



# COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

## Hundred and Thirteenth Session

Rome, 25-27 October 2021

### Activities of the Development Law Branch – Information report

## I. Introduction

1. At its 99th Session, the Committee on Constitutional and Legal Matters (CCLM) recommended that it continue to be provided with information reports on the activities undertaken by the Development Law Branch (LEGN) at its future sessions.<sup>1</sup> Encouraged by the CCLM's recommendations and continued support, as endorsed by the Council,<sup>2</sup> LEGN continues to report regularly to CCLM on key activities that are undertaken in support of FAO's constitutional mandate in the framework of the Organization's Strategic Framework 2022-2031 to achieve the Four Betters and the United Nations Sustainable Development Goals (SDGs).

## II. Activities and results

### A. Recent initiatives

#### *Legislative support to transforming agri-food systems*

2. Throughout the United Nations system, and most notably in the wake of the COVID-19 pandemic, increased attention is being devoted to the need to transform agri-food systems to make them more sustainable. Whilst playing an active role in the development of the CFS Voluntary Guidelines on Food Systems and Nutrition (VGFSyN), LEGN has been identifying legal entry points that can support economic, social and environmental sustainability of agri-food systems, as well as ensuring affordable, healthy diets.

3. As a first step, FAO published a preliminary research paper entitled: “*Transforming agri-food systems: Legislative interventions for improved nutrition and sustainability: Preliminary version for public consultation*”. The publication sets out the main approaches and elements that, in LEGN's

<sup>1</sup> CL 150/2, paragraphs 28, 29; CL 165/12, paragraphs 22 to 25 and paragraph 3 of the Executive Summary.

<sup>2</sup> CL 165/REP, paragraph 28.

Documents can be consulted at [www.fao.org](http://www.fao.org)

view, should be considered in developing legislation on agri-food systems. These are: human rights; constitutional and institutional issues; and the use of framework laws to maintain stakeholder engagement, national monitoring and reporting on progress. The paper then explores various sectoral entry points in which the law could operationalize agri-food system transformation. A regionally-focussed research paper on sustainable diets will shortly be published.<sup>3</sup>

4. FAO has been exchanging views on the findings of its research and recommendations in different *fora*. These include the European Union-FAO Strategic Dialogues and the new Community of Practice on Nutrition, Human Rights and Law established by UN Nutrition. LEGN looks forward to receiving more feedback, including from sister UN agencies and FAO technical units, with the aim of further identifying specific and tailored legislative interventions to support the transformation of agri-food systems.

### ***B. Progress on other initiatives***

#### *Development of legislation supported by LEGN*

5. LEGN continues to fulfil its responsibilities in delivering FAO's constitutional mandate to provide technical assistance in legislative matters to Member Nations, upon their request.<sup>4</sup> LEGN's support has recently contributed to the adoption by Ecuador of its "Reglamento General para la Aplicación de la Ley Orgánica de Alimentación Escolar (No. 1346)",<sup>5</sup> by El Salvador of the "Ley de Agricultura Familiar (Decreto No. 814)"<sup>6</sup> and by Peru of a "Ley de seguridad alimentaria y nutricional - LEY - N° 31315"<sup>7</sup>.

6. As examples of ongoing activities, LEGN is supporting work in the following countries: Somalia in developing a Food Security and Nutrition law; Eswatini in developing a law establishing a Food and Nutrition Council; Fiji in the review of its biosecurity legislation (plant and animal health) and pesticide legislation; Cambodia and Guyana on their fisheries and aquaculture legislation; constitutional reform in Chile and El Salvador; Mongolia in developing plant health and seeds legislation; seven countries in Eastern Europe and Central Asia, in the revision of their food loss and waste legislation; Armenia in the establishment of a Land Agency; 12 countries in Africa, Asia, Central Asia and Latin America in the review of their legislation relevant to antimicrobial resistance (AMR); and Mozambique and Seychelles in the development of new forestry laws.

#### *Climate Change*

7. LEGN is consistently putting greater focus on Climate Change as an important thematic area to be addressed in legal frameworks related to food and agriculture. A significant majority of national legal frameworks do not include laws and measures specifically intended to address climate change in the agriculture sectors, which are necessary for good governance and to support the implementation of national policy and international commitments.<sup>8</sup> In this regard, LEGN developed the Strategy on Law and Climate Change, a LEGN-driven programme that will address and support Members in their efforts to climate-proof legislation related to food and agriculture. Outreach efforts to promote and highlight the value of this programme are ongoing. Cognisant of the development of a revised corporate policy on Climate Change, LEGN collaborates closely with FAO's Office on Climate Change, Biodiversity and the Environment (OCB) to ensure alignment of its strategy with that approved by Members. In addition, LEGN continues to collaborate with other UN partners, including

---

<sup>3</sup> "El rol de la normativa en la promoción de dietas saludables desde la perspectiva de los sistemas alimentarios: Ejemplos en América Latina". Unofficial translation: The role of law in the promotion of sustainable diets in a food systems perspective: examples from Latin America.

<sup>4</sup> FAO Constitution, Article 1 (3) a.

<sup>5</sup> General Regulations for the Implementation of the Organic Law on School Feeding (No. 1346).

<sup>6</sup> Law on Family Farming (Decree No. 814).

<sup>7</sup> Law on Food and Nutrition Security (No. 31315).

<sup>8</sup> "Agriculture and climate change – Law and governance in support of climate smart agriculture and international climate change goals". FAO, 2020 - Legislative Studies No. 115, Rome. <https://doi.org/10.4060/cb1593en>.

the United Nations Framework Convention of Climate Change (UNFCCC) and Environmental Programme (UNEP) to develop technical knowledge for the implementation of climate change goals in the food and agriculture sectors.

#### *Increased collaboration with parliamentarians*

8. In Latin America and the Caribbean, LEGN is part of the FAO team that provides technical assistance to the Parliamentary Front Against Hunger. It has supported the development and approval process of the Model Law on Climate Change and Food and Nutrition Security<sup>9</sup> and the Model Law on Community Water and Sanitation Systems<sup>10</sup> by the Latin American and Caribbean Parliament (PARLATINO). LEGN is assisting the PARLATINO to draft a model law on the prevention and reduction of food loss and waste, and is also advising on legislating to promote agroecology.<sup>11</sup> In Africa, LEGN supported the Pan-African Parliament in developing the capacity of parliamentarians to address legal aspects of food security and nutrition (FSN) and in developing a model law on FSN. Training has also been provided to members of sub-regional and national parliamentary alliances based on a series of legal briefs on FSN issues. At the global level, LEGN intervened during several *Virtual Parliamentary Dialogues on FSN in the time of COVID-19*, stressing the importance of legal and policy coherence and identifying legislative measures that parliamentarians can take to mitigate the impact of the pandemic on the realization of the right to adequate food for all, with an emphasis on vulnerable groups.

#### *Partnering with other multilateral agencies*

9. LEGN continues to strengthen its collaboration with other UN System agencies and intergovernmental organizations. For example, LEGN is collaborating with the International Development Law Organization (IDLO) in a joint project on “*Strengthening the legal environment for Food Security and Nutrition of vulnerable groups as part of the COVID-19 response and recovery*”. Assessments of national legislative and regulatory measures related to FSN adopted during the pandemic are being conducted. Multistakeholder consultations will shortly be taking place and the intention is to produce legal briefs to guide decision-makers and practitioners.

#### *Sustainable Wildlife Management Programme*

10. LEGN continues to support strengthening of institutional and legal frameworks of Member Nations of the Organisation of African, Caribbean and Pacific States (OACPS) which are participating in the Sustainable Wildlife Management (SWM) Programme. This includes analysis of sector-specific legislation relevant to land tenure and land use planning, wildlife consumption and non-consumption use, human-wildlife conflicts, animal production, animal health and food safety. In collaboration with government counterparts, country profiles have been developed which are being used to inform capacity building, as well as participatory law reform processes. Currently, LEGN is supporting the revision of Madagascar's Hunting Law and the Wildlife Laws of the Republic of Congo and Zimbabwe. LEGN also contributed to the publication of the SWM Programme Legal Diagnostic Toolkit, including five legal diagnostic tools and relevant methodologies,<sup>12</sup> founded on a Community Rights-Based Approach.

#### *Legal analysis, tools and guidance*

<sup>9</sup> <https://parlatino.org/wp-content/uploads/2021/02/leym-cambioclimatico-segalimentaria-nutricional.pdf>. In line with SDGs 2, 13 and 17.

<sup>10</sup> <https://parlatino.org/wp-content/uploads/2017/09/leym-agua-saneamiento-ingles.pdf>.

<sup>11</sup> “*Legislar para promover la agroecología en la región de América Latina y el Caribe - Lineamientos para una ley modelo del PARLATINO sobre agroecología*”. FAO, 2021. Santiago.

<sup>12</sup> Please see “Our Response” section of the Legal Hub page <https://www.swm-programme.info/legal-hub>.

11. LEGN continues to produce legislative studies, legal guides and papers on a variety of subjects.<sup>13</sup> It is providing more focused and targeted legal information by increasing its attention to the creation of public goods; adjusting its messaging to the times; and making knowledge more accessible and digestible. Building on the success of the legal briefs on COVID-19 related issues published in FAO's policy brief series,<sup>14</sup> and the legal briefs for parliamentarians in Africa and Latin America and the Caribbean, LEGN has launched a new publications series of "Legal Briefs",<sup>15</sup> aimed at lawyers, policy makers, parliamentarians and other stakeholders. Future Legal Briefs will cover topics such as family farming, sustainable land management, food loss and waste, school food and climate change.

12. In the area of food and agriculture health, LEGN contributed to the development of an FAO Methodology to analyse legislation relevant to AMR in the food and agriculture sectors. The Methodology,<sup>16</sup> which is available in four of FAO's official languages, has been applied in 25 countries and by one regional organization. It will soon be upgraded into a One Health AMR Legal Assessment Tool jointly developed by FAO, the OIE and the WHO.

#### *Improving data for decision-making*

13. LEGN is intensifying its efforts to innovate in the provision of legal information, through its flagship FAOLEX database, an expanding portfolio of associated thematic knowledge platforms, and through data exchange collaborations with partners. Efforts continue to upgrade and enhance FAOLEX in line with FAO's strategic focus on data and innovation, calling for continued investment of resources.

14. Web traffic statistics show remarkable growth in the usage of FAOLEX data. In the last four years, the number of users has increased by 249%, sessions by 203% and the number of accessed webpages by 187% (Table 1). FAOLEX is used significantly in low and middle-income nations and is a prime example of an FAO public good fulfilling the constitutional function of collecting, analyzing, monitoring and disseminating relevant information on agriculture, food and natural resource management.<sup>17</sup>

Table 1 - FAOLEX Audience Overview<sup>18</sup>

Rolling Year	No. of Users	No. of sessions	No. of page views
Sept.1, 2020 – Aug. 31, 2021	2,749,809	3,445,820	4,658,711
Sept.1, 2019 – Aug. 31, 2020	1,531,206	2,145,555	3,813,639
Sept.1, 2018 – Aug. 31, 2019	966,774	1,409,875	2,099,524
Sept.1, 2017 – Aug. 31, 2018	787,947	1,135,499	1,623,657

*Source: Google Analytics*

15. FAOLEX continues to develop thematic knowledge platforms to facilitate its use by those interested in particular issues.<sup>19</sup> Some notable ones include:

- a) **SWM Programme.** The SWM Legal Hub, within the SWM Programme Portal, houses, *inter alia*, dedicated country profiles, a legal database and sector specific legal analyses. To date, the Legal Hub contains dedicated pages for Madagascar and Zimbabwe and further country pages will be added.

<sup>13</sup> <http://extwprlegs1.fao.org/docs/pdf/LEGN-List-of-publications-October-2020-to-September-2021.pdf>.

<sup>14</sup> <http://fao.org/3/nd625en/nd625en.pdf>.

<sup>15</sup> <http://www.fao.org/legal-services/library/legal-briefs/en/>.

<sup>16</sup> CCLM 111/4, paragraph 18.

<sup>17</sup> FAO Constitution, Article 1 (1).

<sup>18</sup> Includes access to FAOLEX data disseminated through partner portals - ECOLEX, InforMEA and UNEP-Leap.

<sup>19</sup> <http://extwprlegs1.fao.org/docs/pdf/LEGN-List-of-Thematic-Databases-Knowledge-Platforms.pdf>.

- b) SoiLEX. In January 2021, a global database on national legislation on soil that aims to facilitate access to existing legal instruments and to bridge the gap between soil stakeholders was launched. It is managed by the Global Soil Partnership (GSP) within the FAO Land and Water Division, in coordination with FAOLEX. SoiLEX brings all relevant legal instruments related to soil protection and prevention of soil degradation into a structure that is more reflective of soil-related technical knowledge and concepts, as well as of the findings of the Status of the World's Soil Resources report (FAO & ITPS, 2015). It relies on the network of national GSP focal points for collection and validation. A working group has been created to support the analysis of the effective implementation of legal frameworks adopted in each country in terms of promoting sustainable soil management.
- c) AQUALEX. This is a newly revamped version of the former Water-lex dataset, which is a platform that provides country legal profiles and international watercourse agreements profiles, as well as guided access to over 20,000 legal and policy instruments on water. AQUALEX will be made accessible at the end of 2021.
- d) TimberLEX. This is a comprehensive database comprising legal data - laws, regulations, policies and international commitments - on forest and timber legality and the entire value-chain of timber-production. It thus includes data related to land, forestry, trade, taxation, as well as constitutional and labour law. It facilitates the conduct of due diligence *vis-a-vis* timber importers. TimberLEX consists of country profiles structured around a common format of 31 Guiding Legal Elements (GLEs) which were developed through a consultative process with various stakeholders and experts.
- e) AMR-Lex. Developed at the request of a group of countries, AMR-lex brings together legislation relevant to AMR. It includes country profiles as well as profiles of some regional organizations.

#### *Outreach activities*

16. Following the recommendations of the CCLM at its 111th Session, as endorsed by the Council at its 165th Session, LEGN initiated its outreach initiatives to Members. Presentations focus on the services, products and support provided by LEGN to Members, as well as on its future programmes and initiatives. Presentations have been made to the Latin America and Caribbean Regional Group (GRULAC) during their plenary session in August 2021, as well as to the North America, the Southwest Pacific and Asia Regional Groups in September 2021. Presentations to the remaining regional groups will be made in the coming months.

### ***C. New initiatives and focus areas***

17. In line with its mandate to deliver technical legal advisory and cooperation assistance to Members, LEGN has developed programmes and initiatives that address governance and legislative mechanisms and tools within specific thematic areas, underpinning the SDGs and the Four Betters.

#### *Programme on implementation, compliance and enforcement*

18. Following endorsement by the CCLM at its 111th Session, LEGN has finalized its concept for a *Programme on Implementation, Compliance and Enforcement*, which it has presented to Regional Groups. In line with the Hand-in-Hand Initiative, LEGN has also held several informal discussions with potential partners, including relevant UN System agencies, academia and legal experts, in anticipation of the partnerships and collaboration envisaged under the Programme. The Legal Office has committed a portion of its Regular Programme funds for the development of an e-learning course and webinar to this Programme. Advocacy and resource mobilisation efforts are ongoing.

#### *Initiative on social and economic impact of legislation*

19. LEGN, with key collaborators such as the Economic and Social Development Stream (ES), has decided to develop a methodology to assess and quantify, to the extent possible, the social and economic impacts of legislation. The aim is to provide a clearer understanding of the tangible benefits that well-designed legal and institutional frameworks can bring about, not only as regulatory mechanisms but also in operationalizing policy objectives. It is considered that this will enable LEGN to ensure the relevance of its products and services, as well as assist national decision-makers in their law reform processes.

#### *E-learning courses*

20. As part of its drive for innovation, LEGN is developing:
- a) an e-learning course on the Ecosystem Approach to Fisheries (EAF) addressing the implementation of an EAF through policy and legal frameworks;
  - b) two e-learning courses on legislating for Small-Scale Fisheries (SSF);
  - c) e-learning courses on the right to food and on fisheries for the FAO platform on capacity-building on public policies (Núcleo de Capacitación en Políticas Públicas); and
  - d) an e-learning course for the Programme on Implementation, Compliance and Enforcement of Food and Agriculture Laws, focusing on the rationale for a legislative and capacity development focus on the subject.

### **III. Suggested action by the Committee**

21. The CCLM is invited to:
- a) take note of this Information Report and provide guidance, as it deems appropriate;
  - b) reiterate the importance of sound legal frameworks and their effective implementation for achievement of the Four Betters and the SDGs and take note of the need for increased resources for development law work;
  - c) take note, in particular, of the efforts undertaken by LEGN in respect of the *Programme on Implementation, Compliance and Enforcement of National Legislation*, and the *Strategy on Law and Climate Change*, and its initiative on the assessment of the social and economic impact of legislation and encourage Members to support initiatives; and
  - d) take note of the increased availability and accessibility for Members and other stakeholders of legal information and guidance, including through FAO's legal databases, e-learning and legal briefs.