



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

## COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

### Eighty-fourth Session

Rome, 2-4 February 2009

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

#### BACKGROUND

1. The Immediate Plan of Action (IPA) approved by the Conference of FAO at its Thirty-fifth (Special) Session includes actions on the appointment and term of office of the Director-General. The IPA indicates that “*the post of Director-General will be publicised well in advance of the election (candidatures, as now, will only be proposed by Member Countries). Measures will be enhanced to require the candidates to formally make a presentation to the Council and Conference and respond to questions prior to election. The term of office will be changed to a four year term, with the possibility of one single renewal for a further term of four years*”. More specifically, the relevant action matrix of the IPA provides for the following:

*“Introduce procedures and Basic Text changes to strengthen opportunity for the FAO membership to appraise candidates for the post of Director-General prior to the election, including (2.95):*

- a) *Candidates for the post of the Director-General will address the Conference at which the election will be held. Members will have the opportunity to put questions to candidates (expenses will be covered from the FAO Budget) (2.96);*
- b) *Candidates for the post of the Director-General will address a session of the FAO Council not less than 60 days prior to the Conference at which the election is to be held. At that session both Members and observers to the Council will have the opportunity to put questions to candidates (the meeting with candidates is for information only and no recommendation or conclusion of the discussion will be made (expenses of candidates will be covered from the FAO Budget) (2.97);*

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- c) *Nominations by Member Governments of candidates for the post of Director-General will close at least 60 days prior to the above Council session (2.98);*
  - d) *When the post of Director-General is due to become vacant it will be publicized, not less than 12 months before the closure of nominations, noting that all nominations remain fully the responsibility of Member Countries (2.99);*
  - e) *The FAO Conference will consider for approval desirable qualifications for the post of Director-General developed by the CoC-IEE in 2009 (2.100)."*
2. From a legal point of view, the implementation of the above actions involves two steps.
- a) The first concerns the term of office of the Director-General. The provisions on this matter are set out in the Constitution and, therefore, an amendment to the Constitution would be required.
  - b) The actions designed to strengthen the possibility for the FAO membership to appraise candidates for the post of Director-General prior to the election should normally be dealt with through amendments to the General Rules of the Organization (GRO)<sup>1</sup>.

#### **TERM OF OFFICE OF THE DIRECTOR-GENERAL**

3. The IPA provides that the Director-General should be appointed for a four year term, with the possibility of one single renewal for a further term of four years. The current provisions on this matter are set out in Article VII, paragraph 1 of the Constitution. In keeping with the structure of this provision, a revised wording for Article VII, paragraph 1, of a straightforward nature, could be as follows:

*"There shall be a Director-General of the Organization who shall be appointed by the Conference for a term of four ~~six~~ years. He shall be eligible for reappointment only once for a term of four years"*<sup>2</sup>.

4. Insofar as this involves an amendment to the Constitution, **notice of the proposed amendment would have to be despatched by the Director-General to the Members at least 120 days before the opening of the session at which it is to be considered**<sup>3</sup>.

#### **PROCEDURES FOR THE APPOINTMENT OF THE DIRECTOR-GENERAL**

5. The procedures for the appointment of the Director-General are currently set out in Rule XXXVI of the GRO. In general, these procedures, which reflect past experience of the Organization on a traditionally sensitive matter, have been implemented smoothly and it is therefore suggested that the overall structure of this Rule be maintained. It is proposed to deal with this matter through an amendment to this Rule, building upon its existing structure.

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<sup>1</sup> Or even through other legal documents such as Conference resolutions.

<sup>2</sup> In this document, as well as in other documents being referred to the CCLM, draft amendments will be presented with changes in track mode whenever this would not result in too loaded draft amendments.

<sup>3</sup> As the forthcoming session of the Conference will begin on 14 November 2009, notice of the amendments will have to be despatched to the Members by 16 July 2009.

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6. Revised Rule XXXVI, paragraph 1 (a) of the GRO, as amended to reflect the procedure outlined in the IPA, could read as follows:

*“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 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 session. Candidates for the position of Director-General shall address the Conference at which the election is to be held and 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 sub-paragraphs (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”.*

7. The ensuing sub-paragraphs of paragraph 1 of current Rule XXXVI of the GRO would be re-numbered<sup>4</sup>.

### **OUTSTANDING ISSUES FOR CLARIFICATION**

8. Action matrix 2.100 of the IPA provides that the FAO Conference should consider for approval desirable qualifications for the post of Director-General, developed by the CoC-IEE in 2009<sup>5</sup>.

9. The CCLM is invited to review the following issues of unequal importance and indicate whether it considers itself in a position to make a recommendation to the Conference Committee on the substance of the issues raised, or whether it wishes to seek appropriate guidance from the Conference Committee before reviewing the matter again.

#### **A. Unexpected vacancy in the office of the Director-General**

10. In the practice of the organizations of the United Nations system there have been occasional situations of an unexpected vacancy in the office of the executive head. As evidenced by the recent experience of WHO, these situations are inherently difficult to handle and it would seem desirable that a procedure be designed for the appointment of a Director-General in such a case<sup>6</sup>. In examining the matter, the CCLM may wish to bear in mind the following considerations.

11. Currently, Rule XXXVI of the GRO, seen together with Article VII, paragraph 3 of the Constitution, establishes a procedure for the appointment of a new Director-General in the event of a vacancy in that office. The substance of this procedure was adopted by the Conference of FAO in 1957 after the Director-General resigned in June 1956 for health reasons. As a result of this resignation it was necessary to implement a procedure on an *ad hoc* basis. A session of the Council was convened when the resignation was announced in June 1956. In the course of this session some interim arrangements were agreed upon and a special session of the Conference was convened for September 1956<sup>7</sup>. This course of action was reflected through an amendment to the GRO approved in 1957, which has remained in force since then. Henceforth when, for reasons

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<sup>4</sup> The annex to this document contains a consolidated revised version of this Rule. In view of the proposals for a new organizational structure involving two Deputy Directors-General, there would be a need to amend Rule XXXVI, paragraph 2, which would be addressed in another document.

<sup>5</sup> In this regard, the Executive Board of WHO has decided, through resolution EB97.R10, that "the candidate nominated by the Executive Board for the post of Director-General should have: (1) a strong technical and public health background and extensive experience in international health; (2) competency in organizational management; (3) proven historical evidence for public health leadership; (4) sensitiveness to cultural, social and political differences; (5) a strong commitment to the work of WHO; (6) the good physical condition required of all staff members of the Organization; and (7) sufficient skills in at least one of the official and working languages of the Executive Board and Health Assembly". At its 180<sup>th</sup> session in 2008, the Executive Board of UNESCO instructed the Chairperson of the Executive Board to send a letter to UNESCO Member States regarding the election of a new Director-General in 2009. The person appointed to the position should have the following qualities: leadership and proven administrative and management skills, a strong commitment to all the objectives of the Organization; a visionary and active approach to the role of UNESCO in the community of nations; a good knowledge of the United Nations system; commitment to the highest moral and ethical standards; strong communication skills so as to develop effective internal and external communication strategies, vision and objectives for the Organization; empathy and sensitivity to civil society as an important UNESCO constituency by utilizing, as appropriate, the existing structures and, in particular, the National Commissions of UNESCO (180 EX/28).

<sup>6</sup> Specialized Agencies of the United Nations system which were consulted after the process of appointment of a new Director-General was completed, also considered that it was desirable to establish procedures for the election of a Director-General in the event of an unexpected vacancy.

<sup>7</sup> The approach taken at that time is reflected in the Report of the Council, 24<sup>th</sup> Session, 18-19 June 1956, paragraphs 10-20 (Action arising out of the notice of resignation of the Director-General).

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other than the expiry of the term, the office of the Director-General is vacant, or notice is received of a pending vacancy, the appointment of a new Director-General is placed on the agenda of the next session of the Conference which opens not less than 90 days from the occurrence or notice of the pending vacancy. Subsequently, in 1971, on the occasion of an amendment to Article VII of the Constitution, the Conference amended current Article VII, paragraph 3 of the Constitution<sup>8</sup>. The two sets of provisions of the GRO and the Constitution are simple and precise, while providing a flexible framework under which the membership can appoint a new Director-General<sup>9</sup>.

12. In practical terms, should an unexpected vacancy occur, two situations could arise<sup>10</sup>.
- a) An unexpected vacancy could occur towards the end of the term of the incumbent Director-General. It would be possible to appoint a new Director-General through the normal cycle of sessions of the Council and the Conference.
  - b) An unexpected vacancy could also occur well before the end of the term, in particular before the initiation of the regular procedure for the nomination and appointment of a new Director-General. In that case, Article VII, paragraph 3 of the Constitution foresees a possibility that the Council, or a least one-third of the membership, would instruct the Acting Director-General to call a special session of the Conference for appointment of a new Director-General. There would be a need for the Council to set a date for the submission of nominations, which would presumably require a session of the Council to call a special session of the Conference<sup>11</sup>. In setting the date of the Conference session, the Council would need to take into account the rule whereby the Conference could not take place less than 90 days from the occurrence or notice of the vacancy.
13. As mentioned above, this framework is set out in general terms. Yet it was defined on the basis of the experience of an unexpected vacancy of the office and includes provisions addressing critical matters. The framework allows the membership to take the necessary decisions and reduce to a minimum the period of office of the Acting Director-General.
14. The revised procedure for the appointment of the Director-General, as agreed in the IPA and reflected in paragraph 6 above, might not be suitable for an unexpected vacancy in the office of the Director-General and, in any case, does not appear to have been designed for such a vacancy. In particular, it envisages a nomination period which starts at least sixteen months prior to the beginning of the session at which the Conference is to elect the new Director-General. This is so because of the combined effect of various actions. The post of Director-General is to be

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<sup>8</sup> C71/REP, paras. 335-340.

<sup>9</sup> The current procedure was approved by the 9<sup>th</sup> Session of the Conference of FAO in 1957 and was slightly amended by the Conference in 1969. Two documents describe in much detail the current procedures for the election of the Director-General: CL 51/12 and CL51/13. An Ad Hoc Committee on Procedure for the Appointment of the Director-General was established at that time by the Council. At the Conference of 1967, because there were no procedures for the gradual elimination of candidates after successive ballots, the Director-General was elected only some 20 days after the beginning of the Conference. As a result of this, Rule XXXVI, paragraph 1 (b) of GRO was introduced in 1969.

<sup>10</sup> In accordance with Rule XXXVI, paragraph 2 of the GRO, in the case of a vacancy in the office of the Director-General, the Deputy Director-General acts as Director-General. Should the Organization have two Deputy Directors-General there would be a need to determine which Deputy Director-General would be the Acting Director-General in the event of a vacancy in the office of Director-General. This could be addressed at a later stage in the process of amendment of the Basic Texts.

<sup>11</sup> There would be a possibility of a contrived solution whereby a deadline for submission of nominations and a Conference would be called under Rule XXV, paragraph 14 of the GRO on decisions on matters of exceptional urgency. This solution could be difficult to implement in practical terms.

publicized not less than 12 months before the closure of nominations<sup>12</sup>. Closure of nominations takes place at least 60 days prior to the session of the Council where the candidates are to address the membership. This session, itself, takes place at least 60 days before the session of the Conference at which the election is to take place. In this time-frame, a number of options could be envisaged to deal with a situation of an unexpected vacancy of the office:

- a. A convenient option from a practical and procedural viewpoint would consist in providing for a Deputy Director-General to act as Director-General for the remainder of the term of office. However, this solution could impact upon the process of appointment of the Deputy Director-General, which is currently primarily a managerial decision conditional on confirmation by the Council. If such a solution were to be followed, it might also be useful to clarify whether or not the Deputy Director-General would be eligible for election as Director-General at the end of the vacated term of office and, if so, for how many terms of office<sup>13</sup>.
- b. Another option might consist in establishing a special procedure, with a reduced timeframe (at least for the advertisement of the position). In this connection, the CCLM may wish to note the recent experience of WHO as a result of the unexpected death of the Director-General on 22 May 2006, on the first day of the annual session of the World Health Assembly. Because of the presence of a large number of delegates in Geneva, it was possible to convene an urgent special session of the Executive Board on 23 May 2006. On that occasion, the Executive Board requested the secretariat to submit to the Board, at its next session, an accelerated procedure for the election of the Director-General. The Executive Board held its regular session from 29 to 31 May 2006 and approved an accelerated procedure, compatible however with a possibility for the Members to propose candidates. While this situation involved features specific to WHO, it confirmed the fact that, in the event of an unexpected vacancy, it is desirable that a new Director-General should be appointed within a reasonably short time frame<sup>14</sup>.

15. The CCLM is invited to advise on this matter, noting that the draft amendments outlined in this document do not cover the situation of an unexpected vacancy in the office of Director-General.

## **B. Transitional measures**

### **(a) Particular situation arising in 2011**

16. The Conference session which is due to appoint a new Director-General in 2011 should be held in June, in accordance with the new pattern of sessions of the Governing Bodies.

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<sup>12</sup> An issue that might deserve some consideration is whether there would be a possibility of reducing the nomination period beginning with the announcement of the post. Given the intergovernmental nature of the process of appointment of a Director-General, there might not be a need for such an extended nomination period in the case of a vacancy in the office of the Director-General.

<sup>13</sup> In 1961 the Conference of FAO approved an amendment to Article VII of the Constitution whereby in the event of a vacancy, the Conference would elect a new Director-General (in accordance with the provisions of Rule XXVI, paragraph 1 of the GRO), but the successor would serve for the unexpired portion of the term of office. This was amended again in 1971, when current Article VII, paragraph 3 was introduced.

<sup>14</sup> At the end of May 2006, the Executive Board established the following deadlines: (a) notification by the Acting Director-General to Member States that they may submit nominations for the post of Director-General: 1 June 2006; (b) final date for receipt by WHO of nominations: 5 September 2006; (c) date of despatch of nominations, curricula vitae and supporting information to Member States: 5 October; (d) convening of a special session of the Board from 6 to 8 November 2006; (e) convening by the Acting Director-General of a special session of the World Health Assembly on 9 November 2006 (WHO EB118.R2). Eventually, the new Director-General was appointed by the World Health Assembly on 9 November 2006, i.e. about five and a half months after the vacancy occurred.

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17. The Thirty-third session of the Conference in 2005 appointed the current incumbent for the period from 1 January 2006 to 31 December 2011. Therefore, the Director-General to be elected in 2011 will only take office on 1 January 2012. In accordance with a consistent practice followed throughout the United Nations system and principles of law restated on a number of occasions, including in connection with an amendment to the Constitution of FAO in 2003, changes in the tenure of office of heads of agency should not have retroactive effect and, therefore, the current term of the Director-General would have to be safeguarded.

18. Consequently, the mandate of the Director-General elected at the session of June 2011 could only start on 1 January 2012.

**(b) Future sequence of mandates of the Director-General**

19. Aside from the particular situation of the election of the Director-General in 2011 and the date of his/her entry into function, the CCLM may wish to note that insofar as the next Conference is due to meet in June, it might be desirable to examine the future sequence of mandates of the Director-General.

20. In the future it might be deemed appropriate to shorten the transitional period during which there would be an out-going Director-General and a Director-General elect. In WHO, for example, the World Health Assembly meets at the end of May and, when a new Director-General is elected, he/she used to take office on 21 July, about two months after the appointment, for a term of five years. Special arrangements were made for the election of 2006<sup>15</sup> and the Director-General was appointed for the period 4 January 2007 to 30 June 2012. Past practice of WHO would suggest, *mutatis mutandis*, that it would be desirable that the term of office of a Director-General elected in June should start earlier than 1 January of the following year.

21. The CCLM is invited either to advise on the matter or consider referring the matter to the Conference Committee for clarification.

**C. Status of nominated candidates serving as officials of the Organization**

22. The issue could be raised as to whether there should be any special rules or procedures applying to senior staff members nominated by a Member for the office of Director-General. Indeed, this matter was recently the subject of extensive inter-agency consultations in connection with an election at another Rome-based Specialized Agency. The following paragraphs provide information received as a result of those consultations and considerations put forward in that context.

23. First, as regards FAO, no rules prevent the nomination of senior officials as candidates and the practice of the Organization shows that nominations of serving senior officials were made in the past. In 1975, one of the nominees was a division director, who continued to exercise his functions after the nomination, and was eventually elected. In 1993 three serving senior officials were nominated. Once they are nominated, no rules, such as leave of absence or relief from certain duties or placement on special leave with or without pay, are in place for such nominees. It is, however, possible that on a voluntary basis and on policy grounds, nominated candidates may restrict their office activities to the performance of duties of a routine nature.

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<sup>15</sup> The term of office of the Director-General of WHO is set out in Rule 108 of the Rules of Procedure of the World Health Assembly, which was waived by the Assembly.

24. The same situation prevails at the United Nations as well as in other organizations of the United Nations system. Thus, recently, at the World Intellectual Property Organization, the winning candidate was a Deputy Director-General at the time of nomination by his Government, who continued to exercise his functions. Four other nominated candidates were officials of WIPO. All continued to exercise their functions and there has never been any mention of a conflict of interest or of the need for them to step aside. Likewise, the International Labour Organisation (ILO), the International Civil Aviation Organization (ICAO), the International Atomic Energy Agency (IAEA), and the World Meteorological Organization (WMO) have no rules on the matter. The current Director-General of IAEA was an official of the Agency who was nominated as a candidate and who continued in office after the nomination. Similarly, in ILO there were several situations where senior officials were nominated as candidates and continued to serve. The World Trade Organization, which is not, strictly speaking, part of the United Nations system, has no similar rules either.

25. The matter was raised at WHO in conditions which the CCLM or the Conference Committee may find helpful in order to advise on the matter. At its regular session at the end of May 2006, following the death of the Director-General a week earlier, the Executive Board of WHO launched an accelerated process for the election of a new Director-General. Resolution EB118.R2 requested “*the Acting Director to consider placing officers and staff members who are candidates for the election referred to in the present resolution on temporary leave of absence with pay from their current posts during the period from 5 September 2006 (the final date for receipt by WHO of proposals for nomination) until the World Health Assembly’s appointment of a new Director-General*”.

26. Thereafter, the Acting Director-General sent the following message to all staff:

*“Following the sudden death of Dr. Lee, the Executive Board decided on an accelerated process to elect a new Director-General. The Executive Board will submit a nominee for appointment to a special session of the Health Assembly to be held on 9 November 2006.*

*This note is to remind staff members of their obligations during the period from now until the appointment of a new Director-General by the special session of the Health Assembly.*

*Consistent with Staff Regulation 1.1, during any election staff members are required to work with the interests of the Organization exclusively in mind. Proper conduct requires, for example, that staff members act completely impartially with respect to all candidates for elective WHO office. Staff members must not express their views concerning any candidate, nor actively support any candidate publicly or privately.*

*In this context, “candidate” means an individual who has been proposed for the post of Director-General by a Member State in accordance with Rule 52 of the Rules of Procedure of the Executive Board, or any individual who has announced their candidacy or has expressed an intention to be a candidate but who has not yet been formally proposed by a Member State.*

*Staff members are permitted to be candidates for elective WHO positions, including the position of Director-General if proposed by a Member State in accordance with the relevant rule. Should such a case arise, and in accordance with EB Resolution EB118.R2, consideration will be given to placing the staff member on special leave under Staff Rule 650 until the new Director-General is appointed.*



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*Staff members and candidates are strictly prohibited from using any organizational resources, in any manner, in support of a candidature or anticipated candidature”.*

27. An Assistant Director-General serving with WHO was nominated (she was eventually elected Director-General of WHO). She was placed on special leave with pay from 5 September 2006. As indicated earlier, she was appointed on 9 November 2006. While this might constitute a precedent for future elections, this was a special solution followed in respect of the election of 2006.

28. In examining the above, a number of considerations may still be of some relevance. Although this is a matter entirely for appreciation by the membership, it does not appear from past experience of FAO that Members expressed openly any strong views that nominated candidates should be placed on special leave with pay. If consideration were to be given to this possibility, it might be useful to consider whether such placement on special leave should not begin upon nomination by the government of a Member Nation<sup>16</sup>, rather than at a later stage, as it could be reasonably assumed that efforts for a successful election would, if they did not begin earlier, start by that time.

29. An issue worth examining is whether it would be feasible to apply such requirement of special leave with pay to an incumbent Director-General candidate to another term of office. It might prove difficult to place an incumbent Director-General on special leave for a period of a substantial duration<sup>17</sup>. In addition, a situation where an incumbent Director-General would not be on special leave, whereas other officials of the Organization who might also be nominated candidates would be on special leave could introduce an element of inequality among nominated candidates.

#### **D. Process of review of candidates**

30. The CCLM is invited to review the procedures for the review of candidates, as reflected in the proposed amendment to Rule XXXVI of the GRO, and indicate whether these would need to be improved. It is envisaged that both the Council and the Conference should agree on arrangements to ensure equality among candidates. In this connection, a number of specific issues might need to be addressed. The CCLM is invited to advise on whether there would be a need to set a duration for the statements, the number of questions asked as well as, in general, the time allotted to each nominated candidates both at the Council and the Conference. There might be a need to decide whether the meetings of the Council and Conference should be subject to any restrictions, namely if they would be public or private<sup>18</sup>.

#### **E. Travel expenditures of candidates**

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<sup>16</sup> Under the new procedures, the nomination could take place a substantial period of time before the election, given the time frame set out in the IPA and developed in paragraph 6 of this document.

<sup>17</sup> In past practice of FAO, nominations of candidates were, at times, made very well in advance of the election. For instance, for the election of the Director-General in November 2005, the nomination of the only candidate was made on 4 December 2004, almost one year prior to the election. The solution followed by WHO in 2006 was tailored for that particular election, not one of a general nature applying to all elections.

<sup>18</sup> While this document has made extensive references to the practice of WHO, also in consideration of the unexpected vacancy of the office of the Director-General, there are fundamental differences in the process of election of the Directors-General of WHO and FAO. The Executive Board of WHO, which consists of 34 members, nominates one candidate for appointment by the World Health Assembly. In practical terms, this nomination amounts to the election of a candidate by 34 members, whereas the election of the Director-General of FAO is by the whole membership of the Organization. Similar considerations apply to UNESCO where the candidate for the post of Director-General is nominated by the Executive Board and the appointment made by the Conference as in WHO.

31. The proposed amendment to Rule XXXVI of the GRO regarding travel expenditures of candidates builds directly upon Rule XXV, paragraph 6 of the GRO. The CCLM may wish to advise on whether a broader formulation, referring perhaps to the general procedures or practice of the Organization, should be followed.

#### **SUGGESTED ACTION BY THE COMMITTEE**

32. The CCLM is invited to review this document, including the proposed amendments reproduced in the Appendix thereto, and make such comments and propose such amendments as it deems appropriate.

33. In particular, the CCLM is invited:

- (a) To review the proposed amendment to Article VII, paragraph 1 of the Constitution (IPA Rec. 2.101), noting that notice thereof should be given to the membership at least 120 days in advance of the date of the session of the Conference;
- (b) To review the proposed amendment to Rule XXXVI, paragraph 1 of the GRO (IPA Rec. 2.95);
- (c) To advise on procedures to be followed in the event of an unexpected vacancy in the office of the Director-General;
- (d) To advise on the transitional measures in 2011 and on the issue of the sequence of mandates given the new Conference cycle;
- (e) To advise on the status of nominated candidates serving as officials of the Organization;
- (f) To advise on any other relevant issues.

34. The CCLM is also invited to advise on whether it should seek guidance from the Conference Committee on any of the above issues.

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**APPENDIX****Proposed amendment to Article VII, paragraph 1 of the Constitution*****Article VII******The Director-General***

*There shall be a Director-General of the Organization who shall be appointed by the Conference for a term of four ~~six~~ years. He shall be eligible for reappointment only once for a further term of four years.*

**Proposed amendment to Rule XXXVI of the GRO*****Rule XXXVI******Appointment of the Director-General<sup>19</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.*

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<sup>19</sup> Renumbering of the ensuing sub-paragraphs of this paragraph will be needed.

(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 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 sub-paragraphs (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*

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*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.*