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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 Alimentación y la Agricultura منظمة الأغذية والزراعة للأمم المتحدة

# COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

**Hundred and Tenth Session**

**Rome, 28-29 May 2020**

**Voting procedures under Rule XII, paragraph 10 of the General Rules of the Organization: Comparative study - for information**

## I. Introduction

1. This document is submitted to the Committee on Constitutional and Legal Matters ("CCLM" or "the Committee") further to the Council's consideration of the Committee's recommendations with regard to *"Voting procedures under Rule XII, paragraph 10 of the General Rules of the Organization"*, as reflected in the Report of the 109th Session of the Committee. In particular, the Council *"looked forward in this regard to:*

*a) a comparative study on the rules and best practices of UN and other relevant entities;*
*b) consultations of the Independent Chairperson of the Council with the Regional Groups; and*
c) *discussion of these issues by the Council through the CCLM and, as appropriate, its other Committees"*[1].

## II. Background

2. At its 109th Session, the Committee considered document CCLM 109/2 *"Voting procedures under Rule XII, paragraph 10 of the General Rules of the Organization"*. As reflected in its Report:

> *"7. The CCLM was of the view that the analysis should go beyond the single issue of electronic devices and address, more broadly, FAO's voting procedures in light of the rules and best practices of other UN Common System agencies, as well as other relevant best practices. The Secretariat was requested to prepare a deeper comparative study. This review should address voting procedures, including preventive measures and mechanisms to enforce the Organization's rules and procedures related to voting and non-compliance with them.*

[1] CL 163/REP, paragraph 12.

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*8. It further considered that this was not only a matter for the CCLM and recommended that, in parallel, such review be brought to the attention of the Independent Chairperson of the Council to allow for consultation with Regional Groups on the subject-matter and, if deemed appropriate, develop a Code of Conduct. The CCLM recommended that the Secretariat's analysis should be prepared with a view to assisting both the CCLM and the Independent Chairperson of the Council in addressing this matter"*[2].

## III. Comparative Study

3. The Secretariat has prepared a comparative study of the rules and practices of other UN Common System agencies. The comparison of the rules and practices of 12 organizations is set out in *Web Annexes 1* and *2* to this document. The rules and practices reviewed are those of: the International Telecommunications Union (ITU), the International Civil Aviation Organization (ICAO), the International Fund for Agricultural Development (IFAD), the International Labour Organization (ILO), the International Maritime Organization (IMO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Industrial Development Organization (UNIDO), the Universal Postal Union (UPU), the World Intellectual Property Organization (WIPO), the World Health Organization (WHO), the World Meteorological Organization (WMO), and the World Tourism Organization of the United Nations (UNWTO).

4. The comparison indicates that the Organization's formal rules concerning voting procedures are consistent with those of other relevant organizations.

5. Nearly all organizations continue to use paper ballots, with the notable exception of ITU and UPU for which the rules indicate votes should preferably be held using electronic systems when these are available. Nevertheless, as reflected in the Report of the IFAD Governing Council's Forty-second Session held in 2019, "*The Governing Council considered the proposal for an automated voting system at IFAD, as contained in document GC 42/L.5/Rev.1. In line with the decision taken at the forty-first session of the Governing Council in February 2018, as contained in resolution 202/XLI, and the related Report of the Governing Council Bureau (document GC 41/L.9), the Governing Council gave its approval for the Secretariat to assess the feasibility of an automated voting system*".[3] This is also "*to expedite the ballot counting process and increase workforce efficiency*".[4] Furthermore, as observed by the IFAD Governing Council Bureau, "*WHO has already tested two electronic voting systems and has found them to be insufficiently secure*".[5]

6. As regards preventive measures and mechanisms to enforce rules and procedures related to voting, most organizations include guidance similar to that found in Rule XII, paragraph 10 of the General Rules of the Organization concerning the designation of tellers, the setting up of voting booths; see, for example, *Web Annexes* entries on *"Conduct of the Ballot"* for IFAD, UNESCO, UNIDO, WHO and WIPO. However, none of the rules and practices reviewed address non-compliance.

7. A few organizations have recently introduced specific measures to preserve secrecy. Thus, for example, UNESCO's *"practical arrangements"* for the voting process for the nomination of its executive head stipulates that the *"use of mobile telephones will not be permitted during the voting process"*. The most comprehensive articulation of general principles aimed at preserving the integrity and secrecy of the ballot are those contained in the WHO Code of Conduct for the Election of the Director-General of the World Health Organization, which is *"a political understanding reached by the Member States of the World Health Organization"*. The WHO Code *"is not legally binding but*

[2] CL 163/2.
[3] Governing Council Report Forty-second Session, 14-15 February 2019, paragraph 44.
[4] Report of the Governing Council Bureau on the Review of the Established Practice for the Process Leading to the Appointment of the President of IFAD, December 2017 (GC 41/L.9), paragraph 65.
[5] Ibid at paragraph 66.

*Member States and candidates are expected to honour its contents"*. As set out in *Web Annex 2*, this Code not only addresses electronic communications, but also encourages adherence to the rules and the avoidance of various kinds of conduct that could be perceived as aiming at influencing the outcome of voting proceedings.

8. The review has shown that some organizations have formalized arrangements that are currently addressed through individual recommendations or communications by FAO. Thus, for example, ILO addresses the situation of staff presenting themselves as candidates in Annex III to the Compendium of Rules applicable to the ILO Governing Body. The FAO Council addressed this issue, albeit in not entirely the same manner, at sub-paragraphs 16 (a) and (b) of the report of its 159th Session. Similarly, the obligations of neutrality of staff members with respect to the electoral process, which were considered at the Council's 159th Session, are also addressed in the same Annex III to the ILO Compendium of Rules. The hearing of candidates is addressed in that Annex, making similar provision to that reflected in the report of the 160th Session of the FAO Council at sub-paragraphs 13 (d) and (e). Other organizations, such as WHO, have chosen not to have formalized arrangements and have reflected practices and procedures in non-binding guidance.

9. Finally, it is observed that a number of organizations appear to be reviewing their rules and practices. Thus, for example, it is understood that IMO is currently considering its rules and procedures. It is also understood that WHO's Code of Conduct is currently under review by WHO Members.

## IV. Suggested action by the Committee

10. The present document, together with its Web Annexes is provided for information. The CCLM is invited to consider the information in this document and make such comments as it considers appropriate.