

165th Session of the Council

Item 12: Report of the 111th Session of the Committee on Constitutional and Legal Matters (26-27 October 2020)

I am pleased to present to the Council the outcomes of the One Hundred and Eleventh Session of the Committee on Constitutional and Legal Matters (CCLM) which was held from 26 to 27 October 2020.

As you all know the Session was convened virtually on an exceptional basis due to the COVID-19 pandemic in Italy and worldwide.

The CCLM followed the modalities applied to the CCLM's 110th Session, as reflected in the Note from the Chair (Annex 1 to CL 164/2), and agreed to suspend the rules that may be incompatible with the virtual meeting for the 111th Session, in accordance with Rule VII of the Rules of Procedure.

The CCLM considered document CCLM 111/2 *New Strategy for Engagement with the Private Sector* submitted to the CCLM under Rule XXXIV, paragraph 7 (m) of the General Rules of the Organization (GRO). The Committee was called to consider exclusively the legal and constitutional framework under which the New Strategy for Private Sector Engagement has been drafted and is currently still under development.

Based on a thorough presentation by FAO Management focusing on the overarching legal principles for FAO's engagement with the private sector, the CCLM welcomed, in the framework of its specific mandate, the work done in developing the Strategy as well as the ongoing extensive and inclusive consultations conducted with Members, the private sector and other stakeholders.

The Committee endorsed the overarching legal principles that should govern FAO's engagement with the private sector as reflected in document CCLM 111/2 with a view to preserving the legal and constitutional status of the Organization in accordance with its Basic Texts. Moreover, the Committee observed that, in balancing respective interests, FAO's goals should be prioritized and UN values promoted.

The CCLM endorsed the need to maintain FAO's impartiality, integrity and reputation, through implementing due diligence mechanisms and risk management to uphold these legal principles and FAO's institutional framework. It encouraged consultations with Regions, Sub-regions and Members to ensure accountability and transparency and the fundamental role of the private sector in the achievement of the 2030 Agenda/SDGs.

The Committee underlined that the Strategy should closely follow and be consistent with UN system policies and reports. In light of the legal and constitutional status of the Organization, the Committee observed that, in balancing respective interests, FAO's goals should be prioritized and UN values promoted.

The CCLM considered document CCLM 111/3 *Selection and Appointment of Secretaries of Article XIV Bodies*. It noted that this item had been considered at the 103rd, 106th, 107th, and 110th Sessions of the CCLM and had also been the subject of extensive consultations by the present Independent Chairperson of the Council (ICC), Mr Khalid Mehboob, and his predecessor.

The ICC presented the outcome of his consultations with the Chairpersons of the three Statutory Bodies concerned and informal consultations with the Chairpersons and Vice-Chairpersons of the Regional Groups. The CCLM noted the process had been on-going for quite some time, and welcomed the work

undertaken by the ICC in his extensive consultations with a view to reaching a consensus on a lasting solution for the selection and appointment of Secretaries of Article XIV Bodies as soon as possible.

The Committee confirmed that the proposal presented by the ICC in Annex 3 to CCLM 111/3 for the selection and appointment of Secretaries was consistent with the Basic Texts and the Constitution of FAO and relevant Article XIV treaties.

The CCLM took note of document CCLM 111/4 *Activities of the Development Law Branch – Information report* providing information on the activities undertaken by the Development Law Service (LEGN) in support of the FAO mandate

The Committee acknowledged the 25th anniversary of FAOLEX as an important milestone in the service provided to Members by the Legal Office. It highlighted the importance of sound legal frameworks and their effective implementation for the achievement of the Sustainable Development Goals, also in times of emergency, and expressed appreciation for the contribution of LEGN to the Organization's COVID-19 Response and Recovery Programme, observing the importance of entrenching the One Health approach through strong legal frameworks in the context of the pandemic.

The CCLM took note of document CCLM 111/5 *Review of the jurisdictional set up of the United Nations common system (as per UN General Assembly Resolution 74/255B, paragraph 8) – Information report* presented by the Legal Office for information providing clarifications on the ongoing consultations internally as well as amongst the organizations of the UN system.

The CCLM took note of the complexity of this matter and welcomed the consultations with FAO Management and the Staff Representatives Bodies and looked forward to being informed on further developments.

The CCLM considered document CCLM 111/6 *Working Methods of the Conference: The General Committee*.

The ICC provided a presentation, in light of his mandate given by the 162nd Session of the Council to considering working methods of the Conference, including methods to enhance efficiency.

The Committee, having reviewed the General Rules of the Organization, observed that the General Committee is constituted upon election of its Members by the Conference, following a nomination by the Council. Accordingly, it considered that, pursuant to the Basic Texts, the General Committee could not meet prior to the Conference.

Acknowledging the need for efficiency gains, the Committee suggested that nominees for the General Committee could meet informally prior to the Conference without the authority to take decisions or make recommendations.

Under *Any Other Matters*, the Committee acknowledged that the item on unspent balances would be considered by the next Joint Meeting of the Finance and Programme Committees after which the CCLM will be in the position to reconsider this item.

Daniela Rotondaro,
Chairperson of the Committee on Constitutional and Legal Matters