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FINANCE COMMITTEE

Hundred and Thirty-second Session

Rome, 12 – 16 April 2010

Review of the Terms of Reference of the Ethics Committee

Queries on the substantive content of this document may be addressed to:

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EXECUTIVE SUMMARY

- The Immediate Plan of Action (IPA) for FAO renewal (2009-11), approved by the Conference at its Thirty-fifth (Special) Session, called for the establishment of an Ethics Committee whose proposed Terms of Reference and membership would be reviewed by the Finance Committee and the Committee on Constitutional and Legal Matters.
- The proposed Terms of Reference of the Ethics Committee are set out in Appendix III and deal with a range of relevant issues such as the mandate of the Committee, including the relationship with the programme of activities of the Ethics Officer, the composition of the Committee, terms of office of members, meetings, secretarial arrangements, and provides for a special procedure for review of a request for advice or complaint based on that established at the United Nations.
- The proposed Terms of Reference of the Ethics Committee have been previously reviewed by the Finance Committee (July 2009) wherein it decided to keep the matter under review in light of the deliberations of the Committee on Constitutional and Legal Matters (CCLM). The CCLM reviewed the proposed Terms of Reference in September 2009 and concurred with a few proposed amendments.

GUIDANCE SOUGHT FROM THE FINANCE COMMITTEE

- The Committee is invited to review and endorse the proposed Terms of Reference of the Ethics Committee (Appendix III) in the light of both the Action Matrix on Ethics and past deliberations on the matter by the Committee on Constitutional and Legal Matters and the Finance Committee itself.

Background

1. The Immediate Plan of Action (IPA) for FAO renewal (2009-11), approved by the Conference at its Thirty-fifth (Special) Session, contains the following Action Matrix on Ethics:

- *“Appointment of an Ethics Officer, functioning of the office, and training of staff” (IPA Action 3.33)¹.*
- *“Review of Terms of Reference and proposed membership of Ethics Committee by the CCLM and the Finance Committee” (IPA Action 3.34)*
- *“Appointment and initiation of work by Ethics Committee” (IPA Action 3.35)*
- *“Review of annual or biennial reports of Ethics Committee by the Council on the basis of the findings and recommendations of the CCLM and Finance Committee” (IPA Action 3.36)*

2. At its Hundred and Twenty-eighth Session in July 2009 the Finance Committee examined document FC 128/2 *“Review of the Terms of Reference and Proposed Membership of the Ethics Committee”* prepared in response to action 3.34 of the Immediate Plan of Action (IPA). The Committee decided to keep the issue open and to review the matter again at one of its forthcoming sessions, including in the light of the deliberations of the Committee on Constitutional and Legal Matters (CCLM). An extract from the Report of the Hundred and Twenty-eighth Session of the Finance Committee (CL 137/4), is attached as Appendix I.

3. At its Eighty-eighth Session, the CCLM reviewed document CCLM 88/2, *“Ethics Committee”* and proposed amended Terms of Reference. The CCLM noted that the proposed Terms of Reference of the Ethics Committee would be reviewed again by the Finance Committee. An extract from the Report of the Eighty-eighth Session of the Committee on Constitutional and Legal Matters (CL 137/5) is attached as Appendix II. The Proposed Terms of Reference of the Ethics Committee, extracted from the same document, are attached as Appendix III.

Suggested Action by the Committee

4. The Committee is invited to review this document, with particular reference to the proposed Terms of Reference of the Ethics Committee as set out in Appendix III, and provide such views thereon as appropriate in the light of both the Action Matrix on Ethics presented in paragraph 1 above, and past deliberations on the matter by the CCLM and the Finance Committee itself.

¹ An Ethics Officer was appointed in December 2009.

Appendix I

Extract from the Report of the Hundred and Twenty-eighth Session of the Finance Committee (Rome, 27 – 31 July 2009), CL 137/4

7. The Committee examined document FC 128/2 - *Review of the Terms of Reference and Proposed Membership of the Ethics Committee* prepared in response to action 3.34 of the Immediate Plan of Action (IPA).
8. The Committee noted a proposal that the issue of the terms of reference and proposed membership of the Ethics Committee by the Finance Committee be addressed in the context of a United Nations system wide process in light of the United Nations General Assembly Resolution 63/250, and once the Ethics Officer had become operational.
9. While noting that it had been asked to review the terms of reference and proposed membership of the Ethics Committee by the IPA, the Committee decided to keep the issue open and to review the matter again at one of its forthcoming sessions, including in the light of the deliberations of the Committee on Constitutional and Legal Matters (CCLM).

Appendix II

Extract from the Report of the Eighty-eighth Session of the Committee on Constitutional and Legal Matters (Rome, 23 – 25 September 2009), CL 137/5

3. The CCLM noted that document CCLM 88/2, “*Ethics Committee*”, had been prepared in response to action 3.34 of the Immediate Plan of Action (IPA) and that both the Finance Committee and the CCLM were required to review the document. The CCLM noted that, at the Hundred and Twenty-eighth Session of the Finance Committee in July 2009, a proposal had been made to the Finance Committee that the issue of the terms of reference and proposed membership of the Ethics Committee should be addressed in the context of a United Nations wide system process in light of United Nations General Assembly Resolution 63/250, and once the Ethics Officer had become operational. While stressing that it had been asked to review the document by the IPA, the Finance Committee decided to keep the matter open and review the matter again at one of its forthcoming sessions.
4. Insofar as the CCLM had been asked to examine the proposed Terms of Reference and composition of the Ethics Committee, the Committee considered that it should examine document CCLM 88/2. The CCLM concurred with a few proposed amendments to the terms of reference of the proposed Ethics Committee made in the course of the discussions. The proposed terms of reference as amended by the CCLM are set out in Appendix I. The CCLM observed that the terms of reference would be adopted through a Director-General’s Bulletin and subsequently incorporated into the Administrative Manual of the Organization.
5. The CCLM stressed, as mentioned in document CCLM 88/2, that experience on the ethics function within the United Nations system was still very limited, and therefore, it was essential to keep the function under review. In particular, the CCLM concurred with the secretariat’s proposal that the functioning of the Ethics Committee should be kept under review and that its Terms of Reference should be adjusted as appropriate in light of the experience gained. The CCLM concurred with this pragmatic approach taken to implement IPA action 3.34.
6. The CCLM noted that the proposed Terms of Reference of the Ethics Committee would be reviewed again by the Finance Committee.

Appendix III

Proposed Terms of Reference of the Ethics Committee, Extract from the Report of the Eighty-eighth Session of the Committee on Constitutional and Legal Matters (Rome, 23 – 25 September 2009), CL 137/5

1. The Ethics Committee shall operate as an advisory, supervisory and oversight panel to the Director-General on all matters pertaining to ethics within the Organization in accordance with the provisions of this bulletin.

Mandate of the Ethics Committee

2. The Ethics Committee shall have the following mandate:
- a) to keep under regular review all matters pertaining to the formulation, development and implementation of the Ethics Programme of the Organization, including the Organization's financial disclosure programme;
 - b) to keep under review the activities of the Ethics Officer on the basis of regular reports referred to the Committee and to provide guidance thereon;
 - c) to advise on such matters as the Director-General or the Ethics Officer may refer to it;
 - d) to review and advise on the main individual components of the Ethics Programme including relevant policies, regulations and rules, dissemination of information, training, disclosure programme and conflict of interest prevention and related policies;
 - e) to submit an annual report to the Director-General, to the Finance Committee and the Committee on Constitutional and Legal Matters;
 - f) to review any matter that may be referred to it by the Director-General or by a staff member in accordance with the procedures established in paragraph 8;
 - g) to advise or examine any issue related to the fulfilment of its mandate.

Composition of the Committee

3. The Ethics Committee consists of the following Members appointed by the Director-General:
- The Chairperson of the Ethics Committee, who shall be appointed by the Director-General from among reputable individuals external to the Organization.
 - The Deputy Director-General (Operations)
 - An Assistant Director-General or his or her alternate (a second Assistant Director-General) appointed by the Director-General on a rotational basis.
 - The Legal Counsel or a representative senior official designated by him.
 - The Ethics Officer or the Director of the Ethics Office of the World Food Programme.
 - The Ethics Officer or the Director of the Ethics Office of the International Fund for Agricultural Development.

Term of office

4. The Deputy Director-General (Operations) and the Legal Counsel are permanent Members. The Assistant Director-General and his or her alternate (a second Assistant Director-General nominated by the Director-General) hold a term of three years, which may be extended at the discretion of the Director-General, to be replaced on a rotational basis. The external Members serve for a three-year period, which may be renewed at the discretion of the Director-General.

Meetings

5. The Ethics Committee will hold at least three regular sessions each year. Additional meetings of the Ethics Committee may be convened by the Chairperson if deemed appropriate or for the implementation of the procedure of a request for advice provided for in paragraph 8. The Director-General or the Ethics Officer has the right to request the Chairperson to convene a meeting if necessary.

6. The Ethics Officer shall attend all meetings of the Ethics Committee.

Quorum

7. The presence of all members or the alternate Assistant Director-General and the representative of the Legal Counsel, as applicable, are expected at each meeting. At the discretion of the Chairperson, when necessary, meetings may take place with at least four members.

Special procedure for review of a request for advice or complaint

8. If, following the receipt of a request for advice (or complaint submitted) by a staff member, the Ethics Office does not, within sixty days, formally consider the request, the staff member may then refer the matter in writing to the Chairperson of the Ethics Committee. Alternatively, if following a final determination by the Ethics Officer of a matter referred to that Officer by a staff member, the said staff member wishes to have the matter reviewed further, that staff member may, in writing, refer the matter to the Chairperson of the Ethics Committee. In such an event, the Chairperson, after consultation with the Ethics Committee, may undertake an independent review of the matter and provide a written report to the Director-General. Independent review for the purposes of this provision shall include review of the actions already taken by the Ethics Officer, determination of what additional actions are required including whether referral for investigation is required, and provision of recommendations to the Director-General. Where a staff member has referred a matter to the Chairperson of the Ethics Committee on the basis of the provision of this paragraph, the Organization shall provide the Chairperson with the necessary support, including access to records, staff members and contractors, where feasible.

Secretarial arrangements

9. The Organization shall make the necessary secretarial arrangements for the functioning of the Ethics Committee.

10. The Organization shall provide the Ethics Committee with the necessary support including access to records and documents, staff members and contractors, where appropriate.