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COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

Ninety-ninth Session

Rome, 20 - 23 October 2014

Multi-year Programme of Work for the Committee on Constitutional and Legal Matters (Progress Report)

I. Background

1. The Committee on Constitutional and Legal Matters ("CCLM"), at its 93rd Session, held from 21-23 September 2011, approved its Multi-year Programme of Work ("MYPOW") 2012-15, as set out in **Annex I** hereto, pursuant to Actions 2.70 to 2.72 of the Immediate Plan of Action for FAO Renewal ("IPA"), which required the Governing Bodies, including the CCLM, to develop MYPOWs in relation to a period of at least four years, and to submit reports to the Council on progress made towards fulfilling them once every two years.¹

2. The CCLM's MYPOW 2012-15 took account of the Council's guidance on the distinctive features of the Committee's functions. In particular, the Council concurred with the CCLM's views that, according to its functions as defined in the General Rules of the Organization (GROs), the CCLM holds sessions to consider items arising out of the issues indicated in Rule XXXIV, paragraph 7 of the GROs or legal and constitutional aspects of any matters, referred to it by the Council or the Director-General as necessary, pursuant to, paragraph 8 of Rule XXXIV of the GROs. The CCLM further considered the distinctive features of its *modus operandi* and noted the absence of standing or recurrent items in its mandate or on its agenda which the CCLM could examine at pre-established dates. Notwithstanding this, the CCLM developed its MYPOW for 2012-15, which was approved by the Council at its 143rd Session in November 2011.²

¹ CL 143/4, paragraphs 11-15.

² CL 143/REP, paragraph 38



II. Multi-year Programme of Work 2012-15 – Progress Report

3. The Progress Report on the MYPOW 2012-15, set out in **Annexes II and III** hereto, outlines the CCLM's progress towards fulfilling its MYPOW 2012-15, since its last review conducted at its 97th Session in October 2013, in light of its overall objectives and mandate and its working methods and practices. As reflected in the discussions in connection with the approval of the MYPOW 2012-15, these working methods and practices take the distinctive features of the Committee into consideration. **Annex II** sets out the considerations of the CCLM at its 97th Session, held from 21-23 October 2013. **Annex III** sets out the considerations of the CCLM at its 98th Session, held from 17-19 March 2014.

III. Suggested action for the Committee

4. The Committee is invited to:
- a) examine this Progress Report, as set out in Annexes II and III, taking into account its overall objectives and mandate and proposed working methods and practices, outlined in the approved MYPOW 2012-15;
 - b) reiterate the distinctive features of the Committee's work since, in view of its nature and mandate, the Committee holds sessions to consider items that are not foreseeable or recurrent but which are referred to it as they arise by the Council or by the Director-General, in accordance with Rule XXXIV, paragraphs 7 and 8 of the GROs; and
 - c) note that, notwithstanding the above considerations, the issue of its MYPOW will continue to be kept under review by the CCLM duly taking into account the distinctive features of the Committee's *modus operandi*.

Annex I

Multi-year Programme of Work 2012-15 of the Committee on Constitutional and Legal Matters

Objectives and mandate

1. The Committee on Constitutional and Legal Matters provides advice and action-oriented recommendations, in the areas within its mandate, to the Council and to the Director-General as required.
2. The Committee operates efficiently and effectively, interacting as appropriate with the relevant Governing and Statutory Bodies of the Organization.
3. The Committee holds sessions to consider specific items referred to it under Rule XXXIV, Paragraphs 7 and 8 of the General Rules of the Organization, which include the following matters:
 - the application or interpretation of the Constitution, the General Rules of the Organization and the Financial Regulations or amendments thereto;
 - the formulation, adoption, entry into force and interpretation of multilateral conventions and agreements concluded under Article XIV of the Constitution;
 - the formulation, adoption, entry into force and interpretation of agreements to which the Organization is a party under Articles XIII and XV of the Constitution;
 - any other problems relating to conventions and agreements concluded under the aegis of the Organization or to which the Organization is a party;
 - the establishment of commissions and committees under Article VI of the Constitution, including their membership, terms of reference, reporting procedures and rules of procedure;
 - matters relating to membership of the Organization and its relations with nations;
 - the desirability of requesting advisory opinions from the International Court of Justice, in accordance with Paragraph 2 of Article XVII of the Constitution, or with the Statute of the Administrative Tribunal of the International Labour Organisation;
 - the policy regarding the privileges and immunities to be sought from host governments for the Organization's headquarters, regional offices, country representations, conferences and meetings;
 - problems encountered in ensuring the immunity of the Organization, its staff and its assets;
 - problems relating to elections and procedure for nominations;
 - standards for credentials and full powers;
 - reports on the status of conventions and agreements provided for in Rule XXI, Paragraph 5 of the General Rules of the Organization; and
 - policy aspects of relations with international governmental or non-governmental organizations, national institutions or private persons.

Working methods and practices

4. In carrying out its functions, the Committee will seek to abide by working methods and practices recognized as “best practices”, and keep them under review. In particular, the Committee will:

- Seek to formulate clear, precise, consensual and actionable recommendations to be submitted for endorsement by the Council;
- seek to work in close collaboration with relevant FAO Governing and Statutory Bodies;
- consult, through its Chairperson, with the Independent Chairperson of the Council;
- seek to examine any relevant practices developed in relevant institutions, particularly across the United Nations System;
- without prejudice to the need for the Committee to obtain full information on all relevant aspects of the legal issues under discussion, seek to prepare succinct documents that have a standardized cover page with a box containing an executive summary and suggestions as to the proposed action;
- ensure that Committee documents be available in relevant FAO languages at least two weeks before the commencement of each session.

5. Once every year, the Committee will examine its working methods and activities, to consider matters such as improvements in the formulation of agendas, preparation of documents, conduct of sessions, and drafting of reports.

6. As necessary, the Chairperson shall facilitate continuity of work between Committee sessions, with proactive support from the Secretariat including through consultations with Members, as appropriate.

7. The Committee will report every two years to the Council on the implementation of its MYPOW.

| CCLM Session | Agenda item | Subject-matter | Outcome of CCLM consideration of the item | Consideration by the Council | Further consideration by CCLM (if applicable) or other governing body |
|--|-------------|---|--|--|---|
| 97th Session 21-23 October 2013 | 3 | Bureaus and steering committees of Technical Committees under Article V of the Constitution (Composition and Functions) | Examined document CCLM 97/3, noted that issues covered by the document were under negotiation by the membership of Technical Committees and decided to review the matter again at a future session (CL148/2 Rev.1, paragraphs 6-7). | CL 148/REP, paragraph 20(a): noted that the issue of the composition and functions of bureaux of Technical Committees under Article V of the Constitution was under negotiation by the membership and that its legal aspects might be reviewed by the CCLM at a future session. | yes |
| | 4 | Review of the Organization's practice concerning acceptance of credentials of delegations to the Conference | Reviewed the Organization's practice concerning acceptance of credentials of delegations to the Conference and endorsed the proposals made in document CCLM 97/4 to streamline the overall process of review of credentials, as described in the CCLM report (CL148/2 Rev.1, paragraphs 8-9). | CL 148/REP, paragraph 20(b): endorsed the proposals for streamlining the Organization's practice concerning acceptance of credentials of delegations to the Conference, as described in the CCLM report. | N/A |
| | 5 | Proposed abolition of the Resolutions Committee of the Conference | Examined document CCLM 97/5 and endorsed a proposal to discontinue the practice to establish a Resolutions Committee of the Conference, noting that the editorial review functions of the Resolutions Committee could, if necessary, be taken over by an <i>ad hoc</i> committee established in accordance with the GROs or entrusted to the Secretariat, to accordingly amend the standard arrangements for the sessions of the Conference examined by the Council and the General Committee of the Conference and to maintain existing criteria for draft Conference Resolutions (CL 148/2 Rev.1, paragraphs 10-11). | CL 148/REP, paragraph 20(c): approved the proposal to: (i) discontinue the practice to establish a Resolutions Committee of the Conference, noting that the editorial review functions of the Resolutions Committee could, if necessary, be taken over by an <i>ad hoc</i> committee established in accordance with the General Rules of the Organization or entrusted to the Secretariat; (ii) amend accordingly the standard arrangements for the sessions of the Conference examined by the Council and the General Committee of the Conference; and (iii) maintain existing criteria for draft Conference Resolutions. | N/A |

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|--------------|-------------|--|---|--|---|
| | 6 | Review by the Finance Committee of the situation of Member Nations in arrears prior to a Conference session - Amendment to the Basic Texts | Considered document CCLM 97/6, endorsed a proposal that the Conference should adopt a Resolution setting forth the process of implementation of Article III, paragraph 4 of the Constitution, and recommended that the draft Resolution set out in Appendix 1 to its report be referred to the Finance Committee and the Council for subsequent transmission to the Conference. The CCLM further considered that the Council could recommend that the Resolution be implemented on a voluntary basis prior to the forthcoming session of the Conference (CL 148/2 Rev.1, paragraphs 12-16). | CL 149/4, paragraphs 16-17: the Finance Committee, at its 154 th Session, 26-30 May 2014: a) endorsed the draft Conference Resolution; b) recommended that the procedures set out in the Resolution be implemented on a voluntary basis prior to the 39 th Session of the Conference, 6-13 June 2015; c) requested the Secretariat to ensure that requests from Members for submission to the Committee at its Spring 2015 Session be received no later than February 2015; and d) requested the Secretariat to present to the Committee at its Autumn 2014 Session, proposed criteria to be used when considering requests for restoration of voting rights and instalment plans, drawing also on criteria and procedures already implemented by other Organizations of the United Nations system. CL 149/REP, paragraph 19: the Council did not endorse the draft Conference Resolution, and looked forward to reviewing the matter in the next biennium, following further review by the Finance Committee. | yes |

| CCLM Session | Agenda item | Subject-matter | Outcome of CCLM consideration of the item | Consideration by the Council | Further consideration by CCLM (if applicable) or other governing body |
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| | 7 | Voting procedures by the Conference (appointment of the Independent Chairperson of the Council and election of Council Members) - Amendment to the General Rules of the Organization | Examined document CCLM 97/7. Noting that the proposal involved political considerations, the CCLM, except for one Member, decided to forward the draft Conference Resolution entitled " <i>Amendment of Rule XII, subparagraph 10(a) of the General Rules of the Organization</i> " to the Council, for subsequent transmission to the Conference. The CCLM agreed with a proposal to introduce a unique procedure for multiple elections by the Conference and the Council, i.e. for elections to fill simultaneously more than one elective place, and endorsed a draft Conference Resolution entitled " <i>Amendment of Rule XII, paragraphs 3, 4, 12 and 13 of the General Rules of the Organization</i> ", which it transmitted to the Council for forwarding to the Conference (CL 148/2 Rev.1, paragraphs 17-22). | 1. CL 148/REP, paragraph 20(d): endorsed the draft Conference Resolution set out in Appendix C to the Council Report entitled " <i>Amendment of Rule XII, subparagraph 10(a) of the General Rules of the Organization</i> " regarding the procedure for the election of the Independent Chairperson of the Council and decided to forward it to the Conference in June 2015. 2. CL 148/REP, paragraph 20(e): endorsed the draft Conference Resolution set out in Appendix D to the Report entitled " <i>Amendment of Rule XII, paragraphs 3, 4, 12 and 13 of the General Rules of the Organization</i> " regarding a unique simplified procedure for multiple elections by the Conference or Council and decided to forward it to the Conference in June 2015. | N/A |

| CCLM Session | Agenda item | Subject-matter | Outcome of CCLM consideration of the item | Consideration by the Council | Further consideration by CCLM (if applicable) or other governing body |
|--------------|-------------|--|---|---|---|
| | 8 | Preliminary review of participation of international non-governmental organizations and civil society organizations in meetings of FAO - Legal Aspects | Examined document CCLM 97/8 and concluded that it was essential to initiate a process for the reformulation of rules and procedures for the participation of NGOs and CSOs in meetings of FAO, with due regard being paid to the two recently adopted FAO Strategies for Partnerships with Civil Society Organizations and with the Private Sector and emphasized that the intergovernmental nature of FAO's decision making process should be maintained (CL 148/2 Rev.1, paragraphs 23-26). | CL 148/REP, paragraph 20(f): stressed the need to initiate a process for the reformulation of rules and procedures for the participation of non-governmental organizations and civil society organizations in meetings of FAO, with due regard being paid to the two recently adopted FAO Strategies for Partnerships with Civil Society Organizations and the Private Sector, and emphasized that the intergovernmental nature of FAO's decision making process would be maintained. | yes |
| | 9 | Ethics Committee - Appointment of External Members | Reviewed document CCLM 97/9 and, noting the need to facilitate the work of the Ethics Committee during its trial period, recommended the renewal of the appointment of the current three external members of the Ethics Committee for a second term of two years until December 2015 (CL 148/2 Rev.1, paragraphs 27-28). | CL 148/REP, paragraph 20(g): approved the proposed renewal of the appointment of the current three external members of the Ethics Committee for a second term of two years until December 2015. | N/A |
| | 10 | Working arrangements and certification procedures under the Globally Important Agriculture Heritage System (GIAHS) | Considered document CCLM 97/10 and concurred with the recommendation that the GIAHS initiative be vested with formal status within the FAO framework, and endorsed the initiation of a process for the development of a draft Conference Resolution, as described in the CCLM report (CL 148/2 Rev.1, paragraphs 29-30). | CL 148/REP, paragraph 20(h): noted the information provided concerning the operation of the Globally Important Agriculture Heritage System (GIAHS), agreed that the GIAHS initiative be vested with formal status within the FAO framework and endorsed the initiation of a process for the development of a draft Conference Resolution, as described in the CCLM report. | yes |

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|--------------|-------------|--|--|--|---|
| | 11 | Activities of the Development Law Branch - LEGN (For information) | Took note of document CCLM 97/11 and the information provided on the activities of the Development Law Branch (LEGN) of the Legal Office, including on collaborative initiatives with other partners, took note of LEGN's involvement in the work planning and the future implementation of the new FAO Strategic Framework and recommended that, as far as possible, it be provided with information reports on selected practical examples of activities undertaken by LEGN at its future sessions (CL 148/2 Rev.1, paragraphs 31-32). | CL 148/REP, paragraph 20(i): noted the proposal that the CCLM be provided with information reports on selected practical examples of activities undertaken by the Development Law Branch at future sessions. | yes |
| | 12 | Multi-year Programme of Work for the Committee on Constitutional and Legal Matters (Progress Report) | Considered document CCLM 97/12 and endorsed the Progress Report on the Multi-year Programme of Work for the CCLM and, in this connection, reiterated the distinctive features of the Committee's work, in consideration of its nature and institutional mandate (CL 148/2 Rev.1, paragraphs 33-34). | CL 148/REP, paragraph 20(j): endorsed the progress report on the Multi-year Programme of Work for the CCLM. | yes |

| CCLM Session | Agenda item | Subject-matter | Outcome of CCLM consideration of the item | Consideration by the Council | Further consideration by CCLM (if applicable) or other governing body |
|--------------|-------------|--|---|--|---|
| | 13 | Arrangements for an Independent Review of Governance Reforms | Reviewed and noted the information provided in Document CL 148/10 " <i>Arrangements for an Independent Review of Governance Reforms</i> " and considered that there were no issues of a legal nature therein which would require the advice or guidance of the Committee, at this point in time (CL 148/2 Rev.1, paragraphs 35-37). | CL 148/REP, paragraph 20(k): noted that the CCLM advised that there were no issues of a legal nature arising from the document (CL 148/10) which would warrant the advice or guidance of the CCLM at this point in time. | N/A |
| | 14 | Other matters | Noted the information provided on working methods of Regional Conferences, on the International Rice Commission and on the document to the Finance Committee on allowances and conditions associated with the office of Independent Chairperson of the Council (CL 148/2 Rev.1, paragraphs 38-39). | CL 148/REP, paragraph 20(l): noted the information provided on working methods of Regional Conferences and on the International Rice Commission. | N/A |

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|----------------------------------|-------------|---|---|---|---|
| 98th Session 17-19 March 2014 | 2 | Participation of international non-governmental organizations and civil society organizations in meetings of FAO - Review of rules and procedures | Examined document CCLM 98/2 Rev. 1 on “ <i>Participation of international non-governmental organizations and civil society organizations in meetings of FAO – review of rules and procedures</i> ”. A document setting forth draft rules and procedures, as a result of extensive deliberations of the Committee, is attached to the CCLM report as Appendix I. The CCLM expressed its readiness to re-examine the draft rules and procedures upon which it worked during the session, in light of such guidance as could be provided by the Council. The CCLM noted that updated rules and procedures will be referred to the next session of the Conference in 2015 for approval and that there would be a need for the Conference to adopt limited amendments to the General Rules of the Organization to reflect the updated rules and procedures (CL149/2 Rev.1, paragraphs 4-12). | CL 149/REP, paragraph 21: a) noted broad support for a revised framework reflecting FAO’s experience on the participation of Civil Society Organizations (CSOs) and private sector representatives in FAO meetings; b) expressed satisfaction at the progress achieved in the preparation by the CCLM of draft rules and procedures for participation of CSOs and private sector representatives in FAO meetings; c) noted that a number of provisions in the draft “ <i>Rules and Procedures for Participation of Civil Society Organizations and Private Sector Representatives in FAO Meetings</i> ” needed additional clarification and reconsideration, as appropriate; and d) requested the Secretariat to convene information meetings and hold consultations with Regional Groups for review, analysis and debate of the draft rules and procedures so that the CCLM could finalize its work at its session of Autumn 2014. | yes |
| | 3 | Ethics Committee - Annual Report 2013 | Reviewed document CCLM 98/3, the annual report 2013 of the Ethics Committee (CL 149/2 Rev.1, paragraphs 13-17). | CL 149/REP, paragraph 22: noted the deliberations of the CCLM on the second annual report of the Ethics Committee. | N/A |