and Rules of Procedure and matters which should be addressed through other documents such as Conference resolutions and working practices. The secretariat drew attention to the general nature of this legal issue that would arise at future sessions.

## **VI. STATUS AND COMPOSITION OF THE PROGRAMME COMMITTEE, THE FINANCE COMMITTEE AND THE COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS**

47. The CCLM reviewed document CCLM 84/6 entitled “*Status and composition of the Programme Committee, Finance Committee and Committee on Constitutional and Legal Matters*”. The CCLM noted an earlier proposal that matters regarding the status and composition of the Programme and Finance Committees be distinguished from matters regarding their functions, which would be addressed at a later stage, in conjunction with amendments to the Programme of Work and Budget process and related issues.

### **Programme and Finance Committees (IPA actions 2.44; 2.45; 2.46 and 2.47)**

48. The CCLM noted that the IPA called *inter alia* for the members to possess the required qualifications, for the election of the Chairperson by the Council, for a number of given seats allocated to each region that these actions involved changes to the manner in which the elections of members would have to be conducted. The CCLM noted that the proposals reflected a desire to align the status of the committees of restricted membership of the Council. The CCLM also examined at some length the proposal that the Chairpersons of the Committees should always act *supra partes* and, as such, they were not “members” of the Committees.

49. The CCLM examined and discussed in detail the following set of amendments to Rule XXVI of the GRO on the Programme Committee.

#### **“Rule XXVI Programme Committee**

1. *The Programme Committee provided for in paragraph 6 of Article V of the Constitution shall be composed of representatives of twelve Member Nations of the Organization. Such Member Nations shall be elected by the Council in accordance with the procedure set forth in paragraph 3 of this Rule. Members of the Committee shall appoint as their representatives individuals who have shown a continued interest in the objectives and activities of the Organization, have participated in Conference or Council sessions and have special competence and experience in economic, social and technical matters pertaining to the various fields of the Organization's activities. Members of the Committee shall be elected for a period of two years at the session of the Council following the regular session of the Conference. Their term of office shall expire upon election by the Council of new Members. They shall be eligible for reappointment.*

2. *A Member Nation of the Organization seeking election as a Member of the Committee shall, as soon as possible but not later than ten days before the opening date of the Council session at which the election is to be held, communicate to the Secretary-General of the Conference and Council the name of the representative that it would appoint if elected and details of his qualifications and experience. The Secretary-General of the Conference and Council shall circulate this information in writing to Members of the Council before the Council session at which the election is to be held. The same procedure shall apply to the nomination of the Chairperson.*

3. ***The following procedures shall apply to the election of the Chairperson and the Members of the Committee:***

(a) ***The Council shall first elect a Chairperson from among the nominated representatives of Member Nations of the Organization. The Chairperson shall be elected on the basis of individual qualifications and shall not represent a region or a country.***

(b) ***Member Nations shall present their candidature for election as Members of the Committee in respect of a specific region as determined by the Conference for the purpose of Council elections.***

(c) ***The Council shall elect the Members of the Committee as follows:***

(i) ***two members from each of the following regions: Africa; Asia and the Pacific; Europe; Latin America and the Caribbean; and Near East.***

(ii) ***one member from each of the following regions: North America, and Southwest Pacific.***

(d) *Except as provided in subparagraph 3(a) above, the elections shall be conducted in accordance with the provisions of paragraphs 9 (b) and 13 of Rule XII of these Rules, one election being held to fill simultaneously all the vacancies occurring in each region specified in subparagraph (c) above.*

(e) *The other provisions on voting arrangements in Rule XII of these Rules shall apply mutatis mutandis to the election of Members of the Committee.*

4. (a) *If the representative of a Member of the Committee is expected to be unable to attend a session of the Committee or if, due to incapacity, death or any other reason, he is prevented from exercising his functions for the remainder of the term for which the Member he represents has been elected, that Member shall inform the Director-General and the Chairperson as soon as possible, and may designate a substitute representative who shall have the qualifications and experience referred to in paragraph 1 of this Rule. The Council shall be informed of the qualifications and experience of the substitute representative.*

*(b) If the Chairperson of the Committee elected by the Council is unable to attend a session of the Committee, the functions shall be exercised by the Vice-Chairperson elected in accordance with the Rules of Procedure of the Committee. If due to incapacity, death or any other reason the Chairperson of the Committee elected by the Council is prevented from exercising his functions for the remainder of the term, the functions shall be exercised by the Vice-Chairperson elected in accordance with the Rules of Procedure of the Committee until the election by the Council, at its first session following the occurrence of the vacancy, of a new Chairperson. The new Chairperson shall be elected for the remainder of the vacated term of office.*

5. *The Chairperson of the Programme Committee should attend sessions of the Conference or Council when the report of the Programme Committee is considered.*

6. *The Chairperson of the Council may attend all meetings of the Programme Committee.*

7. *The Programme Committee shall have the following functions:*

*(....)*

8. *The Programme Committee shall hold sessions as often as necessary, either*

*(a) on the call of its Chairperson acting on his own initiative or in pursuance of a decision of the Committee or of a request submitted in writing to the Chairperson by seven Members of the Committee;*

*(b) on the call of the Director-General acting on his own initiative or in pursuance of a request submitted in writing to him by \_\_\_\_\_ Member Nations.*

*The Programme Committee shall in any event hold two sessions annually.*

9. *Unless otherwise decided by the Programme Committee, its sessions shall be open to silent observers who shall not take part in any debates.*

10. *Representatives of Members of the Committee shall be reimbursed for the cost of their travel expenses, properly incurred in travelling, by the most direct route, from their duty station to the site of the Committee session and return to their duty station. They shall also be paid a subsistence allowance while attending sessions of the Committee, in accordance with the travel regulations of the Organization”.*

50. The CCLM agreed that, once agreement on all matter regarding the status and composition of the Programme Committee had been reached, the same Rule should be used for the Finance Committee.

51. Referring to proposed Rule XXVI, 8(b) allowing a number of Member Nations of the Organization to request the Director-General to convene a session of the Programme Committee, the CCLM requested the secretariat to propose a figure for the number of such Member Nations, taking into account the number of Member Nations of the Organization at the time when the provision was introduced and the current number of Member Nations of the Organization. The secretariat would research the matter and provide the required information for the next session of the CCLM.

52. The CCLM requested that the issue of the deadlines for nomination by Member Nations of candidates as Chairpersons be re-examined. The secretariat would make a proposal in that connection in consultation with the relevant unit of the Organization.

53. The CCLM noted that the Programme and Finance Committees would need to amend their Rules of Procedure to reflect the revised Rules of the GRO, especially in connection with the proposal that the Chairpersons would not vote.

**Committee on Constitutional and Legal Matters (IPA actions 2.48, 2.49, 2.50 and 2.51)**

54. The CCLM examined the proposals made by the Secretariat for a revised Rule XXXIV of the GRO and noted that in general they reflected a desire to harmonize the status of the CCLM with the status of the Programme and Finance Committees. In this connection, the CCLM noted, *inter alia*, that, in nominating their representatives, Members should propose representatives with the necessary legal qualifications, and that every region should have one seat within the CCLM. The Chairperson would be appointed by the Council and, in the event that that office should fall vacant, the Council would elect a new Chairperson.

55. The CCLM noted that the proposals made by the secretariat deviated in one respect from the actions of the IPA insofar as the IPA called for the CCLM to have seven Members, including a Chairperson elected by the Council from among these Members, whereas the secretariat had proposed that the CCLM should consist of seven Members elected by the Council in addition to the Chairperson also elected by the Council. The secretariat explained in some detail that there had been situations in the past where, because of the limited number of Members of the Committee, the Chairperson had both to conduct the proceedings and present the views of his or her region. The secretariat was of the view that this situation was undesirable and that it would be appropriate that the same solution followed in respect of the Programme and Finance Committees be followed in respect of the CCLM.

56. The CCLM expressed a very clear preference for the approach proposed by the Secretariat, while noting that it was not fully in line with IPA action 2.49. Before proceeding with the review of a complex set of proposed draft amendments, the CCLM decided to seek guidance from the Conference Committee as to whether it shared the views of the CCLM regarding the approach that should be followed.

57. The CCLM requested the insertion in the revised Rule of a provision whereby travel expenditures for Members of the Committee would be covered by the Organization, as is the case with the Programme and Finance Committees.

## **VII. DELEGATION OF AUTHORITY BY THE DIRECTOR-GENERAL**

58. The CCLM had a preliminary informal exchange of views on document CCLM 84/7 entitled "*Delegation of authority by the Director-General*". The CCLM agreed to discuss the matter at its forthcoming session.

## **VIII. ANY OTHER MATTERS**

59. In response to a request by the Independent Chairperson of the Council, the CCLM examined an estimated calendar for its work.

60. The CCLM agreed to conclude at its next session, on 23 and 24 February, its review of any outstanding issues that it could not conclude at its current session.

61. On that occasion, the secretariat would present such additional documents as would be ready for that session. References were made to a document on the concept of governance and Governing Bodies and a document on possible criteria for a determination of matters involving amendments to the Basic Texts, as such, and matters that could be addressed through Conference resolutions or working practices. At that session, the review by the CCLM of all matters involving possible amendments to the Constitution should be concluded, except for any proposals which might be made by the Conference Committee subsequently. Such amendments would be reviewed by the Council at its session of June 2009 and circulated to the Members prior to 16 July 2009 in order to meet the requirement established by Article XX, paragraph 4 of the Constitution.

62. The secretariat proposed that two two-day sessions be held in May after a period of two months during which additional submissions would be prepared. In this connection the secretariat indicated that there was a need for time for substantial legal drafting and that some matters involved some complexity and required consultation with other units. The Committee noted that between June and September it would still be possible to hold sessions for the review of other proposals.



## APPENDIX

**Proposed amendment to Rule XXXVI of the GRO****Rule XXXVI*****Appointment of the Director-General<sup>1</sup>***

1. In pursuance of paragraph 1 of Article VII of the Constitution, the Director-General of the Organization shall be appointed under the following conditions:

(a) When the term of office of the Director-General is due to expire, the appointment of a new Director-General shall be placed on the agenda of the regular session of the Conference immediately preceding the expiry of the term of office.

(b) *In consideration of the expiry of the term of office of the Director-General, the Council shall set the dates for a period during which Member Nations may submit nominations for the office of Director-General. The nomination period shall have a duration of not less than twelve months and end at least sixty days prior to the beginning of the session of the Council referred to in sub-paragraph (c) of this paragraph. The nomination period shall be communicated to all Member Nations and Associate Members by the Secretary-General of the Conference and Council. Nominations validly made in accordance with Rule XII.5 of these Rules shall be communicated to the Secretary-General. The Secretary-General shall circulate the nominations received to all Member Nations and Associate Members by the date likewise set by the Council.*

(c) *Subject to such arrangements as the Council may make, consistent with these Rules and ensuring strict equality among all candidates, candidates validly nominated shall address the session of the Council which will be scheduled not less than sixty days before the session of the Conference and respond to such questions as may be put to them by delegations of Member Nations and Associate Members of the Organization. There shall be no debate and the Council shall not draw any conclusion or recommendation from any of the statements or interventions made.*

(d) *As soon as possible after the opening of the Conference session, the General Committee shall determine and announce the date of the election, it being understood that the appointment of the Director-General at a regular session shall begin and be effected within three working days following the opening date of such a session. Candidates for the position of Director-General shall address the Conference at which the election is to be held and*

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<sup>1</sup> Renumbering of the ensuing sub-paragraphs of this paragraph will be needed.

*answer questions that delegations of Member Nations and Associate Members may put to them.*

*(e) Travel expenses of each candidate validly nominated, properly incurred in travelling, by the most direct route, from his/her duty station to the site of the Council and Conference sessions referred to in subparagraphs (c) and (d) of this paragraph and return to his/her duty station, as well a subsistence allowance for up to five days per session, shall be borne by the Organization in accordance with its travel regulations.*

*2. The Director-General shall be elected by a majority of votes cast. Until a candidate obtains the required majority, the following procedure shall apply:*

*(a) two ballots shall be held among all candidates;*

*(b) the candidate having received the smallest number of votes in the second ballot shall be eliminated;*

*(c) thereafter, successive ballots shall be held, and the candidate having received the smallest number of votes in any one of these ballots shall be eliminated, until only three candidates remain;*

*(d) two ballots shall be held among the three remaining candidates;*

*(e) the candidate having received the smallest number of votes during the second ballot referred to in subparagraph (d) above shall be eliminated;*

*(f) a subsequent ballot, or successive ballots if necessary, shall be held among the two remaining candidates until one candidate obtains the required majority;*

*(g) in the event of a tie between two or more candidates having received the smallest number of votes in one of the ballots referred to in subparagraphs (b) or (c) above, a separate ballot or, if necessary, separate ballots shall be held among such candidates, and the candidate having received the smallest number of votes in such ballot or ballots shall be eliminated;*

*(h) in the event of a tie between two candidates having received the smallest number of votes in the second of the two ballots referred to in subparagraph (d) above, or if all three candidates have received the same number of votes in that ballot, successive ballots shall be held among all three candidates until one candidate has received the smallest number of votes, after which the procedure provided in subparagraph (f) above shall apply.*

3. *Subject to the provisions of Article VII, paragraphs 1 to 3 of the Constitution, the terms and conditions of appointment of the Director-General, including the salary and other emoluments attached to the office, shall be determined by the Conference, having regard to any recommendations submitted by the General Committee, and shall be embodied in a contract signed by him and by the Chairman of the Conference on behalf of the Organization.*

4. *The Deputy Director-General shall act as Director-General in any case where the Director-General is unable to act or in the case of a vacancy in the office of the Director-General. [ISSUE TO BE ADDRESSED]*