



联合国  
粮食及  
农业组织

Food and Agriculture  
Organization of the  
United Nations

Organisation des Nations  
Unies pour l'alimentation  
et l'agriculture

Продовольственная и  
сельскохозяйственная организация  
Объединенных Наций

Organización de las  
Naciones Unidas para la  
Alimentación y la Agricultura

منظمة  
الأغذية والزراعة  
للأمم المتحدة

# COUNCIL

## Hundred and Sixty-eighth Session

29 November – 3 December 2021

### Report of the 113th Session of the Committee on Constitutional and Legal Matters (Rome, 25-27 October 2021)

#### Executive Summary

The Committee on Constitutional and Legal Matters (CCLM) brings to the attention of the Council its findings and recommendations on:

- a) Standardized procedures for FAO policies, voluntary guidelines, strategies and action plans.
- b) Restoration by the Conference of the voting rights of Member Nations in arrears in the payment of their financial contributions to the Organization.
- c) FAO Policies on Protection of Data and Intellectual Property Rights: FAO Data Protection Principles and Rules.
- d) Code of Conduct for Voting.
- e) Selection and Appointment of Secretaries of Article XIV Bodies.
- f) Activities of the Development Law Branch.
- g) Proposed amendments to the Staff Regulations - FAO internal appeal procedure.
- h) Review of the jurisdictional set up of the United Nations common system.

#### Suggested action by the Council

The Council is requested to endorse the findings and recommendations of the CCLM.

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

Annick Vanhoutte  
Secretary, Committee on Constitutional and Legal Matters  
E-mail: [Annick.Vanhoutte@fao.org](mailto:Annick.Vanhoutte@fao.org); Tel. +39 06570 54287

## I. Introduction

1. The Hundred and Thirteenth Session of the Committee on Constitutional and Legal Matters (CCLM) was held from 25 to 26 October 2021.
2. The Session, open to silent observers, was chaired by Ms Alison Storsve, who welcomed all the participants. The Chair welcomed the new CCLM Members.
3. The following Members joined the Session:
  - H.E Mr Khaled Ahmad Zekriya (Afghanistan)
  - Ms Lamia Ben Redouane (Algeria)
  - Ms Julie Émond (Canada)
  - Mr Esala Nayasi (Fiji)
  - Mr Junior Andrés Escobar Fonseca (Nicaragua)
  - Ms Nina P. Cainglet (Philippines)
  - Ms Zora Weberová (Slovakia)
4. The Session was convened in hybrid modality, with some Members participating in person at FAO Headquarters (Algeria, Canada, Nicaragua, Philippines, and Slovakia) and others participating virtually (Afghanistan and Fiji) on an exceptional basis due to the COVID-19 pandemic in Italy and worldwide.
5. The CCLM was informed that H.E. Ambassador Mónica Robelo Raffone (Nicaragua) had been replaced for this Session by Mr Junior Andrés Escobar Fonseca.
6. The CCLM followed the modalities applied to the CCLM 110th Session, as reflected in the Note from the Chair (Annex 1 to CL 164/2), and agreed to suspend the rules that may be incompatible with the hybrid session, in accordance with Rule VII of the Rules of Procedure.

## II. Item 1: Adoption of the agenda and arrangements for the Session (CCLM 113/1 Rev.2)

7. The CCLM Members took note of the arrangements for the Session and approved its Agenda.

## III. Item 2: Election of the Vice-Chairperson

8. The CCLM elected Ms Lamia Ben Redouane (Algeria) as Vice-Chairperson.

## IV. Item 3: Standardized procedures for FAO policies, voluntary guidelines, strategies and action plans (CCLM 113/2)

9. The CCLM considered document CCLM 113/2 “*Standardized procedures for FAO policies, voluntary guidelines, strategies and action plans*”.
10. The CCLM recommended against the elaboration of a formal standardization procedure for FAO policies, voluntary guidelines, strategies, and action plans. It observed that the procedures for the development of certain products are specified in the Basic Texts, while the applicable procedure for many other products derives from their content. It also noted the complexity of a standardization exercise, given the broad range and volume of products that the Organization develops in the furtherance of its mandate, as well as the importance of retaining flexibility, consultation and Members’ engagement within the parameters established in the Basic Texts.
11. Taking into account examples cited in the document CCLM 113/2, the Committee recommended to the Council that CCLM Secretariat be invited to prepare a guidance note for Members providing an orientation in relation to the types of FAO products and the means for their

development. The Committee considered that such a guidance note, while not exhaustive nor prescriptive, could serve to guide the Members.

#### **V. Item 4: Restoration by the Conference of the voting rights of Member Nations in arrears in the payment of their financial contributions to the Organization (CCLM 113/3)**

12. The CCLM welcomed document CCLM 113/3 “*Restoration by the Conference of the voting rights of Member Nations in arrears in the payment of their financial contributions to the Organization*”, providing a review of FAO’s practice on the restoration of voting rights, the previous examination by FAO Governing Bodies, as well as the findings arising from consultations with other UN System organizations concerning their respective rules and practices on the loss and discretionary restoration of voting rights.

13. The Committee noted the impact of the non-payment of arrears on the Organization’s activities, programme of work and financial situation and recognized the timeliness of its consideration of this issue in view of the global COVID-19 pandemic and its potentially devastating effects on Members.

14. The Committee expressed appreciation of the findings and analyses presented to it and noted that the practice developed by FAO is consistent with the approach of most other UN System organizations. The Committee was of the view that blanket waivers to the rules about voting rights established by the Basic Texts should be avoided. The Committee suggested consideration of the practice of the Governing Bodies of some UN System organizations to request timely submission of applications for the restoration of voting rights, accompanied by as much supporting information as possible.

15. Therefore, consistent with the request of the Forty-second Session of the Conference, the Committee looked forward to additional consultations led by the Independent Chairperson of the Council (ICC) on the subject-matter, and recommended that these discussions address whether substantive and practical criteria were needed.

16. The CCLM expressed its readiness to consider, within the context of its mandate, any criteria developed by this process.

#### **VI. Item 5: FAO Policies on Protection of Data and Intellectual Property Rights: FAO Data Protection Principles and Rules (CCLM 113/4)**

17. The CCLM took note of document CCLM 113/4 “*FAO Policies on Protection of Data and Intellectual Property Rights: FAO Data Protection Principles and Rules*”. It welcomed the principles for FAO’s development of an internal policy for data protection and intellectual property. Having carefully considered the document, the Committee recommended to the Council that Management be invited to pay particular attention to the following matters when formulating the policy, paying due regard to the need to preserve the Organization’s constitutional and legal status:

- a) clarification of “sensitive personal data” and what it encompasses;
- b) matters of consent for personal data and transfer;
- c) beneficiary protections;
- d) the protection of traditional knowledge;
- e) legitimate purpose of data processing;
- f) clarification of terminology around the “right to food” to be consistent with relevant international instruments;
- g) the elements of the policy that imply the entering into formal agreements; and

- h) clarity with respect to roles and responsibilities within the Organization for the implementation of data protection and intellectual property matters.

18. The Committee observed the value of coordination with other UN System agencies that are similarly developing data protection and intellectual property policies, and encouraged harmonization, to the extent possible, while noting the varying timelines for the production of such policies and differing contexts.

19. The Committee also highlighted the interest and engagement by FAO Members in this issue and, in that regard, suggested that the CCLM Secretariat could reiterate its request for further written inputs from Members, to be provided in a timely manner to contribute to the elaboration of the policy, e.g. by 30 November 2021. The Committee invited the Council to consider recommending to Management that it provide further briefings to Members once the policy is developed.

## VII. Item 6: Code of Conduct for Voting

20. The ICC provided an oral update on his consultations, building on the efforts of his predecessor, with the full Membership on a draft Code of Conduct for Voting Procedures.

21. The CCLM commended the ICC for his continuing efforts through open, transparent, inclusive consultations, with a view to finalizing a draft text of a draft Code of Conduct for Voting Procedures, to be submitted for consideration by the Forty-third Session of the Conference, following review by the relevant Governing Bodies of the Organization.

## VIII. Item 7: Selection and Appointment of Secretaries of Article XIV Bodies

22. The ICC presented an oral update to the CCLM, noting his expectation to be able to bring this issue to closure at the next Council Session.

23. The CCLM acknowledged that the consultations conducted by the ICC were still ongoing, praised the efforts of the ICC and welcomed the engagement of the three Article XIV Bodies concerned and FAO Management with the ICC.

24. Noting the positive updates provided by the ICC, the Committee looked forward to prompt resolution of this matter and confirmed its readiness to hold an additional Session of the Committee to review the consensus reached on a long-term procedure for the selection and appointment of Secretaries of Article XIV Bodies, prior to the next Council Session.

## IX. Item 8: Activities of the Development Law Branch - Information Report (CCLM 113/6)

25. The Development Law Branch (LEGN) briefed the CCLM on its activities, new initiatives and Member outreach since the 111th Session of the CCLM.

26. The CCLM welcomed the briefing and Information Report (CCLM 113/6), as well as the increased availability and accessibility of legal information and guidance from LEGN. It reiterated the importance of sound legal frameworks and their effective implementation for achievement of the Sustainable Development Goals (SDGs) and the *four betters*. It encouraged Members' support for LEGN activities, in particular, its Programme on Implementation, Compliance and Enforcement of National Legislation, Strategy on Law and Climate Change, and its assessment of the social and economic impact of legislation. The Committee also recommended that the outcomes of the Regional Conferences be taken into consideration in LEGN's activities.

**X. Item 9: Proposed amendments to the Staff Regulations - FAO internal appeal procedure (CCLM 113/7)**

27. The CCLM reviewed and concurred with the proposed amendments to FAO Staff Regulations 301.11.1 to 301.11.3, as set out in paragraph 12 of CCLM document 113/7.

28. The Committee recommended that the Council endorse the proposed amendments at its 168th Session (Rome, 29 November to 3 December 2021).

**XI. Item 10: Any other matters**

**a) Review of the jurisdictional set up of the United Nations common system - Update by the Legal Office**

29. The CCLM welcomed FAO's engagement, as a UN specialized agency, in UN System discussions of this matter. It appreciated the update provided, looked forward to being updated on further developments in this regard, and confirmed its readiness to consider any substantive proposals that may arise following completion of the review.

30. No other matter was raised under this item.