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Продовольственная и
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Объединенных
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Organización
de las
Naciones
Unidas
para la
Agricultura
y la
Alimentación

COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

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DEFINITION OF GOVERNING BODIES

INTRODUCTION

1. The Immediate Plan of Action for FAO Renewal (IPA) approved by the Conference at its Thirty-fifth (Special) Session contains the following action:

“The term Governing Body will be defined, preferably in the Basic Texts”
(IPA action 2.73).

2. This document deals with the implementation of this action. It provides background information on past discussions on the matter, presents information received from other organizations of the United Nations (UN) system, and proposes elements for a possible definition of the term, as well as various options for the implementation of IPA action 2.73.

BACKGROUND

3. The matter was discussed within Working Group II of the Conference Committee for the Follow-up to the Independent External Evaluation of FAO (CoC-IEE) where Members made enquiries about the concepts of “*governance*” and “*Governing Bodies*”. On that occasion, the Secretariat informed the Working Group (i) that enquiries had also been made by the Independent External Evaluation of FAO (IEE) as to the meaning of the words “*Governing Bodies*” within FAO and that (ii) the IEE had proposed a definition of the concept of “*governance*” and the bodies that should be considered as being part of the “*Governing Bodies*”.

4. As regards the meaning of the words Governing Bodies, the Secretariat informed the core team of the IEE that, for many years, there had been a practice whereby a number of bodies had been designated as “*Governing Bodies*”, although there was no formal definition of such bodies. In general it was considered that these included the Conference, the Council and the Committees reporting to the Council, which are: (i) the so-called technical committees – Committee on Commodity Problems, Committee on Fisheries, Committee on Forestry, Committee on

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Agriculture and Committee on World Food Security – and (ii) the committees of restricted membership – Programme Committee, Finance Committee and the Committee on Constitutional and Legal Matters. All these bodies were explicitly referred to in the Constitution of FAO. The specific question of whether the Regional Conferences should be considered as part of the Governing Bodies was open to discussion, but the suggestion was made that they should also be considered as being part of that concept. Therefore, the Secretariat proposed that all these bodies, i.e. **the Conference, the Council, all the committees reporting to the Council and the Regional Conferences be considered governing bodies of the Organization**. Reference was also made to a larger number of bodies commonly referred to as statutory bodies including, for the most part, commissions and committees established under Articles VI or Article XIV of the FAO Constitution, but these were not to be considered “*Governing Bodies*”.

5. As regards the concept of “*governance*”, the report of the IEE, after having observed that in the UN there was no formally agreed definition of governance, proposed for the purposes of the evaluation that it should be considered “*the exercise of political authority by the Member Nations*”¹. It should be noted that the word *governance* has been used extensively both in the Report of the IEE and during the proceedings of the CoC-IEE in 2008. The word is also commonly used throughout the UN system and there is at present extensive literature on the matter. The meaning of this concept is very broad and is generally considered to go well beyond the mere definition of the institutional structures responsible for the direction of the organizations.

CONSULTATION WITH OTHER ORGANIZATIONS OF THE UN SYSTEM

6. The Secretariat requested information from other organizations of the UN system regarding the manner in which they define their “*Governing Bodies*”. It appears clearly that the term “*Governing Bodies*” is used generically in many organizations. However, often these organizations also use different or more specific denominations such as “*constituent bodies*” or “*policymaking bodies*”. None of these organizations has prepared or adopted a definition of “*governing bodies*”. However they have provided elements of information which may be helpful for the definition of the term in FAO. In addition, notwithstanding the absence of a formal definition there is no doubt in these organizations as to what constitutes a governing body.

7. At the United Nations Industrial Development Organization (UNIDO), “*governing bodies*” are referred to as “*policymaking organs*”. The concept of policymaking organ is, however, not defined, either in the Constitution, or in the Rules of Procedure of the organs in question. The two policymaking organs of UNIDO are the General Conference and the Industrial Development Board. There is also a Programme and Budget Committee, a subsidiary organ of the Board and which assists it in the preparation and review of the regular budget and other financial matters. It is generally understood that these bodies are also part of the “*policymaking organs*” of UNIDO.

8. The situation at the World Health Organization (WHO) is comparable to that at UNIDO, except that generic references are made to the Governing Bodies or to the bodies responsible for governance. These are the World Health Assembly, the Executive Board and the Programme, Budget and Administration Committee, a subsidiary organ of the Executive Board. At WHO the Regional Committees have important and broad responsibilities and are considered to be part of the overall governance structure of the Organization.

¹ FAO: “The Challenge of Renewal”, Report of the Independent External Evaluation of the Food and Agriculture Organization of the United Nations (FAO), September 2007, C 2007/7A./1-Rev. 1, paragraphs 668-678.

9. At UNESCO, “*Governing Bodies*” include the General Conference, the Executive Board, and their subsidiary bodies. The General Conference determines the policies and the main lines of work of the Organization and approves the budget. The Executive Board assures the “*overall management*” of UNESCO. It prepares the work of the General Conference and ensures that its decisions are properly implemented. Both the General Conference and the Executive Board have subsidiary bodies dealing with their internal working, which meet during their sessions.

10. At the International Civil Aviation Organization (ICAO) references are generically made to “*Governing Bodies*”. Recently a “*Working Group on Governance*” tasked with the review of working procedures was set up. The Assembly of ICAO and the Council are generally considered to be the Governing Bodies of the Organization.

11. The structure of the World Intellectual Property Organization (WIPO) is different from that of FAO and of the other UN organizations, insofar as it supports and services a number of international conventions and unions having their own secretariats. WIPO has a General Assembly (consisting of States parties to the WIPO Convention, which are members of any of the Unions), a Conference (consisting of States parties to the WIPO Convention) and a Coordinating Committee (consisting of a limited number of Members that are parties to some conventions and unions). These bodies used to be designated as the Governing Bodies of WIPO until 1997. Since then this generic designation was replaced with that of “*Assemblies of the Member States of WIPO and of the Unions*”.

12. At the International Labour Organization there is an International Labour Conference, a Governing Body and Regional Meetings. These are designated as “*official bodies*” or “*official meetings*” of the Organization. There are a large number of other committees and bodies entrusted with specific functions.

13. The General Regulations of the World Meteorological Organization refer to the “*constituent bodies*” which are the main organs of the Organization, i.e. the Congress, the Executive Council, six regional associations and eight technical commissions.

14. While the term “*governance*” is frequently used at the Universal Postal Union, the main bodies of the Union are referred to as “*permanent organs*”.

15. At the United Nations, the term “*governance*” is frequently used in a broad and generic sense. However, the term “*Governing Bodies*” is not used. The designations used are those of “*main organs*”, which are the Security Council, the General Assembly and the Economic and Social Council². These organs have a substantial number of subsidiary bodies.

ELEMENTS FOR A DEFINITION OF GOVERNING BODIES IN FAO

16. The above review of the practice of FAO and other organizations of the UN system suggests that, despite designations which may vary from organization to organization, the governing bodies are generally considered to be the policy making organs, which establish international regulatory frameworks or define or contribute to the definition and approval of the policies and programmes of the organizations and of their budget. They also exercise control over

² Article 7, paragraph 1 of the United Nations Charter provides : “*There are established as the principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat*”. However, in practice the designation “*main organs*” has been developed over the years and is the one which is commonly referred to.

the administrative and financial management of the organizations and their operations, within their respective areas of competence.

17. On that basis, it could be considered that the Governing Bodies of FAO are the bodies which directly, or indirectly through their parent bodies, contribute within their respective mandates to (a) the definition of the overall policies and regulatory frameworks of the Organization; (b) the establishment of the Strategic Framework, Medium-Term Plan and Programme of Work and Budget and (c) contribute to the oversight of the management and administration of the Organization.

18. Applying these criteria, it could be considered, as was done by the IEE, that the Governing Bodies consist of the Conference, the Council, the Programme Committee, the Finance Committee, the CCLM, the Technical Committees (i.e. Committee on Commodity Problems, Committee on Fisheries, Committee on Forestry, Committee on Agriculture, Committee on World Food Security) and the Regional Conferences (i.e. for Africa, Asia and the Pacific, Europe, Latin America and the Caribbean, and the Near East).

19. For many years, in FAO's practice, reference has been made to a loose and somewhat broadly defined concept of "*statutory bodies*". The concept of statutory body used to be a very broad and inclusive one, consisting of all bodies and structures of the Organization. "*Governing Bodies*" were a sub-set of the statutory bodies. Statutory bodies included a large number of other bodies established under Articles VI or XIV of the Constitution, dealing for the most part with technical and scientific matters. Presumably, this latter meaning of "*statutory bodies*" might in future be used essentially in connection with technical bodies, as opposed to "*Governing Bodies*"³.

20. Whatever the position, three options could be considered for the implementation of IPA action 2.73, as follows.

First option: As is the case with UN organizations, it could be considered that there is no need for a formal definition of "*Governing Bodies*". The Governing Bodies are normally known, without there being a need for a formal definition. However, it may be desirable to have a definition, given the explicit terms of IPA action 2.73.

Second option: The Basic Texts contain a few footnotes clarifying particular matters or provisions. Building upon this practice, the future Basic Texts could contain a note, or a footnote, clarifying the meaning of "*Governing Bodies*". The note could reflect the general description in paragraph 17 above and list the Governing Bodies. The Secretariat could insert this note in a suitable part of the Basic Texts, with the following content:

The Governing Bodies of FAO are the bodies which directly, or indirectly through their parent bodies, contribute within their respective mandates, to (a) the definition of the overall policies and regulatory frameworks of the Organization; (b) the establishment of the Strategic Framework, the Medium-Term Plan and the Programme of Work and Budget and (c) exercise, or contribute to the oversight of the administration of the Organization. The Governing Bodies comprise the Conference, the Council, the Programme Committee, the Finance Committee, the Committee on Constitutional and Legal Matters, the Technical Committees (i.e. Committee on Commodity Problems,

³ FAO used to publish and keep up to date a "*Directory of FAO statutory bodies and panels of experts*". The last edition of this publication was issued in 2002. At present this information is available in a computerized database. This publication lists some 120 statutory bodies.

Committee on Fisheries, Committee on Forestry, Committee on Agriculture, Committee on World Food Security) and the Regional Conferences (i.e. for Africa, Asia and the Pacific, Europe, Latin America and the Caribbean, and the Near East).

Third option: The Conference could adopt a resolution, the operative part of which would reproduce the substance of the above note. This too formal approach, which does not seem to have been followed in any organization of the UN system, may neither be justified nor appropriate.

SUGGESTED ACTION BY THE COMMITTEE

21. The CCLM is invited to review this document and make such observations thereon as it deems appropriate. The CCLM is, in particular, invited to indicate which of the three above options should be followed with regard to the definition of Governing Bodies.