



COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

Ninety-first Session

Rome, 20 – 22 September 2010

CORRECTION OF ERRORS AND EDITORIAL ADJUSTMENTS TO THE BASIC TEXTS AND THEIR STRUCTURE

I. BACKGROUND

1. The correction of some errors, editorial adjustments and adjustments to the structure of the Basic Texts of the Organization need to be made to ensure that these reflect faithfully the intent and the spirit of the resolutions adopted by the Thirty-sixth Session of the Conference of 2009 for the implementation of the Immediate Plan of Action (IPA) for FAO Renewal (2009-11).

2. In line with established practice, corrections of errors and editorial adjustments to the Basic Texts have been done administratively¹. However, given the number of adjustments needed, which must be seen in the light of the large numbers of amendments made to the Basic Texts, the proposed corrections of errors and editorial adjustments are brought to the attention of the Committee on Constitutional and Legal Matters (CCLM) for endorsement.

II. GENERAL RULES OF THE ORGANIZATION (GRO)

A. Rule XXIV, paragraph 1 (b) of the GRO

3. As a result of the implementation of the IPA², the Council should no longer discuss global policy and regulatory issues, unless there is an urgent reason to do so. Implementation of this action, whereby the Council is no longer required to keep under review the state of the world food

¹ It should be noted in this regard that the 2009 Conference has specifically instructed the Secretariat to make editorial adjustments to a number of Rules of the GRO, for example to use the word “*Chairperson*” instead of “*Chairman*”, to renumber rules, paragraphs and sub-paragraphs, to insert footnotes containing references to Conference resolutions, and to modify rule references as appropriate (C 2009/REP).

² IPA action 2.23.

and agriculture situation, including the annual review of the related report, was the subject of discussions among Members, including at the CCLM³. The CCLM recommended that, consistent with the IPA, the Council should continue to be able to examine any issue of an urgent nature related to the world food and agriculture situation referred to it by any Governing Body of FAO or the Director-General. In addition, the Council should continue to examine any issue referred to it by the Conference or in accordance with any applicable arrangements. This was reflected in current Rule XXIV, paragraph 1 (b) and (c) of the GRO⁴. However, Members have considered that current Rule XXIV, paragraph 1 (b) of the GRO could be interpreted as implying that the Council should still make systematic reviews of the state of world food and agriculture situation, while paying special attention to urgent matters.

4. In order to clarify the matter, the following correction to Rule XXIV, paragraph 1 (b) is proposed:

“The Council shall: (...)

(b) examine and advise on any urgent issues pertaining to or arising out of the world food and agriculture situation and related matters ~~specially any such issues of an urgent nature~~, which would call for action by the Conference, the Regional Conferences, the Committees referred to in Article V, paragraph 6 of the Constitution or the Director-General; (...).⁵

B. Rule XXV, paragraph 3 (a) of the GRO

5. Insofar as the current operating model of the CCLM is the same as those of the Programme and Finance Committees⁶ and the Council at its session held immediately after a regular session of the Conference is required to elect the Chairperson and the Members of the CCLM the following self explanatory correction to Rule XXV, paragraph 3 (a) of the GRO is proposed:

“3. At its session held immediately after a regular session of the Conference, the Council shall:

(a) elect the Chairpersons and Members of the Programme Committee, ~~and~~ the Finance Committee, and ~~the Members of~~ the Committee on Constitutional and Legal Matters;

(...).⁵

C. Alignment of paragraph 10 of Rules XXVI and XXVII with that of paragraph 13 of Rule XXXIV of the GRO

6. During its Eighty-fourth Session (2-4 February 2009) the CCLM reviewed document 84/6 entitled “*Status and composition of the Programme Committee, Finance Committee and Committee on Constitutional and Legal Matters*”. In its report, the CCLM noted that IPA actions

³ See document CCLM 87/3 paragraphs 18 to 24 and document CL 136/20 at paragraph 14.

⁴ See, *inter alia*, document CCLM 87/3, *Implementation of the actions of the Immediate Plan of Action regarding the Council and related matters*, paragraph 23. Some agreements, such as the relationship agreement between the United Nations and FAO, may place upon the Council an obligation to examine issues that may be referred to it by another organization.

⁵ Proposals regarding insertions are indicated using underlined italics and deletions are indicated using ~~struck-out text~~.

⁶ See paragraph 6 below.

2.44 to 2.47 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.

7. The distinction between the Chairperson and the representatives of Members of the committees was reflected in paragraph 13 of Rule XXXIV of the GRO regarding the CCLM. However, this distinction was not made in paragraph 10 of Rules XXVI and XXVII regarding the Programme and Finance Committees, although there was a clear intent to differentiate in future between the Chairperson and the representatives of Members.

8. Therefore, a correction should be made to paragraph 10 of Rules XXVI and XXVII of the GRO as follows:

“10. The Chairperson and the 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.”⁷

D. Reference to deleted Rule XXIV paragraph 1 (d) of the GRO

9. Paragraph 10 of Rule XXIX (regarding the Committee on Commodity Problems) and paragraph 12 of Rule XXXVI (regarding commissions, committees and working parties set up in pursuance of Article VI of the Constitution) make reference to paragraph 1 (d) of Rule XXIV. That sub-paragraph was deleted, after a lengthy debate, to reflect the fact that the Council will no longer discuss global policy and regulatory issues, unless there is an urgent need to do so. At that time consequential amendments were not made to the above mentioned Rules. Therefore, a correction to Rule XXIX.10 should be made as follows:

“Rule XXIX

Committee on Commodity Problems

(...)

10. The Committee may, when necessary, establish subcommittees, intergovernmental commodity groups and ad hoc subsidiary bodies, subject to the necessary funds being available in the relevant chapter of the approved budget of the Organization. It may include in the membership of such subcommittees and ad hoc subsidiary bodies Member Nations which are not Members of the Committee and Associate Members. Membership of intergovernmental commodity groups established by the Committee shall be open to all Member Nations and Associate Members of the Organization, and the Council may admit to membership of such groups States which, while not Member Nations or Associate Members of the Organization, are members of the United Nations, any of its specialized agencies or the International Atomic Energy Agency. ~~It may authorize the Director-General to invite at their request States which, while not Member Nations or Associate Members of the Organization, are members of the United Nations, any of its specialized agencies or the International Atomic Energy Agency, to attend consultations, convened under paragraph 1 (d) of Rule XXIV of the General Rules of the Organization, on individual commodities and participate in the discussions, with the right to vote and to hold office. Former Member Nations of the Organization which have withdrawn leaving arrears of contributions shall not be~~

⁷ Proposals regarding insertions are indicated using *underlined italics*.

admitted to membership in intergovernmental commodity groups ~~or attend consultations on individual commodities~~ until such time as they have paid up all such arrears or the Conference has approved an arrangement for the settlement thereof, or unless the Council, in special circumstances, decides otherwise with respect to such admission.”

10. Also, a correction to paragraph 2 of Rule XXXVI should be made as follows:

*“Rule XXXVI
Commissions, Committees and Working Parties*

1. Commissions, committees and working parties set up in pursuance of Article VI of the Constitution may establish subcommissions, subcommittees or subsidiary working parties either to perform a substantive part of their functions or to carry out a specific task. Associate Members may participate in the deliberations of such subcommissions, subcommittees or subsidiary working parties but shall not hold office or have the right to vote.

~~2. The first paragraph of this Rule shall be interpreted in conformity with the provisions of Rule XXIV, paragraph 1 (d) (v) of these Rules.~~

(following paragraphs to be renumbered)”

E. Alignment of paragraphs 6 (b) and 6 (d) of Rule XXXII of the GRO

11. Paragraph 6 of Rule XXXII refers to the functions of the Committee on Agriculture. Subparagraph 6 (b) was amended to add “livestock” as follows:

*“Rule XXXII
Committee on Agriculture*

(...)

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.”

12. The same term should have been added to subparagraph 6 (d), so a proposal is made to correct the text as follows:

“d) review specific matters relating to agriculture and livestock, food and nutrition referred to the Committee by the Conference, the Council or the Director-General, or placed by the Committee on its agenda at the request of a Member Nation in accordance with the Rules of Procedure of the Committee, and make recommendations as may be appropriate.”

F. Rule XXXIV paragraph 9 of the GRO

13. In paragraph 9 of Rule XXXIV of the GRO, the reference to paragraphs 6 and 7 should be made to paragraphs 7 and 8, as follows:

“9. In considering items referred to it under paragraphs ~~6~~ 7 and ~~7~~ 8, the Committee may make recommendations and give advisory opinion, as appropriate.”

G. Rule XXXVIII paragraph 2 (g) of the GRO

14. During its Eighty-sixth Session (7-8 May 2009) the CCLM reviewed document 86/5 entitled “*Reform of Programming, Budgeting and Results-Based Monitoring*”. In its report, the CCLM considered that IPA actions 3.1 to 3.11 required the adoption of amendments to the GRO, the Financial Regulations and the adoption of a Conference Resolution. Some of the amendments to the GRO were made in order to reflect: (a) the abolition of the summary programme of work and budget and the preparation of a single set of budgetary documents; (b) the Strategic Framework and Medium-Term Plan and (c) the new procedures for programming, budgeting and results-based monitoring. However, these new elements of the reform of programming, budgeting and results-based monitoring were not reflected in Rule XXXVIII paragraph 2 (g) of the GRO, as they should have.

15. Therefore, a correction should be made to the Rule as follows:

“Rule XXXVIII

Functions of the Director-General

(...)

2. In particular, the Director-General shall, in accordance with these Rules and the Financial Regulations, and provided that he reports to the Council or Conference as appropriate on all matters involving policy issues:

(...)

g) prepare:

i) in the light of guidance given by the Conference and Council at previous sessions and by regional and technical conferences, commissions or committees, ~~a summary~~ the Strategic Framework, the Medium-Term Plan and the Programme of Work and Budget for consideration by the Programme and Finance Committees, other appropriate organs of the Organization, and the Council; and

ii) in the light of the observations by the aforementioned Committees and organs and by the Council, ~~a draft~~ the Strategic Framework, the Medium-Term Plan and the Programme of Work and Budget for submission to the Conference.”

III. RULES OF PROCEDURE OF THE COMMITTEE ON WORLD FOOD SECURITY AND OF THE REGIONAL CONFERENCES

16. The CCLM is invited to note that the revised Rules of Procedure of the Committee on World Food Security (CFS) which should normally be adopted at its forthcoming session (Thirty-sixth Session, 11 - 14 and 16 October 2010) will be incorporated in Volume I of the Basic Texts.

17. The CCLM is also invited to note that the Rules of Procedure of the Regional Conferences, to be adopted by each Regional Conference as appropriate, are to be incorporated in Volume I of the Basic Texts in due course.

IV. DOCUMENT ON THE REFORM OF THE COMMITTEE ON WORLD FOOD SECURITY

18. The CCLM is invited to note that, in line with operative paragraph 3 of Conference Resolution 14/2009, document CFS 2009/2 rev. 1 "*Reform of the Committee on World Food Security*" is to be added to a section of Volume II of the Basic Texts.

V. CHARTER OF THE FAO OFFICE OF EVALUATION

19. The CCLM is invited to note that the Charter of the FAO Office of Evaluation, approved by the Council at its Hundred and Thirty-ninth Session (17-21 May 2010), is to be added to Section H of Volume II of the Basic Texts.

VI. AMENDMENTS TO SECTIONS L, M AND N OF VOLUME II

20. The CCLM is invited to note that a process has been initiated to amend Sections L (Cooperation with International Non-Governmental Organizations), M (FAO Policy Concerning Relations with International Non-Governmental Organizations) and N (Granting of Observer Status in Respect of International Governmental and Non-Governmental Organizations) of Volume II of the Basic Texts. Amendments to these sections will be reviewed by the CCLM, presumably the Programme Committee, the Council and the Conference.⁸

VII. SEQUENCE OF SECTIONS

21. The CCLM is invited to provide guidance on the sequence that the different sections of Volumes I and II should follow, or to recommend that the Secretariat should rearrange these sections as appropriate.

VIII. SUGGESTED ACTION BY THE COMMITTEE

22. The CCLM is invited to review this document and make such comments thereon as appropriate.

⁸ Given the complexity and sensitivity of some of the issues involved in this process, it is not known when the revision will be completed. In addition, Part O of Volume II of the Basic Texts entitled "*Principles and Procedures which should Govern Conventions and Agreements Concluded under Articles XIV and XV of the Constitution, and Commissions and Committees Established under Article VI of the Constitution*" is now outdated in a number of respects. However, the revision of this Section of the Basic Texts might be a long-term process.

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23. The CCLM is in particular invited to:
- a) endorse the proposed correction to paragraph 1 (b) of Rule XXIV of the GRO;
 - b) endorse the proposed correction to paragraph 3 (a) of Rule XXV of the GRO;
 - c) endorse the proposed correction to paragraph 10 of Rules XXVI and XXVII of the GRO;
 - d) endorse the proposed correction to paragraph 10 of Rule XXIX and paragraph 2 of Rule XXXVI of the GRO, the renumbering of paragraphs 3-5 of Rule XXXVI of the GRO and the correction of Rule references in Sections I and O as appropriate;
 - e) endorse the proposed correction to paragraph 6 (d) of Rule XXXII of the GRO;
 - f) endorse the proposed correction to paragraph 9 of Rule XXXIV of the GRO;
 - g) endorse the proposed correction to paragraph 2 (g) of Rule XXXVIII of the GRO;
 - h) note that the revised Rules of Procedure of the Committee on World Food Security are to be incorporated in Volume I of the Basic Texts;
 - i) note that document CFS 2009/2 rev. 1 “*Reform of the Committee on World Food Security*” is to be added to Volume II of the Basic Texts and authorize the secretary to add a new section to that volume of the Basic Texts;
 - j) note that the Rules of Procedure of the Regional Conferences are to be incorporated in Volume I of the Basic Texts and authorize the secretary to add a new section to that volume of the Basic Texts;
 - k) note that the Charter of the FAO Office of Evaluation is to be added to Section H of Volume II of the Basic Texts; and
 - l) note that a process has been initiated to amend Sections L (Cooperation with International Non-Governmental Organizations), M (FAO Policy Concerning Relations with International Non-Governmental Organizations) and N (Granting of Observer Status in Respect of International Governmental and Non-Governmental Organizations) of Volume II of the Basic Texts.