



COUNCIL

Hundred and Sixty-third Session

Rome, 2-6 December 2019

Report of the 109th Session of the Committee on Constitutional and Legal Matters (21-22 October 2019)

Executive Summary

At its 109th Session, the Committee on Constitutional and Legal Matters (CCLM):

- **Considered** the Organization's voting procedures under Rule XII, paragraph 10 of the General Rules of the Organization. The Committee **requested** the Secretariat to prepare a thorough comparative study on the rules and best practices of other UN Common System agencies, as well as other relevant best practices. Noting that this was not only a matter for the CCLM, it **recommended** that, in parallel, such review be brought to the attention of the Independent Chairperson of the Council to allow for consultation with Regional Groups on the subject-matter and, if deemed appropriate, to develop a Code of Conduct. The CCLM recommended that the Secretariat's analysis should assist both the CCLM and the Independent Chairperson of the Council in addressing the matter.
- **Reviewed** a proposal for the use of unspent balances of biennial appropriations. The CCLM **reaffirmed** the importance of Financial Regulation 4.2 and **recommended** that the Conference consider using specific language in anticipation of unspent balances of budgetary appropriations in its report or in the appropriations resolution. The CCLM **agreed** that, subject to the review and adjustments by the Joint Meeting of the Programme and Finance Committees and the Council, detailed approval procedures, set out in its report, be recommended to the Conference for adoption.
- **Took note** of information on the activities of the Development Law Branch (LEGN) of the Legal Office, including on collaborative initiatives with other partners and in developing legal guides and tools, as well as making legal information available through FAOLEX, webinars and other platforms. The CCLM **urged** LEGN to expand collaboration with the Rome-based Agencies and other partners such as IDLO and UNIDROIT and **recommended** that LEGN present the information provided during the Session to other *fora*, noting the important services it can provide to Members.

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Suggested action by the Council

The Council is invited to approve the Report of the 109th Session of the CCLM. The Council is more specifically invited to:

- **Approve** the CCLM request for a thorough comparative review of the rules, procedures and best practices of other UN Common System agencies, as well as other relevant best practices and **endorse** the CCLM recommendation that, in parallel, such review be brought to the attention of the Independent Chairperson of the Council to allow for consultation with Regional Groups on the subject-matter and, if deemed appropriate, to develop a Code of Conduct.
- **Reaffirm** the importance of Financial Regulation 4.2 and **endorse** the CCLM recommendation that the Conference consider using the language set out in paragraph 11 of the CCLM Report (CL 163/2) in anticipation of unspent balances of budgetary appropriations, either in the appropriations resolution or in its report.
- **Endorse** the CCLM recommendation that, subject to review and adjustments by the Joint Meeting of the Programme and Finance Committees and the Council, the approval procedures set out in paragraph 12 of the CCLM Report (CL 163/2) be recommended to the Conference for adoption.
- **Note** the information provided on the activities of the Development Law Branch (LEGN) and **support** the CCLM recommendations that LEGN expand collaboration with the Rome-based Agencies and other partners such as IDLO and UNIDROIT and present the information provided to the 109th Session of the CCLM to other *fora*, noting the important services it can provide to Members.

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

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I. Introduction

1. The Hundred and Ninth Session of the Committee on Constitutional and Legal Matters (CCLM) was held from 21 to 22 October 2019.
2. The Session, open to silent observers, was chaired by H.E. (Ms) Daniela Rotondaro, who welcomed all the members. The following members were present:
 - H.E. (Mr) Deo Saran (Fiji)
 - H.E. (Mr) Charles Essonghe (Gabon)
 - Mr Ali Albsoul (Jordan)
 - H.E. (Ms) Mónica Robelo Raffone (Nicaragua)
 - Mr Theodore Andrei Bauzon (Philippines)
 - Mr Rafael Osorio de Rebellón (Spain)
 - Ms Emily Katkar (United States of America)
3. The CCLM was informed that Mr Esala Nayasi (Fiji) had been replaced by H.E. Deo Saran for the Session.
4. The CCLM approved its Provisional Agenda.

II. Election of the Vice-Chairperson

5. The CCLM elected H.E. (Ms) Mónica Robelo Raffone as Vice-Chairperson.

III. Voting procedures under Rule XII, paragraph 10 of the General Rules of the Organization

6. The CCLM considered document CCLM 109/2 "*Voting procedures under Rule XII, paragraph 10 of the General Rules of the Organization*". The CCLM noted that it had been mandated by the Council and the Conference to review the Organization's voting procedures.
7. The CCLM was of the view that the analysis should go beyond the single issue of electronic devices and address, more broadly, FAO's voting procedures in light of the rules and best practices of other UN Common System agencies, as well as other relevant best practices. The Secretariat was requested to prepare a deeper comparative study. This review should address voting procedures, including preventive measures and mechanisms to enforce the Organization's rules and procedures related to voting and non-compliance with them.
8. It further considered that this was not only a matter for the CCLM and recommended that, in parallel, such review be brought to the attention of the Independent Chairperson of the Council to allow for consultation with Regional Groups on the subject-matter and, if deemed appropriate, develop a Code of Conduct. The CCLM recommended that the Secretariat's analysis should be prepared with a view to assisting both the CCLM and the Independent Chairperson of the Council in addressing this matter.

IV. Proposal for use of unspent balances of biennial appropriations

9. The CCLM considered document CCLM 109/3 “*Proposal for use of unspent balance of biennial appropriations*”. Following presentations by the Legal Counsel and the Director of the Office of Strategy, Planning and Resources Management (OSP), the Committee deliberated on the legal and constitutional aspects of this matter, bearing in mind that it would also be the subject of consideration by the forthcoming Joint Meeting of the Programme and Finance Committees for policy comments, especially on the use of the carryover of unspent funds.

10. The CCLM reaffirmed the importance of Financial Regulation 4.2 which states the Organization’s policy regarding unobligated appropriations at the end of the financial period.

11. It recommended that the Conference consider using the following language in anticipation of unspent balances of budgetary appropriations, either in the appropriations resolution or in its report:

“The Conference authorises the Director-General, notwithstanding Financial Regulation 4.2, to submit a proposal for one-time use of unspent balances of the [current biennium] appropriations for approval by the Joint Meeting of the Programme and Finance Committees, and the Council at their respective meetings in [dates for first sessions in the subsequent biennium]”.

12. The CCLM agreed that, subject to the review and adjustments by the Joint Meeting of the Programme and Finance Committees and the Council, the following approval procedure be recommended to the Conference for adoption:

- a) Following closure of the accounts, the Secretariat prepares information regarding the balance of unspent funds in the previous biennium and the proposed uses of those funds.
- b) The proposed uses of the carryover of unspent balances would be for specific one-time, high priority organization-wide matters, and would generally fall in the following categories:
 - one-time expenditures on critical measures required to achieve greater efficiency and effectiveness of the Organization, without negatively impacting FAO’s ability to deliver the approved programme of work;
 - one-time expenditures associated with transformational change of the Organization; including strengthening accountability, governance and impacts of activities;
 - non-budgeted expenditures of a one-time nature required as a result of the decisions or recommendations of external bodies such as the UN General Assembly.
- c) The proposal for use of unspent funds would be referred to the Joint Meeting based on input derived from the Annual Report on Budgetary Performance and Budgetary Transfers (ARBP) which is submitted to the Finance Committee for approval as a standing item at its first session of the new biennium.
- d) The Council approves the proposed use of carryover funds, based on recommendations from the Joint Meeting.
- e) The Secretariat implements the Council’s guidance and reports on the use of carryover funds, in line with the established reporting practice and rules.

13. The CCLM further recalled that, if there is no approval by the Council, the unobligated appropriations at the close of the financial period shall be cancelled and the unspent balance would revert to the General Fund.

V. Activities of the Development Law Branch - Information Report

14. The CCLM took note of document CCLM 109/4 “*Activities of the Development Law Branch–Information Report*” and the information presented during the Session.

15. The CCLM welcomed the work of the Development Law Branch (LEGN) in providing legal technical assistance to Member States, in particular, in developing legal guides and tools, and in making legal information available through FAOLEX, webinars and other platforms. It encouraged LEGN to continue its work on, *inter alia*: climate change and agriculture; illegal, unreported and unregulated fishing (including implementation of the Port State Measures Agreement); and capacity development for Parliamentarians focusing on food security and nutrition. The CCLM urged LEGN to expand collaboration with the Rome-based Agencies and other partners such as IDLO and UNIDROIT. The CCLM recommended that LEGN present the information provided during the Session to other *fora*, noting the important services it can provide to Members.

VI. Any other matters

16. No other matter was raised under this item.