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FINANCE COMMITTEE

Hundred and Forty-third Session

Rome, 7 - 11 May 2012

**Criteria and Procedure for the Selection of External Members of the
Ethics Committee**

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

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EXECUTIVE SUMMARY

- At the request of the Finance Committee and the Council, the 94th Session of the Committee on Constitutional and Legal Matters (CCLM) reviewed the criteria and procedure for the selection of external members of the Ethics Committee. Regarding the procedure, the CCLM decided to refer to the Finance Committee a proposal that after the list of candidates is submitted by the Director-General to the CCLM and the Finance Committee, informal consultations should take place through the Chairpersons, with a view to identifying a possible basis for the two committees to make the same recommendation to the Council.

GUIDANCE SOUGHT FROM THE FINANCE COMMITTEE

The Committee is invited to:

- review the proposal made by the CCLM concerning the procedure for the selection of external members of the Ethics Committee and provide comments, as appropriate.
- agree on an informal consultation procedure for the selection of external members of the Ethics Committee and submit the matter to the Council for approval at its June session.

Draft Advice

- **The Committee reviewed the proposal made by the CCLM concerning the procedure for the selection of external members of the Ethics Committee. The Committee agreed with the proposal that after the list of candidates is submitted by the Director-General to the CCLM and the Finance Committee, informal consultations should take place through the Chairpersons, with a view to identifying a possible basis for the two committees to make the same recommendation to the Council. The Committee agreed to submit the proposed procedure to the Council for approval at its June session.**

I. PURPOSE OF THE DOCUMENT

1. The purpose of this document is to provide a basis for a review of the matter by the Finance Committee, in light of the review made by the Committee on Constitutional and Legal Matters (CCLM) during its Ninety-fourth Session (19-21 March 2012).

II. BACKGROUND

2. At its Hundred and Fortieth Session (10-14 October 2011), the Finance Committee suggested that the procedures for the nomination of external members of the Ethics Committee be re-visited jointly by the Chairpersons of the Finance Committee and the CCLM, in order to have a clear definition of the procedure for nomination of the external candidates, as well as the selection criteria¹.

3. At its Hundred and Forty-third Session (28 November - 2 December 2011), the Council took note of the observations made by the Finance Committee and the CCLM regarding the need to review the procedure and criteria for the nomination of candidates before the renewal of the external membership of the Ethics Committee².

4. While this has not been explicitly articulated by the Finance Committee and the Council, it would appear that the main concerns underlying the above request are that the CCLM and the Finance Committee might recommend different candidates to the Council. Insofar as the committees do not hold sessions at the same time, there is no mechanism allowing them to agree on the same candidates. In order to address these concerns, the CCLM reviewed the matter during its Ninety-fourth Session (19-21 March 2012)³. The CCLM better defined the criteria that the candidates should meet, on the one hand, and proposed to establish a consultation procedure which would facilitate reaching consensus on the same candidates by the two committees, on the other hand.

III. PROCEDURE FOR THE SELECTION OF THE EXTERNAL MEMBERS

5. The procedure for the selection of the external members of the Ethics Committee currently requires the CCLM and the Finance Committee to review the nominations submitted by the Director-General and to recommend three candidates for approval by the Council (see paragraphs 2 and 3.e of its Terms of Reference, **Appendix I**).

6. At the request of the Finance Committee and the Council, the CCLM reviewed this procedure proposing an approach that could minimize the risk of having the two committees making different recommendations to the Council. This objective could be achieved by introducing an element of informal consultation and coordination between the Chairpersons of the two committees. The CCLM suggested that after the list of candidates is submitted by the Director-General to the CCLM and the Finance Committee, informal consultations should take place through the Chairpersons, with a view to identifying a possible basis for the two Committees to make the same recommendation to the Council (see **Appendix II**).

7. The implementation of an informal procedure along these lines might obviate the need for a formal amendment to the Basic Texts. In this connection, it is important to note that insofar as in the course of the past few years some members of the CCLM and Finance Committee have not been based in Rome, any procedure involving the holding of joint meetings of the CCLM and the Finance Committee would have financial implications.

¹ CL 143/8, Report of the Hundred and Fortieth Session of the Finance Committee (Rome, 10-14 October 2011), paras. 30-31.

² CL 143/REP, para 31.

³ CL 144/2, paras. 12-15.

IV. SUGGESTED ACTION BY THE COMMITTEE

8. The Finance Committee is invited to review this document and make such comments thereon as appropriate.
9. If the Finance Committee agrees with the proposed informal procedure for the selection of external members of the Ethics Committee, the matter would be referred to the Council for approval at its June session. If this was not possible, the matter would be reconsidered again at the Autumn sessions of the Committees.

APPENDIX I

TERMS OF REFERENCE AND COMPOSITION OF THE ETHICS COMMITTEE

1. The Ethics Committee shall operate as an advisory panel on all matters pertaining to ethics within the Organization, ensure general oversight over the operation of the ethics programme and provide assurance that the ethics programme is operating effectively. The Ethics Committee shall not have any formal supervisory responsibility in respect of the Ethics Office, nor engage in any operational activities in relation to its mandate.
2. The Ethics Committee shall be established for an initial period of four years. During this period, the Membership, through the Committee on Constitutional and Legal Matters, the Finance Committee and the Council, shall review the work of the Committee in order to determine, at the end of that period, whether the Committee should be extended for a further period of four years, or established on a permanent basis, or to make such adjustments to its modus operandi as may be required.

Mandate of the Ethics Committee

3. Subject to the principles that the Ethics Committee shall not have any formal supervisory responsibility in respect of the Ethics Office, nor engage in any operational activities, the Ethics Committee shall have the following mandate:
 - a) To keep under review all matters pertaining to the formulation, development and implementation of the ethics programme of the Organization, including the Organization's financial disclosure programme or programmes aimed at preventing or addressing conflict of interest;
 - b) To keep under general review the activities of the Ethics Office on the basis of annual reports referred by the Ethics Office to the Committee and to provide guidance thereon;
 - c) To advise on such matters as the Director-General may refer to it;
 - d) To review and advise on the main individual components of the Ethics programme, including any relevant policies, regulations and rules, training, disclosure programmes and conflict of interest prevention and related policies;
 - e) To submit an annual report on its activities to the Director-General, to the Finance Committee and the Committee on Constitutional and Legal Matters;
 - f) To advise or examine any issues related to the fulfilment of its mandate.

Composition of the Ethics Committee

4. The Ethics Committee shall consist of the following members appointed by the Director-General:
 - a) Three reputable individuals external to the Organization whose nominations are approved by the Council, upon recommendation by the Finance Committee and the Committee on Constitutional and Legal Matters;
 - b) One Deputy Director-General;
 - c) The Legal Counsel.
5. The Chairperson of the Ethics Committee shall be elected by the Committee, from among its external members, for a period of two years.

Term of Office

6. The individuals external to the Organization shall be appointed for a term of two years. The Director-General may renew the appointment of the individuals external to the Organization, subject to approval by the Council, upon recommendation by the Finance Committee and the Committee on Constitutional and Legal Matters. The Legal Counsel shall be an ex officio member of the Ethics

Committee. The Deputy Director-General shall hold office for a term of two years, which may be extended for another term of up to two years, at the discretion of the Director-General. Should a position fall vacant, a replacement member shall be appointed for the remainder of the term, in accordance with the relevant procedure.

Sessions

7. The Ethics Committee shall hold at least two regular sessions each year. Additional sessions of the Ethics Committee may be convened by the Chairperson if deemed appropriate. The Director-General may request the Chairperson to convene a meeting if necessary.

Quorum

8. The presence of all members is expected at each meeting. At the discretion of the Chairperson, if necessary, meetings may take place with at least four members¹.

Secretariat

9. The Organization shall make the necessary secretarial arrangements for the functioning of the Ethics Committee.

¹ For the time being, as discussed on a few past occasions, the proposals do not include detailed procedural rules for the operation of the Committee (e.g. on voting), given the nature of the Committee. In the future, following a possible reassessment of the workings of the Committee, this position could be reconsidered.

APPENDIX II**EXTRACT OF CL 144/2,****REPORT OF THE NINETY-FOURTH SESSION OF THE COMMITTEE ON
CONSTITUTIONAL AND LEGAL MATTERS****(ROME, 19-21 MARCH 2012)****(...)****IV. CRITERIA AND PROCEDURE FOR THE SELECTION OF
EXTERNAL MEMBERS OF THE ETHICS COMMITTEE**

12. The CCLM examined document CCLM 94/4 entitled “*Criteria and Procedure for the Selection of External Members of the Ethics Committee*”, which was prepared in response to a request by the Finance Committee at its Hundred and Fortieth Session that the matter be re-examined by both committees.

13. The Committee first considered that, during its Ninety-third Session in October 2011, it had considered useful to establish criteria in the light of which the nominations of external members to the Ethics Committee could be examined. The Committee considered that, pursuant to paragraph 4 of the Terms of Reference of the Ethics Committee, due regard should be paid, first and foremost, to the “reputability” of the individuals, including their competence on ethical matters. Moreover, the CCLM confirmed that the Director-General should apply the following criteria when nominating candidates: (i) no former officials of FAO; (ii) desirability of avoiding candidates serving, or having served with other United Nations Rome-based organizations; (iii) knowledge of, and experience in ethics, in the United Nations System; (iv) gender balance; (v) regional balance (i.e. at least seven candidates, one candidate from each of the FAO geographic regions. In the case of candidates holding more than one nationality, only one nationality should be recognized in line with the practice followed for office holders in intergovernmental organizations); and (vi) usefulness of private sector experience, including academia.

14. As to the procedure for the selection of the external members, the CCLM considered that after the list of candidates is submitted by the Director-General to the CCLM and the Finance Committee, informal consultations should take place through the Chairpersons, with a view to identifying a possible basis for the two committees to make the same recommendation to the Council. The CCLM recommended that this proposal, which would obviate the need for a formal amendment of the Basic Texts, be referred to the Finance Committee.

15. The CCLM expressed its readiness to examine the matter further, if necessary, at its session of Autumn of 2012, in the light of the deliberations of the Finance Committee.

(...)