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FINANCE COMMITTEE

Two hundred and second Session

Rome, 11-15 November 2024

Recommendation 7 of the JIU Report *Review of the state of the investigation function: progress made in the United Nations system organizations in strengthening the investigation function* (JIU/REP/2020/1)

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EXECUTIVE SUMMARY

- In Recommendation 7 of its report on the *Review of the state of the investigation function*, the Joint Inspection Unit of the United Nations (JIU) recommended that: “[t]he legislative bodies of United Nations system organizations that have not yet done so should develop and adopt appropriate formal procedures for the investigation of complaints of misconduct by executive heads” (“Recommendation 7”).
- This document is presented further to the considerations and recommendations made on this matter by the Committee on Constitutional and Legal Matters (CCLM) and the Finance Committee at their 120th and 199th sessions respectively and endorsed by the Council at its 175th Session.
- The CCLM reviewed this matter at its 121st Session (28-30 October 2024) and an extract of the Report of the 121st Session of the CCLM is provided in document FC 202/14 Add.1.

GUIDANCE SOUGHT FROM THE FINANCE COMMITTEE

- The Committee is invited to review this document and make such observations thereon as it considers appropriate within the context of its mandate. In particular, the Committee is invited to provide its views on the draft *Procedure to address allegations of misconduct against the Director-General of FAO* attached as the Annex to this document, including the various options proposed therein, with a view to fostering negotiations among Members as to the appropriate means to implement Recommendation 7 of the JIU Report 2020/1.

I. Background

1. Recommendation 7 of JIU Report 2020/1 was discussed by the CCLM and the Finance Committee during their last sessions in March 2024¹ and May 2024 respectively. Paragraphs 3-7 of document CCLM 120/5 summarizes the deliberations held on this subject in previous sessions of the CCLM,² the Finance Committee,³ and the Council.⁴
2. In its report submitted to the 175th Session of the Council, the CCLM:
*“20. [...] looked forward to considering draft procedures at its 121st Session and recommended that these include options, with a summary of pros and cons presented for each options.”*⁵
3. On its part, the Finance Committee, following its review of document FC 199/10:⁶
*“d) urged members of the Finance Committee and CCLM to work together in the intersession period in advance of their fall 2024 sessions to provide express detailed guidance on the key components of draft investigation procedures identified by the Legal Counsel as requiring Members’ guidance, and recommended that the Chairpersons of each Committee serve as co-facilitators for these sessions with appropriate support from Management and advice from the Oversight Advisory Committee (OAC); and
e) looked forward to considering draft procedures at its next regular session in November 2024.”*⁷
4. These considerations and conclusions by the CCLM and the Finance Committee were endorsed by the Council at its 175th Session in June 2024.⁸

II. Follow-up to the guidance provided by the Governing Bodies

5. In line with the guidance endorsed by the Council, an informal working session of the CCLM and Finance Committee was held at FAO headquarters on 6 September 2024, in hybrid format, with the Chairpersons of the two Committees serving as co-facilitators. The Chairperson of the Oversight Advisory Committee (OAC) was also in attendance to provide advice to Members of the Committees. At the time of finalization of the present document, a second informal working session was scheduled for 25 September 2024.
6. In advance of the first working session, an informal version of a draft *Procedure to address allegations of misconduct against the Director-General of FAO*, prepared by the Legal Office in consultation with the Office of the Inspector General (OIG) and the OAC, was circulated to the

¹ 120th Session of CCLM (March 2024; [CCLM 120/5](#)).

² 117th Session of CCLM (October 2022; [CCLM 117/4](#)); 118th Session of CCLM (March 2023; [CL 172/10](#)); 119th Session of CCLM (October 2023; [CCLM 119/2](#)).

³ 194th Session of the Finance Committee (November 2022; [FC 194/7](#)); 195th Session of the Finance Committee (March 2023; [CL 172/9](#)); 198th Session of the Finance Committee (November 2023; [FC 198/8](#)). The Finance Committee also considered this matter at its 188th Session (November 2021; [CL 168/9](#), paragraph 18 d)) and its 191st Session (May 2022, [CL 170/12](#), paragraph 30).

⁴ 171st Session of the Council (December 2022; [CL 171/9](#); [CL 171/10](#); [CL 171/REP](#)); 172nd Session of the Council (April 2023; [CL 172/REP](#)); 174th Session of the Council (December 2023; [CL 174/9](#); [CL 174/10](#); [CL 174/REP](#)). The Council also considered the recommendations of the Finance Committee at its 168th Session (November/December 2021; [CL 168/REP](#), paragraph 27 h)) and its 170th Session (June 2022; [CL 170/REP](#), paragraph 30).

⁵ [CL 175/12](#), paragraph 20.

⁶ 199th Session of the Finance Committee (May 2024; [FC 199/10](#)). Document FC 199/10 reproduces the substantive part of CCLM 120/5.

⁷ [CL 175/11](#), paragraph 24 d) and e).

⁸ [CL 175/REP](#), paragraphs 21 a) iii, and 23 b) ii.

Members of the two Committees. This was accompanied by an informal note, describing possible options for Members' consideration, and drawing attention to matters calling for decisions by Members. Following the informal working session of 6 September 2024, the draft procedure was slightly amended to reflect the initial views expressed by Members on that occasion. The revised version of this draft procedure is attached as an **Annex**⁹ to this document and its key elements are highlighted below.

III. Draft procedure

A. Preliminary considerations

7. As mentioned during the informal working session of the two Committees of 6 September 2024, the attached draft Procedure is not a definitive proposal. The draft Procedure is illustrative of one possible option that Members could consider. Other options are highlighted in the draft Procedure and are presented below with a brief summary of their respective "pros and cons".¹⁰ If one of the alternative options is favoured by the Governing Bodies, consequential amendments would have to be made to related operative provisions of the draft Procedure.¹¹ To facilitate Members' review of the text, these amendments to operative provisions have not been included in the draft Procedure.

8. A fundamental underlying question in this exercise is which procedural steps should be left to non-Members parties – such as an External Investigative Entity (EIE), an expert advisory body or an FAO official – to advise upon, and which should be for Members to decide upon. In particular, Members have expressed divergent views as to whether Members should be involved at any stage during the fact-finding phase.

9. Another underlying issue is the appropriate balance to maintain between the level of information to be provided to the Membership as a procedure unfolds and the requirements of due process and confidentiality. In the annexed Procedure, options are presented to Members as to whether the Council and the Conference should receive redacted summaries of the investigation report and relevant evidence, or the full investigation report with all supporting documentation.¹² Provisions have also been made for the sessions of the CCLM,¹³ the Council,¹⁴ and the Conference¹⁵ to be held in private, which means that only Members of these Governing Bodies would be allowed to attend deliberations related to allegations made against the Director-General.

10. It may be noted that the procedures adopted by other sister agencies of the UN system (including WMO,¹⁶ WIPO,¹⁷ ICAO¹⁸ and UNESCO¹⁹) to deal with allegations made against their executive heads also stress the need for confidentiality and provide, to various degrees, for abridged or redacted information to be submitted to their larger governing bodies, equivalent to the FAO Council and Conference.

⁹ Marked version 1.0.

¹⁰ As requested by the CCLM. See [CL 175/12](#), paragraph 20.

¹¹ Annex, notably in respect of paragraph 9, options 2 and 3; paragraph 15, option 2; and paragraph 22, option 2.

¹² Annex, paragraphs 35 and 38.

¹³ Annex, paragraph 13. An amendment to the General Rules of the Organization would be required.

¹⁴ Annex, paragraph 36.

¹⁵ Annex, paragraph 38.

¹⁶ World Meteorological Organization. See the Report of the 19th Session of the World Meteorological Congress, Resolution 52, Sections 11.1 and 11.2 of the Annex to the Contract of the Secretary-General annexed to the Resolution.

¹⁷ World Intellectual Property Organization. See Annex I of the WIPO Financial Regulations and Rules, paragraph 42.

¹⁸ International Civil Aviation Organization. See Doc 7559/11, Appendix G of the Rules of Procedure for the Council, paragraph 21.

¹⁹ United Nations Educational, Scientific and Cultural Organization. See Resolutions Records of the General Conference, 42nd Session, Resolution 42 C/27.

11. As a matter of applicable law, it should also be noted that FAO may be held liable by the International Labour Organization Administrative Tribunal (“ILOAT”) for damage to reputation if claims are brought by officials of FAO alleging breach of confidentiality.

12. The key elements on which Members’ guidance is expected are listed below.

B. Reporting allegations of misconduct

13. In the draft Procedure set out in the Annex, it is proposed that allegations of misconduct against a Director-General be filed through the usual channels, i.e. reported to OIG. Thereafter, the initial determination as to whether further review is warranted would be made jointly by the Inspector General and the Chairperson of the OAC. Other options include an initial determination by the members of the OAC, or an initial determination by the Inspector General to be endorsed by the members of the OAC.

14. In some specialized agencies (e.g. WMO and ICAO), allegations of misconduct against the executive head are automatically referred to an EIE upon receipt.

C. Fact-finding phase

1. The entity comprising Members overseeing the process

15. In the annexed draft Procedure, a significant role is attributed to the CCLM, as the entity responsible for overseeing the process on behalf of Members. It is underlined that, as noted at paragraph 7 above, this is simply one of several options for Members’ consideration. Thus, references to the CCLM could be replaced by reference to another body, as deemed appropriate by the Members.

16. In the annexed draft Procedure, the CCLM would be called upon to confirm or reject the initial determination made by the Inspector General and the Chairperson of the OAC,²⁰ decide whether to open a decision-making procedure and issue a memorandum laying out charges of misconduct against the Director-General,²¹ and recommend to the Council and, ultimately, the Conference, whether to impose a sanction on the Director-General.²²

17. As noted at paragraph 8, Members have expressed differing views as to when and how Members should engage in the process. If it is considered that Members should be involved in the fact-finding phase, attributing responsibility to a small committee of Members with regional representation could provide for oversight by Member Nations at key steps of the process, thereby maintaining an *equilibrium* between their role and those of external actors. Members may also consider that a committee composed of a small number of representatives would make it easier to preserve confidentiality.

18. The CCLM is composed of representatives of seven Member Nations, plus a Chairperson, who normally have expertise in legal and constitutional matters,²³ and this could be seen as relevant.

19. Another possibility would be to assign these functions to the Finance Committee, comprising representatives of twelve Member Nations and a Chairperson. The Members of this Committee are regularly called upon to review and advise on administrative, oversight and investigative matters, and to interact with the OAC, which could be seen as relevant factors. During the informal session of 6 September 2024, the possibility of these functions being discharged jointly by the CCLM and the Finance Committee was also raised.

²⁰ Annex, paragraph 15.

²¹ Annex, paragraph 29.

²² Annex, paragraph 34.

²³ General Rule XXXIV (1).

20. A third possibility would be to vest these functions in a committee composed of the Chairpersons and Vice-Chairpersons of the Regional Groups,²⁴ discharging this role at the time a complaint is filed. It is recalled that Regional Groups have no legal status under the FAO institutional framework: they are purely informal.

21. A fourth possibility would be the creation of a standing special committee, or “Special Mechanism”, as was contemplated in document CCLM 119/2.²⁵ This could be modelled on the Executive Council Disciplinary Committee established at WMO,²⁶ which is composed of representatives of Member States elected to deal exclusively with allegations of misconduct made against the WMO Secretary-General. This special committee is named “Examination Committee” in the draft procedure. However, it is recalled that both the CCLM²⁷ and the Finance Committee²⁸ recommended against the establishment of new bodies. This view was also expressed during the informal working session of 6 September 2024.

22. Finally, a fifth option would be to provide that the elected Members of the CCLM (or the Finance Committee) that are in function when a complaint against the Director-General is lodged would automatically be designated as members of a special committee charged with overseeing the process outlined in the draft procedure. They would collectively discharge their functions as members of this ad hoc committee, not as Members of the CCLM (or the Finance Committee) and would be guided in the process by the provisions of the draft Procedure only.

2. *Review of initial determination by Members*

23. In the draft Procedure, an initial determination by the Inspector General and the Chairperson of the OAC that the allegations warrant further review is subject to examination by the CCLM, under the guidance and oversight of the members of the OAC.²⁹

24. Another option would be to remove this procedural step and have the complaint referred directly to an EIE following an initial determination that further review is warranted, without consideration by the Members.

3. *Determination by the EIE that the opening of an investigation is justified*

25. The draft Procedure foresees that the EIE shall be selected from a roster of such entities having entered into a standing agreement with FAO.³⁰ This implies that FAO will have executed in advance a number of agreements with the investigative function of other international organizations, guaranteeing that these investigative services will be available on short notice and stipulating the related terms and conditions (e.g. ensuring experience of relevant UN system guidelines on investigation, consent to apply FAO rules, sufficient capacity to undertake and complete the investigation, avoidance of real or perceived conflict of interest, costs reimbursements, access to staff and other personnel, allocation of offices at headquarters, etc.). It is envisaged that the Inspector General would engage in consultations with relevant investigative services to develop the roster and conclude the necessary agreements.

26. Should the roster approach be adopted, provision would have to be made as to who would select the EIE to work on a particular case.

²⁴ To be established by the Conference pursuant to Article VI (2) of the FAO Constitution.

²⁵ [CCLM 119/2](#), paragraph 35.

²⁶ See WMO document [EC-76/Doc. 7.1\(4\)](#).

²⁷ [CL 174/10](#), paragraph 11.

²⁸ [CL 174/9](#), paragraph 22 b).

²⁹ Annex, paragraphs 12 to 15.

³⁰ Annex, paragraph 18.

27. The draft Procedure provides that, when the EIE determines that there are grounds justifying the opening of an investigation, it shall proceed with this investigation.³¹ Members of the CCLM, the OAC and the Council are informed, but the decision to investigate remains with the EIE without need for endorsement by the Members.

28. Another option would be to subject this determination to examination by the CCLM, under the guidance and oversight of the OAC, and allow the CCLM to decide if the EIE should proceed with the investigation. However, this could be viewed as lacking in transparency, given that the EIE would have determined that there is a legitimate basis to proceed with an investigation. Moreover, EIE might consider that these conditions would undermine their independence.

D. Decision-making phase

1. Opening of the decision-making phase

29. To date, as noted above, Members have expressed divergent views as to the role of the Members and the entity to take the decision to launch the decision-making phase. In the draft Procedure, when the EIE has completed its investigation and issued a report containing its findings and assessment of the available evidence,³² the CCLM will review the investigation report (and related evidence) and decide whether to issue a memorandum informing the Director-General that a formal decision-making procedure – along the lines of the disciplinary procedure applicable to staff – has been opened and notifying him of the charges.³³ Alternatively, it may decide to close the case.³⁴

30. Another option would be to eliminate this decision-making step and provide that it is the EIE which would conclude whether the opening of the decision-making procedure is warranted, automatically launching such a procedure. Under this approach, the CCLM would only decide what charges to lay against the Director-General as part of the later decision-making phase.

2. Final decision and dissemination of the record among Members

31. The decision-making phase foreseen in the draft Procedure provides that following receipt of the response by the Director-General to the charges laid, the CCLM would review the case in its entirety and make a recommendation to the Council to either close the case or impose a sanction. Members have underlined the need to ensure the expeditious handling of matters that could have a significant impact upon the operations, and reputation, of the Organization. The ensuing proceedings foresee expedited sessions of the Council and the Conference. Council would convene on the call of the ICC in a private session within five working days of receipt of the CCLM report, to decide on the recommendation made therein. If the Council endorses a CCLM recommendation to impose a sanction upon the Director-General, the ICC would then convene a special private session of the Conference within ten days of the Council's decision. Noting that, under the General Rules of the Organization, the Director-General presides at the opening of a Conference session pending the election of the Chairperson, it is proposed that, by way of exception to General Rule VI, the ICC would preside until the Conference has elected a Chairperson.

32. The draft procedure proposed that only the Members of the CCLM and the OAC would have access to the full record in this process, i.e. the allegations, the investigation report and all related exhibits.³⁵ The Members of the Council and the Conference would receive a redacted summary of the investigation report and the relevant evidence, including the charges laid against the Director-General and their response.³⁶

³¹ Annex, paragraph 22.

³² Annex, paragraph 26.

³³ Annex, paragraph 29.

³⁴ Annex, paragraph 28.

³⁵ Annex, paragraph 27.

³⁶ Annex, paragraph 35.

33. Alternative options would be to provide that the full record is disclosed, in addition to CCLM Members, to the Members of the Council or, as yet another possibility, to the Members of the Conference. As observed above, in reviewing these options, Members may wish to keep in mind the requirement of confidentiality applicable to the whole process. This fundamental obligation will represent more of a challenge if the full record is shared with the entire Membership.

34. Another possibility, in terms of decision-making, would be for the Conference to delegate final authority on this matter to the Council. This may streamline the process and alleviate to some extent the confidentiality issues mentioned above. However, it is noted that some Members have expressed their inclination to maintain the Conference's ultimate decision-making authority relating to the terms and conditions of appointment of the Director-General.

3. *Legal assistance*

35. The draft Procedure includes a provision³⁷ whereby the Secretary of the CCLM would be automatically seconded to provide independent legal assistance to the membership and the OAC at each step of the procedure, notably as concerns the FAO legal framework and international administrative law. Alternatively, arrangements could be made in advance with a sister UN system agency or other international organization to provide legal services during the entire process, on the model of the proposed roster arrangements for investigative services.

IV. Financial implications

36. The proceedings discussed above have cost implications. This includes compensation for the advisory services provided by the members of the OAC, the investigative services provided by the EIE, and the secondment of staff assigned exclusively to assist with the process. Other costs would flow from meetings to be held, including translation and interpretation costs. Below is an estimate of the costs, from the receipt of an allegation to a final decision by the Conference, could entail:

- a) OAC advisory services³⁸
 - i. 26 days at USD 68 588
- b) EIE investigatory services
 - i. 60 days at USD 130 000
- c) Secondment of staff
 - i. 1 P-5 and 1 G-5 for three months: USD 140 000
- d) Meeting services (translation, interpretation, travel)
 - i. 4 days of CCLM meetings at USD 40 000
 - ii. 2 days of Council meetings at USD 105 000
 - iii. 2 days of Conference meetings at USD 230 000
- e) Total: USD 713 588

37. It must be stressed that the above estimate is approximative and could vary depending on the choices to be made by Members as regards the applicable procedure, as well as the complexity of a given case.

³⁷ Annex, paragraph 14.

³⁸ OAC members are not presently remunerated, however, the volume of work these procedures would involve may render it appropriate to remunerate OAC members for the time spent working on such matters.

V. Promulgation and amendments to the Basic Texts and other instruments

38. If adopted in a form similar to the attached draft Procedures, these could be promulgated by way of a Conference resolution, in conformity with item vi) of the criteria for Conference resolutions, regarding “*major programme and policy matters*”.³⁹ Members could decide whether to insert this resolution in Volume II of the Basic Texts, as part of “important resolutions or decisions of the Governing Bodies”.⁴⁰

39. Members have reflected some consensus on the desire to avoid amendments to the Basic Texts. However, should a significant role be afforded to any existing Council Committee, amendments would need to be made to General Rule XXXIV and the Rules of Procedure of the CCLM (or General Rule XXVII and the Rules of Procedure of the Finance Committee). Other amendments would be required to formalize the special proceedings to be undertaken by the Conference and the Council.

40. Other institutional documents that are not part of the Basic Texts would also need to be amended. They include the Charter of the Office of the Inspector General, the Terms of Reference of the OAC, and the standard clauses in the Conference resolution appointing the Director-General. Relevant provisions would also need to be reflected in the contract of employment between the Director-General and the Organization, as foreseen in General Rule XXXVII (4).

VI. Developments in other Specialized Agencies

41. In preparing the annexed draft Procedure, due consideration was given to the ongoing deliberations on this subject at WHO.⁴¹ There were no notable developments in other specialized agencies after the updates given in previous CCLM documents⁴² and orally during the CCLM sessions.

42. Members were informed with document CCLM 120/5⁴³ that in 2023, the Independent Expert Oversight Advisory Committee of WHO developed proposals for a process of handling and investigating potential allegations against the WHO Director-General,⁴⁴ which were submitted to the WHO Executive Board (“EB”), through the Programme, Budget and Administration Committee of the Executive Board (“PBAC”). At its 153rd Session in May/June 2023, the EB requested the former co-facilitators of the Agile Member States Task Group on Strengthening WHO’s Budgetary, Programmatic and Financing Governance (“AMSTG”) to hold informal consultations with Member States on the process of handling and investigating potential allegations against WHO Directors-General and to report back through the PBAC.

43. The co-facilitators of the AMSTG reported to the PBAC in January 2024,⁴⁵ outlining areas of convergence and divergence. Among the latter, the report mentioned the selection of EIEs and the nature of Member States’ engagement in decision-making and oversight.

44. Upon review of the reports of the co-facilitators of the AMSTG and the PBAC⁴⁶ at its 154th Session in January 2024, the EB requested the WHO Director-General to continue to support informal discussion for Member State-led governance reforms.⁴⁷ This led to the report by the leads for Member State-led governance reform on a process for handling and investigating potential allegations against WHO Directors-General, which was transmitted by the WHO Secretariat to the 77th World

³⁹ [C 2023/12](#), Appendix A.

⁴⁰ [CCLM 85/3](#), paragraph 9.

⁴¹ WHO – World Health Organization.

⁴² [CCLM 117/4](#), Annex; [CCLM 119/2](#), paragraphs 19, 39, and 44; [CCLM 120/5](#), paragraphs 11 to 15.

⁴³ [CCLM 120/5](#), paragraphs 11 and 12.

⁴⁴ [EBPBAC38/2](#), Annex A.

⁴⁵ Matters emanating from the Agile Member States Task Group on Strengthening WHO’s Budgetary, Programmatic and Financing Governance ([EB154/35](#)).

⁴⁶ [EB154/4](#).

⁴⁷ [EB154\(5\)](#).

Health Assembly (“WHA”) in May 2024, with a proposed process appended as Appendix 1 to its Annex.⁴⁸ In their report to the WHA, the leads noted that Member States had reinforced strongly held views of preserving the independence and integrity of investigation processes, as well as maintaining transparency and an appropriate level of visibility for Member States.⁴⁹

45. In the event, the WHA decided to defer consideration of this item to its 78th Session in May 2025.⁵⁰ At its 155th Session in June 2024, the EB considered this outcome and requested the leads to continue to chair consultations on this matter, for consideration at its 156th Session in January/February 2025.

⁴⁸ [A77/27 Rev.1](#).

⁴⁹ [A77/27 Rev.1](#), Annex, paragraph 8.

⁵⁰ [WHA77\(15\)](#).

DRAFT – VERSION 1.0**Procedure to address allegations of misconduct against the Director-General of FAO***Negotiating text***I. Introduction**

1. Allegations of misconduct concerning Directors-General of FAO are to be addressed having due regard to the following general principles of international administrative law:
 - a) adherence to, and consistency with, the Basic Texts of FAO;
 - b) compliance with due process, including the adversarial principle and the right of defence;
 - c) observance of the duty of care owed by the Organization to its staff and other personnel;
 - d) compliance with the presumption of innocence, with the burden of proof being on the Organization.
2. The present procedure is adopted by the Conference to regulate specifically the review of allegations of misconduct concerning Directors-General, to the exclusion of any other provisions of the Basic Texts unless these explicitly replace or supersede this procedure.
3. The duty of Directors-General to exercise their functions in conformity with the highest standards of ethical conduct is embodied in the terms and conditions of appointment provided for in the contract between the Organization and the Director-General pursuant to General Rule XXXVII, paragraph 4.

II. Definition of misconduct

4. For the purpose of this procedure, misconduct is defined as the non-compliance, through acts or omissions, with the Director-General's obligations under the FAO Basic Texts. Misconduct also includes non-compliance with the Standards of Conduct for the International Civil Service, the FAO Staff Regulations and Rules, the FAO Administrative Manual, and other relevant administrative issuances applicable to FAO staff members, including but not limited to those on the prevention of harassment, sexual harassment, abuse of authority, fraud and other corrupt practices, and gross negligence.

III. Reporting allegations of misconduct

5. Allegations of misconduct concerning the Director-General may be reported by way of a complaint to the Office of the Inspector General (OIG) through the standard channels of communication maintained by OIG. Any individual may report such allegations, irrespective of their relationship with FAO.
6. Complaints and related information reported or reviewed in accordance with this procedure shall be treated at all stages under the condition of strict confidentiality. All information reviewed, communicated, or produced pursuant to this procedure is strictly confidential and may not be disclosed except as provided herein. This duty of confidentiality applies without exception to staff members and other personnel of the Organization, members of advisory or investigative bodies, and representatives of Member Nations or Member Organizations.

7. Complaints should, to the extent possible, include the following information:
- a) a detailed description of the alleged misconduct;
 - b) the time(s) and location(s) of the alleged misconduct;
 - c) the names of any potential witness(es) to the alleged misconduct;
 - d) all available supporting documentation.
8. Allegations of misconduct against a Director-General must be made in good faith. They must not be used to transmit or disseminate frivolous or vexatious statements, nor unsubstantiated rumours. Similarly, complaints must not be filed for the purpose of interfering with the lawful exercise of the executive authority conferred on the Director-General by Article VII, paragraph 4 of the Constitution. Any false allegations of misconduct against the Director-General submitted knowingly and intentionally by FAO staff members or other personnel shall be considered misconduct and addressed as such according to the FAO Staff Regulations, Staff Rules, and Administrative Manual.

IV. Fact-finding phase

A. Initial determination

9. Upon receipt of a complaint through the standard channels, the Inspector General shall promptly transmit it to the Chairperson of the Oversight Advisory Committee (OAC). The Inspector General and the OAC Chairperson shall jointly review the allegations made within five (5) working days following receipt of the complaint and determine, *prima facie*, if further review is warranted.

Option 2:

9. Upon receipt of a complaint through the standard channels, the Inspector General shall promptly transmit it to the Chairperson of the Oversight Advisory Committee (OAC). The Chairperson of the OAC **shall then call a meeting of the OAC within five (5) working days following receipt of the complaint for the OAC to review the allegations made therein** and determine, *prima facie*, if further review is warranted.

Option 3:

9. Upon receipt of a complaint through the standard channels, **the Inspector General shall review the allegations and determine, *prima facie*, if further review is warranted. This initial determination shall thereafter be forwarded to the Chairperson of the Oversight Advisory Committee (OAC), for endorsement by the Committee.**

10. If the initial determination by the Inspector General and the Chairperson of the OAC indicates that the allegations, as presented, do not warrant further review, OIG shall immediately close the case and inform the complainant accordingly. This includes allegations that are frivolous or vexatious or allegations that do not raise issues regulated by standard processes of accountability. This initial determination is final.

11. The OAC shall include in its annual report a statistical summary of cases that have been closed pursuant to paragraph 10.

12. If the initial determination by the Chairperson of the OAC and the Inspector General indicates that further review is warranted, the complaint is referred to the Chairperson of the Committee on Constitutional and Legal Matters (CCLM) by the Chairperson of the OAC, together with any supporting documents and a written communication setting out the rationale for the initial determination.

Option 2:

12. If the initial determination by the Chairperson of the OAC and the Inspector General indicates that further review is warranted, the complaint is referred to **the Chairperson of the Finance Committee** by the Chairperson of the OAC, together with any supporting documents and a written communication setting out the rationale for the initial determination.

Option 3:

12. If the initial determination by the Chairperson of the OAC and the Inspector General indicates that further review is warranted, the complaint is referred by the Chairperson of the OAC **to the longest-serving Chairperson of a Regional Group**, together with any supporting documents and a written communication setting out the rationale for the initial determination. **This Regional Group Chairperson shall preside over an ad hoc committee composed of the Chairpersons and Vice-Chairpersons of the seven Regional Groups identified by the Conference for Council elections purposes.**

Option 4:

12. If the initial determination by the Chairperson of the OAC and the Inspector General indicates that further review is warranted, the complaint is referred by the Chairperson of the OAC **to the Chairperson of the Examination Committee constituted pursuant to General Rule XXXVIII (xx), together with any supporting documents and a written communication setting out the rationale for the initial determination.**

Option 5:

12. If the initial determination by the Chairperson of the OAC and the Inspector General indicates that further review is warranted, the complaint is referred by the Chairperson of the OAC **to the representative of a Member Nation exercising at that time the function of Chairperson of the CCLM [or Finance Committee]**, together with any supporting documents and a written communication setting out the rationale for the initial determination. **This representative shall preside over a Special Committee composed of the Chairperson[s] and Members of the CCLM [and/or Finance Committee] to discharge only and exclusively the functions ascribed to this Special Committee by the present procedure.**

13. Following receipt of the complaint, the CCLM Chairperson shall convene a private session of the Committee pursuant to General Rule [XXXIV (zz)]. This private session shall take place no later than five (5) working days from receipt of the complaint and related documentation. The CCLM Chairperson may request the members of the OAC to be present to provide advice as may be required.

14. The Secretary of the CCLM shall be temporarily seconded from their duties with the Legal Office to serve as legal adviser in support of the process foreseen in this procedure until its conclusion. This includes providing legal assistance to the Chairpersons of the CCLM and the OAC, the members of these two committees, as well as the members of the Council and the Conference in the discharge of their responsibilities under this procedure. As required, the CCLM Secretary may also provide legal assistance to an External Investigative Entity (EIE) called upon to review the matter or conduct an investigation. In the exercise of this function the CCLM Secretary shall report exclusively to the CCLM Chairperson and refrain from referring or disclosing any information to the Legal Counsel or any other individual, in accordance with the duty of confidentiality prescribed under paragraph 6. The CCLM Secretary may be definitively or temporarily replaced by a Deputy Secretary to support the usual activities of the CCLM, under the same conditions as those provided above.

15. The CCLM shall, drawing as necessary on the guidance of the members of the OAC:
- a) confirm the initial determination made by the Chairperson of the OAC and the Inspector General that further review is warranted; or
 - b) close the case and inform the complainant in writing accordingly. This decision shall be final.

Option 2:

15. If the initial determination by the Chairperson of the OAC and the Inspector General indicates that further review is warranted, the complaint is referred to the Chairperson of the CCLM by the Chairperson of the OAC, together with any supporting documentation. **The CCLM Chairperson shall thereafter, within three (3) working days, transmit the complaint and related documentation to an External Investigative Entity (EIE) for further review.**

16. Within three (3) working days from the date of the CCLM decision, the CCLM Chairperson shall notify the Director-General of the decision taken pursuant to paragraph 15 and join to this notification a copy of the complaint and all related or supporting documentation, as well as the rationale supporting the CCLM decision. The CCLM Chairperson shall also inform the Council within the same time frame, by way of a written report summarizing the allegations made against the Director-General and the rationale for the CCLM decision.

B. Further review

17. Upon confirmation of the initial determination by the CCLM pursuant to paragraph 15 a), the CCLM Chairperson shall transmit the complaint and related documentation to an EIE for further review.

18. This EIE shall be selected from a roster of such entities having entered into a standing agreement with FAO for the provision of investigative services in matters concerning the Director-General. The selection shall be made by the Chairperson of the CCLM, taking into account the advice of the OAC members, with due regard given to the immediate capacity of the selected EIE to undertake and complete an investigation of misconduct involving the Director-General of FAO, and the absence of any real or perceived conflict of interest that may arise from this engagement.

19. The EIE shall have exclusive authority to review the complaint and related documentation and to collect, secure and assess any information it considers relevant to determine whether there are grounds to proceed with an investigation. This determination shall be made in accordance with the FAO Investigation Guidelines and applicable provisions of the Uniform Principles and Guidelines for Investigation endorsed by the Conference of International Investigators, as well as the provisions and definitions in the FAO Staff Regulations, Staff Rules, Administrative Manual, and other relevant administrative issuances regulating cases of alleged misconduct, which shall apply mutatis mutandis.

20. The review shall be completed within twenty (20) working days from the date of receipt of the complaint by the EIE, unless the EIE notifies the CCLM Chairperson that an additional period of up to ten (10) working days is required.

21. If the EIE determines that the allegations made in the complaint do not warrant an investigation, it shall inform the CCLM Chairperson in writing, copying the OAC Chairperson. Within the following three (3) working days, the CCLM Chairperson shall:

- a) inform the complainant that the case has been closed;
- b) notify the Director-General and the members of the CCLM of the closure of the case and join to this notification a copy of the EIE's determination and all related or supporting documentation; and

- c) transmit a summary of the EIE's determination and relevant or supporting documentation to the Council. This determination by the EIE shall be final.

22. If the EIE determines that there are grounds justifying the opening of an investigation, it shall proceed with this investigation and notify the CCLM Chairperson that an investigation has been opened, copying the OAC Chairperson. Within three (3) days from receipt of this notification, the CCLM Chairperson shall inform the Director-General, the CCLM, the OAC and the Council that an investigation has been opened by the EIE.

Option 2:

21. If the EIE determines that there are grounds justifying the opening of an investigation, it shall **send a review report to the CCLM Chairperson, together with any supporting documents. Following receipt of the review report, the CCLM Chairperson shall convene a private session of the Committee within five (5) working days, with the OAC present to provide advice as required.**

22. **The CCLM shall, drawing as necessary on the guidance of the members of the OAC:**

- a) **confirm the determination made by the EIE that there are grounds justifying the opening of an investigation; or**
 b) **close the case and inform the complainant in writing accordingly. This decision shall be final.**

23. **Following confirmation by the CCLM of the EIE determination pursuant to paragraph 22 a), the CCLM Chairperson shall within three (3) working days inform the Director-General, the OAC and the Council that an investigation has been opened.**

C. Investigation

23. The purpose of an investigation is to gather the available evidence, both inculpatory and exculpatory, in order to establish the facts and assess the allegations at issue. The Director-General and FAO staff members and other personnel shall cooperate fully and confidentially with the investigation and provide all records, documents, information and technology equipment or other information under their control as requested by the EIE, in accordance with the relevant provisions of the FAO Staff Regulations, Staff Rules, Administrative Manual and other relevant administrative issuances governing the conduct of investigations. Failure to cooperate with the investigation may be treated as misconduct.

24. The EIE shall have exclusive authority to conduct the investigation, free from any interference. The EIE shall proceed in a fair and impartial manner in accordance with the FAO Investigation Guidelines and applicable provisions of the Uniform Principles and Guidelines for Investigation endorsed by the Conference of International Investigators, as well as the provisions and definitions in the FAO Staff Regulations, Staff Rules, Administrative Manual and other relevant administrative issuances regulating cases of alleged misconduct, which shall apply mutatis mutandis.

25. The investigation shall be completed, and the investigation report finalized within forty (40) working days, unless the EIE notifies the CCLM Chairperson that an additional period of up to ten (10) working days is required.

26. The EIE shall issue the investigation report directly to the CCLM Chairperson with copy to the OAC Chairperson, containing its findings and appraisal of the available evidence. The report shall include an analysis of the information obtained during the investigation and be accompanied by all supporting documentation, including records of interviews and written statements.

Option 2:

26. The EIE shall issue the investigation report directly to the CCLM Chairperson with copy to the OAC Chairperson, containing its findings and **conclusion as to whether the opening of the decision-making phase is warranted.** The report shall include an analysis of the information obtained during the investigation and be accompanied by all supporting documentation, including records of interviews and written statements provided by the Director-General or by witnesses.

V. Decision-making phase

A. CCLM proceedings

27. Within five (5) working days following receipt of the investigation report, the CCLM Chairperson shall convene a private session of the Committee with the members of the OAC present to provide advice as required. The CCLM shall review the investigation report and decide, based on its assessment of the findings and appraisal of the available evidence made in the investigation report, whether the opening of the decision-making phase is warranted.

28. If the CCLM determines that the initiation of the decision-making procedure is not warranted, it shall close the case and the CCLM Chairperson shall within the following three (3) working days:

- a) inform the complainant in writing;
- b) notify the Director-General of the closure of the case and join to this notification a copy of the investigation report and related exhibits and the rationale for CCLM's determination; and
- c) communicate this determination to the Council, together with a summary of the investigation report and the rationale supporting the CCLM's determination. This determination shall be final.

29. If the CCLM determines that the opening of the decision-making phase is warranted, it shall issue a memorandum notifying the Director-General that charges of misconduct have been laid against them. This memorandum shall be accompanied by the investigation report and all related exhibits and inform the Director-General of the proposed sanction.

Option 2:

27. Within five (5) working days following receipt of the investigation report, the CCLM Chairperson shall convene a private session of the Committee **to review the investigation report,** with the members of the OAC present to provide advice as required. **If the EIE has concluded that the initiation of the decision-making procedure is not warranted, the CCLM shall close the case and communicate this decision to the Council, the Director-General, and the complainant in writing. This decision shall be final.**

28. **If the EIE has concluded that the initiation** of a decision-making procedure is warranted, **the CCLM** shall issue a memorandum notifying the Director-General that charges of misconduct have been laid against them, **based on the findings made in the investigation report.** This memorandum shall be accompanied by the investigation report and all related exhibits and inform the Director-General of the proposed sanction.

30. The applicable standard of proof shall be "proof beyond a reasonable doubt" based on precise presumptions and concurring circumstantial evidence.

31. The Director-General shall be afforded fifteen (15) working days to respond in writing to the charges laid in the memorandum. At the request of the Director-General, this time frame may be extended by up to five (5) working days by the Chairperson of the CCLM.

32. At the request of the Director-General, the CCLM Chairperson may approve that special leave with pay be granted to allow them to prepare their response to the charges. This special leave with pay shall not exceed the time allotted under paragraph 31 to submit this response.

33. The Council shall be informed within three (3) working days of its commencement that the decision-making phase has been initiated by the CCLM. This communication shall be accompanied by a redacted summary of the determination made by the CCLM and the charges laid against the Director-General.

34. The CCLM Chairperson shall convene a private session of the Committee within ten (10) working days following receipt of the response by the Director-General to the charges laid. The CCLM shall review the case in its entirety, with the guidance of the members of the OAC as required, and recommend to the Council to either:

- a) impose a sanction; or
- b) close the case and inform the Director-General and the complainant accordingly. This decision shall be final.

B. Council proceedings

35. The report submitted to the Council by the CCLM pursuant to paragraph 34 shall consist of a redacted summary of the investigation report and the relevant evidence, including the charges laid against the Director-General and their response.

Option 2:

35. The report submitted to the Council by the CCLM pursuant to paragraph 34 **shall be accompanied by the investigation report with all supporting documentation, including records of interviews and written statements provided by the Director-General or by witnesses.**

36. Upon receipt of the CCLM report, the ICC shall convene within five (5) working days a private session of the Council pursuant to General Rule XXV, paragraph 8 (b). The Council shall decide, based on the CCLM report, whether to endorse the recommendation made therein. If the Council endorses a recommendation to impose a sanction upon the Director-General, it shall direct in its report to the Conference that the ICC convene a special private session of the Conference, no later than ten (10) working days following the Council's decision. The Council shall also nominate one (1) Chairperson and one (1) Vice-Chairperson to preside this special session.

Option 2:

36. Upon receipt of the CCLM report, the ICC shall convene within five (5) working days a private session of the Council pursuant to General Rule XXV, paragraph 8 (b). The Council shall decide, **taking into account the report submitted by the CCLM, as well as any statement by the Director-General,** whether to approve the recommendation made therein.

37. The ICC shall inform the Director-General in writing of the decision **taken by the Council, with the reasons supporting this decision, within one (1) working days following the closure of the Council session.** The ICC shall also inform the complainant, the Deputy Directors-General and the Director of Cabinet of the decision taken by the Council.

37. Within three (3) working days following the decision taken by the Council, the ICC shall inform the Director-General in writing of this decision and the reasons supporting it. The ICC shall also inform the Deputy Directors-General and the Director of Cabinet of the decision taken by the Council.

C. Conference proceedings

38. The ICC shall preside at the special private session of the Conference called by the Council until the election of a Chairperson and one Vice-Chairperson. The elected Chairperson or Vice-Chairperson shall preside over all deliberations of the Conference during the special session. The Conference shall decide, taking into account the report submitted by the Council, as well as any statement by the Director-General whether to approve the recommendation made therein.

Option 2:

38. The ICC shall preside at the special private session of the Conference called by the Council until the election of a Chairperson and one Vice-Chairperson. The elected Chairperson or Vice-Chairperson shall preside over all deliberations of the Conference during the special session. The Conference shall decide, taking into account the report submitted by the Council **together with the investigation report with all supporting documentation, including records of interviews and written statements**, whether to approve the recommendation made therein.

39. The Chairperson of the Conference shall inform the Director-General in writing of the decision taken by the Conference, with the reasons supporting this decision, within one (1) working day following the closure of the Conference session. The Chairperson of the Conference shall also inform the complainant, the Deputy Directors-General and the Director of Cabinet of the decision taken by the Conference.

VI. Interim measures

40. At any point after an investigation has been opened, the CCLM Chairperson, with the advice of the members of the OAC as required, may recommend to the CCLM, that the Director-General be placed on administrative leave with or without pay, based on information provided by the EIE. This administrative measure may be taken to:

- a) preserve the integrity of the investigation; or
- b) protect FAO staff members or other personnel, or a third-party, against retaliation, including the complainant or potential witnesses; or
- c) avoid the risk that the continued exercise of functions by the Director-General would have a significant negative impact or pose a serious real or perceived reputational risk to the Organization.

41. If the recommendation to place the Director-General on administrative leave is endorsed by the members of the CCLM, the CCLM Chairperson shall thereafter, within three (3) working days, transmit this recommendation with an explanation of its underlying rationale to the Council for decision.

42. The ICC shall convene a private session of the Council pursuant to General Rule XXV, paragraph 8 (b) to consider and take a decision on the recommendation within five (5) working days from the date of receipt of the CCLM's recommendation. The ICC shall inform the Director-General in writing of the decision taken by the Council and the reasons for this decision within three (3) working days from the date of this decision. If the Council approves a recommendation to place the Director-General on administrative leave, with or without pay, the ICC shall also inform the Deputy Directors-General and the Director of Cabinet of the decision taken by the Council. In such case, the Deputy Director-General with greater seniority shall act as Director-General in conformity with General Rule XXXVII, paragraph 5.

43. The administrative leave is without prejudice to the rights of the Director-General. It does not imply that the allegations of misconduct are founded, nor does it constitute a sanction related to those allegations. The administrative leave may continue until the completion of the decision-making phase.

VII. Whistleblower protection

44. An individual who reports in good faith allegations of misconduct involving the Director-General has the right to be protected against retaliation. The general principles and protected activities under the FAO Whistleblower Protection Policy shall apply *mutatis mutandis* to the present procedure.

45. For the purpose of this procedure, retaliation means any direct or indirect detrimental action taken by or at the behest of the Director-General that adversely affects the employment or working conditions of an FAO staff member or other personnel, or negatively affects a third-party, where such action has been recommended, threatened or taken in whole or in part, because the staff member, other personnel or third party, reported misconduct or cooperated with an oversight activity involving the Director-General.

46. Complaints alleging retaliation shall be reported in accordance with the present procedure, excluding all other reporting mechanisms provided for in the FAO Staff Regulations and Rules or other administrative issuances. When established, retaliation constitutes misconduct.

VIII. Recourse

47. The Director-General may lodge a recourse against the decision taken by the Conference exclusively with the Administrative Tribunal of the International Labour Organization, in accordance with Section 331.8 of the FAO Administrative Manual and the relevant provisions of the Statute of the Tribunal and their terms and conditions of appointment.