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COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

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Activities of the Development Law Branch - Information Report

I. Introduction

1. Since its 97th Session in October 2013, the Committee on Constitutional and Legal Matters (CCLM) has been regularly provided with an overview of the activities of the Development Law Branch (LEGN) of the Legal Office in support of the FAO mandate. The present Note provides information on some developments and activities undertaken by LEGN since it last reported to the CCLM during its 106th Session in 2018.

II. Activities and results since the 106th Session of the CCLM

2. LEGN is on target for the completion of its 2018-2019 work plan consisting of 125 activities agreed with the Strategic Programme Teams and implemented across all regions, at national, sub-regional and global levels.

3. This Note highlights two of LEGN's main achievements. It also summarizes significant related developments and results in other areas, including updates on previously reported activities.

A. Supporting Parliamentarians in the areas of food security and nutrition

4. Ending hunger and malnutrition is one of the Global Goals of FAO. This is reflected in its Strategic Objective 1, in Sustainable Development Goal (SDG) 2, in the Global Zero Hunger Challenge as well as in Regional Initiatives such as the Comprehensive Africa Agriculture Development Programme (CAADP), Hunger Free Latin America and the Caribbean and Zero Hunger Initiatives in Asia and the Pacific.

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Other documents can be consulted at www.fao.org*

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5. Through the enactment of relevant national laws, Parliamentarians are well placed to contribute to achieving these goals, and to ensure coordination between different actors or laws that enhance livelihoods, food security and nutrition (FSN) directly and/or indirectly.
6. FAO has been working with the Parliamentary Front against Hunger in Latin America and the Caribbean for a number of years, with significant legislative results: the development of four framework laws adopted at the regional level and the enactment of more than 20 national laws relating to food and nutrition security.
7. Similar efforts are ongoing in Africa, where FAO has supported the creation and strengthening of regional, sub-regional and national parliamentary platforms, including the Pan-African Parliamentary Alliance on FSN, the East African Parliamentary Alliance on FSN and national parliamentary alliances in countries such as Djibouti, Madagascar, Sierra Leone and Uganda. Technical Cooperation Projects (TCPs) have been implemented to facilitate technical assistance to these platforms.
8. FAO has developed capacity building materials and delivered training, encompassing technical and legal matters, aimed at enabling Parliamentarians to integrate and take actions on various issues of relevance to FSN within their area of competence, including budget allocations, oversight and representational mandates. In this context, LEGN has developed seven legal briefs in collaboration with relevant technical units and the Partnerships Division (PSP). These 6-page briefs on legal frameworks relevant to FSN focus on the right to adequate food in Constitutions and framework laws, school food and nutrition, governance of tenure, responsible investment in agriculture, nutrition and poverty reduction. They highlight applicable international and regional legal and policy instruments, the importance and components of legal instruments in these areas with multi-country examples and action points for parliamentarians. To date, LEGN has used these briefs in training events for over 250 parliamentarians at the national and regional levels.
9. In partnership with the Department of Rural Economy and Agriculture of the African Union Commission, LEGN has also been supporting the Pan-African Parliament in its efforts to develop a model law on FSN in Africa, intended to provide guidance for the development of national legislation on FSN.
10. In addition, LEGN has been supporting countries such as Djibouti and Uganda to develop national legislation in the area of FSN. The creation of parliamentary alliances and capacity development exercises in these countries feeds into the ongoing legislative processes.

B. LEGN's contribution in the field of climate change

11. The priority accorded to climate change and agriculture in the international arena (see SDG 13 and the Koronivia Joint Work on Agriculture adopted at the Conference of the Parties (COP 23) is now manifest. In response to this, as well as to the priorities under FAO's strategic framework, and in furtherance of the 2017 FAO Climate Change Strategy, LEGN has developed a *Strategy on Law and Climate Change* that provides a conceptual and practical framework to guide its technical legal support to countries, as well as to support their efforts to address climate change and achieve their goals under the Paris Agreement through laws and effective institutions. LEGN is currently in discussion with interested Member Countries, resource partners and FAO technical units with a view to initiating a number of pilot activities for implementation of the Strategy, which has been widely distributed. The delivery of the Strategy will draw upon the technical legal resources addressed below.

12. The Law and Climate Change Toolkit ("the Toolkit") is an online database that is being developed by UN Climate Change, UN Environment and the Commonwealth Secretariat, working in close collaboration with FAO and a number of other international organizations, national experts and

research institutions. The Toolkit includes a searchable collection of climate change laws and sectoral legislation, and a legal assessment tool enabling identification of areas where national laws could be strengthened. It, thus, assists countries in their efforts to formulate legislation, policies and regulations to address climate change adaptation and mitigation. LEGN has led the development of the agriculture module of the Toolkit, which was recently showcased at the Bonn Climate Change Conference, held in June 2019.

13. Agriculture features prominently in the Nationally Determined Contribution (NDC) documents submitted by a majority of Parties to the Paris Agreement. LEGN commissioned a Legislative Study on legislating for climate change in the agriculture, land use management, forestry and fisheries sectors, in light of the Paris Agreement and related international law obligations. The Study provides an overview of the international legal framework governing climate change, and tackles each sector of food and agriculture (crops and livestock; land use; forestry; fisheries and aquaculture). This Study is the first technical legal guidance on areas that are of primary relevance to climate change adaptation and/or mitigation in the context of FAO's mandate.

14. At the same time, LEGN continues to establish effective relationships with internal FAO partners, notably the Land and Water Division (CBL) and, through it, the NDC Partnership. These efforts have highlighted the importance of having an enabling legal and institutional framework for climate change adaptation in the agricultural sector, which was included in the FAO submission to UN Climate Change in May 2019, in relation to the Koronivia process.

C. LEGN's other initiatives, achievements and results

Legal assistance and capacity building programme

15. The core of LEGN's work is providing legal assistance at the request of countries in developing legislation. Experience confirms that legislative effectiveness requires more than the adoption of a law. In the context of FAO's results based Strategic Framework, legislative assistance, which is provided on request, should be delivered through a dedicated strategic programme.

16. Accordingly, LEGN has developed a legal assistance and capacity building programme which is intended to support Members to take long-term strategic approaches to their legislative efforts and to promote coherence which, in turn, support effectiveness and sustainability of their laws. The programme which draws on the support of donors and partners provides technical assistance on designing robust legal frameworks for food and agriculture and ensures that the countries are given support to enhance their capacity to implement national legislation, including compliance and enforcement. The programme also integrates and seeks to address vital cross-cutting issues including gender, nutrition and climate change through food and agriculture and natural resources legislation.

17. The programme will be delivered in collaboration with departments within FAO, as well as external international, regional and national partners. LEGN is currently in discussion with prospective partners, and is exploring South-South Cooperation, collaboration with academic and research institutions, as well as potential resource partners, to support implementation of the programme.

FAOLEX

18. LEGN continues to collect and disseminate global legislative and policy instruments on food, agriculture and natural resource management through FAOLEX and associated partner databases like ECOLEX (IUCN and UNEP) and InforMEA (UNEP and multilateral environmental agreements). The FAOLEX database has now surpassed 168,000 records – with over 8,000 new entries entered per year. Website analytics show an average of 3,000 daily users of FAOLEX, a steady increase in the number

of users and webpages consulted, as well as a user-base that is widely dispersed across all regions of the world.

FAOLEX website traffic (2016-2019)

	2016	2017	2018	2019 (est.) ¹
Users	470,000	735,594	845,462	936,686
Page views	1,174,335	1,427,100	1,743,643	2,037,050

19. LEGN is supporting the elaboration of thematic databases in collaboration with other FAO services. The thematic databases that LEGN is supporting are listed in the Appendix to this document.

FAO's Legal Guide on School Food and Nutrition

20. The FAO School Food and Nutrition (SFN) Framework aims to assist countries in the design and implementation of school based policies and programmes for an enhanced impact on diets, child and adolescent nutrition, community socioeconomic development and local food systems. As a member of the SFN technical task force, LEGN has actively supported the development of the fourth pillar of the main areas of work of the Framework, which aims to create an enabling political, legal, and institutional environment for SFN.

21. In this regard, LEGN has developed normative materials and practical methodologies to support countries in strengthening their national legal frameworks for SFN, including the *Legal Guide on School Food and Nutrition*. This Guide promotes a holistic and human rights-based approach to SFN legislation, providing guidance and examples of state practice, with concrete alternatives for regulating school food and nutrition according to specific country needs. It was developed in close collaboration with the SFN taskforce, and the legal support methodology documented in the Guide has been applied in several countries such as Ecuador, Ethiopia, Guatemala, Haiti, Honduras, Kyrgyzstan, Peru and Sao Tome and Principe.

Collaboration with the Agricultural Law Section of the International Bar Association

22. LEGN has strengthened its collaboration with the Agricultural Law Section of the International Bar Association (IBA). In October 2018, it took part in an IBA symposium, held during the IBA's global Annual Conference, on responsible investment in agriculture. LEGN presented its new *Legal Guide on Due Diligence, tenure and agricultural investment - A guide on the dual responsibilities of private sector lawyers in advising on the acquisition of land and natural resources*. This same topic and publication were subsequently presented by LEGN at a webinar organized jointly by the IBA and the American Bar Association's (ABA) Section of Environment, Energy, and Resources (SEER) and other agricultural legal groups in the United States.

23. On 24 September 2019, a Letter of Agreement between FAO and IBA to consolidate collaboration on topics of mutual interest was signed.

¹ 705,710 users and 1,529,558 page views as of 9 September 2019.

Development Law webinars

24. LEGN launched a new knowledge sharing initiative through the delivery of webinars on topical development law issues. Since June 2018, more than ten webinars have been delivered on various topics, such as climate change and the law, illegal, unreported and unregulated (IUU) fishing and, more recently, on sustainable public procurement. These webinars were attended by an increasingly larger audience, including colleagues from technical units and decentralized offices, as well as participants from outside the Organization.

D. Updates on previously reported activities*Updates on legal assistance in fighting
illegal, unreported and unregulated (IUU) fishing*

25. LEGN has previously reported on its activities related to the implementation of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal Unreported and Unregulated Fishing (PSMA).

26. Developments include support, provided by LEGN at the second Meeting of the Parties to the PSMA in Santiago, Chile in June 2019, to agree on a set of Rules of Procedure for its Meetings and on a set of Terms of Reference for the *ad hoc* working group on the funding mechanism. These results will lead to increased initiatives to support capacity in developing countries and small island developing states (SIDS) to implement the PSMA, through FAO's *Global Programme to Support Implementation of the PSMA and Complementary Instruments to Combat IUU Fishing* ("the Global Programme").

27. LEGN continued its support activities, primarily focusing on strengthening the capacity of Parties with respect to legislation, policy and enforcement and fisheries monitoring, control and surveillance (MCS)².

28. These activities also support Member States to achieve Sustainable Development Goal 14.3.

Sustainable Wildlife Management Programme (SWM)

29. LEGN has previously provided information to the CCLM about the SWM Programme that is currently at the end of the first year of implementation in each of the eight pilot sites in: Republic of Congo, Democratic Republic of Congo, Gabon, KaZa (Zambia and Zimbabwe), Guyana, Madagascar, and Papua New Guinea. Recruitment of all national legal consultants across all the countries has been completed but in Guyana.

30. In order to facilitate a comprehensive legal assessment of the applicable legal and institutional framework in each target country, LEGN has finalised four main diagnostic tools. These assess, respectively: i) compliance of the national legal framework with relevant international conventions; ii) legal consistency and gaps across relevant sectorial legislations; iii) articulation of customary law; and iv) degree of law implementation/enforcement and underlying causes of any weaknesses in this regard. In developing these tools, LEGN has ensured that FAO's methodologies, standards and safeguards will apply throughout the implementation of the Programme, and that all Programme

² CCLM 106/4

(http://www.fao.org/fileadmin/user_upload/bodies/CCLM_106/MV872_4/MV872_CCLM_106_4_en.pdf)

activities follow the Community Rights Based Approach (CRBA) while target communities can rely on a functioning Grievance Mechanism (GM).

31. LEGN will continue to work with the national legal consultants and Government counterparts to provide sound technical legal support based on the results of the comprehensive legal analysis conducted during year 2. This analysis is intended to support decision-making by Government officials in their development of a coherent legal and institutional framework to reconcile wildlife conservation with food security for rural and urban populations.

III. Suggested action by the Committee

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

APPENDIX: LIST OF FAOLEX THEMATIC DATABASES

Thematic Database	Description	Inter-Departmental Coordination	Strategic alignment	Web address
Agroecology Lex	Database on legal frameworks, policies and programmes concerning agroecology.	Plant Production and Protection Division (AGP)	SO2: Make agriculture, forestry and fisheries more productive and sustainable; SDG 2: Zero Hunger; SDG 12: Responsible Consumption and Production	http://www.fao.org/agroecology/policies-legislations/
AMR-Lex	A one-stop entry point for AMR-relevant legislation in sectoral legislation, including animal feed, animal health, pesticides, food safety, environment and water.	Animal Production and Health Division (AGA)	SO4: Enable inclusive and efficient agricultural and food systems; SO5: Increase the resilience of livelihoods to threats and crises; FAO Action Plan on Antimicrobial Resistance 2016-2020; Tripartite Plus joint AMR work plan (WHO, OIE, FAO, UNEP)	Expected launch December 2019
AquaLex	Comprehensive overviews of national legal and policy frameworks in relation to water resources.	Land and Water Division (CBL)	SO2: Make agriculture, forestry and fisheries more productive and sustainable; SDG 6: Clean Water and Sanitation	http://www.fao.org/faolex/aqualex/en/
Codex Alimentarius	National legislation on food safety. National Codex Contact Points provide feedback and validation as to the reliability of the documentation presented.	Food Safety and Quality (AGFF) Codex Secretariat (AGFC)	SO4: Enable inclusive and efficient agricultural and food systems; SO5: Increase the resilience of livelihoods to threats and crises; SDG 12: Responsible Consumption and Production; Codex Alimentarius Commission	http://www.fao.org/fao-who-codexalimentarius/about-codex/members/

Thematic Database	Description	Inter-Departmental Coordination	Strategic alignment	Web address
Family Farming Lex	Regional and National laws, regulations and public policies related to family farming.	Partnerships and South-South Cooperation Division (PSPD)	SO3: Reduce rural poverty; SO4: Enable inclusive and efficient agricultural and food systems; SDG 1: No Poverty; SDG 2: Zero Hunger; United Nations Decade of Family Farming 2019-2028	http://www.fao.org/family-farming/laws-public-policies/en/
National Aquaculture Legislative Overview (NALO)	National overviews of aquaculture laws and regulations from the top 40 aquaculture producing countries.	FAO Fisheries Aquaculture Branch (FIAA)	SO2: Make agriculture, forestry and fisheries more productive and sustainable; SDG 14: Life below Water	http://www.fao.org/fishery/collection/nalo/en
Pastoralist Knowledge Hub	Compilation of legislation relevant to pastoralism.	FAO Animal Production and Genetics Branch (AGAG)	SO2: Make agriculture, forestry and fisheries more productive and sustainable; SO5: Increase the resilience of livelihoods to threats and crises; SDG 15: Life on Land	http://www.fao.org/pastoralist-knowledge-hub/
PortLex (PSMA)	PortLex consolidates information on the legal provisions adopted by States and RFMOs to implement the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing	Fishing Operations and Technology Branch (FIAO)	SO2: Make agriculture, forestry and fisheries more productive and sustainable; SDG 14: Life below Water; Port State Measures Agreement	Expected launch December 2019
Right to Food Around the Globe	Compilation of constitutional provisions on the right to adequate food at the national level. It also facilitates national legislation that explicitly recognizes this right.	Social Policies and Rural Institutions Division (ESP)	SO1: Help eliminate hunger, food insecurity and malnutrition; SDG 2: Zero Hunger	http://www.fao.org/right-to-food-around-the-globe/en/

Thematic Database	Description	Inter-Departmental Coordination	Strategic alignment	Web address
Database of measures on conservation and management of sharks.	Collection of binding and non-binding instruments for the conservation and management of sharks, including Plans of Action and national legislation.	FAO Fisheries Resources Branch (FIAF)	SO2: Make agriculture, forestry and fisheries more productive and sustainable; SDG 14: Life below Water; International Plan of Action for Conservation and Management of Sharks; Convention on International Trade in Endangered Species of Wild Fauna and Flora	http://www.fao.org/ipoa-sharks/database-of-measures/en/
SoiLex	Will present existing legal instruments related to soil grouped by relevant topics, including soil threats.	Land and Water Division (CBL) Global Soil Partnership Secretariat	SO2: Make agriculture, forestry and fisheries more productive and sustainable; Global Soil Partnership; SDG 15: Life on Land	Expected launch December 2019
TimberLex	National overviews of the legal frameworks governing forest management, and timber production and trade, enhancing knowledge and capacity around forest-related legislation and timber legality.	FAO Forestry Policy and Resources Division (FOA)	SO4: Enable inclusive and efficient agricultural and food systems; SO2: Make agriculture, forestry and fisheries more productive and sustainable; SDG 15: Life on Land	Expected launch October 2020
WildlifeLex	Under the Sustainable Wildlife Management Programme, WildlifeLex will compile national legislation on the different sector-specific legislations applicable to sustainable wildlife management in African, Caribbean and Pacific Group of States (ACP).	Forestry Policy and Resources Division (FOA)	SO1: Help eliminate hunger, food insecurity and malnutrition; SO3: Reduce rural poverty; SDG 2: Zero Hunger; SDG 12: Responsible Consumption and Production; SDG 15: Life on Land	Expected launch October 2020