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COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

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**ACTIVITIES OF THE DEVELOPMENT LAW BRANCH
(INFORMATION DOCUMENT)**

I. INTRODUCTION

1. The purpose of this paper is to provide information to the Committee on Constitutional and Legal Matters (CCLM) about the Development Law Branch (LEGN) of the Legal and Ethics Office, and to outline its potential role in the context of the new Strategic Framework. This document contains an overview of the technical and field work of LEGN and identifies its anticipated contribution to achieving the objectives outlined in the new Strategic Framework and the FAO PWB for 2014-2015. In particular, it gives an account of the mandate and perspectives of LEGN, including a brief background, its core objectives, activities, some recent successful activities and its forthcoming responsibilities in the delivery of the FAO Strategic Framework. Insofar as the CCLM deals with legal matters it would seem appropriate that it should be informed of the activities of the Branch.

II. OVERVIEW OF THE DEVELOPMENT LAW BRANCH

Background

2. The Development Law Branch (LEGN) - one of the three Branches that make up the Legal and Ethics Office (LEG) - is unique in the UN system in providing programmatic legal advice and information to Member States on legal frameworks for sustainable agriculture and natural resource management.

The core objectives, activities and recent achievements of the FAO Development Law Branch (LEGN)

3. In accordance with the functional statement set out in the FAO Administrative Manual, Section 107.3.3, LEGN's mandate is to provide legal assistance in all areas within the FAO's scope of

activity¹. LEGN works in close collaboration with Members, as well as with the technical experts and decentralized offices of the Organization. It has long experience of engaging in multidisciplinary and multi-sector activities with a wide variety of partners.

Provision of legal assistance and support in areas within the FAO Mandate

4. LEGN provides legal and regulatory advice in the following areas:

- Plant protection and production, animal health and production and food safety, (including *inter alia*, the implementation of the International Plant Protection Convention (IPPC), the International Code of Conduct on Pesticides Management, the standards established by the *Codex Alimentarius* Commission and the World Animal Health Organization), field crop production, seeds and agricultural inputs, consumer protection, feed, animal identification and traceability and veterinary pharmaceuticals;
- Agribusiness development including the implementation of the Principles for Responsible Agricultural Investment, family farming, public procurement, public-private partnerships, contract farming and agricultural finances;
- Fisheries and aquaculture, including the implementation of binding international instruments (such as the United Nations Convention on the Law of the Sea), and voluntary instruments (e.g FAO Code of Conduct for Responsible Fisheries);
- Food security and social protection and development, including, *inter alia* the implementation of the FAO Voluntary Guidelines to support the progressive realization of the Right to Adequate Food in the context of national food security and the implementation of the International Labour Organization (ILO) labor standards in agriculture gender issues, rural development, protection of vulnerable groups and indigenous communities' rights;
- Forestry, biodiversity and natural resources management (including the control of illegal trade in timber) non-wood forest products, forest fires, carbon rights and agro-forestry; and
- Land use management and planning, land tenure and registration, large-scale land acquisition, and in particular legal aspects relating to the implementation of the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT).

5. The legal services provided by LEGN include the provision of support in legislative assessment and drafting, as well as contributions to the development and application of global guidelines and standard setting.

Collection, translation and dissemination of legal information

6. LEGN maintains the FAOLEX², FISHLEX³, WATERLEX⁴ and WATER TREATIES⁵ databases. These databases provide on-line access, at no cost to the user, to comprehensive collections of information on national and international legislative and regulatory provisions. The scope of information available through these databases is substantial.⁶

7. FAOLEX – the principal database of LEG – is a resource for national laws and regulations on food, agriculture and renewable natural resources. FISHLEX and WATERLEX provide data on legislative and regulatory measures related to coastal State requirements for foreign fishing and water

¹“ The [Branch] advises the Organization and its Members on legal and institutional means to promote and regulate national development and international cooperation in the food and agriculture sector, through law reform activities, legal research, data collection and capacity building in the areas of land, water, fisheries, plants, animals, food, forestry, wildlife, biodiversity and the environment as well as other issues related to food and agriculture (trade, biotechnology...)” - Section 107.3.31 of FAO Administrative Manual

² <http://faolex.fao.org/>

³ <http://faolex.fao.org/fishery/index.htm>

⁴ <http://faolex.fao.org/waterlex/index.htm>

⁵ <http://faolex.fao.org/watertreaties/index.htm>

⁶ Thus, for example, around 8,000 new entries and updates are added to FAOLEX each year.

resources, respectively. The WATER TREATIES database⁷ makes available texts of bi-lateral and multi-lateral treaties and agreements on the development and management of rivers and lakes and groundwater resources.

8. In addition, pursuant to an agreement between FAO, International Union for Conservation of Nature (IUCN) and United Nations Environment Programme (UNEP), FAOLEX data is being integrated into the ECOLEX on-line database. LEGN, with its partners in IUCN and UNEP, jointly operates this database and the resulting combined information resource is the largest available platform on environmental law globally, with over 100,000 references already available on the Internet.

9. LEGN also lends its expertise on database management and development to other units of the Organization. Thus, for example, it collaborated with the Fisheries and Aquaculture Department (FI) to develop PORTLEX⁸, a database on Port State Measures to prevent, deter and eliminate illegal, unreported and unregulated fishing (IUU). It also collaborated with the FAO Fisheries Global Information System (FIGIS) and FI to establish and update the national aquaculture legislative overviews (NALO) fact sheets database.

Publications

10. LEGN has a key role in providing information on legislative best practice in food and agriculture and natural resources management and the development of tools for law and policy makers in areas under FAO's mandate. In this connection, it regularly publishes manuals and guidelines through the FAO Legislative Studies series, as well as occasional papers in the FAO Legal Papers Online series. These publications often identify trends and best practice in legislation, and offer analysis and drafting options, and highlight key legal issues in the respective agricultural sub-sectors.⁹ LEGN also contributes to external publications addressing areas under FAO's mandate.¹⁰

11. Furthermore, LEGN publishes a biannual newsletter which provides an overview of its activities. The newsletter is distributed electronically.¹¹

LEGN's most recent success stories

12. Annually and in response to demand, LEGN is involved in collaboration with FAO technical units, Member States, donors and other partners in a substantial number of programmes and projects which provide legal assistance at the global, regional and national levels. The following is a sample of the recent successful interventions by LEGN in discharging its mandate:

- Contribution to the drafting and adoption by the Committee on Food Security in May 2012 of the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT);
- Provision of technical support through the Hunger Free Latin American and Caribbean Initiative and the Right to Food team, in elaborating the Regional Framework Law on the Right to Food, Food Security and Food Sovereignty adopted in November 2012 by PARLATINO (Latin American Parliament). The Framework Law recognizes the Right to

⁷ <http://faolex.fao.org/watertreaties/>

⁸ <http://www.fao.org/fishery/psm/collection/en>

⁹ For example, in 2012, LEGN released "Organic Agriculture and the Law" (FAO Legislative Studies No. 107) which identifies trends in organic agriculture legislation and explains the different legal issues related to organic agricultural production. A new Legislative Study on "Regulatory Frameworks for Warehouse Receipt Finance - Comparative Legal Analysis" is currently being peer-reviewed.

¹⁰ Recently, LEGN wrote a chapter on "International legal frameworks for food labeling and consumer rights", in Innovations in food labeling J. Albert (ed.) 2010, CRC Press. Other contributions include the development of a chapter on ocean governance, titled "Integrative Policy and Legal Instruments, Approaches and Tools: Fisheries and Biodiversity Conservation", in the book titled "Governance for Fisheries and Marine Conservation", to be published later in 2013.

¹¹ Most recent edition published in June 2013

(http://www.fao.org/fileadmin/user_upload/legal/docs/devlaw3.pdf)

Food and is a consensus between Latin American countries on the type of legislation and substantive provisions that can be developed in order to incorporate a human rights-based approach in national legal frameworks on food security and nutrition;

- Support for the adoption and implementation of the Agreement on Port State Measures to prevent, deter and eliminate illegal, unreported and unregulated fishing, including the provision of advice on the implementation of the Agreement and the integration of Port State Measures in national legal frameworks;
- Provision of legal support to the ECOWAS, the UEMOA and the CILSS which resulted in a political decision, funds mobilization and plan of actions to harmonize the legal framework relating to pesticides management in 19 West African countries;
- Drafting of three Acts on Animal Production, Health and Welfare; Slaughterhouses and Meat Inspection; and Feed and two Regulations on Slaughterhouses and on Meat Inspection in Suriname as well as the amendment of the Veterinary Professions Act by an interdisciplinary team comprising six veterinarians, three lawyers and five zootechnicians and through a deliberative process;
- In collaboration with other FAO technical divisions, particularly the Fisheries and Aquaculture Department, provision of general support and legal advice to the formulation and eventual implementation of three global projects funded by the Global Environment Facility relating to management and conservation of fisheries resources in areas beyond national jurisdiction; and
- Provision of technical assistance to the Government of the People's Democratic Republic of Lao under the framework of the Lao Trade Development Facility (TDF) to strengthen its SPS-related legislation for WTO accession, involving the development of 15 pieces of new legislation.

The way ahead: LEGN and FAO's new Strategic Framework

13. The new Strategic Framework calls upon much of LEGN's existing competence and expertise and, it is anticipated, will provide it with an opportunity to review its activities and methods of work to ensure that these remain fully aligned with delivering the overall mandate of the Organization efficiently and effectively. The Appendix gives an overview of ongoing and pipeline activities by technical area, region and collaborating units.

14. FAO's new Strategic Framework outlines the Organization's vision, strategic objectives, and desired outcomes under five Strategic Objectives (SOs) in terms of hunger eradication and agricultural development. LEGN's future programme of work will be developed in alignment with these SOs. It is considered that LEGN's contribution will be particularly significant to the following elements of the SOs, as reflected in the Organizational Outcomes (OO) and Outputs:

- SO1-OO1-Output 1.2: Member countries and their development partners make explicit political commitments in the form of [...] legal frameworks and the allocation of necessary resources to eradicate hunger, food insecurity and malnutrition;
- SO1-OO3: Member countries and their development partners formulate, implement, monitor and evaluate [...] legislation to eradicate food insecurity and malnutrition;
- SO2-OO2: Stakeholders in member countries strengthen governance – the [...] laws, [...] that are needed to support producers and resource managers – in the process towards greater sustainability of agricultural sector production systems;
- SO2-OO3: Stakeholders develop, adopt and implement international governance mechanisms and related instruments (standards, guidelines, recommendations etc.) needed to improve and increase provision of goods and services in agricultural sector production systems in a sustainable manner;
- SO3-OO2-Output 2.2: Policy support is provided to extend the application of International Labor Standards to rural areas, including support to strengthen legal frameworks for decent rural employment;
- SO3-OO3-Output 3.1: Policy advice, capacity development and advocacy is provided for improving social protection systems to foster sustainable and equitable rural development,

poverty reduction and food and nutrition security including support to strengthen legal frameworks for social protection and development of legal studies on regulatory aspects of social protection, including relevant international law, the application of a human rights based approach and linkages with agricultural production, of global application and through country studies;

- SO4-OO1: Policies, regulatory frameworks and public goods enhance inclusiveness and efficiency of food, agriculture and forestry systems;
- SO4-OO3: International agreements and mechanisms promote inclusive and efficient markets; and
- SO5-OO1: Countries and regions have legal, [...] systems and regulatory frameworks for disaster and crisis risk management for agriculture, food and nutrition.

15. The Strategic Framework also identifies seven Core Functions, and the work developed under each SO will be implemented through the application of these Core Functions. Based on its mandate, competence and experience, it is anticipated that LEGN's activities will make a direct contribution to the Organization's delivery of at least five of these Core Functions, as follows:

- Facilitate and support countries in the development and implementation of normative and standard-setting instruments such as international agreements, codes of conduct, technical standards and others. LEGN's advisory legal services will contribute to the development and implementation of normative and standard-setting;
- *Assemble, analyze, monitor and improve access to data and information, in areas related to FAO's mandate.* LEGN's activities in the context of FAOLEX, as well as its publications, are of relevance in this regard;
- *Facilitate, promote and support policy dialogue at global, regional and country levels.* LEGN's support of policy dialogue at country level related to legislative reform will support the Organization's discharge of this Core Function;
- Advise and support capacity development at country and regional level to prepare, implement, monitor and evaluate evidence-based policies, investments and programmes. LEGN undertakes, and will enhance, its capacity development activities on legal issues, such as the provision of on the job training as well as workshops, and the provision of guidance on regulatory and legislative frameworks; and
- Advise and support activities that assemble, disseminate and improve the uptake of knowledge, technologies and good practices in the areas of FAO's mandate. LEGN's work to support development and implementation of international standards and requirements and its activities to promote legislative best practice will enhance the Organization's capacity to discharge this Core Function.

16. The Strategic Framework emphasizes multi-sector and multi-disciplinary approaches in the delivery of products and services that contribute to higher level goals enshrined in the five SOs. This has been LEGN's mode of operation and delivery since its inception simply because of the cross-cutting nature of its work and its legal support for all technical areas under FAO's mandate. LEGN's team of lawyers, who are drawn from different jurisdictions, collaborate with FAO divisions and also externally with a range of partners, such as UN Agencies, civil society organizations and public and private stakeholders at country-level. LEGN, in the development of its future programme of work, will draw upon the lessons learned from its past experience, and will also take the opportunities derived from the new emphasis on a multi-sector and multi-disciplinary approach, in planning its future activities.

III. SUGGESTED ACTION BY THE COMMITTEE

17. The CCLM is invited to consider this information document and make such observations thereon as it deems appropriate

APPENDIX: CURRENT AND PIPELINE TECHNICAL ASSISTANCE ACTIVITIES OF LEGN

1. The data presented below outlines LEGN's current and advanced pipeline legal assistance activities in the form of legal assessment or legal drafting at national and/or regional levels. The data presented below does not take into consideration LEGN's other activities, such as training or awareness raising seminars.
2. LEGN is currently providing legal support in respect of 167 activities in relation to its core areas (*Figure 1*) in 105 Member countries (*Figure 2*). Funded by FAO's regular budget through technical cooperation projects and/or by donor partners, these activities have been initiated in response to approximately 87 requests for technical assistance from Member countries. These requests have been received either from one Member country or through regional bodies, such as regional economic communities, on behalf of their members.¹² It is noted that one request for assistance may require the provision of legal support in several technical areas.
3. As illustrated in *Figure 3*, LEGN activities have been implemented in collaboration with one or more FAO units drawn from technical units at Headquarters and officers from Regional or Sub-Regional Offices.

Figure 1 – LEGN's ongoing and pipeline legal assistance activities by technical area

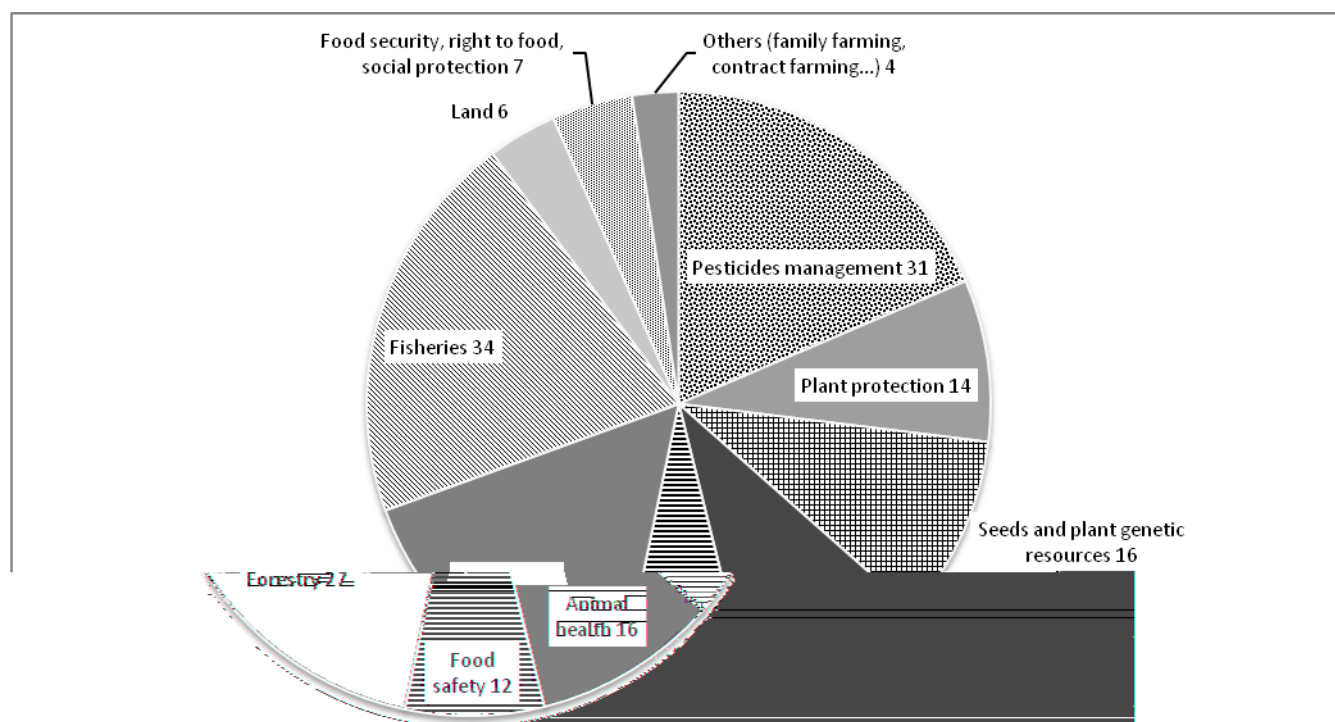


Figure 2 – LEGN's ongoing and pipeline legal assistance activities by region

¹² For example, for the TCP/SAP/3404 'Strategies and capacity building in Pacific SIDS to address Climate change impacts on Jurisdictional claims', one request was made by the Pacific Forum Fisheries Agency (FFA) but the project provides technical legal assistance in 15 countries.

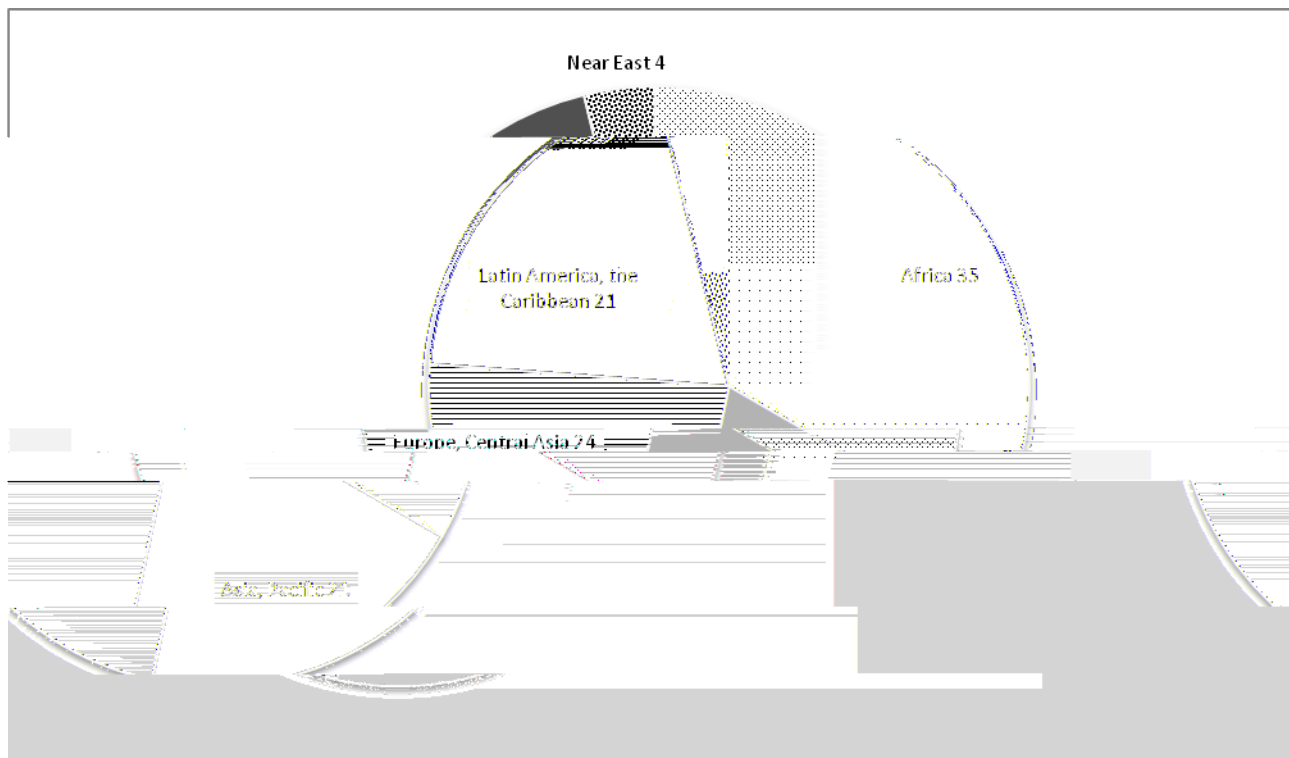


Figure 3 – Overview of LEGN's collaboration with FAO technical units

