



COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

Hundred and Eighteenth Session

Rome, 6-8 March 2023

Draft Voluntary Code of Conduct for Voting procedures under Rule XII of the General Rules of the Organization as referred to in the Conference and Council Reports¹

I. Introduction

1. The “*Draft Voluntary Code of Conduct for Voting Procedures under Rule XII of the General Rules of the Organization as referred to in the Conference and Council Reports*” set out in the **Annex** to this document is the outcome of informal consultations led by the Independent Chairperson of the Council (ICC) pursuant to mandates granted by the Conference and the Council and which concluded on 9 February 2023.²

2. The Members initiated work on this matter, in informal consultations and in the Governing Bodies, following the 41st Session of the Conference convened in June 2019. In December 2022, following extensive informal and formal deliberations amongst the Members in the intervening period, the Council, at its 171st Session, “*commended the ICC on his continued efforts in leading open, inclusive and transparent consultations in order to achieve consensus on a draft text for submission to the 43rd Session of the Conference in July 2023*” and “*requested the ICC to continue these consultations with a view to a consensus text being submitted to the next Session of the Council, following review by the Committee on Constitutional and Legal Matters*”.³

¹ CL 162/REP, paragraph 7; CL 163/2 paragraphs 6-8; CL 163/REP, paragraph 12; CL 164/2 paragraphs 8-11; CL 164/REP, paragraph 20 (a); CL 165/REP, paragraph 23 (a); CL 166/REP, paragraph 42; C 2021/REP, paragraph 71; CL 167/REP, paragraph 11 (b); CL 168/REP, paragraph 34; CL 170/REP, paragraph 49; CL 171/REP, paragraphs 46 and 47.

² It is noted that, at its 171st Session, the Council welcomed the CCLM’s recalling of the role of the Governing Bodies of the Organization, in particular the Council Committees, in the Organization’s formal decision-making process (CL 171/REP, paragraph 37). At its 117th Session, the Committee had “*discussed and recalled the role of the Governing Bodies, in particular the Council Committees, in the Organization’s formal decision-making processes, while appreciating the complementary role of informal consultations in building consensus and signalling Members’ engagement in the work of the Organization*” (CL 171/10, paragraph 43).

³ CL 171/REP, paragraphs 46 and 47.

II. Background

3. A vote by secret ballot was held at the 41st Session of the Conference. In its final report, “[t]he Conference noted that during the election for the position of Director-General of FAO on Sunday, 23 June, one delegate ostensibly showed their ballot paper to the plenary, thereby violating the secrecy of the vote and Article XII.10 of the basic texts of FAO. It was recognized that this occurrence does not question the validity of the ballot”.⁴

4. In its consideration of matters arising out of the Conference Session, the Council, at its 162nd Session on 1 July 2019, noted certain matters requiring further attention which would be reviewed by appropriate Governing Bodies, and/or would be considered at the forthcoming Informal Meeting of the Independent Chairperson of the Council with the Chairpersons and Vice-Chairpersons of the Regional Groups.⁵ These matters included “*processes relating to governing bodies, such as voting procedures*”. Some delegates invited consideration by the Committee on Constitutional and Legal Matters (“the Committee” or “CCLM”) of the voting procedures.⁶

5. In light of the absence of consensus prior to the 42nd Session of the Conference convened from 14-18 June 2021, at that Session, the Conference “*appreciated the efforts of the Independent Chairperson of the Council in facilitating discussions of Members on draft Code of Conduct for Voting Procedures and requested his successor to continue these consultations with the Membership with a view to finalizing a draft text to be submitted for consideration by the 43rd Session of the Conference, following review by the relevant Governing Bodies of the Organization*”.⁷

6. In addition to discussions in the ICC’s informal meetings with the Chairpersons and Vice-Chairpersons of the Regional Groups and informal consultations open to the entire Membership, this matter has been on the agendas of the Governing Bodies, as follows:

- a) The CCLM considered the matter at its 109th Session, 21-22 October 2019 (CL 163/2); 110th Session, 28-29 May 2020 (CL 164/2); 112th Session, 8-10 March 2021 (CL 166/11); 113th Session, 25-27 October 2021 (CL 168/10); 115th Session, 21-23 March 2022 (CL 170/13); and its 117th Session, 24-26 October 2022 (CL 171/10). At its last consideration of this item, the Committee “*expressed its support to the ICC for his continuing efforts through open, transparent, inclusive consultations with the full Membership with a view to finalizing a draft Code of Conduct for Voting for consideration by the 43rd Session of the Conference, following review by the relevant Governing Bodies*”.⁸
- b) The item, including recommendations of the CCLM and reports from the ICC on his informal consultations, has been considered by the Council at its 162nd Session, 1 July 2019 (CL 162/REP); 163rd Session, 2-6 December 2019 (CL 163/REP); 164th Session, 6-10 July 2020 (CL 164/REP); 165th Session, 30 November-4 December 2020 (CL 165/REP); 166th Session, 26 April-1 May 2021 (CL 166/REP); 167th Session, 29 June 2021 (CL 167/REP); 168th Session, 29 November-4 December 2021 (CL 168/REP); 170th Session, 13-17 June 2022 (CL 170/REP); and its 171st Session, 5-9 December 2022 (CL 171/REP).

III. Suggested action by the Committee

7. The Committee is invited to review the draft set out in the **Annex** to this document and, within the context of its mandate, make such comments and observations thereon as it considers appropriate.

⁴ [C 2019/REP](#), paragraph 28.

⁵ [CL 162/REP](#), paragraph 7.

⁶ [CL 162/PV](#), pages 8-9.

⁷ [C 2021/REP](#), paragraph 71.

⁸ [CL 171/10](#), paragraph 29.

Annex

**Draft Voluntary Code of Conduct for Voting procedures under Rule XII of the
General Rules of the Organization as referred to in the Conference and Council
Reports¹**

I. INTRODUCTION

1. This Voluntary Code of Conduct for voting procedures under Rule XII of the General Rules of the Organization (the “Code”) aims at promoting open, fair, equitable, and transparent voting procedures during the election for the office of Director-General of the Food and Agriculture Organization of the United Nations (“FAO” or “the Organization”) in accordance with the Basic Texts of the Organization (“the Basic Texts”), including the General Rules of the Organization (“GRO”).
(Informally agreed ad ref)

II. STATUS AND SCOPE OF THE CODE

2. The Code is an understanding reached by the Member Nations of FAO. It recommends desirable behaviour by Member Nations and candidates nominated by the Member Nations regarding the election of the Director-General of the Organization in order to increase the fairness, credibility, openness, and transparency of the process. Consequently, this Code is of a voluntary nature and is not legally binding. Member Nations and candidates are nevertheless expected to honour its contents.
(Informally agreed ad ref)

3. The Code does not amend the *Basic Texts* and, in case of any ambiguity or inconsistency, the *Basic Texts* prevail. *(Informally agreed ad ref)*

III. GENERAL PRINCIPLES

4. The entire election process, including electoral campaign activities, should be guided by the *Basic Texts*, relevant decisions of the Conference, and the following principles:

- fairness,
- equity,
- openness and transparency,
- sovereignty,
- good faith,
- dignity, mutual respect, and moderation,
- non-discrimination, and
- merit.

(Informally agreed ad ref)

5. Member Nations and the FAO Secretariat should make this Code publicly known and easily accessible, including through relevant channels of communication of the Organization, such as the FAO Members Gateway. *(Informally agreed ad ref)*

¹ CL 162/REP, para 7; CL 163/2 paras 6-8; CL 163/REP, para 12; CL 164/2 paras 8-11; CL 164/REP, para 20 (a); CL 165/9 para 12 (c); CL 165/REP, para 23 (a); CL 166/REP, para 42; C 2021/REP, para 71; CL 167/REP, para 11 (b); CL 168/REP, para 34; CL 170/REP, para 49; CL 171/REP, paras 46 and 47.

IV. RIGHTS, OBLIGATIONS AND RESPONSIBILITIES

6. Member Nations recognize the rights, obligations, and authorities established in the *Basic Texts* and decisions of the Conference. *(Informally agreed ad ref)*

7. The Code does not amend the *Basic Texts* that constitute the sole references governing election processes at FAO. *(Informally agreed ad ref)*

8. The Code applies to the voting procedures or proceedings during the election of the FAO Director-General. *(Informally agreed ad ref)*

A. Members and Candidates

9. Member Nations acknowledge that the process for the election of the Director-General, more specifically with regard to the voting procedure, should be fair, open, transparent, and equitable. *(Informally agreed ad ref)*

B. Employees of FAO

10. Employees of FAO, especially those involved in supporting the voting procedures, have the duties and obligations under Article VIII of the Constitution, to respect the principles of integrity, impartiality, and independence with respect to all candidates for the post of Director-General of FAO. *(Informally agreed ad ref)*

11. The same employees of FAO are also subject to obligations under the Staff Regulations and the Standards of Conduct for the International Civil Service, including obligations of confidentiality. *(Informally agreed ad ref)*

12. Any actions or behaviour inconsistent with the above-mentioned obligations should be addressed in accordance with the administrative rules and procedures, including disciplinary procedures, applicable to the employee concerned. *(Informally agreed ad ref)*

V. THE VOTE

13. Member Nations should abide strictly by the Basic Texts and should respect the integrity, legitimacy, and dignity of the voting proceedings. As such, delegates and candidates should avoid behaviours and actions, both inside and outside the plenary hall that could be perceived as aiming at influencing the outcome of the voting proceedings. *(Informally agreed ad ref)*

14. An Elections Officer will be appointed by the Director-General for the Conference Session who is responsible for ensuring adherence to the provisions of the Basic Texts during the voting and electoral procedure (GRO Rule XII, paragraph 16). *(Informally agreed ad ref)*

15. The Elections Officer and all FAO personnel involved in the voting procedure are subject to the obligations of impartiality, neutrality and confidentiality set out at paragraphs above. Any failure to adhere to these obligations will result in the initiation of administrative processes, which may include disciplinary processes. *(Informally agreed ad ref)*

A. The complete Secrecy of the Ballot

16. Member Nations should respect the confidentiality of the proceedings and abide by the procedures to ensure the complete secrecy of the ballot. *(Informally agreed ad ref)*

17. They should refrain from communicating or broadcasting the proceedings during the conduct of the vote. *(Informally agreed ad ref)*

18. The Secretary-General should remind delegates of the importance of complete secrecy of the ballot and request them to refrain from any action which may tend to undermine the complete secrecy of the ballot, including the display of filled ballot papers during the conduct of the vote.

The Secretary-General should also remind all those responsible for the supervision of any vote by complete secret ballot of the requirement not to disclose to any unauthorized person any information which might tend, or be presumed to tend, towards destroying the complete secrecy of the ballot. *(Informally agreed ad ref)*

19. Voters should best leave their recording devices, including but not limited to cameras, mobile phones, or smartwatches, outside of the voting area or in the room where counting is conducted. *(Informally agreed ad ref)*

20. Any delegate or Secretariat employee participating in the supervision of the count of the vote should leave any electronic record devices outside the room or area where the count is to take place. This requirement may be enforced by any means deemed appropriate by the Elections Officer. *(Informally agreed ad ref)*

21. The above measures are without prejudice to any further arrangements that the Conference may consider necessary to ensure that the results of ballots remain undisclosed until the formal announcement of the outcome of the ballot. *(Informally agreed ad ref)*

B. Arrangements for voting, transparency of the vote

22. Access to the voting area will be limited to tellers, scrutineers, electors, and Secretariat employees who are directly involved in supporting the electoral process. *(Informally agreed ad ref)*

1. Voting Booths

23. As provided in Rule XII, paragraph 10(e), one or more voting booths shall be set up, supervised in such a manner as to ensure complete secrecy of the ballot. *(Informally agreed ad ref)*

24. The voting area should be arranged, and be sufficiently separated from plenary or other accessible spaces so that observation of the votes being cast by those outside the voting area is prevented. *(Informally agreed ad ref)*

25. The booths in the voting area should be visible to representatives during the vote. *(Informally agreed ad ref)*

26. In accordance with established practice, and in light of its mandate to supervise and coordinate all preparatory work for Conference sessions under Rule XXIV, paragraph 5(c), the Council could make recommendations to the Conference on arrangements, including arrangements to ensure complete secrecy of the ballot, taking into consideration the other good practices and booths used in the broader UN System. *(Informally agreed ad ref)*

2. Tellers

27. The Chairperson of the Conference will appoint two tellers from among the delegates who are not parties directly interested in the election. The duties of the tellers are to supervise the balloting procedure, count the ballot papers, decide on the validity of a ballot paper in any case of doubt, and certify the result of each ballot (GRO Rule XII, paragraph 10(c)). *(Informally agreed ad ref)*

28. The tellers should be chosen in a fair and impartial manner. Member Nations should not attempt to influence the teller selection. *(Informally agreed ad ref)*

29. The duties of the tellers should be considered independent and separate from their role as delegates or representatives, or their alternates. The tellers should perform their duties in a manner that is strictly impartial and neutral. They should refrain from any actions or behaviour which may influence electors to vote for or against a candidate. Tellers should not attempt to discover the intention or choice of an elector. *(Informally agreed ad ref)*

30. The tellers should have unimpeded access to the voting area and counting room at all times in order to visually confirm that proper procedures are followed. *(Informally agreed ad ref)*

31. Tellers should preserve the secrecy of the ballot and should not disclose the outcome of a ballot to any unauthorized person before the formal announcement of the results by the Chairperson. *(Informally agreed ad ref)*

32. At the beginning of the Conference, the tellers will be offered a briefing by the Secretariat on duties to be carried out. *(Informally agreed ad ref)*

3. Scrutineers

33. A candidate or a scrutineer appointed by a candidate may attend the count of the votes (GRO Rule XII, paragraph 10 (g)). Each candidate must provide the name of his/her scrutineer in advance of the Conference Session. *(Informally agreed ad ref)*

34. Candidates or scrutineers appointed by them may only observe the counting process. They do not take part in the count. *(Informally agreed ad ref)*

35. Candidates and scrutineers should preserve the secrecy of the ballot and should not disclose the outcome of the count to any unauthorized person before the formal announcement of the results by the Chairperson. *(Informally agreed ad ref)*

C. Casting and counting of the vote

36. The Chairperson of the Conference and the tellers shall satisfy themselves that the ballot box is empty and, having locked it, the tellers shall hand the key to the Election Officer. *(Informally agreed ad ref)*

37. Delegations shall be called in turn to cast their vote by the Secretary of the Conference, in the alphabetical order of the names of the Member Nations. *(Informally agreed ad ref)*

38. When their names are called, delegations shall proceed to the voting area, receive the ballot paper and put their ballot paper in the ballot box. *(Informally agreed ad ref)*

39. To indicate the recording of each Member's vote, the Secretary of the Conference and one of the tellers shall sign or initial the list in the margin opposite the name of the Member in question. *(Informally agreed ad ref)*

40. At the conclusion of the calling, the Chairperson of the Conference shall declare the ballot closed and announce that the votes are to be counted. *(Informally agreed ad ref)*

41. In accordance with GRO Rule XII.10 (g) the tellers count the votes in the meeting of in the presence and under the gaze of Member Nations. Should the tellers withdraw from the presence of the delegates or representatives in order to carry out the count of the votes, only the candidates or scrutineers appointed by the candidates may attend the count, but they shall not take part in the count, and the Conference may decide that the representatives of the Member Nations have the possibility to witness the counting virtually. *(Informally agreed ad ref)*

42. When the Elections Officer has opened the ballot box, the tellers shall check the number of envelopes. If the number is greater or less than that of the voters, the Chairperson of the Conference shall be informed and shall then declare the vote invalid and announce that it is necessary to re-open the ballot. *(Informally agreed ad ref)*

43. One of the tellers shall read aloud what is written on the ballot paper, and pass it to the other teller. The votes inscribed on the ballot papers shall be entered on lists prepared for that purpose. *(Informally agreed ad ref)*

44. When the counting of the votes is completed, the Chairperson of the Conference shall announce the results of the ballot in the following order:

- number of Member Nations entitled to vote at the Session;
- number absent;
- number of abstentions;
- number of invalid ballot papers;
- number of votes recorded;
- number of votes constituting the required majority;
- number of votes for the candidates and number of votes secured by each of them, in descending order of the number of votes. *(Informally agreed ad ref)*

45. The Chairperson of the Conference shall announce the decision resulting from the vote. *(Informally agreed ad ref)*

46. The lists on which the tellers have recorded the results of the vote shall, after signature by the Chairperson of the Conference, the Election Officer, and by the tellers, constitute the official record of the ballot, and shall be deposited in the archives of the Organization. *(Informally agreed ad ref)*

VI. VOLUNTARY ADHERENCE TO THE CODE

47. Member Nations and candidates are encouraged to observe and respect this Code. Personnel of the Secretariat are obliged to adhere to their contractual obligations, as set out in paragraph 16 above. *(Informally agreed ad ref)*

VII. REVIEW OF THE CODE

48. The Code and Procedures outlined in this code, including its application to other secret ballot elections, may be reviewed by the Conference upon request of the Council. *(Informally agreed ad ref)*