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Food and Agriculture
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Продовольственная и
сельскохозяйственная организация
Объединенных Наций

Organización de las
Naciones Unidas para la
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منظمة
الغذية والزراعة
للأمم المتحدة

COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

Ninety-ninth Session

Rome, 20-23 October 2014

Further review of the draft “Rules and Procedures for Participation of Civil Society Organizations and Private Sector Representatives in FAO Meetings”

1. Rules and procedures for participation of Civil Society Organizations and Private Sector Representatives in FAO meetings have been under review by the Committee on Constitutional and Legal Matters (CCLM) in the course of its past few sessions.
2. At its Hundred and Forty-ninth Session, Rome 16-20 June 2014, when endorsing the report of the 98th Session of the CCLM, the Council noted broad support for a revised framework reflecting FAO's experience on the participation of Civil Society Organizations (CSOs) and Private Sector representatives in FAO meetings and expressed satisfaction at the progress achieved by the CCLM in the preparation of draft Rules and Procedures to that effect. The Council noted that a number of provisions in the draft “*Rules and Procedures for Participation of Civil Society Organizations and Private Sector Representatives in FAO Meetings*” needed additional clarification and reconsideration, as appropriate (cf. the relevant extract of the report of the Council is set out in Attachment 2 hereto).
3. The Council requested the Secretariat to convene information meetings and hold consultations with Regional Groups for review, analysis and debate of the draft Rules and Procedures. The proposed Rules and Procedures, as recommended by the CCLM, are set out in Attachment 1 hereto.
4. As requested by the Council, the Secretariat carried out consultations. These consultations revealed that the proposed Rules and Procedures could be adjusted in some respects to take into account some observations that were made in the course of the Hundred and Forty-ninth Session of the Council. At the same time, the consultations revealed that some Members considered that it was important, in parallel to any process of review of the proposed Rules and Procedures, that a discussion of a policy nature on the content of the proposed Rules and Procedures should take place.
5. In light of the above, the CCLM may wish to advise on the way forward regarding the attached draft of Rules and Procedures for Participation of Civil Society Organizations and Private Sector Representatives in FAO Meetings. In addition, the CCLM may wish to offer its views on the modalities and calendar for a process of review of the Rules and Procedures. It should be noted that pending further review of the matter, the Secretariat would generally continue current practices *vis-à-vis* invitations of Civil Society Organizations and Private Sector to meetings of the Organization.

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Appendix 1

Extract from Report of the Ninety-eighth Session of the Committee on Constitutional and Legal Matters (Rome, 17-19 March 2014 - CL 149/2 Rev. 1)

Updated Rules and Procedures for Participation of Civil Society Organizations and Private Sector Representatives in FAO Meetings**DRAFT**

1. FAO recognizes the relevance and value of the contribution of civil society organizations (CSOs) and the private sector to the achievement of the objectives of the Organization and is committed to facilitating their involvement in its work and activities. Being a knowledge organization and a neutral forum for dialogue and debate, FAO encourages an inclusive process for policy dialogue and for sharing expertise and knowledge, taking into account the intergovernmental nature of the Organization and its accountability to its Members. The Organization is committed to facilitating CSO and private sector participation in FAO activities, subject to the principle that, in line with the nature of FAO as an intergovernmental organization of the United Nations System, decision making is entirely a matter for Members.
2. “Civil society organizations” is a broad category which encompasses a wide variety of organizations, which, although different, often share certain common goals, resources and/or approaches to maximize their decision-making capacity, advocacy and knowledge. The FAO Strategy for Partnerships with Civil Society Organizations¹ contemplates three main categories of civil society organizations: member-based organizations, non-governmental organizations and social movements.
3. The FAO Strategy for Partnership with the Private Sector² provides that the private sector includes enterprises, companies or businesses, regardless of size, ownership and structure and covers all sectors of the food, agriculture, forestry and fisheries systems from production to consumption, including associated services: financing, investment, insurance, marketing and trade. It considers that the private sector encompasses a broad array of entities that range from farmer organizations,³ cooperatives and small and medium enterprises to the largest international corporations. For the purposes of this Strategy this also includes private financial institutions; industry and trade associations; and consortia that represent private sector interests. Any consortium, organization or foundation, largely funded or governed by private entities, as well as cooperatives, which generally have for-profit orientations, will be considered as private sector.
4. These rules and procedures foresee that CSO and private sector representatives may attend FAO meetings, including sessions of FAO Governing and Statutory Bodies, in an observer capacity either as a result of having been granted formal status with the Organization, or upon invitation on an *ad hoc* basis. Formal status is granted as a result of a process assessing whether certain standard requirements are met, including the relevant entity’s interest in the work of FAO and its past or potential collaboration with FAO. In order to safeguard the Organization’s intergovernmental nature, its independence and impartiality in decision-making, civil society and private sector entities are excluded from decision-making. These rules and procedures draw on FAO’s past experience and on that of a number of organizations and programmes and funds of the United Nations System.

¹ CL 146/REP, Appendix F, paragraph 7.

² CL 146/REP, Appendix C, paragraphs 9-11

³ FAO tends to consider small-scale producers organizations under the scope of civil society. Larger foundations funded or governed by private sector or commercial food organizations are usually treated as private sector. However, the division is not always clear-cut. Therefore, these organizations may be considered on a case-by-case basis to determine under which Strategy they fall more appropriately. Given FAO’s mandate, FAO will work to ensure adequate representation and participation of producers’ organizations at FAO meetings and processes to ensure their voices are considered and reflected. This will be done according to either the Strategy for Partnerships with the Private Sector or with the Strategy for Partnerships with Civil Society Organisations. (See CL 146/REP, Appendix C, paragraph 10)

I. CSOs in Formal Status

A. CSOs eligible for formal status

5. In order to be eligible for formal status, CSOs should:
- a) have objectives and scope of activities coherent with FAO's mandate;
 - b) be representative in its field of activity;
 - c) have aims and purposes in conformity with FAO's objectives and respectful of its Basic Texts;
 - d) have a permanent directing body, authorized representatives and legally established procedures and machinery to communicate with its membership; and
 - e) be fully transparent and accountable to FAO in their collaborative arrangements with the Organization so that no conflict of interest could affect FAO's integrity and neutrality.
6. Before being granted formal status, the concerned CSO may be requested to develop working relations with the Organization through the institutional arrangements and tools for collaboration set out in the Strategy for Partnerships with Civil Society Organizations and within the framework of these rules and procedures.

B. Rights of CSOs in formal status

7. CSOs in formal status will be entitled:
- a) to send an observer (without the right to vote), who may be accompanied by advisers, to sessions of the Conference; to speak before the commissions of the Conference, but not to participate in discussions unless requested by the Chairperson; and, upon request addressed to the Director-General and, with the consent of the General Committee of the Conference, to speak before the Conference itself;
 - b) to attend (without the right to vote) the sessions of the Council, technical committees under Article V.6.b) of the Constitution, Regional Conferences, Statutory Bodies and technical meetings and consultations of the Organization, to speak before the concerned body and to participate in discussions upon approval by the Chairperson, and in accordance with such procedures as may be adopted;
 - c) to participate as an observer (without the right to vote) in experts' meetings, technical conferences or seminars on subjects which fall within their fields of interest and to participate in discussions upon approval by the Chairperson, and in accordance with such procedures as may be adopted;
 - d) to receive, in advance of session or meetings, documentation of a non-restricted nature, as well as information about meetings planned on matters agreed upon with the Secretariat;

8. Notwithstanding the above, participation in sessions and meetings of the Organization by CSOs may be subject to such arrangements as may be approved by the body or meeting concerned and which may be necessary for the conduct of the proceedings.

C. Obligations of CSOs in formal status

9. CSOs in formal status undertake:

- a) to cooperate fully with FAO for the furtherance of the objectives of the Organization;
- b) in cooperation with the competent units of FAO, to determine the ways and means for coordination of activities in a specialized field of FAO, with a view to avoiding unnecessary duplication and overlapping;
- c) to allow for the attendance and participation of a representative of FAO in the meetings of its governing bodies, general assemblies and appropriate technical meetings, and to arrange for coordination at secretariat level;
- d) to contribute, as far as possible, and at the request of the Director-General, to the promotion of a better knowledge and understanding of FAO's programmes and activities through appropriate discussions or agreed forms of publicity;
- e) to send to FAO its reports and publications on an exchange basis;
- f) to keep FAO informed of changes in its structure and membership, as well as of important changes in its secretariat;
- g) to submit annual reports of their activities, specifically with regard to the support that they have given to the work of the FAO, its Governing and Statutory Bodies and secretariats, for subsequent publication on FAO's website;
- h) to ensure the efficient functioning of mechanisms guaranteeing transparency and accountability of their operations.

D. Review of formal status

10. CSOs granted formal status shall comply at all times with these rules and procedures and other relevant provisions of the Basic Texts. Formal status may be suspended or terminated in case of non compliance.

Suspension

11. The Organization shall periodically review the activities of CSOs granted formal status, on the basis of the annual report submitted to FAO or other relevant information, to determine the extent to which they have complied with these rules and procedures and other relevant instruments and have

contributed to the work of FAO. The Organization may recommend the suspension of formal status for a period of up to three years when an assessment demonstrates that the CSO has failed to comply with the rules and procedures or other relevant instrument. Formal status may also be suspended when a CSO has not shown any interest in, or has not attended any meetings during a period of two years or more. The suspension may last longer if the reasons that motivated it still remain.

12. CSOs whose formal status will be suspended will be notified by the Organization in advance of its intention to do so, the reasons for such action, and provided with an opportunity to comment thereon.

Termination

13. Formal status may be terminated in the following circumstances:

- a) whenever the Organization considers that formal status is no longer considered necessary or appropriate in the light of changing programmes or other circumstances;
- b) if, within the preceding four years, a CSO has not made any positive or effective contribution to the work of the Organization;
- c) if a CSO clearly abuses its status or engages in a pattern of acts contrary to, or incompatible with, the purposes and principles of the FAO Constitution; and
- d) if, having been suspended for a three-year period, it has failed to rectify the circumstance which gave rise to suspension.

14. CSOs whose formal status will be terminated will be notified by the Organization in advance of its intention to do so, the reasons for such action, and provided with an opportunity to comment thereon.

15. A CSO, whose formal status is terminated under circumstances referred to in paragraph 13 above, may reapply for formal status two years after the effective date of termination. Any such application must provide sufficient evidence that the circumstances which led to the termination of formal status no longer exist.

II. Participation of CSOs in FAO Meetings on an Ad Hoc Basis

A. Eligibility for invitation

16. CSOs concerned with matters covering a particular portion of FAO's field of activities and having interest in attending specific FAO meetings, may be invited on an ad hoc basis to participate in such meetings, upon their request and upon a positive decision of the secretariat. These meetings may include sessions of FAO Governing and Statutory Bodies, technical meetings and consultations of the Organization.

17. Invitations to a specific meeting will not normally be issued to individual CSOs that are members of a larger organization that is invited to the specific meeting and intends to represent them at that meeting.

B. Rights of CSOs invited on an ad hoc basis

18. CSOs invited to participate in specific meetings shall enjoy, at such meetings, the same rights as CSOs in formal status set out in Section I.B of these rules and procedures.

III. Participation of Private Sector Representatives

19. Private sector representatives concerned with a particular area of FAO's field of activities and having an interest in attending specific FAO meetings may be invited, either as organizations having been granted formal status, or on an ad hoc basis, to participate in such meetings.

20. Before being granted formal status, private sector entities may be requested to develop collaborative relations with the Organization through institutional arrangements and tools for collaboration set out in the Strategy for Partnerships with the Private Sector⁴ and within the framework of these rules and procedures.

21. As a general principle, private sector representatives granted formal status or invited to participate in specific meetings on an ad hoc basis shall have the same rights as CSOs participating in the same capacity.

22. When considering applications for formal status or requests for participation of private sector representatives in FAO meetings on an ad hoc basis, due consideration shall be given to:

- a) the intergovernmental nature of FAO's decision-making process;
- b) the need for transparency, accountability and awareness of represented interests; and
- c) the need to maintain FAO's neutrality, impartiality and transparency.

23. With a view to guaranteeing transparency, FAO will take all necessary measures to ensure that Member Nations have complete information on the interests represented by private sector representatives attending meetings of the Organization. As a condition for their participation in meetings of the Organization, private sector representatives shall disclose such on the nature of the interests which they represent as may be required by the secretariat.

⁴ CL 146/REP, Appendix C.

Appendix 2

Extract from Report of the Hundred and Forty-ninth Session of the Council of FAO

Rome, 16-20 June 2014 (CL 149/REP)

Constitutional and Legal Matters
Report of the 98th Session of the Committee on Constitutional and
Legal Matters (17-19 March 2014)⁹

20. The Council endorsed the report of the 98th Session of the Committee on Constitutional and Legal Matters (CCLM).
21. The Council:
- a) noted broad support for a revised framework reflecting FAO's experience on the participation of Civil Society Organizations (CSOs) and private sector representatives in FAO meetings;
 - b) expressed satisfaction at the progress achieved in the preparation by the CCLM of draft rules and procedures for participation of CSOs and private sector representatives in FAO meetings;
 - c) noted that a number of provisions in the draft "Rules and Procedures for Participation of Civil Society Organizations and Private Sector Representatives in FAO Meetings" needed additional clarification and reconsideration, as appropriate; and
 - d) requested the Secretariat to convene information meetings and hold consultations with Regional Groups for review, analysis and debate of the draft rules and procedures so that the CCLM could finalize its work at its session of Autumn 2014.
22. The Council noted the deliberations of the CCLM on the second annual report of the Ethics Committee.

⁹ CL 149/2 Rev.1; CL 149/PV/4; CL 149/PV/6