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COUNCIL

Hundred and Sixty-sixth Session

26-30 April 2021

Report of the 112th Session of the Committee on Constitutional and Legal Matters (8-10 March 2021)

Executive Summary

The Committee on Constitutional and Legal Matters (CCLM) brings to the attention of the Council its findings and recommendations on:

- a) Procedures for the appointment of Secretaries of bodies under Article XIV of the Constitution;
- b) Code of Conduct for Voting;
- c) Update on the review of the jurisdictional set up of the United Nations common system;
- d) Working Methods of the CCLM.

Suggested action by the Council

The Council is requested to endorse the findings and recommendations of the CCLM.

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

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I. Introduction

1. The 112th Session of the Committee on Constitutional and Legal Matters (“CCLM” or “the Committee”) was held from 8 to 9 March 2021.
2. The Session was convened virtually on an exceptional basis due to the COVID-19 pandemic.
3. The Session, open to silent observers, was chaired by H.E. (Ms) Daniela Rotondaro, who welcomed all the Members and recalled that the first day of the Session, 8 March, fell on International Women’s Day.
4. The CCLM was informed that, for this Session, H.E. (Mr) Domingo Nolasco (Philippines) had been designated to replace Mr Theodore Andrei Bauzon; Ms Alison Storsve (United States of America) had been designated to replace Ms Emily Katkar; and Ms Chantal Moukoutou (Gabon) had been designated to replace H.E. (Mr) Charles Essonghé, in accordance with Rule XXXIV, paragraph 4 of the General Rules of the Organization.
5. The following members attended the Session:
 - Ms Chantal Moukoutou (Gabon)
 - Mr Ali Albsoul (Jordan)
 - H.E. (Ms) Mónica Robelo Raffone (Nicaragua)
 - H.E. (Mr) Domingo Nolasco (Philippines)
 - Mr Rafael Osorio de Rebellón (Spain)
 - Ms Alison Storsve (United States of America)
6. Fiji was not represented.
7. For its 112th Session, the CCLM followed the modalities applied at its 110th Session, as reflected in the Note from the Chair (Annex 1 to CL 164/2), and agreed to suspend any rules that may be incompatible with the virtual meeting, in accordance with Rule VII of its Rules of Procedure.

II. Item 1: Adoption of the agenda and arrangements for the Session (CCLM 112/1 Rev.1)

8. The CCLM members took note of the arrangements for the Session and approved its Agenda.

III. Item 2: Procedures for the appointment of Secretaries of bodies under Article XIV of the Constitution (CCLM 112/2)

9. The CCLM considered document CCLM 112/2 “*Procedures for the appointment of Secretaries of bodies under Article XIV of the Constitution*”. It noted that this item had been considered at the 103rd, 106th, 107th, 110th and 111th 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.
10. The ICC provided an update on his consultations with the Chairs of the three Statutory Bodies concerned¹ as well as on the informal consultations with the Chairs and Vice-Chairs of the Regional Groups and FAO Management. He underlined that the revised proposed procedure (Annex I to CCLM 112/2) involves the Article XIV Bodies in all steps of the recruitment process to a much larger

¹ The General Fisheries Commission for the Mediterranean (“GFCM”), the Indian Ocean Tuna Commission (“IOTC”) and the International Treaty on Plant Genetic Resources for Food and Agriculture (“International Treaty” or “ITPGRFA”)

extent than the interim procedure adopted by the Council at its 155th Session in 2016. He recalled that, in the absence of a resolution on a long-term procedure, the interim procedure will apply.

11. The CCLM noted that the consultations conducted by the ICC were still ongoing, praised the efforts of the ICC and welcomed the engagement of the three Article XIV Bodies concerned and FAO Management with the ICC towards an effective solution for the selection of secretaries of Article XIV Bodies in line with the FAO Basic Texts.

12. Noting the positive updates provided by the ICC, the Committee looked forward to prompt resolution of this matter in the upcoming consultations of the ICC with the concerned Bodies and confirmed its readiness to hold an additional Session of the Committee, subject to consensus being reached on a long-term procedure, to be able to bring this issue to a closure at the next Council Session.

IV. Item 3: Code of Conduct for Voting

13. The CCLM recognized that this item is still the subject of extensive informal consultations by the ICC with the FAO Membership and, therefore, no official document was presented for its review.

14. The ICC informed the Committee on the status of his consultations with the FAO Members, underlined that these consultations are still ongoing, and recalled that this is an FAO Member-led exercise.

15. The CCLM appreciated the ICC's efforts to build a consensus on the contents of a draft Code of Conduct for Voting, with a view to seeking endorsement at the Council and adoption by the Conference at its 42nd Session, and encouraged the ICC to continue consultations.

16. The CCLM confirmed its readiness to hold an additional Session to consider the draft Code of Conduct for Voting, having regard to its mandate, subject to the emergence of a consensus text.

V. Item 4: Review of the jurisdictional set up of the United Nations common system (as per UN General Assembly Resolution 74/255B, paragraph 8) – Update - Information report (CCLM 112/3)

17. The Legal Office presented, for information, document CCLM 112/3 "*Review of the jurisdictional set up of the United Nations common system (as per UN General Assembly Resolution 74/255B, paragraph 8) – Update - Information report*" and the information document CCLM 112/INF/1² "*Initial review of the jurisdictional set-up of the United Nations common system*".

18. The Committee was informed that the review requested by United Nations General Assembly (UNGA) resolution 74/255B had been completed within the established timeline and that FAO – Management and its Staff Representatives – had participated at every step of the process by providing comments and observations.

19. The Committee was briefed on the key observations made by FAO and other specialized agencies, including on the need for any reform of the jurisdictional set-up of the UN common system to be preceded by approval of the Governing Bodies of the specialized agencies, due to their autonomous nature. With respect to the options presented in the Report, the Committee was informed that FAO had recommended the inclusion of "maintenance of the *status quo*" as one of the options which is now reflected in the Secretary-General's Report.

² A/75/690. Initial review of the jurisdictional set-up of the United Nations common system. Report of the Secretary-General.

20. The CCLM was informed that the Report of the Secretary-General is expected to be taken up by the UNGA during its current session.

21. The CCLM welcomed the work of FAO in this context, participating in a constructive way in the review process while ensuring the Organization's autonomy as a specialized agency. The CCLM looked forward to being informed of upcoming developments in that regard.

22. The Legal Office took the opportunity to brief the CCLM on the ongoing review of FAO internal appeals procedures.

VI. Item 5: Any other matters

23. The CCLM reviewed its working methods, taking into account lessons learned from the previous two Sessions held in virtual modality.

24. The CCLM approved alignment of the format of its reports with those of the other two Council Committees (Programme Committee and Finance Committee).

25. The Committee considered that its current practice, meeting twice per year – prior to the other Council Committees – should be maintained with adjustments made to the duration of the Session depending upon its Agenda and reserved the possibility of holding additional Sessions when necessary.

26. The Legal Counsel drew the attention of the CCLM to document PC 130/3 containing an update on FAO policies on protection of data and intellectual property rights. She advised the CCLM that a recommendation was being made to the Programme Committee that the CCLM be updated on these matters, from time to time, having regard to any legal issues that might arise in this context.

27. No other matter was raised under this item.