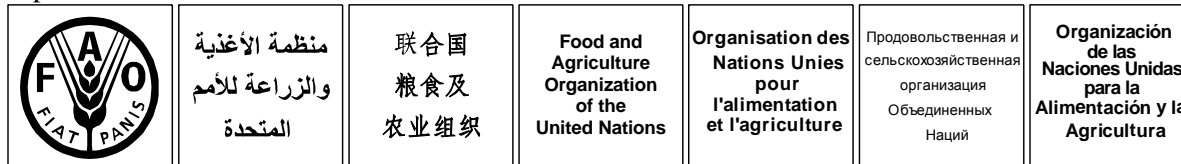


September 2013



COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

Ninety-seventh Session

Rome, 21 - 23 October 2013

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, 21-23 September 2011, approved the Multi-year Programme of Work (MYPOW) 2012-15, pursuant to Actions 2.70 to 2.72 of the Immediate Plan of Action for FAO Renewal (IPA), which required Governing Bodies, including the CCLM, to develop MYPOWs in relation to a period of at least four years, and submit reports of progress towards fulfilling them once every two years.

2. The CCLM's Multi-year Programme of Work 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 (GRO), the CCLM holds sessions to consider items arising out of the issues indicated in Rule XXXIV, Paragraph 7 of the GRO or legal and constitutional aspects of any matters (Rule XXXIV, Paragraph 8 of the GRO), referred to it by the Council or the Director-General as necessary. The CCLM further submitted that there were no standing or recurrent items on its mandate or its agenda, which the CCLM could examine at pre-established dates. The Committee considered that it would not be possible for it to establish a Multi-year Programme of Work, as was the case with other committees. Notwithstanding this, the CCLM kept the issue of its Multi-year Programme of Work under review, while noting that the distinctive features of its *modus operandi* had to be duly taken into account in adopting the Committee's Multi-year Programme of Work.

3. At its 143rd Session in November 2011, the Council welcomed the CCLM's adoption of its MYPOW for 2012-15 and approved the Plan.

4. The Multi-year Programme of Work 2012-15, set out in the Annex hereto, contained an outline of the CCLM's overall objectives and mandate, and working methods and practices which the Committee would seek to implement throughout the biennium. As evidenced also by examples provided during the discussions in connection with the approval of the MYPOW 2012-15, the CCLM

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reiterated that these working methods and practices must take the distinct features of the Committee into consideration.

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

5. At its 96th Session, 4-6 March 2013, the CCLM considered a number of items referred to it under Rule XXXIV, Paragraphs 7 and 8 of the GRO as indicated at paragraphs i to iv below. Some of these items need to be kept under review and will be examined at future sessions of the CCLM and other Governing Bodies for further analysis and discussion.

i. *Annual Report of the Ethics Committee*

The CCLM reviewed the first "Annual Report of the Ethics Committee". The Committee was established by the Council in April 2011 as recommended by the IPA for FAO Renewal, for an initial period of four years. The CCLM recognized that it was too early to make an assessment of the Ethics Committee's work, but invited Management to keep in mind the issue of the long term justification for the Committee in light of the decision of the Council of April 2011. To this effect, the CCLM requested Management to collect comprehensive information so that a report on the matter could be prepared and presented in due course. The CCLM also noted the views of the Ethics Committee on the desirability of rationalizing a number of staff related functions and that Management had taken action in that connection. The Council, at its 146th Session, 22-26 April 2013, took note of the first "*Annual Report of the Ethics Committee and of the CCLM's deliberations*".

ii. *Committee on World Food Security (CFS): Proposed Amendments to Rule XXXIII of the General Rules of the Organization (GRO)*

The CCLM endorsed a Draft Conference Resolution on the "*Implementation of the Reform of the Committee on World Food Security Amendments to Rule XXXIII of the General Rules of the Organization*".

The Draft Conference Resolution contains the following amendments to Rule XXXIII of the GRO, as proposed by the CFS Bureau:

(a) invitation letters and agenda: amendment to paragraph 6 to reflect the practice that has taken place so far since the CFS was reformed. Accordingly, under the proposal, "*Sessions shall be convened by the Director-General and the Chairperson, taking into account any decision made by the Committee*";

(b) convening of extraordinary (or special) sessions: addition of a new paragraph 7 providing that "*The Committee may meet in extraordinary (or special) session: (a) if at any regular session the Committee so decides; or (b) if the Bureau so requests*";

(c) High Level Panel of Experts on Food Security and Nutrition: amendment to paragraphs 11 and 12 in order to regulate in the GRO only the Panel's main features (mandate, membership and structure), and deletion of paragraphs 13 and 14 on operational details (composition of the Steering Committee, term of office of its members, functions and the *ad hoc* Project Teams), to be regulated in the CFS Rules of Procedure; and

(d) establishment of subsidiary bodies: amendment to paragraph 23 in order to provide that the report that the CFS should examine before establishing a new subsidiary body should be prepared “*by the Secretary, after consultation with the Organization, the World Food Programme and the International Fund for Agricultural Development*”.

The Council, at its 146th Session, 22-26 April 2013, endorsed the draft Conference Resolution, which was subsequently approved by the Conference at its 38th Session.

iii. *Replacement of an external member of the Ethics Committee*

The CCLM was informed that an external member of the Ethics Committee, who had been appointed for two years, had resigned for personal reasons. Noting that a replacement procedure for that situation had not been foreseen, the CCLM endorsed a proposal to proceed with a one-time solution and recommended that the appointment of a new external member of the Ethics Committee until 31 December 2013, i.e. for the remainder of the vacated term, be approved by the Council.

The CCLM further noted that the Director-General submitted a nomination to replace the exit member for the remainder of the term.

The CCLM recalled that, pursuant to the Terms of Reference and Composition of the Ethics Committee, the nomination of external members was approved by the Council, on the recommendation of the CCLM and the Finance Committee. Although detailed criteria were established for the nomination and selection of candidates for regular renewals of external members every two years, the CCLM noted that a replacement procedure for a situation such as the present one had not been foreseen. The CCLM endorsed a proposal to proceed with a one-time solution and recommended that the appointment of Ms Suomi Sakai as external member of the Ethics Committee until 31 December 2013, i.e. for the remainder of the vacated term, be approved by the Council.

The Council, at its 146th Session, 22-26 April 2013, approved the appointment.

iv. *International Rice Commission*

The CCLM was provided with an oral brief on recent developments and the legal process for the termination of the International Rice Commission established in 1948 under Article XIV of the Constitution, should the Members decide to do so.

6. At the current session, the CCLM has a comparatively heavy agenda as can be seen from document CCLM 97/1 containing the provisional agenda of the session. It is possible that some of these items will be under consideration at future sessions of the CCLM. That is the case of the preliminary review of participation of international non-governmental organizations and civil society organizations in meetings of FAO (legal aspects), of the working arrangements and certification procedures under the Globally Important Agriculture Heritage Systems (GIAHS).

III. Suggested action for the Committee

7. The CCLM is invited:

- (a) to examine this Progress Report, in accordance with its overall objectives and mandate and proposed working methods and practices, outlined in the approved Multi-year Programme of Work 2012-15;
- (b) to 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 General Rules of the Organization (GRO); and
- (c) to note that, notwithstanding the above considerations, the issue of its Multi-year Programme of Work will continue to be kept under review by the CCLM while taking due account of the distinctive features of the Committee's *modus operandi*.

ANNEX

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.