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منظمة
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COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

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Activities of the Development Law Branch (for information)

I. Introduction

1. At its 99th Session, the Committee on Constitutional and Legal Matters (CCLM), having received information on the activities of the Development Law Branch (LEGN) of the Legal Office, recommended that the Committee continue to be provided with information reports on the activities undertaken by LEGN at its future sessions.¹

2. Encouraged by the CCLM's recommendation, LEGN has continued to discharge its mandate. In particular, LEGN has provided legal advice to Members, at their request, on legal frameworks for sustainable agriculture and natural resource management² and has also contributed, through FAOLEX, to the dissemination of national laws and policies.

II. Institutional developments

3. LEGN (and the Legal Office as a whole) are making adjustments in terms of delivery of legal assistance to Members to respond to the Organization's Revised Strategic Framework and specific policies and priorities. As approved in the Programme of Work and Budget 2016 -17, the Legal Office took the historic step in 2015 of out-posting two LEGN Legal Officers to enhance delivery of legal assistance to Members and the Organization's priorities: one to the FAO Sub-regional Office for Eastern Africa in Addis Ababa (Ethiopia) to serve the African region, and the other to the FAO Regional Office in Santiago (Chile) to serve the Latin America and the Caribbean Region. This

¹ CL 150/2, paragraphs 28, 29

² See Section 107.3.31 of the FAO Administrative Manual.

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innovative development is expected to enable LEGN to respond more directly and efficiently to the regional priorities of Members.

III. Activities and initiatives since the 99th session of the CCLM

4. LEGN has undertaken a broad range of activities since its last report to the CCLM in October 2014. This paper highlights some activities that illustrate how LEGN delivers its mandate through various means: whether by partnering directly with the beneficiary countries or through collaboration with other FAO technical departments and external entities.

A. FAOLEX celebrates its 20 year anniversary

5. 2015 marked the 20 year anniversary of the FAOLEX database, the LEGN-administered database of national legislation, policies and bilateral agreements on food, agriculture and natural resources management. Drawing inspiration from the Organization's Constitution and the inheritance in 1952 of the collection of legal documents from the Institute of International Agriculture (founded in 1905), the Legal Office continues to honour its long-standing commitment to the collection and dissemination of legislation relevant to FAO's mandate. FAOLEX is now a global public good encompassing over 130,000 legislative and policy texts and having approximately 8,000 new records entered every year.³

6. In 2015, FAOLEX broadened the scope of its collection to include national policy documents. The importance of governance as a cross-cutting theme across all the Strategic Objectives drove the initiative to provide users with a more complete governance context and a "one-stop" resource for the policy and legal frameworks of many countries. At the time of preparation of this paper, there were approximately 685 policy documents available in FAOLEX.

B. Initiatives to combat Illegal, Unreported and Unregulated (IUU) Fishing

Background

7. Illegal fishing has occurred ever since laws were first enacted to regulate fishing. In contrast, the concept of "Illegal, Unreported and Unregulated (IUU) fishing"⁴ is relatively new. Although this labelling emerged within the last two decades, its use has become prominent since the adoption of FAO's International Plan of Action on IUU fishing (IPOA – IUU) in 2001.

8. The estimated global cost of IUU fishing is USD10 - 23.5 billion annually, with developing States being the most vulnerable.⁵ Since the late 1990s, through the United Nations General Assembly (UNGA), the international community has called on States to take action against IUU fishing in areas under national jurisdiction and on the high seas.⁶ From 2005, the UNGA has elevated its concern by

³ FAOLEX was preceded by the Food and Agricultural Legislation (FAL) publication series, issued from 1954 to 1994, which compiled relevant legislation from Member States.

⁴ The definition of IUU fishing in the IPOA-IUU is broad and complex, but simply put, includes: fishing and fishing-related activities conducted in contravention of national, regional and international laws; non-reporting, misreporting or under-reporting of information on fishing operations and their catches; fishing by "Stateless" vessels; fishing in convention areas of RFMOs by non-party vessels; and fishing activities which are not regulated by States and cannot be easily monitored and accounted for.

⁵ David J Agnew, John Pearce, Ganapathiraju Pramod, Tom Peatman, Reg Watson, John R Beddington, Tony J Pitcher (2009) *Estimating the Worldwide Extent of Illegal Fishing*. PLoS ONE 4(2): e4570.

⁶ See for instance UNGA Resolution 53/33 (1999) and UNGA Resolution 55/8 (2001). From 2001, the UNGA began to express its concern about IUU fishing seriously threatening to deplete population of certain fish species and urged States as a matter of priority to cooperate directly and through regional fisheries management organizations to combat IUU fishing. See UNGA Resolution 56/13 (2001), UNGA Resolution 57/142 (2003), and UNGA Resolution 58/14 (2004).

referring to IUU fishing as posing one of the greatest threats to marine ecosystems with major long-term implications for the conservation and management of marine resources.⁷

Initiatives to combat IUU Fishing

9. There are several ongoing initiatives to combat IUU fishing at the national, regional and international levels. National initiatives include the adoption of national plans of action to combat IUU fishing, enhanced monitoring, control and surveillance capability to address IUU fishing, the ongoing training of enforcement and other personnel, greater coordination of relevant institutions, and the review and strengthening of legislation.

10. Regional initiatives are driven primarily by members and participants of regional fisheries bodies, including FAO regional fisheries bodies⁸ and exist in all regionally regulated fisheries. Such initiatives include: the creation of positive lists of authorized fishing vessels, and the adoption of criteria for the listing of fishing vessels presumed to be engaged in IUU fishing.

11. At the international level, FAO contributed significantly to combat IUU Fishing through the implementation of IPOA IUU, the Port State Measures Agreement (PSMA), and the Voluntary Guidelines on Flag State Performance. The PSMA, adopted under the auspices of FAO in 2009, has been incorporated in binding measures of regional fisheries bodies, in national laws of different States, and in the practice of port States in regulating entry and use of their ports and in the inspection of fishing vessels.

LEGN's role and technical assistance

12. LEGN plays a significant role in the development of instruments and in strengthening capacity of Members. In this regard LEGN provides support in collaboration with the Department of Fisheries and Aquaculture (FI) to, *inter alia*: i) review and strengthen legislation; ii) provide legal support in international initiatives such as the Joint FAO/IMO *Ad Hoc* Working Group on IUU fishing and related matters (IUU JWG)⁹; iii) assist with the implementation of the PSMA; and iv) support efforts of Members, upon their request, to comply with the IUU Regulation of the European Union (EU IUU Regulation)¹⁰.

13. LEGN has responded to an increasing number of requests for legal assistance to fight IUU fishing, including addressing non-compliance with the EU IUU Regulation. In 2015 assistance was provided to Ecuador, Ghana, Maldives, Myanmar, Papua New Guinea (ongoing), the Philippines, Saint Christopher and Nevis (ongoing), Suriname (ongoing), Thailand and Tonga. Under the EU IUU Regulation, countries identified as non-cooperating in combatting IUU fishing may, ultimately, be subjected to trade measures under which imports to the EU of fish products caught by vessels flying the flag of the country concerned are prohibited; the so called "red card".¹¹ Countries at risk of being

⁷ See UNGA Resolution 59/25 (2005), UNGA Resolution 60/31 (2006), UNGA Resolution 61/105 (2007), UNGA Resolution 62/177 (2008), UNGA Resolution 63/112 (2009), UNGA Resolution 64/72 (2010), UNGA Resolution 65/38 (2011), UNGA Resolution 66/68 (2012), UNGA Resolution 67/79 (2013), UNGA Resolution 68/71 (2014), and UNGA Resolution 69/109 (2015).

⁸ For example, the Indian Ocean Tuna Commission endorsed port State measures derived from the PSMA in 2010.

⁹ LEGN provided legal support to the third meeting of the JWG in November 2015.

¹⁰ *Official Journal of the European Union* 286, 29.10.2008. Regulation (EC) No 1005/2008. Pursuant to Article 31 of the Regulation, a third country is identified as non-cooperating if it fails to discharge the duties incumbent upon it under international law as flag, port, coastal or market State, to take action to prevent, deter and eliminate IUU fishing.

¹¹ So far almost 50 countries have been evaluated by the EC against the IUU Regulation; the most recent notification by the EC was made on 1 October 2015. In that notification, Taiwan and Comoros were each issued a yellow card but the significant reforms in Ghana and Papua New Guinea resulted in the lifting of their yellow cards:(2015/C 324/10), *Official Journal of the European Union*, 2 October 2015.

identified as non-cooperative are issued with the “yellow card”. Assistance to Sri Lanka, which has received the red card, will commence this year.

14. FI and LEGN are currently working to better understand issues such as the relationship between IUU fishing and abandoned and discarded fishing gear, as well as the working conditions in the fishing industry and related human rights aspects in order to identify options to address them. The latter was initiated by LEGN in 2015 at the request of the Government of Indonesia.

Partners / Collaboration

15. Capacity building in collaboration with partners to combat IUU fishing is an ongoing activity. Increased collaboration between UN bodies is seen in the inauguration of the IUU JWG in 1999. The IUU JWG’s key activities include: (1) identifying current and emerging issues associated with IUU fishing; (2) identifying areas for collaboration to effectively address IUU fishing; and (3) making recommendations to the IMO’s Maritime Safety Committee and the Marine Environment Protection Committee and to the FAO Committee on Fisheries. These activities include close collaboration with the ILO to address labour matters in the fishing industry. FAO also works with other UN bodies, such as the UN Office of Drugs and Crime (UNODC).

16. FI and LEGN have collaborated in the delivery of several workshops at the regional, sub-regional and national levels to raise awareness on the PSMA. Specifically, LEGN, having commenced this work in 2009: (a) provides assistance to Members on the process for ratification, acceptance or approval of the PSMA, as well as its future implementation; (b) provides legislative assistance to, *inter alia*, strengthen port State provisions including minimum requirements for port entry and use and the conduct of inspections; (c) supports the maintenance of a port legislation database; and (d) builds capacity at the national, regional and international levels on the PSMA (including promoting effective institutional arrangements).

17. FI and LEGN are now developing a proposal to be submitted for consideration to donors to improve capacity building to address IUU fishing. This proposal reflects a shift in emphasis from awareness-raising to implementation. Given the increasing number of requests for assistance to address carding under the EU IUU Regulation, a project proposal aimed at facilitating FAO’s assistance to Members to address EU IUU Regulation matters is being developed which, it is hoped, will be supported by the EU.

C. Sanitary and phytosanitary (SPS) legislation: Lao PDR

Background

18. An increased emphasis at international, regional and national standards for food safety and plant and animal health, particularly following outbreaks of foodborne diseases and animal diseases, has significantly affected agricultural trade. Legislation underpins a country’s SPS management system. It also provides a means to demonstrate to trading partners that the country meets its international and regional obligations. Countries can use this framework to make their exports more competitive and, possibly, to enhance the market share of their agricultural exports. Most importantly, legislation can create a system to ensure that agricultural and food products that are safe and of good quality.

19. Compliance with the SPS Agreement and alignment of national legislation with Codex, IPPC and OIE standards is not merely an exercise of identifying legislative gaps according to international standards and drafting texts to fill these gaps. The development of SPS legislation requires consideration of the practices in each individual country that may be trade restrictive (e.g. decision-making modalities or procedures) and which may, thus, undermine the intent of well-drafted legislation.

20. Compliance with SPS standards can be costly, requiring staff with specialised technical skills (for example collecting data from surveillance activities or developing risk management frameworks), an established inspectorate system with sufficiently trained personnel, and infrastructure for testing and analysis. Comparative to other costs in the SPS system, the development of legislation is comparatively inexpensive and a pre-requisite before significant resource commitments can be made.

LEGN's role and technical assistance

21. From 2011-2013, FAO provided support to the Government of Lao PDR under the World Bank's Trade Development Facility (TDF-I) programme. This first phase of support was designed to support the country's accession to the World Trade Organization (WTO); in particular, in ensuring that the country's legislation on plant health, animal health and food safety meets the international standards and recommendations of the standard-setting bodies recognised by the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement¹²). Lao PDR became a WTO member in February 2013 and, in May 2014, the Government formally expressed its appreciation through an award for FAO's contribution to the country's SPS legislation reform and WTO accession efforts.

22. As result of the success of the first phase, a second phase of support to strengthen sanitary and phytosanitary (SPS) legislation was approved in 2013. Despite major progress achieved during the first phase, it was recognised that the quality and comprehensiveness of the SPS legal framework could benefit from additional assistance over a further two–three year period. Under the second phase, legislative work on SPS matters falls under a component which loosely brings together a number of trade facilitation imperatives, including: addressing challenges associated with implementation of WTO obligations; effective participation in the Association of South-East Asian Nations (ASEAN); improving transparency and predictability of the regulatory environment; and lowering associated compliance costs for traders.

23. Given the few legal specialists in the country with, in particular, specialised knowledge of SPS matters, the second phase will continue technical assistance and to strengthen good methodologies and practices relating to the preparation of legal texts. The objectives of the second phase of work are to: (1) develop a comprehensive body of primary and secondary SPS legislation; and (2) to strengthen capacity in the area of SPS legal drafting. Supplementary objectives also include interacting with relevant stakeholders to build consensus, disseminate information and raise-awareness.

24. The two phases of support differ primarily in their shift from a pre to post WTO-accession agenda, with an increased focus on implementation of reforms and a greater focus on private sector engagement. While the establishment of a regulatory framework for SPS measures¹³ is primarily centred on the role of public institutions in SPS management, this project seeks to highlight the benefits, opportunities and challenges for the private sector as well. This phase will also consider the implications of the establishment, in 2015, of the ASEAN free-trade area.

¹² The SPS Agreement seeks to balance the right of governments to protect food safety and plant and animal health, and prevent the application of sanitary and phytosanitary measures in a manner that unjustifiably restricts trade. The Agreement thus requires that import restrictions should be the minimum necessary to achieve their objectives, i.e. shall be no more trade restrictive than necessary. SPS measures are required to be based on scientific principles and shall not be maintained without sufficient scientific justification for doing so. Measures that are based on international standards or recommendations, i.e. those issued by the Codex Alimentarius Commission, the International Plant Protection Convention (IPPC) and the World Organization for Animal Health (OIE) are presumed to be compatible with the SPS Agreement.

¹³ Sanitary and phytosanitary measures are those applied to: protect human or animal life from risks arising from additives, contaminants, toxins or disease-causing organisms in their food; protect human life from plant- or animal-carried diseases; protect animal or plant life from pests, diseases, or disease-causing organisms; and to prevent or limit other damage to a country from the entry, establishment or spread of pests. These include sanitary and phytosanitary measures taken to protect the health of fish and wild fauna, as well as of forests and wild flora.

25. The FAO specialists providing technical assistance are comprised of the following: a Legal Officer/ Legal Consultant from LEGN based in Rome and Vientiane who serves as the Team Leader and is responsible for the development of draft/amended texts. Inputs on draft legislation and technical advice are provided by four backstopping officers responsible for plant health, animal health, fisheries and food safety (based in Bangkok and Rome). A national consultant based in Vientiane provides administrative, coordination, translation and research support to the project.

26. The strength and comparative advantage of FAO in supporting the development of SPS legislation is the inter-disciplinary nature of its team of experts, combining legal expertise with specific, relevant technical expertise. All draft legislation supported by FAO reflects input from all relevant experts to ensure an appropriate regulatory framework is designed which complies with international standards, while being feasible and operational.

27. In general terms, in addition to the core exercise of assessing and drafting primary and secondary legislation, the scope of work for FAO/LEGN's assistance in Lao PDR includes: identifying inconsistencies in approved legislation, addressing gaps in the legal framework, developing explanatory material to accompany texts where needed, advising on priority capacity building needs to implement the legislative framework, and providing capacity-building in legislative drafting through workshops and on-the-job capacity-building. Thus far, LEGN has supported the Government in the development and revision of various laws and regulations.¹⁴ For areas for which legislation will not be developed under the project, LEGN will prepare Briefing Notes to provide guidance on relevant issues.¹⁵ All these texts are currently at different stages of development and progress.

28. Key challenges relate to difficulties in accurate translation of legal texts which also contain very technical concepts. A draft text may go back and forth between the Team Leader (and other backstopping officers) and the core Government stakeholders a number of times before progressing to the next stage of approval or consultation. Translations are required not only for the final product but for the evolution of drafts and different iterations. By closely examining the proposed texts, and discussing why articles are drafted in a particular manner, or why one concept or approach is favourable over another, the stakeholders are not only able to engage better with the text, but also maintain the legislative framework beyond the life of the project.

Partners/Collaboration

29. Both the first and second phases of SPS legislative assistance by FAO to Lao PDR have been financed by a multi-donor trust fund administered by the World Bank and executed by the Ministry of Industry and Commerce of Lao PDR (Trade Development Facility I and II). The Trade Development Facility II is a country-programme appraised at USD 14 million, with implementation to take place over a period of four years until April 2017. Technical responsibility for implementation of the Trade Development Facility II lies with the National Implementation Unit, based within the Planning and Cooperation Department of the Ministry of Industry and Commerce.

30. For the SPS legislation activity, trade-related oversight is provided by the Foreign Trade Policy Department of the Ministry of Industry and Commerce, while direct oversight is provided by the Department of Planning of the Ministry of Agriculture and Forestry. The key stakeholders with

¹⁴ These include: Law on Plant Protection; Law on Livestock and Veterinary Matters; Ministerial Regulation on Import of Plants and Plant Products; Ministerial regulation on Export of Plants and Plant Products; Plan on Pest Outbreaks and Emergency Response; Ministerial Regulation on PFA and Pest-Free Places/Sites of Production-(ALPP) and (LPPS); Ministerial Regulation on Phytosanitary Businesses; Ministerial Regulation on Inspections; Ministerial Regulation on Veterinary Drugs; Ministerial Regulation on Veterinary Feed; Ministerial Regulation on Import of Terrestrial Animals (livestock); Ministerial Regulation on the Import of Aquatic Animals (fisheries); Ministerial Regulation on Import of Food; Ministerial Regulation on Export of Food; Ministerial Regulation on Food Business and Street Food.

¹⁵ These include Briefing Notes on: Zoning and Compartmentalization; Animal Welfare; Export of (Terrestrial) Animal Products; Veterinary Inspectors; Aquatic Animal Exports, Aquaculture Facilities and Businesses; Food Safety Coordination Issues; Lao National Codex Committee.

whom FAO/LEGN collaborates are: the Department of Agriculture and the Department of Livestock and Fisheries (Ministry of Agriculture); the Food and Drug Department (Ministry of Health); and the Legislation Department (Ministry of Justice). The project's broader collaboration involves the Lao Customs Authority (Ministry of Finance) and Lao National Chamber of Commerce and Industry (LNCCI); province-level authorities; as well as private traders in SPS-sensitive goods.

31. LEGN works towards ensuring that there is no overlap in technical assistance provided by other development partners and, more importantly, that there is consistency and coordination with related activities of development partners. This project collaborates with on-going Asian Development Bank (ADB) assistance (Project for Trade Facilitation: Improved Sanitary and Phytosanitary Handling in the Greater Mekong Sub-region) by ensuring consistency between legislation (under FAO) and Manuals (under ADB). This project also has points of synergy with other components of the Trade Development Facility, such as its work on Non-Tariff Measures in Lao PDR. The project has also collaborated with the LUNA-II project which supports a range of Lao institutions on legislative issues relating to trade capacity.

D. Implementation of international instruments

1. Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security

Background

32. The Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security (VGGT) were endorsed by the Committee on World Food Security (CFS) in May 2012. The VGGT are the first comprehensive international instruments relating to tenure and build on a host of binding and non-legally binding instruments, in particular in the field of human rights. The VGGT are voluntary and non-legally binding, but they are consistent with international law, build upon it and should be interpreted and applied consistently with States' obligations under national and international law and with due regard for their voluntary commitments.

33. From the perspective of LEGN, the use of the VGGT as a tool for legal assessment of national legislation is invaluable; the standards contained in this instrument can replace the personal opinions of the assessors and their views on what constitutes international best practice. Nevertheless, it must be stressed that the richness of the VGGT, their breadth and depth will mean that some selection of indicators that are most relevant in a given country and situation will always have to take place.

LEGN's role and technical assistance

34. LEGN is an active member of the Task Force to support VGGT implementation and supported their preparation before and during the negotiations in CFS. On the instructions of the Director-General¹⁶ all FAO activities related to tenure of land, fisheries and forests should build on and promote the VGGT. LEGN has supported further normative developments, as well as implementation in a number of countries.

35. FAO has prepared a number of technical guides to support the use of and uptake of the VGGT and LEGN has provided inputs on the legal aspects of each of those guides. LEGN led the development of Technical Guide 6, *Responsible governance of tenure and the law: a technical guide for lawyers and other legal service providers* ("Technical Guide"), which was published in early 2016.

36. The Technical Guide is addressed to lawyers and other legal service providers working with governments, civil society and the private sector. It reviews the legal implications of the VGGT and

¹⁶ DGB No. 2013/73

linkages with other binding and non-legally binding international instruments. It addresses the utility of the VGGT as a standard against which to assess and revise national legislation, going through the various stages of legal assessment, law-making, implementation of laws and dispute settlement. The Technical Guide highlights the importance of recognizing customary rights, while protecting and promoting the equal rights of men and women, and outlines the roles that different actors can play in supporting the implementation of laws, distinguishing between the role of lawyers working for government, public-interest legal service organizations and business lawyers. The Technical Guide is available through the webpages of the Legal Office.¹⁷

37. In parallel with the development of the Technical Guide, LEGN supported Sierra Leone in undertaking a comprehensive legal assessment of its legislation related to land, fisheries and forests against the VGGT. LEGN developed an assessment tool for this purpose and also used a new Legal Assessment Tool developed by FAO's Gender and Land Rights Database. Special attention focused on assessing the country's draft National Land Policy against the VGGT as well as a Fisheries Bill. This allowed timely recommendations to be prepared to be taken into account in the draft policy and the bill. Following the assessment, the Government of Sierra Leone requested FAO to undertake an assessment of a new Forestry Bill and related bills against the VGGT. The reports of the legal assessment were published in 2015 as FAO Legal Papers.¹⁸ This experience confirmed the value of the VGGT as a tool for legal assessment of national legislation, to be adapted for each individual case.

Partners/collaboration

38. LEGN worked closely with all relevant units of FAO in the preparation of the Technical Guide and partnered with the International Institute for Environment and Development (IIED) and Namati International (a NGO with the objective of promoting legal empowerment at the grassroots level) in its preparation. At the invitation of LEGN, the Office of the High Commissioner for Human Rights, the World Bank, the International Bar Association, the International Union of Notaries and the Civil Society Mechanism of CFS contributed towards the development of the Technical Guide, either as external reviewers, or participants in a workshop to discuss the first draft.

39. Plans for following up on the Technical Guide with outreach and training are being formulated. Discussions are ongoing with the International Development Law Organization (IDLO) on possible capacity development activities, as well as with NGO partners for further outreach.

40. As to the legal assessment in Sierra Leone, the assessment was part of a project including a number of units in FAO working on land administration, fisheries, forestry and the right to food. The most important partners, however, were at the national level. Sierra Leone has enthusiastically embraced the VGGT and has established mechanisms to follow up on their implementation, including a Steering Committee, a technical working group and a multi-stakeholder platform. The technical working group, the Steering Committee and the relevant Ministries were the most important partners in the legal assessment. In addition, some collaboration with the World Bank's Land Governance Assessment Framework exercise took place.

2. The Code of Conduct for Responsible Fisheries

Background

41. The FAO Code of Conduct for Responsible Fisheries ("the Code") was unanimously adopted on 31 October 1995 by the FAO Conference. The Code provides a framework for national and international efforts to ensure sustainable use of aquatic living resources in harmony with the environment. The Code was developed following the FAO Governing Bodies' recommendation to formulate a global code that is consistent with various existing instruments and, in a non-mandatory

¹⁷ Available at <http://www.fao.org/legal/publications/partner-publications/en/>

¹⁸ Available at <http://www.fao.org/legal/publications/legal-papers/en/>

manner, establish principles and standards applicable to the conservation, management and development of all fisheries.

42. FAO has published Technical Guidelines to facilitate implementation of the Code. In 2003, a Technical Guideline on the ecosystem approach to fisheries¹⁹ (EAF) was published. A supplementary Technical Guideline on the human dimension of EAF was published in 2009.²⁰ The Technical Guidelines elaborate the different principles and concepts relating to EAF and ultimately seek to make EAF operational.

43. FAO also supported adoption of EAF by different Members. The project titled “*Strengthening the Knowledge Base for and Implementing an Ecosystem Approach to Marine Fisheries in Developing Countries*” (the EAF Project) implemented by FAO in 2006 is one such example. The project provided an opportunity to identify certain impediments to the adoption of EAF and, from this project, a study was initiated in 2011 on “*Legislating for an Ecosystem Approach to Fisheries: A review of trends and options in Africa*”, addressing the need for legislation to support EAF implementation.

44. In November 2015, the EAF Project launched the preparation of a “how to” guide on legislating for EAF. The main features of this guide are the identification of key components for legislating for EAF, the operationalization of those key components into concrete drafting steps, and the presentation of relevant examples from national legislation, largely from Africa as well as other parts of the world. The guide concludes by providing a synthesis of existing challenges and trends in legislating for EAF. The guide is expected to be published in April 2016.

LEGN's role and technical assistance

45. The initial drafts of the guide were prepared by a team of legal consultants under the guidance of LEGN. The guide was then field tested by LEGN under a legislative assistance project for Myanmar.

Partners/collaboration

46. The guide was developed through close cooperation between LEGN and FI. FAO continues to collaborate with Members in ongoing work for the implementation of EAF.

3. International Code of Conduct on Pesticide Management

Background

47. Pesticides may cause severe damage for human, animal and environmental health. Pesticide legislation helps governments to control the short and long term effects of pesticides by regulating the production, introduction, distribution and use of pesticides.

48. In November 2015, FAO and the World Health Organization (WHO) launched the Guidelines on Pesticide Legislation, supporting of the implementation of the International Code of Conduct on Pesticide Management, which was first approved in 1985 and subsequently revised with an updated version being approved by the FAO Conference in 2013. The technical guidelines are approved by the FAO/WHO Joint Meeting on Pesticide Management (JMPM).

¹⁹ Available at <http://www.fao.org/3/a-y4470e/index.html>

²⁰ Available at <http://www.fao.org/3/a-i1146e/index.html>

49. The newly adopted Guidelines on Pesticide Legislation assist countries and regulators to draft legislation on pesticides governing all stages of the pesticide life cycle.²¹ They explain in detail the elements of a sound national pesticide legal framework, serving as a reference point for governments who are reviewing existing pesticide legislation or drafting new legislation.

LEGN's role and technical assistance

50. LEGN was closely involved in the development of the Guidelines. The first draft was prepared by a former LEGN officer in based on the FAO LEGN Legislative Study n. 97 "Designing Pesticide Legislation".²² This draft was revised, taking into account the 2013 revised version of the Code of Conduct, and new sections were incorporated based on field experience and inputs from the technical units.

51. In the future, LEGN will support the implementation of the Guidelines through its legislative assistance projects, including ongoing regional pesticide projects in Africa, Central Asia, Eastern Europe and the Pacific.

Partners/collaboration

52. The Guidelines are the result of the collaboration between LEGN, the Pesticide Risk Reduction team (AGP), and the JMPM. The United Nations Environment Programme (UNEP) units addressing chemicals legislation also contributed to the drafting of different sections.

E. Updates on previously reported activities

53. In its last report to the CCLM in October 2014,²³ LEGN highlighted its work on a Legal Guide on Contract Farming, on its support to the Hunger-Free Latin America and the Caribbean Initiative and on a project in Comoros to strengthen its national regulatory frameworks for plant protection, food safety and animal health.

1. Legal Guide on Contract Farming

54. In order to expand the impact and benefits of the Legal Guide on Contract Farming, which was jointly developed by the International Institute for the Unification of Private Law (UNIDROIT), FAO and the International Fund for Agricultural Development (IFAD) and was launched in July 2015, LEGN is supporting activities to disseminate the Guide's messages and recommendations. FAO has received a grant from IFAD to support the preparation of simplified guides, the preparation of standard contract forms with the International Institute for Sustainable Development (IISD) and to undertake research on enabling legal frameworks for equitable contract farming.

2. Support to Hunger-Free Latin America and the Caribbean Initiative (HFLACI)

55. Following on the success of the HFLACI support project, LEGN, in collaboration with ESA and RLC, published a study on food security and nutrition legislation in Central America as a Right to

²¹ Available at <http://www.fao.org/3/a-i5008e.pdf>

²² Available at <http://www.fao.org/docrep/010/a1467e/a1467e00.HTM>

²³ CCLM 99/9.

Food Study in 2015 and will publish a study on school food and nutrition legislation in Central America as a Legal Paper in 2016.²⁴

3. National technical assistance in the Union of the Comoros

56. LEGN successfully assisted the Union of the Comoros in the development of a national regulatory framework related to the facilitation of international trade in agricultural commodities, while protecting human, animal and plant health. A national plant protection bill was drafted and is currently under parliamentary review. Also, a set of nine regulations governing the sanitary certification of fisheries products was submitted to the Government for adoption. Once in force, this comprehensive regulatory system will play a critical role in lending credibility to the will of this Small Island Developing State to comply with the conditions necessary to access the EU market for fisheries products.

IV. SUGGESTED ACTION BY THE COMMITTEE

57. The CCLM is invited to consider the information in this document and make such comments thereon as it deems appropriate.

²⁴ FAO. 2015. *Análisis de la legislación en materia de seguridad alimentaria y nutricional – El Salvador, Guatemala, Honduras y Nicaragua*. FAO (forthcoming). *Análisis de marcos jurídicos en alimentación escolar y compra directa de la agricultura familiar en El Salvador, Guatemala, Honduras y Nicaragua*. Both studies are available through the Legal Office's website (<http://www.fao.org/legal/publications/partner-publications/en/> and <http://www.fao.org/legal/publications/legal-papers/en/> respectively).