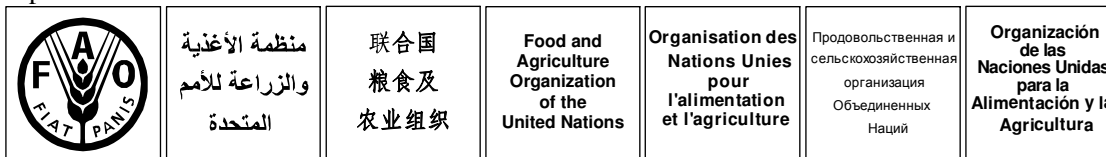


September 2012



COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

Ninety-fifth Session

Rome, 8 - 11 October 2012

**Multi-year Programme of Work for the Committee on Constitutional and
Legal Matters - Annual Report**

I. Background

1. The Committee on Constitutional and Legal Matters (CCLM), at its 91st Session, 20-22 September 2010, considered the prospect of adopting a Multi-Year Programme of Work (MYPOW) for the Committee. This was done pursuant to Actions 2.70 to 2.72 of the Immediate Plan of Action for FAO Renewal (IPA), which required Governing Bodies, including the CCLM, to develop MYPOWs in relation to a period of at least four years, and submit reports of progress towards fulfilling them once per biennium.
2. At that Session, the CCLM submitted that, in accordance with Rule XXXIV, Paragraph 7 of the General Rules of the Organization (GRO), it had held sessions to consider items that the Council or the Director-General had referred to it as necessary, and that there were no standing or recurrent items on its mandate or its agenda, which the CCLM could examine at pre-established dates. The Committee considered that it would not be possible for it to establish a Multi-year Programme of Work, as was the case with other Committees. Notwithstanding this, the CCLM decided to keep the issue of its multi-year programme of work under review, but recommended to the Council that the distinctive features of its *modus operandi* be duly taken into account in adopting the Committee's Multi-year Programme of Work.
3. At its 140th Session, from 29 November to 3 December 2010, the Council, concurred with the CCLM that its Multi-year Programme of Work had to take the distinctive features of the Committee's functions into account, as per Rule XXXIV, Paragraph 7 of the General Rules of the Organization, and the CCLM had held sessions to consider items referred to it as necessary and, in general, there were no standing or recurrent items on its agenda. The Council noted that the CCLM intended to keep the matter under review at its future sessions.

4. At its 93rd Session, 21-23 September 2011, the CCLM examined the revised draft Multi-year Programme of Work 2012-15 proposed by the Secretariat, taking account of the Council's guidance and the characteristics of the Multi-Year Programmes of Work of the other Committees, with particular reference to the Programme and Finance Committees. The Multi-year Programme of Work 2012-15, set out in the **Annex** hereto, contained an outline of the CCLM's overall objectives and mandate, and proposed working methods and practices which the Committee would seek to implement throughout the biennium. As evidenced by examples provided during the discussions, the CCLM noted that these working methods and practices must take the distinct features of the Committee into consideration.

5. At the same Session, following an exchange of views on the relationship between the CCLM's work and other Governing and Statutory Bodies of the Organization, the Committee approved the Multi-year Programme of Work 2012-15 and forwarded it to the Council for endorsement. The Committee also recommended the adoption of a mechanism that would allow for involvement of the CCLM in joint meetings of the Programme and Finance Committees, whenever necessary and subject to availability of funds. The CCLM expressed its readiness to continue to examine the issue of the adjustment of the Multi-year Programme of Work 2012-15 to its particular situation.

6. At its 143rd session in November 2011, the Council welcomed the CCLM's adoption of its MYPOW for 2012-15 and approved the Plan.

II. Multi-year Programme of Work 2012-15 - Progress Report

7. At its 94th Session, 19-21 March 2012, the CCLM considered the items referred to it under Rule XXXIV, Paragraph 7 of the General Rules of the Organization. The items are indicated at paragraphs (i), (ii), and (iii) below:

- i) *Application or interpretation of the Constitution, the General Rules of the Organization and the Financial Regulations or amendments thereto*

At the 94th Session, the CCLM reviewed the draft Conference Resolution entitled "*Amendments to Rules XXXVII and XL of the General Rules of the Organization*" in order to establish restrictions on the authority of a Director-General to make appointments to senior positions during the final months of the mandate and to provide a basis for the implementation of working arrangements in the course of a limited period of time, when there will be an outgoing Director-General and a Director-General elect. The CCLM agreed to forward the Conference Resolution to the Council for endorsement and subsequent transmission to the Conference for approval. The Council endorsed the Report of the 94th Session of the CCLM. In particular, acknowledging the broad support for the draft Conference Resolution, the Council noted that the proposed amendments would be re-examined by the CCLM and the Finance Committee at their Autumn 2012 sessions, in light of additional information that could be acquired by then, including on their financial implications; further, the Council itself would also examine the matter again at its session of December 2012.

- ii) *Formulation, adoption, entry into force and interpretation of multilateral conventions and agreements concluded under Article XIV of the Constitution*

The CCLM examined a report on the status of the consultations, undertaken in response to IPA Action 2.69, that were held with the membership of the Statutory

Bodies established under Article XIV of the Constitution, on the subject of allowing such Bodies to exercise greater financial and administrative authority while remaining within the framework of FAO. [The CCLM requested Secretariat to prepare a detailed list of outstanding issues on the basis of the outcomes of the consultations and the documentation examined in 2009, that would be submitted to the CCLM for its review and advice during its Autumn 2012 session.] The Council endorsed the Report of the 94th Session of the CCLM. In particular, the Council noted that the detailed review of Statutory Bodies established under Article XIV of the Constitution would be re-examined by the CCLM, the Finance and the Programme Committees at their Autumn 2012 sessions.

iii) *Problems relating to elections and the procedure for nominations*

The CCLM reviewed the criteria and procedure for the selection of external members of the Ethics Committee and decided to refer a proposal on the selection procedure to the Finance Committee. The Council endorsed the Report of the 94th Session of the CCLM. In particular, taking into account the views of both the CCLM and the Finance Committee, the Council concluded that the current procedure for the selection of external members of the Ethics Committee, whereby each Committee made its own recommendation to the Council, should be maintained.

III. Suggested action by the Committee

8. The CCLM is invited to examine the Progress Report provided in Paragraph 9 of this document concerning items that were considered by the CCLM in 2012, in accordance with its overall objectives and mandate and proposed working methods and practices, outlined in the approved Multi-year Programme of Work 2012-15.

9. The CCLM is further invited to reiterate the distinctive features of the Committee's work; indeed, by its nature and mandate, the Committee holds sessions to consider items that are not standing or recurrent on its mandate or agenda but that are referred to it by the Council or by the Director-General, in accordance with Rule XXXIV, Paragraph 7 of the General Rules of the Organization (GRO).

10. Notwithstanding the above considerations, the CCLM is invited to note that the issue of its Multi-year Programme of Work will continue to be kept under review while taking due account of the distinctive features of the Committee's *modus operandi*.

Annex I

COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS
Ninety-third Session
Rome, 21 - 23 September 2011
Multi-year programme of work for the Committee on Constitutional and Legal Matters

I. Background

1. At its 91st session in September 2010, the Committee on Constitutional and Legal Matters (CCLM) considered the possible adoption of a Multi-Year Programme of Work (MYPOW) for the Committee. This was in response to actions 2.70 to 2.72 of the Immediate Plan of Action for FAO Renewal (IPA), requiring Governing Bodies, including the CCLM, to develop MYPOWs for a duration of at least four years, and submit reports of progress against them once per biennium.

2. At that session, the CCLM examined the matter in much detail. The CCLM noted that, in accordance with Rule XXXIV, paragraph 7 of the General Rules of the Organization (GRO), it held sessions to consider items which were referred to it, as necessary, by the Council or by the Director-General and that there were no standing or recurrent items on its mandate, or its agenda, which the CCLM could examine at pre-established dates. The Committee considered that it would not be possible for it to establish a multi-year programme of work as was the case with other committees. Notwithstanding this, the CCLM decided to keep the issue of its multi-year programme of work under review but recommended to the Council that the distinctive features of its *modus operandi* be duly taken into account¹.

3. At its 140th Session in October 2010, the Council:

“(...) noted that, as requested by the IPA, the CCLM had reviewed its draft Multi-year Programme of Work. The Council concurred with the view of the CCLM that its Multi-year Programme of Work had to take account of distinct features of the statutory functions of the Committee, as per Rule XXXV, paragraph 7 of the GRO, as the CCLM held sessions to consider items referred to it as necessary and, in general, there were no standing or recurrent items on its agenda to be examined at pre-established dates. The Council noted that the CCLM intended to keep the matter under review at its future sessions”².

¹ CL 140/6, paragraphs 28-31.

² CL 140/REP, paragraph 62.

4. To date, three Governing Bodies have approved their MYPOWs, namely the Programme and Finance Committees, and the Council. There is an important feature in the mandate of these Committees which is that, as it appears from the Rule XXVI of the General Rules of the Organization (Programme Committee), Rule XXVII (Finance Committee) and Rule XXIV (Council), these Governing Bodies exercise specific functions of a recurrent nature, requiring them to examine at each of their sessions, or at pre-established dates, items of a standing nature.

II. Scope of MYPOWs

5. The IPA did not provide a definition of the MYPOWs, nor did it specify their scope. The MYPOWs prepared so far have, therefore, been developed without explicit guidance from the IPA. Initially, the Governing Bodies were somewhat unclear about the precise nature and scope of these novel instruments. In particular, there was a perception that MYPOWs could be designed mainly as “*rolling agendas*” over their intended period of coverage, partly due to the name given to these documents (“programmes of work”), partly due to the fact that in order to prepare a programme of work it is necessary to know which work is to be accomplished. The previous discussion of this matter by the CCLM reflected these considerations.

6. Experience gained through recent deliberations of other Governing Bodies indicates that the scope of the MYPOWs is actually broader than the restrictive view of “*rolling agendas*”³.

7. In particular, the work undertaken by the Programme Committee, and subsequently by the Finance Committee and the Council, in developing their MYPOWs, has helped in clarifying that these documents could be seen as tools for the concerned bodies to examine their own performance in a structure manner, under the new results-based system, and not simply as attempts to anticipate future agendas. They could also be seen as means to allow for constant review of working methods and practices. As such, MYPOWS could be considered useful in conveying, through progress reports on the implementation of their activities, the results achieved by the concerned bodies in a more concrete way, based on pre-defined indicators and targets where possible. In this perspective, the Programme and Finance Committees and the Council sought to give due importance in their MYPOWs to objectives and expected results, and to planned outputs and related activities, consistent with the enhanced results-based culture inherent in the IPA.

8. In the light of the above understanding of the broader scope and purposes of the MYPOWs, and taking into account the specific mandate of the CCLM as set out in Rule XXXIV of the GRO, as well as the characteristics of its work, the attached draft MYPOW for the CCLM was prepared, reflecting the special nature of the mandate and work of the Committee in accordance with the guidance of the Council at its session of October 2010 on the MYPOW of the CCLM.

³ As noted above, the Programme and Finance Committees, as well as the Council, have adopted their MYPOWs in 2010, respectively in April, October and December. Moreover, progress on the implementation of two MYPOWs was also reported: first by the Programme Committee to the Council in May 2011; then by the Council to the Conference in June-July 2011. In addition, preparations are under way for the future MYPOWs of the CFS, Technical Committees and Regional Conferences.

III. Suggested action by the Committee

9. The CCLM is invited to review its draft MYPOW contained in the Annex, make such adjustments thereto as it deems appropriate, and approve it for subsequent endorsement by the Council.

Annex

Draft Multi-year Programme of Work 2012-15 of the Committee on Constitutional and Legal Matters

Objectives and mandate

1. The Committee on Constitutional and Legal Matters provides well-founded advice and action-oriented recommendations, in its areas of mandate, to the Council and to the Director-General as required.
2. The Committee operates efficiently and effectively, interacting as appropriate with relevant Governing and Statutory Bodies of the Organization
3. The Committee holds sessions to consider specific items referred to it under Rule XXXIV, paragraph 7 of the General Rules of the Organization, which include the following matters:
 - the application or interpretation of the Constitution, the General Rules of the Organization and the Financial Regulations or amendments thereto;
 - the formulation, adoption, entry into force and interpretation of multilateral conventions and agreements concluded under Article XIV of the Constitution;
 - the formulation, adoption, entry into force and interpretation of agreements to which the Organization is a party under Articles XIII and XV of the Constitution;
 - any other problems relating to conventions and agreements concluded under the aegis of the Organization or to which the Organization is a party;
 - the establishment of commissions and committees under Article VI of the Constitution, including their membership, terms of reference, reporting procedures and rules of procedure;
 - matters relating to membership in the Organization and its relations with nations;
 - the desirability of requesting advisory opinions from the International Court of Justice in accordance with paragraph 2 of Article XVII of the Constitution, or with the Statute of the Administrative Tribunal of the International Labour Organisation;
 - the policy regarding privileges and immunities to be sought from host governments for the Organization's headquarters, regional offices, country representations, conferences and meetings;
 - problems encountered ensuring the immunity of the Organization, its staff and its assets;
 - problems relating to elections and procedure for nominations;
 - standards for credentials and full powers;
 - reports on the status of conventions and agreements provided for in Rule XXI, paragraph 5 General Rules of the Organization;
 - policy aspects of relations with international governmental or non-governmental organizations, national institutions or private persons.

Working methods and practices

4. In carrying out its functions, the Committee will seek to abide by working methods and practices recognized as 'best practice', and keep them under review. In particular, the Committee will:
 - Seek to formulate clear, precise, consensual and actionable recommendations to be submitted for endorsement by the Council.
 - Seek to work, in close collaboration with relevant FAO Governing and Statutory Bodies.
 - Consult, through its Chairperson, with the Independent Chairperson of the Council.
 - Seek to examine any relevant practices developed in relevant institutions, particularly across the United Nations System.
 - Without prejudice to the need for the Committee to obtain full information on all relevant aspects of the legal issues under discussion, seek to prepare succinct documents that have a standardized cover page with a box containing an executive summary and suggesting the proposed action.
 - Ensure that Committee documents are available in relevant FAO languages at least two weeks before the session commences.

5. The Committee will examine once every year its working methods and activities, to consider matter such as improvements in the formulation of agendas, preparation of documents, conduct of session, drafting of reports.

6. As necessary, the Chairperson shall facilitate continuity of work between Committee sessions with proactive support from the Secretariat, including through consultations with Members, as appropriate.

7. The Committee will report biennially to the Council on the implementation of its MYPOW.