



COUNCIL

Hundred and Seventy-fourth Session

Rome, 4-8 December 2023

Report of the 119th Session of the Committee on Constitutional and Legal Matters (Rome, 9-11 October 2023)

Executive summary

In the Report of its 119th Session, the Committee on Constitutional and Legal Matters (CCLM):

- 1) **brings to the attention of the Council for endorsement** its considerations and conclusions regarding:
 - a) Recommendation 7 of the JIU Report “*Review of the state of the investigation function: progress made in the United Nations system organizations in strengthening the investigation function*” (JIU/REP/2020/1); and
 - b) Dissemination of Memoranda of Understanding signed by FAO.
- 2) **informs the Council** of the Committee’s considerations related to:
 - a) the updates it received on:
 - i. the implementation of the FAO Data Protection Policy;
 - ii. the implementation of the FAO Policy on Intellectual Property Rights;
 - iii. the review of the jurisdictional set-up of the United Nations common system; and
 - iv. the activities of the Development Law Service; and
 - b) any other matters.

Suggested action by the Council

The Council is invited to:

- 1) **endorse** the considerations and conclusions of the Committee on:
 - a) the status of Recommendation 7 of the JIU Report *Review of the state of the investigation function: progress made in the United Nations system organizations in strengthening the investigation function* (JIU/REP/2020/1); and
 - b) the dissemination of Memoranda of Understanding signed by FAO.
- 2) **note** the Committee's considerations on:
 - a) the implementation of the FAO Data Protection Policy;
 - b) the implementation of the FAO Policy on Intellectual Property Rights;
 - c) the review of the jurisdictional set-up of the United Nations common system;
 - d) the activities of the Development Law Service; and
 - e) any other matters.

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

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I. Introduction

1. The Hundred and Nineteenth Session of the Committee on Constitutional and Legal Matters (CCLM) was held from 9 to 11 October 2023.
2. The Session, open to silent observers, was chaired by H.E. Ms Céline Jurgensen who welcomed all the participants. The Chair welcomed the new CCLM members.
3. The following members joined the Session:
 - Ms Ruth Mallett (Australia)
 - Ms Julie Émond (Canada)
 - Mr Purna Cita Nugraha (Indonesia)
 - Ms Marie-Lise Stoll (Luxembourg)
 - Mr Madiagne Tall (Senegal)
 - H.E. Mr Sayed Altayeb Ahmed ((Sudan) (the))
 - H.E. Ms Haifa Aissami Madah (Venezuela (Bolivarian Republic of))
4. The Committee was informed that, for this Session, Ms Emma Hatcher (Australia) had been replaced by Ms Ruth Mallett.
5. The CCLM members participated in person at FAO headquarters.

II. Item 1: Adoption of the agenda and arrangements for the Session (CCLM 119/1)

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

III. Item 2: Election of the Vice-Chairperson of the CCLM

7. The CCLM elected H.E. Ms Haifa Aissami Madah (Venezuela (Bolivarian Republic of)) as Vice-Chairperson.

IV. Item 3: Recommendation 7 of the JIU Report *Review of the state of the investigation function: progress made in the United Nations system organizations in strengthening the investigation function* (JIU/REP/2020/1) (CCLM 119/2)

8. The Committee reviewed document CCLM 119/2 “*Recommendation 7 of the JIU Report Review of the state of the investigation function: progress made in the United Nations system organizations in strengthening the investigation function (JIU/REP/2020/1)*”.
9. The Committee emphasized that “misconduct” included sexual harassment, sexual exploitation and abuse (SEA). It recommended, therefore, that the definition should stipulate the applicability of the definitions in other FAO rules and policies addressing those specific kinds of misconduct. The Committee also observed that there is a need to provide safeguards for complainants and whistleblowers and recommended that the issue of provisional measures be addressed.
10. The Committee considered the preliminary procedures for the investigation and disciplinary processes, as set out in Annexes 3 and 4 of document CCLM 119/2. It reiterated the importance of developing these procedures to implement the JIU recommendation.
11. It considered mechanisms through which the Conference, as the appointing authority under the Basic Texts, could address such matters. The Committee recommended that the procedures to be developed should, as far as possible, avoid the establishment of new bodies. The Committee noted that the FAO governance framework did not provide for an intersessional term for a bureau of the Conference similar to other UN system entities. The Committee considered that allegations should be

referred to an external investigating entity (EIE). It emphasized the need for impartiality in the investigation process.

12. The Committee emphasized that such procedures should ensure transparency, due process, duty of care, and the presumption of innocence, noting the possibility of politically motivated allegations against the Director-General.

13. The Committee agreed to further consider this matter at its 120th Session in 2024 and looked forward to an updated document taking into account the relevant practice and developments in other UN specialized agencies as well as related discussions in other FAO Governing Bodies.

V. Item 4: Dissemination of Memoranda of Understanding signed by FAO (CCLM 119/3)

14. The Committee reviewed document CCLM 119/3 “*Dissemination of Memoranda of Understanding signed by FAO*”.

15. The Committee welcomed the discussion on the dissemination of Memoranda of Understanding (MoUs) and other general cooperation and partnership agreements signed by FAO and noted that the Council did not limit the scope of the matter to MoUs signed by FAO with other intergovernmental organizations.

16. The Committee stressed the fundamental importance of dissemination and its application in line with UN system best practices.

17. The Committee noted that, as of 26 June 2023, the Organization concluded 328 MoUs with intergovernmental organizations. The Committee further noted that, in July 2021, a dissemination clause was inserted in FAO’s standard template for MoUs.

18. The Committee recommended the dissemination of those MoUs concluded after July 2021 containing the dissemination clause. The Committee further recommended that the Organization seek approval from partners for the dissemination of those MoUs which do not contain such clause.

19. The Committee recommended that, at its next session, the Secretariat provide it with a list of the MoUs concluded between the Organization and other intergovernmental organizations.

20. The Committee looked forward to an update at its next session.

VI. Item 5: FAO Policy on Intellectual Property Rights – Update (CCLM 119/4)

21. The Committee commended FAO Management for the efficient and timely development and promulgation of the FAO Policy on Intellectual Property Rights and the steps being taken to implement the Policy, including the review of existing practices, procedures and instruments for alignment with the Policy and with best practices developed by other UN system entities.

22. The Committee appreciated that the promulgated Policy on Intellectual Property Rights is reflective of the recommendations of the Council at its 171st Session (CL 171/REP) and welcomed the efforts made to facilitate its implementation, including through training and sensitization activities.

23. The Committee received additional information on the practice of the Organization on the Statistical Standard on the metadata dissemination for FAO statistical databases.

24. The Committee considered that the FAO Policy on Intellectual Property Rights may continue to need periodic review and adjustment, to ensure that it remains fit-for-purpose and meets the operational needs of the Organization.

25. The Committee looked forward to receiving an update on the implementation of the Policy on Intellectual Property Rights at a future CCLM session.

26. The Committee invited the Council to take note of the progress made by the Organization with respect to the Policy on Intellectual Property Rights and its implementation.

VII. Item 6: FAO Policy on Data Protection – Update (CCLM 119/5)

27. The Committee welcomed document CCLM 119/5 “*FAO Policy on Data Protection – Update*” which was presented by the Data Protection Unit (DPU) and commended the progress made with respect to the implementation of the Data Protection Policy.

28. The Committee took note of the clarifications provided with respect to: (i) the advisory services provided to FAO by the World Bank Data Privacy Office (“WB DPO”); (ii) the nature of the requests received by the Data Protection Unit; (iii) the data protection annual report; and (iv) the respective roles of the Data Protection Oversight Committee (DPOC), the Data Protection Unit (DPU) and the Data Protection Champion (DPC) Network.

29. The Committee looked forward to receiving an update on the activities of the Data Protection Unit (DPU), the Data Protection Oversight Committee (DPOC) and the Data Protection Champion (DPC) Network, as well as on any new developments at the UN system level at a future CCLM session.

30. The Committee invited the Council to take note of the progress made by the Organization with respect to the Data Protection Policy and its implementation.

VIII. Item 7: Review of the jurisdictional set-up of the United Nations common system – Update (CCLM 119/6)

31. The Committee welcomed document CCLM 119/6 “*Review of the jurisdictional set-up of the United Nations common system*”, providing an update on the status of the review.

32. The Committee noted the result of the consultations held through the Legal Advisers Network of the UN system, as well as the various views expressed by relevant stakeholders as part of the review process, including by the judges of the administrative tribunals.

33. Noting that significant divergence of views persisted among stakeholders as to the preferred outcome of the review, the Committee appreciated the engagement of the Legal Office to keep it informed, as necessary, of upcoming developments in that regard.

IX. Item 8: Activities of the Development Law Branch – Information Report (CCLM 119/7)

34. The Committee welcomed the briefing and the information shared by the Development Law Service (LEGN) of the Legal Office on the continued expansion of its work in line with the Organization’s work programme and priorities, driven by the increasing calls for legal frameworks to support agrifood systems, including addressing climate change impacts in the food and agriculture sectors. It stressed the need for greater awareness of the legal technical expertise available to Members through LEGN and commended the support it provided in multilateral negotiations such as the Intergovernmental Conference on Marine Biodiversity of Areas Beyond National Jurisdiction (BBNJ) and the Meeting of the Parties to the Agreement on Port State Measures (PSMA).¹

¹ [Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing.](#)

35. The Committee reiterated the importance of sound legal frameworks and their effective implementation to contribute to the FAO Strategic Framework 2022-31, noting how they ensure sustainability of the initiatives of Members to strengthen agrifood systems.

36. The Committee recommended that LEGN increase its outreach to Members and its collaboration with regional and subregional organizations and institutions, including for purposes of knowledge sharing, capacity development and mobilization of resources for a systematic and programmatic delivery of legal assistance.

X. Item 9: Any other matters

37. The Committee welcomed information about the 2023 FAO Law Lecture, which would highlight the contribution of FAO to the field of Public International Law, and expressed appreciation that the Lecture would be delivered by H.E. Ms María Teresa Infante Caffi, Judge of the International Tribunal of the Law of the Sea, on 31 October 2023.

38. The Committee was informed by the Chair of items that could be considered by the Committee at its next session, taking into account the mandate of the Committee and recognizing the competence of other FAO Governing Bodies: i) convening of a Treaty Event on the margins of the Conference and/or the Council; and ii) institutional options to reinforce the implementation of the Compliance Agreement.²

² [Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas.](#)