



COUNCIL

Hundred and Seventieth Session

13-17 June 2022

**Draft report of the Independent Chairperson of the Council on the
progress of the Code of Conduct for Voting**

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

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I. Introduction

1. Members of FAO have been discussing formally and informally the need and content of a draft Code of Conduct for Voting since 27 February 2020. Progress has been made, on several elements, and a common position has been reached, but on several elements divided positions remain. During the last informal consultation (9 May 2022) an impasse occurred on the need for a draft code and the next steps on the process.
2. This report gives an overview of the mandate given, areas of consensus, areas of divided positions, and next steps.

II. Mandate

A. Conference

3. The 41st and 42nd Session of the Conference mandated the Council to draft and discuss a draft Code of Conduct for Voting:
 - a) *41st Session of the Conference*: during the Conference an incident occurred. The Conference noted:

“28. The Conference noted that during the election for the position of Director-General of FAO on Sunday, 23 June, one delegate ostensibly showed their ballot paper to the plenary, thereby violating the secrecy of the vote and Article XII.10 of the basic texts of FAO. It was recognized that this occurrence does not question the validity of the ballot.”
 - b) *42nd Session of the Conference* concluded under the item “Legal, Administrative and Financial Matters Constitutional and Legal Matters Draft Code of Conduct for Voting Procedures under Rule XII of the General Rules of the Organization”:

“71. The Conference appreciated the efforts of the Independent Chairperson of the Council in facilitating discussions of Members on the draft Code of Conduct for Voting Procedures and requested his successor to continue these consultations with the Membership with a view to finalizing a draft text to be submitted for consideration by the 43rd Session of the Conference, following review by the relevant Governing Bodies of the Organization.”

B. Council

4. The Council discussed in several sessions the mandate and progress made. In its 162nd Session the Council concluded under the agenda item “Matters Arising out of the Conference Session”:

“7. The Council noted matters arising from the 41st Session of the Conference, and from the 162nd Session of the Council, which required furtherance. It noted that these would be reviewed by appropriate governing bodies, and/or would be considered at the forthcoming Informal Meeting of the Independent Chairperson of the Council with the Chairpersons and Vice-Chairpersons of the Regional Groups. Such matters include processes relating to governing bodies, such as voting procedures, working methods, and regional representation; as well as those related to agroecology, antimicrobial resistance, biodiversity, and the establishment of corporate awards and prizes.”
5. In its 163rd Session the Council concluded under the item “Report of the 109th Session of the Committee on Constitutional and Legal Matters (21-22 October 2019)”:

“12. The Council endorsed the Report of the 109th Session of the Committee on Constitutional and Legal Matters (CCLM), in particular, its recommendations with regard to “Voting procedures under Rule XII, paragraph 10 of the General Rules of the Organization”, and 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.”

6. In its 164th Session Council concluded under agenda item “Report of the 110th Session of the Committee on Constitutional and Legal Matters (28-29 May 2020)”:

“20. The Council endorsed the Report of the 110th Session of the Committee on Constitutional and Legal Matters (CCLM), and in particular:

a) with regard to the issue of voting procedures under Rule XII of the General Rules of the Organization, endorsed the CCLM’s request to Management for the development of a draft code of conduct to facilitate further consultations by the Independent Chairperson of the Council and for consideration by the CCLM, with a view to having a draft code finalized prior to the 42nd Session of the Conference;

b) agreed with the view of the CCLM that this code should address the candidates, Members, and the Secretariat, be consistent with Rule XII at large and the General Rules of the Organization, and be developed through a member-led and participatory process;(...)”

7. In its 166th Session the Council concluded under agenda item “Code of Conduct for Voting”:

“42. The Council commended the Independent Chairperson of the Council (ICC) on his efforts in leading an open, inclusive, and transparent consultation process towards the development of a voluntary draft Code of Conduct for Voting, and requested the ICC to continue such consultations with a view to having the draft finalized prior to the 42nd Session of the Conference.”

III. Progress made

8. Based on the mandate given by the Conference and the Council, nine informal consultations have been held. Progress was on a regular basis discussed at the informal meeting with the Chairpersons and Vice-Chairpersons of the FAO Regions. A draft outline of the Code of Conduct was circulated to the Regional Groups for the 24 September 2020 informal meeting of the Independent Chairperson of the Council (ICC) with the Chairpersons and Vice-Chairpersons of the Regional Groups. This draft outline drew upon relevant practices and documents of other UN System agencies, most notably the World Health Organization (WHO). The Regional Groups were then invited to submit written inputs to the ICC on the draft code to feed into its development. This outline was again discussed during the 27 November 2020 ICC informal meeting, and the Regional Groups were requested to submit written inputs by 24 December 2020 to facilitate the production of the updated Code of Conduct contained in this document. Three Regional Groups submitted written inputs which informed the development of a draft. In light of the Council’s request to expedite consultations on the development of the Code of Conduct, and the need to produce the related document in all languages for the CCLM’s 112th Session (8-10 March 2021), the Regional Groups were requested to submit their written inputs on the Code of Conduct contained this document no later than Friday 22 January 2021.

9. In the informal meeting with the Chairpersons and Vice-Chairpersons of the FAO Regional Group of 27 January the Chairpersons and Vice-chairpersons asked the ICC to informally consult with each of the regions to discuss progress made and possible next steps to be taken. The ICC reported back to Chairpersons and Vice-Chairpersons in the informal meeting of 3 March 2022. In his feedback from regional consultations the ICC presented on process, substance, and next steps the following:

a) Process:

- i. Willingness to continue consultations, but not in the same manner;
- ii. Flexibility to make compromises;
- iii. Remain member-led, participatory, and inclusive;
- iv. Code should have added value;
- v. Code should stay within the mandate given by Conference and Council;
- vi. Focus on finding landing zones for the most critical issues;

- vii. Need for a fresh look and to push refresh button;
- viii. Develop new Chairs' proposal; and
- ix. Proposal should be focused, brief, and address the most important issues.

b) Substance:

- i. Code is voluntary;
- ii. Code should not amend or give an interpretation of the Basic Texts;
- iii. Build upon good practices within the UN, especially within specialized agencies;
- iv. Code should be forward-looking, codifying the good practice of the last elections of the ICC and Chairperson of Committee on World Food Security;
- v. Focus on elements for the voting process;
- vi. Take on board already items for which consensus exists; and
- vii. Focus on a compromise for main issues:
 - Behavior principles;
 - Absolute secrecy of the vote;
 - Transparency in the counting of votes.

c) Next steps:

- i. Consensus continuing consultations;
- ii. Fresh look: New Chair's proposal.

10. The Chairpersons and Vice-Chairpersons of the Regional Groups supported the findings of the ICC and supported as a next step the development of a new Chair's proposal.

11. Based on these informal consultations the ICC developed a Chair's proposal, which was circulated to the Members on 22 April 2022. During the first round of informal consultations on the Chair's proposal an impasse arose. One Regional Group and one Member tabled the question of whether it would be worthwhile continuing the informal consultations. Other Members made a clear plea for further consultations based on the new Chairs' proposal. The ICC concluded that he would draft a report for the Chairs and vice-Chairs, including areas of consensus and of difference in order to seek further advice. The informal meeting of Chairpersons and Vice-Chairpersons supported this approach and asked to have an oral update during the 170th Session of the Council. The Council could give further guidance for the next steps to be taken.

IV. Issues of consensus and of difference

12. During the informal consultations on several areas informal consensus was achieved. It relates to the following areas (see Annex):

- a) *Section I (introduction) and Section II (Status and scope of the Code)*. Some Members expressed the wish that the Code should apply to all elections by secret ballot, but the mandate given by Conference and Council refers to the election of the Director-General of the FAO. The paragraphs in these two sections were informally agreed, ad ref;
- b) *Section III (General Principles)*: paragraphs 4 and 5 are informally agreed, ad ref. Nevertheless, still, the inclusion of a principle related to conflict of interest is under discussion (see below);
- c) *Section IV (Rights, obligations, and responsibilities)*: paragraphs are informally agreed, ad ref. Although the African Regional Group doubted whether section B (Employees of FAO) should be included. This subsection was also included in the proposal for a code from this Regional Group;
- d) *Section V (The Vote)*: general paragraphs 13, 14, and 15 and paragraphs related to tellers and scrutineers, paragraphs 27 to 35, met general consensus;
- e) *Section VI (Voluntary adherence to the Code) and Section VII (Amendment to the Code)* have been informally agreed, ad ref.

13. On the following issues there are still differences of views:

- a) *Inclusion of the principle avoiding conflict of interest*: Members are divided on the inclusion of the principle. Looking at other international UN Organizations none of them have included this principle in relation to voting procedures;
 - b) *Section V, A (Secrecy of the Vote)*: the consultations are focusing on the rules related to recording devices;
 - c) *Section V, B (Voting Booths)*: the discussion is focusing on the description of the Voting Booths;
 - d) *Section V, C (Counting of the vote)*: the discussions are focusing whether the counting should be done in the Plenary Hall or in a separate room;
 - e) References to the *General Committee of the Conference*: in the Chair's proposals no reference are made because they are not in accordance with the Basic Text (giving an interpretation of the Basic Text) and no other international UN organization have adopted these kinds of rules.
14. It should be noted that no paragraphs related to the electoral campaigning, nomination of candidates, facilities, and addressing of candidates to Council and Conference are included in the Chair's proposal because they are beyond the mandate given by Conference and Council.

V. Next steps

15. As discussed and agreed by the Chairpersons and Vice-Chairpersons, the ICC will give an oral report, based on this draft, which will give a possibility for further guidance by the Council. Based on the Council discussions, the Regional Groups will discuss this report within their regions in order to see which next steps should or could be taken. After the summer break, the Chairpersons and Vice-Chairpersons will discuss the outcome in the informal meeting with the ICC in September.

Dr Hans Hoogeveen
Independent Chairperson of the Council

Annex 1**DRAFT CHAIR'S PROPOSAL****Voluntary Code of Conduct for Voting****SECTION 1: CODE OF CONDUCT FOR VOTING****I. INTRODUCTION**

1. This Voluntary Code of Conduct (the “Code”) aims at promoting open, fair, equitable, and transparent voting procedures during the election for the office of Director-General of the Food and Agriculture Organization of the United Nations (“FAO” or “the Organization”) in accordance with the Basic Texts of the Organization (“the Basic Texts”), including the General Rules of the Organization (“GRO”). *(Informally agreed ad ref)*

II. STATUS AND SCOPE OF THE CODE

2. The Code is an understanding reached by the Member Nations of FAO. It recommends desirable behaviour by Member Nations and candidates nominated by the Member Nations regarding the election of the Director-General of the Organization in order to increase the fairness, credibility, openness, and transparency of the process. Consequently, this Code is of a voluntary nature and is not legally binding. Member Nations and candidates are nevertheless expected to honour its contents. *(Informally agreed ad ref)*

3. The Code does not amend the *Basic Texts* and, in case of any ambiguity or inconsistency, the *Basic Texts* prevail. *(Informally agreed ad ref)*

III. GENERAL PRINCIPLES

4. The entire election process, including electoral campaign activities, should be guided by the *Basic Texts*, relevant decisions of the Conference, and the following principles:

- fairness,
- equity,
- openness and transparency,
- sovereignty,
- good faith,
- dignity, mutual respect, and moderation,
- non-discrimination, and
- merit.

(Informally agreed ad ref)

5. Member Nations and the FAO Secretariat should make this Code publicly known and easily accessible, including through relevant channels of communication of the Organization, such as the FAO Members Gateway. *(Informally agreed ad ref)*

IV. RIGHTS, OBLIGATIONS AND RESPONSIBILITIES

6. Member Nations recognize the rights, obligations, and authorities established in the *Basic Texts* and decisions of the Conference. *(Informally agreed ad ref)*

7. The Code does not amend the *Basic Texts* that constitute the sole references governing election processes at FAO. *(Informally agreed ad ref)*

8. The Code applies exclusively to the voting procedures or proceedings during the election of the FAO Director-General. *(Informally agreed ad ref)*

A. Members and Candidates

9. Member Nations acknowledge that the process for the election of the Director-General, more specifically with regard to the voting procedure, should be fair, open, transparent, and equitable. *(Informally agreed ad ref)*

B. Employees of FAO

10. Employees of FAO, especially those involved in supporting the voting procedures, have the duties and obligations under Article VIII of the Constitution, to respect the principles of integrity, impartiality, and independence with respect to all candidates for the post of Director-General of FAO. *(Informally agreed ad ref)*

11. The same employees of FAO are also subject to obligations under the Staff Regulations and the Standards of Conduct for the International Civil Service, including obligations of confidentiality. *(Informally agreed ad ref)*

12. Any actions or behaviour inconsistent with the above-mentioned obligations should be addressed in accordance with the administrative rules and procedures, including disciplinary procedures, applicable to the employee concerned. *(Informally agreed ad ref)*

V. THE VOTE

13. Member Nations should abide strictly by the Basic Texts and should respect the integrity, legitimacy, and dignity of the voting proceedings. As such, delegates and candidates should avoid behaviours and actions, both inside and outside the plenary hall that could be perceived as aiming at influencing the outcome of the voting proceedings. *(Informally agreed ad ref)*

14. An Elections Officer will be appointed by the Director-General for the Conference Session who is responsible for ensuring adherence to the provisions of the Basic Texts during the voting and electoral procedure (GRO Rule XII, paragraph 16). *(Informally agreed ad ref)*

15. The Elections Officer and all FAO personnel involved in the voting procedure are subject to the obligations of impartiality, neutrality and confidentiality set out at paragraphs above. Any failure to adhere to these obligations will result in the initiation of administrative processes, which may include disciplinary processes. *(Informally agreed ad ref)*

A. The complete Secrecy of the Ballot

16. Member Nations should respect the confidentiality of the proceedings and abide by the procedures to ensure the complete secrecy of the ballot.

17. They should refrain from communicating or broadcasting the proceedings during the conduct of the vote.

18. The Secretary-General should remind delegates of the importance of complete secrecy of the ballot and request them to refrain from any action which may tend to undermine the complete secrecy of the ballot, including the display of filled ballot papers during the conduct of the vote.

The Secretary-General should also remind all those responsible for the supervision of any vote by complete secret ballot of the requirement not to disclose to any unauthorized person any information which might tend, or be presumed to tend, towards destroying the complete secrecy of the ballot.

19. *Option 1:* Voters are encouraged to leave recording devices, including but not limited to cameras, mobile phones, or smartwatches, outside of voting areas or in the room where counting is conducted.

Option 2: Voters should leave any electronic recording devices in a basket at the entrance to the voting area before entering. They should show the tellers that they do not have electronic devices. This is unless voters have a written instruction from their government, which should be shown to the Election Officer.

20. Any delegate or Secretariat employee participating in the supervision of the count of the vote should leave any electronic record devices outside the room where the count is to take place. This requirement may be enforced by any means deemed appropriate by the Elections Officer.

21. The above measures are without prejudice to any further arrangements that the Conference may consider necessary to ensure that the results of ballots remain undisclosed until the formal announcement of the outcome of the ballot.

B. Arrangements for voting, transparency of the vote

22. Access to the voting area will be limited to tellers, scrutineers, electors, and Secretariat employees who are directly involved in supporting the electoral process.

1. Voting Booths

23. As provided in Rule XII, paragraph 10(e), one or more voting booths shall be set up, supervised in such a manner as to ensure complete secrecy of the ballot.

24. The voting area should be arranged, and be sufficiently separated from plenary or other accessible spaces so that observation of the votes being cast by those outside the voting area is prevented.

25. The booths in the voting area should be visible to representatives during the vote.

26. In accordance with established practice, and in light of its mandate to supervise and coordinate all preparatory work for Conference sessions under Rule XXIV, paragraph 5(c), the Council could make recommendations to the Conference on arrangements, including arrangements to ensure complete secrecy of the ballot, taking into consideration the other good practices and booths used in the UN System.

2. Tellers

27. The Chairperson of the Conference will appoint two tellers from among the delegates who are not parties directly interested in the election. The duties of the tellers are to supervise the balloting procedure, count the ballot papers, decide on the validity of a ballot paper in any case of doubt, and certify the result of each ballot (GRO Rule XII, paragraph 10(c)). *(Informally agreed ad ref)*

28. The tellers should be chosen in a fair and impartial manner. Member Nations should not attempt to influence the teller selection. *(Informally agreed ad ref)*

29. The duties of the tellers should be considered independent and separate from their role as delegates or representatives, or their alternates. The tellers should perform their duties in a manner that is strictly impartial and neutral. They should refrain from any actions or behaviour which may influence electors to vote for or against a candidate. Tellers should not attempt to discover the intention or choice of an elector. *(Informally agreed ad ref)*

30. The tellers should have unimpeded access to the voting area and counting room at all times in order to visually confirm that proper procedures are followed. *(Informally agreed ad ref)*

31. Tellers should preserve the secrecy of the ballot and should not disclose the outcome of a ballot to any unauthorized person before the formal announcement of the results by the Chairperson. *(Informally agreed ad ref)*

32. At the beginning of the Conference, the tellers will be offered a briefing by the Secretariat on duties to be carried out. *(Informally agreed ad ref)*

3. Scrutineers

33. A candidate or a scrutineer appointed by a candidate may attend the count of the votes (GRO Rule XII, paragraph 10 (g)). Each candidate must provide the name of his/her scrutineer in advance of the Conference Session. *(Informally agreed ad ref)*

34. Candidates or scrutineers appointed by them may only observe the counting process. They do not take part in the count. *(Informally agreed ad ref) (Informally agreed ad ref)*

35. Candidates and scrutineers should preserve the secrecy of the ballot and should not disclose the outcome of the count to any unauthorized person before the formal announcement of the results by the Chairperson. *(Informally agreed ad ref)*

C. The counting of the vote

36. The Chairperson of the Conference and the tellers shall satisfy themselves that the ballot box is empty and, having locked it, the tellers shall hand the key to the Election Officer.

37. Delegations shall be called in turn by the Secretary of the meeting, in the alphabetical order of the names of the Member Nations.

38. When their names are called, delegations shall put their ballot papers in the ballot box.

39. To indicate the recording of each Member's vote, the Secretary of the meeting and one of the tellers shall sign or initial the list in the margin opposite the name of the Member in question.

40. At the conclusion of the calling, the Chairperson of the Council shall declare the ballot closed and announce that the votes are to be counted.

41. In accordance with GRO Rule XII.10 (g) the tellers count the votes in the meeting of in the presence and under the gaze of Member Nations. In case the tellers are withdrawn from the presence of the representatives in a different room in order to carry out the count of the votes, the representatives of the Member Nations should have the possibility to witness the counting virtually.

42. When the Election Officer has opened the ballot box, the tellers shall check the number of envelopes. If the number is greater or less than that of the voters, the Chairperson of the Conference shall be informed and shall then declare the vote invalid and announce that it is necessary to re-open the ballot.

43. One of the tellers shall read aloud what is written on the ballot paper, and pass it to the other teller. The votes inscribed on the ballot papers shall be entered on lists prepared for that purpose.

44. When the counting of the votes is completed, the Chairperson of the Conference shall announce the results of the ballot in the following order:

- number of Member Nations entitled to vote at the Session;
- number absent;
- number of abstentions;
- number of invalid ballot papers;

- number of votes recorded;
- number of votes constituting the required majority;
- number of votes for the candidates and number of votes secured by each of them, in descending order of the number of votes.

45. The Chairperson of the Conference shall announce the decision resulting from the vote.

46. The lists on which the tellers have recorded the results of the vote shall, after signature by the Chairperson of the Conference, the Election Officer, and by the tellers, constitute the official record of the ballot, and shall be deposited in the archives of the Organization.

VI. VOLUNTARY ADHERENCE TO THE CODE

47. Member Nations and candidates are encouraged to observe and respect this Code. Personnel of the Secretariat are obliged to adhere to their contractual obligations, as set out in paragraph 16 above. *(Informally agreed ad ref)*

VII. AMENDMENT OF THE CODE

48. The Code and Procedures outlined in this code may be reviewed by the Conference upon request of the Council. *(Informally agreed ad ref)*