



COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

Hundred and Twentieth Session

Rome, 25-27 March 2024

Update on the Dissemination of the Memoranda of Understanding signed by FAO

I. Introduction

1. At its 119th Session, the Committee on Constitutional and Legal Matters (“CCLM” or “the Committee”) welcomed document CCLM 119/3 “*Dissemination of Memoranda of Understanding signed by FAO*” and looked forward to an update on this item at its 120th Session.¹ The Committee’s recommendations were endorsed by the Council at its 174th Session in December 2023.²
2. This document reflects the steps taken to implement the recommendations of the Committee endorsed by the Council.

II. Background

3. This matter was referred to the Committee under Rule XXXIV, paragraph 7(m), of the General Rules of the Organization (GRO), which provides that the Committee may consider any items referred to it by the Council or the Director-General which may arise out of “*policy aspects of relations with international governmental or non-governmental organizations, national institutions or private persons*”.
4. The matter arose when the Council’s deliberations at its 171st Session in December 2022, considered whether Memoranda of Understanding (MoUs) concluded with other intergovernmental organizations could be shared with Members, and “*looked forward to discussing the dissemination of MoUs signed by FAO, at its 174th Session, following review by the relevant Governing Bodies*”.³

¹ [CL 174/10](#), paragraph 20.

² [CL 174/REP](#), paragraph 30(a)(ii).

³ [CL 171/REP](#), paragraph 57.

III. Update on activities undertaken to advance the dissemination of Memoranda of Understanding signed by FAO

5. At its 119th Session in October 2023, the Committee “*stressed the fundamental importance of dissemination and its application in line with UN system best practices*”.⁴ On this basis, upon endorsement of the Committee’s recommendations by the Council, steps were taken to initiate the process of dissemination.

6. As observed in presentations to the Committee at the 119th Session, the dissemination of MoUs signed by FAO called for a number of actions, some driven by legal considerations, and others necessary to address technical and practical aspects.

A. Individual review of MoUs signed by FAO

7. It had been reported in document CCLM 119/3 that, as of 26 June 2023, there were 328 MoUs and other general cooperation and partnership agreements⁵ signed by FAO with other intergovernmental organizations.⁶ This number derived from a count of documents referred to as MoUs or which appeared to have the same purpose held in the records of the Legal Office.

8. In order to begin disseminating the MoUs, the Legal Office initiated a review of each of the 328 instruments to confirm, in each case:

- a) whether it remains in force;
- b) whether it establishes a general framework for collaboration and lays the foundation for a partnership or collaborative relationship; and
- c) whether it includes the standard dissemination clause⁷ or a similar provision.

9. Thus, a careful manual exercise has been necessary. While this case-by-case review is still ongoing at the time of preparation of this document, it already appears that the number of MoUs that establish frameworks for collaboration which remain valid is considerably lower than the initial estimate reported in document CCLM 119/3; indeed, likely to amount to approximately half of that original estimate.

10. Internal coordination has been extensive to verify the status of each MoU. While the Legal Office may review and clear MoUs for signature, the Partnerships and UN Collaboration Division (PSU) is the lead unit in the development and monitoring of partnerships.⁸ There has also been a need to seek information from the “owners” of each MoU, i.e. the technical department or Decentralized Office which initiated a partnership and/or which is the main unit implementing activities under the framework established by an MoU.

11. It is recalled that the Committee requested that it be provided “*with a list of the MoUs concluded between the Organization and other intergovernmental organizations*”.⁹ Taking into account the results of the ongoing review, it has not been possible to develop a complete list. However, it was considered that rapid action should be taken to respond to the requests of the Governing Bodies to disseminate the MoUs, as detailed below.

⁴ [CL 174/10](#), paragraph 16.

⁵ For the purposes of this document, the term “MoUs” includes general cooperation and partnership agreements.

⁶ [CCLM 119/3](#), paragraph 3.

⁷ [CCLM 119/3](#), paragraph 12.

⁸ As reflected in the adjustments to the Programme of Work and Budget 2024-25; [CL 174/3](#), paragraph 27; [CL 174/REP](#), paragraph 10 i).

⁹ [CL 174/10](#), paragraph 19.

B. Technical arrangements for the dissemination of MoUs

12. A dedicated, password-protected internal portal has been created on the [FAO Members Gateway](#) as an *interim* solution, following the example of the mechanism used to make the Country Programming Frameworks (CPFs) available to Members. The MoUs are presented in a list, with an accompanying link to the text of the MoUs.

13. In light of time and resource constraints, this portal appeared to be the only option that could be implemented in a short timeframe to provide Members with quick access to the requested information. This arrangement avoids delays that may be associated with the creation of a new platform requiring new individual registrations and unique passwords for each user. However, this is an *interim* solution until a more robust, user-friendly and comprehensive platform is developed.

14. Following the case-by-case review outlined in the previous section, as well as the contacts with partners described in the next section, each MoU is to be redacted to remove personal information, such as personal email addresses and individual names of contact points, in accordance with FAO's Data Protection Policy. Once these steps have been completed, the MoUs are manually uploaded onto the portal one by one. This process is ongoing.

C. Contacts with partners

15. As reflected at paragraph 8 above, confirming whether or not there is a dissemination clause or similar provision has required an individual review of each instrument. It is observed that, while such clauses are included in the standard template adopted in 2021,¹⁰ each instrument is the outcome of individual negotiations.

16. Consistent with the Committee's recommendation, endorsed by the Council, that FAO "*seek approval from partners for the dissemination of those MoUs which do not contain such clause*",¹¹ where there is no provision for dissemination, communications requesting approval have been sent to the partner organizations, where required.

17. Given the age of some instruments, restructuring as well as other internal changes at the partner organizations, in many cases the focal points identified in the MoUs are no longer valid. The identification of each partner's focal point has proved to be particularly labour-intensive, needing extensive internal consultations, as well as outreach to partner organizations.

18. In addition to the requests for approval, for the purpose of transparency, all other partner organizations were notified that FAO was initiating a process to disseminate the MoUs to its Members through a password-protected portal.

19. Several queries were received from partner organizations about this exercise. In response, the Legal Office has explained that the Governing Bodies have directed that the MoUs be disseminated.

20. For new partnerships to be developed in the future, the need to agree to dissemination will be underlined during negotiations of each MoU.

IV. Suggested action by the Committee

21. The Committee is invited to take note of this update, and to make such comments and give guidance as it deems appropriate.

¹⁰ [CCLM 119/3](#), paragraph 12.

¹¹ [CL 174/10](#), paragraph 18.