

March 2013

	منظمة الأغذية والزراعة للأمم المتحدة	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
-----------------------------------------------------------------------------------	--------------------------------------------	--------------------	---------------------------------------------------------------------	---------------------------------------------------------------------------------	-------------------------------------------------------------------------------------	------------------------------------------------------------------------------------------

COUNCIL

Hundred and Forty-sixth Session

Rome, 22-26 April 2013

Report of the 96th Session of the Committee on Constitutional and Legal Matters (Rome, 4-6 March 2013)

Executive Summary

The 96th Session of the Committee on Constitutional and Legal Matters (CCLM):

- reviewed the first "Annual Report of the Ethics Committee". The Committee was established by the Council in April 2011 as recommended by the IPA for FAO Renewal, for an initial period of four years. The CCLM recognized that it was too early to make an assessment of the Ethics Committee's work, but invited Management to keep in mind the issue of the long term justification for the Committee in light of the decision of the Council of April 2011. To this effect, the CCLM requested Management to collect comprehensive information so that the report on the matter could be prepared and presented in due course. The CCLM also noted the views of the Ethics Committee on the desirability of rationalizing a number of staff related functions and that Management had taken action in that connection.
- endorsed a Draft Conference Resolution on the "Implementation of the Reform of the Committee on World Food Security Amendments to Rule XXXIII of the General Rules of the Organization."
- examined a document including a letter from the Independent Chairperson of the Council containing two sets of distinct proposals regarding the qualifications for the post of Director-General. The CCLM acknowledged that diligent efforts were made by the Independent Chairperson of the Council, but it had not been possible to reach consensus. The CCLM considered that agreement on the matter by the membership had to be reached before it could exercise its usual legal review function.
- was informed that an external member of the Ethics Committee, who had been appointed for two years, had resigned for personal reasons. Noting that a replacement procedure for that situation had not been foreseen, the CCLM endorsed a proposal to proceed with a one-time solution and recommended that the appointment of a new external member of the Ethics Committee until 31 December 2013, i.e. for the remainder of the vacated term, be approved by the Council.

This document is printed in limited numbers to minimize the environmental impact of FAO's processes and contribute to climate neutrality. Delegates and observers are kindly requested to bring their copies to meetings and to avoid asking for additional copies. Most FAO meeting documents are available on the Internet at www.fao.org

Suggested action by the Council:

- take note of the first “Annual Report of the Ethics Committee” and the CCLM's deliberations;
- endorse the draft Conference Resolution set out in the Appendix containing proposed amendments to Rule XXXIII of the General Rules of the Organization and forward it to the Conference for approval;
- note, on the issue of the desirable qualifications for the office of Director-General, that agreement had to be reached among the membership before the CCLM could exercise its legal review function;
- approve the proposed appointment of Ms Suomi Sakai as an external member of the Ethics Committee until December 2013.

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

Antonio Tavares

Legal Counsel, Legal Office

Tel: +39 06570 55132

I. Introduction

1. The Ninety-sixth Session of the Committee on Constitutional and Legal Matters (CCLM) was held from 4 to 6 March 2013.
2. The Session, open to silent observers, was chaired by His Excellency Hassan Janabi (Iraq). The following members were present:
 - Ms Mónica Martínez Mendiño (Ecuador)
 - Mr Jarlath O'Connor (Ireland)
 - Mr Khalid Mehboob (Pakistan)
 - Mr Lawrence Kuna Kalinoe (Papua New Guinea)
 - Mr Essam Al Shahin (Syrian Arab Republic)
 - Mr Gregory Groth (United States of America)
 - Ms Kampamba Pam Mwananshiku (Zambia)
3. The CCLM approved its Provisional Agenda. On this occasion, the CCLM approved a proposal to receive an oral presentation, for information, on recent developments regarding the termination of the International Rice Commission.

II. Annual Report of the Ethics Committee

4. The CCLM examined document CCLM 96/2 “*Annual report of the Ethics Committee*”. The CCLM noted that the Ethics Committee had been established by the Council in April 2011 as recommended by the Immediate Plan of Action (IPA) for FAO Renewal, for an initial period of four years during which the membership, through the CCLM and the Finance Committee, would review its work in order to determine, at the end of the period, whether the Committee should be extended for a further period, or established on a permanent basis, or whether its *modus operandi* should be reexamined. The CCLM recalled a number of specific features of its composition and mandate.
5. The CCLM noted that the Ethics Committee had expressed general satisfaction at the activities of the Ethics Officer, which it considered to be adequate within the available budget, as well as the ethics programme which, in its view, was operating effectively through the roll out of training workshops, provision of ethics related advice and regular communications to staff. The CCLM further observed that the Ethics Committee had expressed satisfaction at the implementation of the Financial Disclosure Programme, which had been under review for a number of years.
6. The CCLM noted the observations of the Ethics Committee concerning duplication of a few FAO staff related functions, such as the ethics function, the ombudsman, staff relations, the mediation programme and the desirability of seeking to rationalize and make these functions more efficient. The CCLM noted that Management had sought to address this situation by reexamining relevant job descriptions and classification of positions.
7. While welcoming the first annual report of the Ethics Committee and recognizing that it was too early to make an assessment of its work, the CCLM invited Management to keep in mind the issue of the long term justification for the Committee in light of the decision of the Council of April 2011. To this effect, the CCLM requested Management to collect comprehensive information so that the report on the matter could be prepared and presented in due course.

III. Committee on Food Security (CFS): Proposed Amendments to Rule XXXIII of the General Rules of the Organization

8. The CCLM examined the document CCLM 96/3 entitled “*Committee on World Food Security (CFS): proposed amendments to Rule XXXIII of the General Rules of the Organization*”. The CCLM noted that the amendments proposed to Rule XXXIII of the General Rules of the Organization (GRO) had been reviewed and endorsed by the CFS at its 39th session in 2012.

9. Following some discussion on the proposals, and in particular those concerning the High Level Panel of Experts on Food Security and Nutrition, the CCLM endorsed the draft Conference Resolution set out in the **Appendix** to this report and agreed to forward it to the Council for subsequent transmission to the Conference for approval.

IV. Desirable Qualifications for the Post of Director-General

10. The CCLM examined document CCLM 96/4 entitled “*Desirable qualifications for the post of Director-General*” consisting of a short introduction and an appendix with a letter from the Independent Chairperson of the Council containing two sets of distinct proposals regarding the qualifications for the post of Director-General.

11. The CCLM noted that the Immediate Plan of Action (IPA) for FAO Renewal (2009-11) included action 2.100 calling upon the Conference to consider for approval desirable qualifications for the post of Director-General to be developed by the CoC-IEE in 2009 for insertion in the Basic Texts of FAO. The CCLM further noted that this action was not implemented in 2010, as a process of designation of a new Director-General was under way. The Council, at its 144th Session in June 2012, requested that the action be completed and, in that context, the Independent Chairperson of the Council initiated informal consultations with representatives of regional groups with a view to reaching a consensus prior to referring a proposal to the CCLM and the Council.

12. The CCLM acknowledged that diligent efforts were made by the Independent Chairperson of the Council, but it had not been possible to reach consensus. However, the CCLM considered that agreement on the matter had to be reached before it could exercise its usual legal review function.

V. Any other Matters

(a) Replacement of an external member of the Ethics Committee

13. The CCLM examined document CCLM 96/5 entitled “*Replacement of an external member of the Ethics Committee*”. The CCLM noted that, on 17 January 2013, Ms Anne Marie Taylor (a national of Canada, France and the United States of America) resigned as external member of the Ethics Committee for personal reasons. The CCLM further noted that the Director-General submitted the nomination of Ms Suomi Sakai (a national of Japan, Ethics Officer of UNICEF), to replace Ms Taylor for the remainder of her term.

14. The CCLM recalled that, pursuant to the Terms of Reference and Composition of the Ethics Committee, the nomination of external members was approved by the Council, on the recommendation of the CCLM and the Finance Committee. Although detailed criteria were established for the nomination and selection of candidates for regular renewals of external members every two years, the CCLM noted that a replacement procedure for a situation such as the present one had not been foreseen. The CCLM endorsed a proposal to proceed with a one-time solution and recommended that the appointment of Ms Suomi Sakai as external member of the Ethics Committee until 31 December 2013, i.e. for the remainder of the vacated term, be approved by the Council.

(b) International Rice Commission

15. The CCLM was provided an oral brief on recent developments and the legal process for the termination of the International Rice Commission established in 1948 under Article XIV of the Constitution, should the Members decide to do so.

Appendix

RESOLUTION /2013

Implementation of the Reform of the Committee on World Food Security Amendments to Rule XXXIII of the General Rules of the Organization

THE CONFERENCE,

Recalling that the Committee on World Food Security (CFS), at its Thirty-fifth session, held in Rome from 14 to 17 October 2009, reviewed and adopted the proposals set out in document CFS 2009/2 Rev. 2 “*Reform of the Committee on World Food Security*”, which was inserted in Volume II of the Basic Texts of the Organization;

Recalling also that the Conference, at its Thirty-sixth session held in Rome from 18 to 23 November 2009, adopted Resolution No. 14/2009 “*Reform of the Committee on World Food Security, Amendments to the General Rules of the Organization*”;

Recalling further that the Committee on World Food Security (CFS), at its Thirty-seventh session, held in Rome from 17 to 22 October 2011, adopted revised Rules of Procedure and mandated the Bureau to recommend an update of Rule XXXIII of the GRO so that they would “*conform with the CFS Reform Document as well as with the revised Rules of Procedure*”;

Noting that the Committee on World Food Security (CFS) at its Thirty-ninth Session (Rome, 15-20 October 2012) reviewed and endorsed proposed amendments to Rule XXXIII of the General Rules of the Organization for the implementation of the reform of the Committee on World Food Security;

Having taken note of the views of the Committee on Constitutional and Legal Matters (CCLM), at its Ninety-sixth Session (Rome, 4-6 March 2013) on the amendments endorsed by the CFS to Rule XXXIII of the General Rules of the Organization;

Considering that the Council, at its Hundred and Forty-sixth Session (Rome, 22-26 April 2013), endorsed the proposed amendments and agreed to transmit them to the Conference for approval;

Decides to amend Rule XXXIII of the General Rules of the Organization as follows¹:

“Rule XXXIII

Committee on World Food Security

A. Composition and participation

(...)

6. The Committee shall normally hold two sessions during each biennium. Sessions shall be convened by the Director-General, ~~in consultation with~~ and the Chairperson ~~and the Bureau of the Committee,~~ taking into account any ~~proposals~~ decision made by the Committee. ~~If required, the Committee may hold additional sessions on the call of the Director-General in consultation with the Chairperson and the Bureau, or on request submitted in writing to the Director-General by the majority of Members of the Committee.~~

¹ Deletions are indicated using ~~strikethrough text~~ and insertions are indicated using underlined italics.

[new] 7. The Committee may meet in extraordinary (or special) session:

(a) if at any regular session the Committee so decides; or

(b) if the Bureau so requests.

(following paragraphs to be re-numbered)

D. High Level Panel of Experts on Food Security and Nutrition

12 44. The Committee shall be assisted by a High Level Panel of Experts on Food Security and Nutrition which shall exercise the following functions; hereinafter referred to as the High Level Panel. ~~The functions of the High Level Panel shall be:~~

- a) to assess and analyze the current state of food security and nutrition and its underlying causes;
- b) to provide scientific and knowledge-based analysis and advice on policy-relevant issues, utilizing existing high-quality research data and technical studies;
- c) to identify emerging issues and assist the Committee and its Members to prioritize future actions and attention on key focal areas.

13 42. The High Level Panel of Experts on Food Security and Nutrition shall consist of a Steering Committee and ~~a subsidiary of ad-hoc Project Teams acting on a project-specific basis and constituting a~~ network of food security and nutrition experts. The High Level Panel of Experts on Food Security and Nutrition shall operate in accordance with the Rules of Procedure of the Committee.

~~13. The Steering Committee shall consist of between ten and fifteen highly reputable, internationally-recognized experts on food security and nutrition related fields, appointed in their personal capacity for a term of office of two years, renewable only once. The members of the Steering Committee shall be appointed by the Bureau of the Committee on the basis of a recommendation of an ad hoc selection committee consisting of representatives of FAO, the World Food Programme, the International Fund for Agricultural Development, Bioversity International and a representative of civil society organizations. The Steering Committee shall normally hold two sessions every year, unless otherwise decided by the Committee itself in extraordinary circumstances. The functions of the Steering Committee shall be:~~

- ~~a) to ensure and follow the preparation of state-of-the-art studies and analysis for consideration by the Committee on a variety of food security and nutrition issues;~~
- ~~b) to assemble expert project teams to prepare studies and analysis in support of decisions of the Committee;~~
- ~~c) to establish and keep under review working methodologies, plans of work and terms of reference for project teams and, in general, manage their work;~~
- ~~d) to review work methodologies and to propose work plans;~~
- ~~e) to perform such related functions as may be required.~~

~~14. There shall be a database of experts on all relevant fields related to food security and nutrition who may be nominated by Members of the Committee or any other interested party participating in the proceedings of the Committee. Drawing from this database, the Steering Committee shall constitute ad hoc project teams to analyse and report on such issues as may be referred by the Steering Committee to the team. The project teams shall be constituted for pre-determined periods of time and shall be responsible for drafting studies and analysis under the general direction and oversight of the Steering Committee.~~

(following paragraphs to be re-numbered)

G. Miscellaneous provisions

(...)

22 ~~23~~. The Committee may decide to establish subsidiary or *ad hoc* bodies where it considers that such action would expedite its own work, without duplicating the work of existing bodies. A decision to this effect may be taken only after the Committee has examined a report *by the Secretary, after consultation with the Organization, the World Food Programme and the International Fund for Agricultural Development* ~~Director General~~ on the administrative and financial implications.

(following paragraph to be re-numbered)”

(Adopted onJune 2013)