

September 2013

|   |  |                    |   |   |   |  |
|---|--|--------------------|---|---|---|--|
|  | منظمة الأغذية<br>والزراعة للأمم<br>المتحدة | 联合国<br>粮食及<br>农业组织 | Food and<br>Agriculture<br>Organization<br>of the<br>United Nations | Organisation des<br>Nations Unies<br>pour<br>l'alimentation<br>et l'agriculture | Продовольственная и<br>сельскохозяйственная<br>организация<br>Объединенных<br>Наций | Organización<br>de las<br>Naciones Unidas<br>para la<br>Alimentación y la<br>Agricultura |
|---|--|--------------------|---|---|---|--|

# COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

## Ninety-seventh Session

Rome, 21 - 23 October 2013

### PRELIMINARY REVIEW OF PARTICIPATION OF INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS AND CIVIL SOCIETY ORGANIZATIONS IN MEETINGS OF FAO - LEGAL ASPECTS

## I. BACKGROUND

1. This item has been placed on the provisional agenda of the Committee on Constitutional and Legal Matters (CCLM) under Rule XXXIV, paragraph 7(m) of the General Rules of the Organization (GRO), whereby the Committee considers specific items referred to it that may arise out of “*policy aspects of relations with international governmental or non-governmental organizations, national institutions or private persons*”.

2. The purpose of this document is to provide general information to the Committee on Constitutional and Legal Matters (CCLM) concerning the participation of Civil Society Organizations (CSOs)<sup>1</sup> in meetings of the Organization, including meetings of Governing and Statutory bodies. This overview of rules and practices, as well as currently outstanding issues, is intended to provide the necessary background information to the CCLM, as a first step in the process of the establishment of new procedures for the implementation of the recently adopted “*Strategy for Partnerships with Civil Society Organizations*”, especially as regards participation in meetings.

3. Since its origin, FAO has accorded certain International Non-Governmental Organizations (INGOs) the possibility of circulating their views in writing to meetings of governing bodies and to participate in expert meetings and technical conferences. In 1957, criteria for participation of INGOs in meetings were strictly defined. In recent years, the role of CSOs in FAO and in meetings of FAO has been progressively enhanced, at times on an informal or non-objection basis. Categories of

<sup>1</sup> Civil Society Organizations have been defined in the “*Strategy for Partnerships with Civil Society Organizations*” as those non-state actors that fit within three main categories, namely: (i) member-based organizations (MBOs); (ii) non-governmental organizations (NGOs); and (iii) social movements (SMs), which work in areas related to FAO’s mandate (CL146/REP, Appendix F, paragraph 8).

*This document can be accessed using the Quick Response Code on this page;  
a FAO initiative to minimize its environmental impact and promote greener communications.  
Other documents can be consulted at [www.fao.org](http://www.fao.org)*



mi 546e

organizations which were not foreseen in the Basic Texts were allowed to participate in specific meetings, at times under special ad hoc procedures. Moreover, a few statutory bodies have developed specific procedures and mechanisms for participation of CSOs in their meetings and inter-sessional activities. In the course of the past few years requests have been made that FAO should clarify or revisit the procedures for participation of INGOs and CSOs in FAO meetings. This would be desirable in view of the need to implement effectively the recently adopted “*Strategy for Partnerships with Civil Society Organizations*”.

4. The Basic Texts only refer to INGOs, which represent a small fraction of CSOs. Whereas in the past INGOs, as defined in paragraph 3 above, were considered to be the only organizations having a prominent role in global governance, over time, the expansion and diversification of the international cooperation sector and of its relations with the United Nations System has been accompanied by an evolution. Formerly, it was not considered appropriate that national organizations should have access, even in an observer capacity, to meetings of intergovernmental bodies. Progressively this position has evolved and has been accompanied by an evolution in terminology.

5. The denomination “Non-Governmental Organization” refers only to formally constituted not-for-profit actors, which provide services and/or mobilize public opinion in areas of relevance to the UN System but often do not represent sections of the population. Thus, the notion of “Civil Society Organizations” was introduced in the UN System, including FAO, for the purpose of including citizens and social movements that organize themselves around objectives, constituencies and thematic interests in the global governance debate. CSOs include NGOs as well as other categories of actors, such as social movements, indigenous people, local authorities, business leaders, and the research community.

6. FAO’s increased openness to CSOs was put into effect as from the late 1990s<sup>2</sup> following the World Food Summit, 1996 where a number of innovative arrangements for NGOs/CSOs participation in the Summit were implemented. Following the Summit, FAO initiated the relaxation of its procedures regarding NGOs/CSOs participation in meetings related to the follow-up of the Summit. In 1999, FAO adopted the *Policy and Strategy for Cooperation with Non-Governmental and Civil Society Organizations*, which was replaced by the *Strategy for Partnerships with Civil Society Organizations* in 2013. However, as expressly provided in paragraph 35 of the *Strategy for Partnerships with Civil Society Organizations*, participation of CSOs in FAO meetings is governed by the rules set forth in the Basic Texts and, thus, is formally limited to INGOs.

## II. RULES AND PRESENT PRACTICE ON THE PARTICIPATION OF CSOs IN MEETINGS OF THE ORGANIZATION

### A. Provisions of the Basic Texts

7. The general legal framework concerning participation of CSOs in meetings and activities of the Organization is set forth in the FAO Basic Texts, especially Part M “*FAO Policy concerning Relations with International Non-Governmental Organizations*” and Part N “*Granting of Observer Status (in Respect of International Governmental and Non-Governmental Organizations)*”, and the *Strategy for Partnerships with Civil Society Organizations*, as approved by the Council at its 146<sup>th</sup> Session in April 2013<sup>3</sup>. As a general observation, it should be mentioned that the procedures set out in the Basic Texts, which were approved in 1957, reflect a fairly restrictive approach towards

---

<sup>2</sup> The input for a process of enhancement of CSOs role in FAO’s activities and meetings found inspiration in the 1996 World Food Summit, where many INGOs gathered substantive contribution to the success of the Summit. Later in 2002, the “World Food Summit: five years later” gave a strong impetus to FAO’s decentralized relations with CSOs through the extensive involvement of those latter in the Summit process. As a result, FAO’s regional offices designated focal points for civil society in order to strengthen relations with CSOs at the regional level.

<sup>3</sup> CL146/Rep, Appendix F.

participation of non-governmental organizations in meetings of the Organization. As explained in this document, an evolution has taken place in the practice of the Organization, but the legal framework remains substantially the same.

Status that may be accorded under the Basic Texts

8. The Basic Texts provide that formal relations with an International Non-Governmental Organization (INGO)<sup>4</sup> may take one of three forms according to the importance of its field of activity in relation to FAO activities and the level of cooperation envisaged: *consultative status*, *specialized consultative status* and *liaison status*<sup>5</sup>.

9. Each status reflects a different level of involvement; however, there is a common set of prerequisites, which must be satisfied regardless of the status which is eventually granted. These prerequisites may be summarised as follows: (i) that the organization be international in structure and scope of activity; representative in its field of interest; and (ii) have a permanent directing body, authorized representatives and systematic procedures. In addition, the INGO's aims and activities must be consistent with FAO's mandate and Constitution.

10. Upon request by the interested INGO, *consultative status* is granted by the Conference, on the proposal of the Council or by the Council during inter-sessional periods, whereas *specialized consultative status* and *liaison status* are granted by the Director-General<sup>6</sup>. Formal status granted by FAO to an INGO is kept under review and may be terminated or maintained, as appropriate<sup>7</sup>.

Participation in the meetings of the Organization

11. As far as their participation in Conference sessions is concerned, INGOs having consultative status may send an observer, accompanied by advisers and assistants, to *attend the plenary meetings of the Conference and the meetings of any commission, of any technical committee of a commission and of any technical committee established under Rule XV [GRO]. Such observers may, without vote, speak before such commissions and committees, participate in the discussions therein upon the request of the Chairperson and, with the consent of the General Committee, speak before plenary meetings of the Conference. They may circulate to the Conference, without abridgement, the views of the organizations which they represent*<sup>8</sup>. INGOs having consultative status may also send an observer, accompanied by advisers, to attend Council sessions.

12. By contrast, INGOs having specialized consultative status may be invited to send an observer to Conference sessions only on a provisional basis, subject to approval by the Conference<sup>9</sup>. Similarly, they are invited to Council sessions on a provisional basis<sup>10</sup>.

13. INGOs having liaison status with the Organization may be invited to send observers to Conference and Council sessions if, in the judgement of the Director-General, there are concrete reasons for inviting them that would forward the technical work of the Organization<sup>11</sup>.

14. INGOs having either consultative or specialized consultative status may be invited by the Director-General to participate in experts' meetings, technical conferences or seminars on subjects that fall within their field of interest<sup>12</sup>. INGOs having liaison status with the Organization may be invited to send observers to specialized meetings held under the auspices of FAO upon invitation by the Director-General<sup>13</sup>.

<sup>4</sup> GRO, Part M.

<sup>5</sup> GRO, part M, Paragraphs 9-16

<sup>6</sup> Basic Texts, Part M, paragraphs 10, 12 and 15.

<sup>7</sup> Basic Texts, Part M, paragraphs 26-29.

<sup>8</sup> GRO, Rule XVII, paragraph 3.

<sup>9</sup> Basic Texts, Part M, paragraph 21(a).

<sup>10</sup> Basic Texts, Part M, paragraphs 19(a) and 21(a).

<sup>11</sup> Basic Texts, Part M, paragraph 25.

<sup>12</sup> Basic Texts, Part M, paragraphs 19(b) and 21(b).

<sup>13</sup> Basic Texts, Part M, paragraph 24.

15. INGOs devoid of formal status with FAO may participate in specific FAO meetings, upon *ad hoc* invitation by the Director-General. In particular, the Director-General will inform the Council in advance, whenever possible, of the names of INGOs he/she intends to invite. However, when such prior notification to the Council is impracticable, the Director-General may invite such INGOs to attend meetings and report this action *ex post facto* to the Council<sup>14</sup>. This procedure was approved in the mid-1960s, as a means of introducing flexibility and to allow the Director-General to invite INGOs which had no formal status with FAO but which could make a contribution to FAO. Probably as a consequence of the large number of meetings, the requirement that INGOs invited to attend meetings be reported to the Council *ex post facto* was progressively abandoned.

16. It is worth noting that a more flexible approach in qualifying an NGO as international has been developed in practice, as compared to the formal requirements set out in the Basic Texts. Whereas the Basic Texts require an INGO seeking formal status to be international in its *structure*, in practice international *governance* is required, *i.e.* members of its governing body should be nationals of at least three countries.

17. In general, the Basic Texts do not contain any provision for participation of the private sector in FAO meetings.

### **B. Evolving practice and establishment of specialized arrangements**

18. In practice, participation of observers in FAO technical meetings has not been limited to INGOs with formal status with FAO but there has been a growing tendency for representatives from CSOs to attend FAO meetings at times under special *ad hoc* arrangements. Such CSOs can participate in meetings subject to endorsement by the relevant technical division, in consultation with the Office of Partnerships, Advocacy and Capacity Development (OPC).

19. Furthermore, in exceptional circumstances, *e.g.* in light of the relevance of the concerned CSO in relation to a specific agenda item, national NGOs may also attend FAO meetings as part of a governmental delegation. Upon submission of relevant expressions of interest, national NGOs, members of regional or international associations, federations or networks may also participate, subject to prior evaluation of the request by the relevant technical division in consultation with OPC.

20. In the absence of specific rules, participation of CSOs and NGOs in meetings of the Organization has mainly been built on *ad hoc* arrangements. The World Food Summit in 1996 resulted in the development of new forms of collaboration with NGOs/CSOs. Non-governmental organizations without formal status with the Organization were invited to participate in the Summit and submit written and oral statements on questions within the scope of their activities<sup>15</sup>. Since then, a number of *ad hoc* arrangements have been set up for participation of CSOs in meetings of the Organization. Initially these *ad hoc* arrangements were limited to meetings related to the implementation of the World Food Summit Action Plan but were occasionally extended to other meetings.

21. Meanwhile, some governing and statutory bodies have developed procedures to involve CSOs in their meetings and activities. Examples include Regional Conferences, the International Plant Protection Convention and the Committee on World Food Security.

22. The scheme of participation of CSOs in Regional Conferences (RC) meetings are set out in the *Guidelines for Civil Society Participation in FAO Regional Conferences*<sup>16</sup>. A minimum of three spokespersons may represent CSOs both at the senior officers and the ministerial segments of the concerned RC. The selection of the spokespersons, as well as the consolidation of CSOs' position in RC meetings, takes place in a Civil Society Consultation, organized by the CSOs prior, or in parallel to the RCs' session. CSOs eligible for participation in the Civil Society Consultation are international/regional organizations as well as national CSOs of the country hosting the RC. Their

<sup>14</sup> CL 48/REP, paragraph 190; CL 49/7, paragraph 34; CL 49/REP, paragraph 45.

<sup>15</sup> NGOs were invited to organize themselves in a number of caucuses and designate a few spokespersons who were invited to address the plenary meetings of the Summit.

<sup>16</sup> <http://www.fao.org/partnerships/civil-society/useful/en/>

participation should be geographically and gender balanced, and inclusive of different kinds of organizations and networks, taking into account the twelve constituencies recommended by OPC<sup>17</sup>. In addition to the above CSOs spokespersons, INGOs enjoying formal status with FAO may also participate as observers in RC meetings<sup>18</sup>.

23. On the other hand, the Commission on Phytosanitary Measures (CPM) established under the International Plant Protection Convention recently amended the Rules of Procedure to clarify conditions of participation of observers in CPM and other IPPC related meetings. Two categories of INGOs may participate in CPM sessions, as observers: (i) INGOs which have been granted formal status by FAO; and (ii) INGOs which –while not having formal status – request to participate as observers in CPM meetings, subject to review by the IPPC Secretary and the CPM Bureau<sup>19</sup>. However, it is worth noting that only INGOs can participate as observers in the above mentioned meetings.

24. Finally, in 2009, the Committee on World Food Security (CFS) underwent a process of reform and set up a *sui generis* regime. The enhanced involvement of CSOs<sup>20</sup> and the private sector in CFS work and activities has been one of its major outputs. They can participate in sessions of the Committee either as participants or observers<sup>21</sup>; however, whereas participants can take the floor in debates “*without having to wait until Members have intervened*”<sup>22</sup>, observers can intervene in the Plenary only upon invitation by the Chairperson<sup>23</sup>. Only CFS Members have decision-making authority.

25. In addition, the new CFS legal framework recognized the possibility for the “*private sector*” to autonomously establish a global mechanism for food security and nutrition operating as a facility for consultation and participation in the CFS<sup>24</sup>. As a result, whereas the private sector has not established a *permanent coordination mechanism* yet, CSOs/NGOs participants have created a Civil Society Mechanism (CSM) to which a predetermined amount of seats in the CFS sessions is allocated. The rules and procedures governing the participation of CSOs in the work of the CFS are still under review, and will be clarified in order to draw a distinction between CSOs eligible for becoming an observer and CSOs eligible for becoming a participant.

### III. RULES AND PRACTICE OF SELECTED ORGANIZATIONS OF THE UN SYSTEM ON THE PARTICIPATION OF CSOs

26. Over the years, all major entities of the United Nations System have sought to enhance the involvement of CSOs in their activities and governance proceedings. Some organizations, such as the United Nations itself, reviewed their legal framework but decided to maintain the existing approach<sup>25</sup>.

<sup>17</sup> When evaluating CSOs scope, OPC classifies those organizations according to twelve constituencies: farmers, indigenous peoples, landless, fishers, women, youth, consumers, pastoralists/herders, forest dwellers, consumers, agricultural workers, NGOs.

<sup>18</sup> [http://www.fao.org/fileadmin/user\\_upload/partnerships/docs/3\\_Regional%20Conference%20Guidelines.pdf](http://www.fao.org/fileadmin/user_upload/partnerships/docs/3_Regional%20Conference%20Guidelines.pdf)

<sup>19</sup> CPM Rules of Procedure, Rule VII, paragraph 3.

<sup>20</sup> Eligible CSOs are not only INGOs but also associations operating at different levels, from local to international; development and humanitarian NGOs; international as well as regional organizations; private sector associations; foundations; and other stakeholders operating in areas falling within CFS’s mandate.

<sup>21</sup> GRO Rule XXXIII, paragraphs 3 and 5.

<sup>22</sup> GRO, Rule XXXIII.4 ; Reform of the Committee on World Food Security, CFS:2009/2 Rev.2, paragraph 12.

<sup>23</sup> GRO Rule XXXIII.5 ; Reform of the Committee on World Food Security, CFS:2009/2 Rev.2, paragraph 14.

<sup>24</sup>Reform of the Committee on World Food Security, CFS:2009/2 Rev.2, Section E, paragraph 17.

<sup>25</sup> The UN considered a review of the framework governing relations with CSOs many times but Member States were generally prudent in respect of those initiatives given the inter-governmental character of the organization. Nowadays, ECOSOC is the only organ in the UN allowing NGOs to participate in its sessions. In contrast with ECOSOC’s participatory

Other organizations have undertaken a reform process in connection to their relations with CSOs. UNEP recently reviewed the procedure and rules for participation of CSOs in meetings of its governing bodies<sup>26</sup>. WHO is currently exploring new approaches for greater involvement of NGOs in their governance arrangements, often taking into consideration FAO practice.

27. In general, United Nations organizations do not have a uniform approach in dealing with CSOs' involvement in their meetings and activities. Whereas rights deriving from formal status awarded to CSOs are quite homogeneous, eligibility requirements, accreditation status *per se* and procedures for accreditation differ.

### **Organizations eligible for participating in meetings**

28. Organizations allow CSOs participation in their meetings, by awarding them official status or on an *ad hoc* basis upon invitation to specific meetings. Like FAO, ILO grants formal status for participation in sessions of the International Labour Conference only to INGOs<sup>27</sup>. Instead, ECOSOC, WHO and WIPO provide for participation of national, sub-regional, regional or international NGOs to meetings of their governing bodies<sup>28</sup>, while UNESCO also allows local organizations<sup>29</sup>.

29. UNEP has adopted a *sui generis* approach. Although its Rules of Procedure formally refer to INGOs, UNEP governance meetings are open to all CSOs, including national ones and social movements. CSOs participation in meetings takes place through the Global Major Groups and Stakeholders Forum, an institutionalized forum open to CSOs and movements<sup>30</sup>. Furthermore, UNEP is the only organization formally providing for the participation of the private sector in meetings of its governing bodies.

### **Accreditation**

30. Whereas in ECOSOC<sup>31</sup>, ILO<sup>32</sup> and UNESCO<sup>33</sup>, NGOs may apply for different formal status; in other organizations, only one modality type of formal status is foreseen.<sup>34</sup> Similarly to FAO, NGOs without a formal status may, however, be invited to specific meetings, on an *ad hoc* basis.

approach, the other principal UN organs, particularly the General Assembly and the Security Council, have no legal framework for CSOs participation.

<sup>26</sup> *Guidelines for Participation of Major Groups and Stakeholders in Policy Design at UNEP* as endorsed by the Governing Council in 2008 and reviewed in August 2009.

<sup>27</sup> This is distinct from tripartite representation in ILO's Governing Bodies.

<sup>28</sup> ECOSOC grants formal status to organizations *that are not established by a governmental entity or intergovernmental agreement*" (ECOSOC Resolution E/1996/31, paragraph 12). WHO grants official relations with the Organization to INGOs and in exceptional circumstances, to national NGOs (WHO Principles Governing Relations with Nongovernmental Organizations, paragraph 3.2–3.5). In the case of WIPO, national NGOs are granted permanent observer status only when specific criteria are met, and prior consultation between Member States and the Secretariat (<http://www.wipo.int/members/en/admission/observers.html>).

<sup>29</sup> *Directives concerning UNESCO's partnership with non-governmental organizations*, UNESCO Basic Texts, part K, section I, paragraph 1.

<sup>30</sup> The Global Major Groups and Stakeholders Forum (GMGSF) gathers only UNEP accredited organizations. All participants to the GMGSF are automatically invited to attend sessions of UNEP Governing Bodies. However, it is for the Chair of the Governing Council to decide to what extent Major Groups and Stakeholders will be allowed to participate in meetings.

<sup>31</sup> Consultative relationships with ECOSOC may take one of the following three forms: general consultative status, special consultative status, and inclusion in a Roster List, depending on the level of relevance of the NGO activities. General consultative status is granted to NGOs that are concerned with most of the activities of ECOSOC and its subsidiary bodies and which are broadly representative of major segments of society at the international level. Special consultative status is granted to NGOs having special competence in, and which are concerned with, only a few of the fields of activity covered by the Council and its subsidiary bodies. The inclusion on a Roster List is instead open to NGOs able to make occasional and useful contributions to the work of the Council or its subsidiary bodies within their competence (Resolution E/1996/31, paragraphs 22-24).

<sup>32</sup> ILO provides for three accreditation categories for INGOs in accordance with the level of relevance (global/regional) of the INGO activities, as well as their scope (whether they are employers'/workers' organizations or not). Depending on the type of formal status, INGOs may participate in ILO meetings and regional meetings either directly or upon invitation.

31. Normally, in most organizations, accreditation status is granted on the basis of the legal nature, scope and activities of the concerned CSO. WHO grants formal status to NGOs taking into consideration the relevance and continuity of the collaboration between the Organization and the NGO. In particular, to grant “*official relations*”, WHO requires a structured plan for collaborative activities to be agreed upon by the concerned NGO and WHO, as well as a successful period of engagement in joint activities<sup>35</sup>.

32. The accreditation process within the UN System may be *organization-driven* or *member-driven*, depending on which authority has the power to grant formal status to CSOs. Most UN organizations provide for a member-driven process, whereby Member States, either in plenary sessions or through *ad hoc* committees, decide on granting the formal status to CSOs<sup>36</sup>.

33. FAO and UNESCO adopted a mixed approach, where some types of status are awarded by Governing Bodies and others are granted by the Executive Head of the Organization<sup>37</sup>.

### **Rights of CSOs participating in meetings**

34. Organizations grant accredited NGOs the right to appoint a representative to participate, without the right to vote, in sessions of their governing bodies or in meetings convened under their authority. They usually have access to non-confidential documentation, they can submit memoranda or written statements for circulation and, rarely (as in the case of WHO), for inclusion in the agenda. Furthermore, in UNEP, accredited NGOs may submit to the secretariat written comments on the working documents of the Governing Council and the Ministerial Forum for their consideration and distribution to Members of the Committee of Permanent Representatives, before working documents are published.

### **Review, suspension or withdrawal of accreditation**

35. In most organizations, a system of review of NGO accreditation is provided for the purpose of either continuing, suspending or terminating the official relations. For instance, the Secretariat of UNEP Governing Bodies on the recommendation of the Major Groups and Stakeholders Branch may suspend for up to three years or withdraw the accreditation of a CSO whenever the latter abuses its status<sup>38</sup>.

<sup>33</sup> The *Directives concerning UNESCO's partnership with non-governmental organizations* detail two formal status, Consultative Status and Associate Status. Depending on the type of formal status, INGOs may participate in sessions of UNESCO General Conference either directly or upon invitation. However, for both status, invitation to other UNESCO meetings is subject to the decision of the Director General, upon consideration of the relevance of CSOs' contribution to the work of these meetings (UNESCO Basic Texts, part K, sections II, III and VI, paragraph 1(c) and (f)).

<sup>34</sup> WHO and WIPO recognize only one category of formal relations: namely *official relations* in WHO and *permanent observer status* in WIPO. NGOs enjoying formal relations with WHO may participate in the Health Assembly meeting or in meetings of its main committees only upon invitation by the President of the Health Assembly or by the chairperson of the relevant main committee, respectively (Rules of Procedure of the Health Assembly, Rule 47). NGOs having permanent observer status in WIPO are automatically invited to participate in any governance meeting; whereas, organizations without formal status can participate in specific WIPO meetings, upon *ad hoc* invitation by the Director-General.

<sup>35</sup> WHO *Principles Governing Relations with Nongovernmental Organizations* as adopted by the World Health Assembly at its 4<sup>th</sup> Session in 1987 (Resolution 40.25).

<sup>36</sup> In ECOSOC and WHO, the decision for accreditation of NGOs is the prerogative of governmental *ad hoc* committees. In ILO, the authority to invite INGOs to sessions of the International Labour Conference is attributed to the Chairperson and Vice-chairpersons of the Conference while participation of INGOs in other ILO meetings have to be approved by the Officers of the ILO Governing Body. In WIPO, the decision to grant permanent observer status in its governing bodies rests with the relevant Assemblies of the Member States.

<sup>37</sup> In UNESCO, *consultative status* may be conferred by the Director-General while *associate status* is granted by the Executive Board upon recommendation of the Director-General (*Directives concerning UNESCO's partnership with non-governmental organizations*, UNESCO Basic Texts, part K, sections II and III).

<sup>38</sup> *Directives concerning UNESCO's partnership with non-governmental organizations*, UNESCO Basic Texts, part K, section IV, paragraph 2.4.

#### IV. ISSUES ARISING FROM THE CURRENT FAO LEGAL FRAMEWORK AND PRACTICE

36. At present, the legal regime of participation of CSOs in FAO meetings is of a dual nature. On the one hand, there is a set of well defined rules contained in Parts M and N of the Basic Texts and, on the other hand, there are a number of practices and *ad hoc* procedures which were developed over the years. This situation is a source of some uncertainty as to the actual legal regime which governs participation in meetings and, for the past four or five years, there have been frequent calls for a re- definition of applicable procedures for CSO participation in meetings. This document does not propose any specific procedures – which will be ultimately a matter for the membership – but identifies below a number of areas which would have to be considered in the context of review of existing procedures and arrangements.

37. One area that may need to be addressed is related to **eligibility criteria** for CSOs to acquire formal status or to participate, upon invitation, in specific meetings. It would be desirable that the Organization should abandon the current dual system. There might be a need to formally make provision for national NGOs, as opposed to INGOs, to be invited to meetings of the Organization. If the current criteria requiring international status should remain, there might be a need to provide further clarity; the Basic Texts qualify a NGO as international when it is international in its scope and in its structure but, in practice, at present the international character of the CSO is evaluated by looking at its international scope and governance, namely the international composition of its governing body.

38. Regarding the **procedure for participation**, whereas the procedure for granting formal status is still in force and is being applied, many CSOs take part in FAO meetings without having been granted formal status, upon invitation by the Organization. Enhanced consistency and clarity of the process for granting rights to participate may be desirable.

39. As far as the **rights of participation of CSOs are concerned**, under current practice certain NGOs *de facto* participate in FAO meetings without any formal status and, more importantly, without any provision regarding modalities for regulating their rights and duties. Whereas INGOs having formal status may intervene in FAO meetings, time permitting and once Members have concluded their interventions, INGOs without formal status may intervene in a number of meetings without waiting until all Members have spoken. There would seem to be a need to define the rights and obligations and ensure consistency.

40. Regarding the **private sector**, in general, the Basic Texts do not provide for the possibility of participation of private sector representatives in FAO meetings. However, it is worth noting that CFS and the *Codex Alimentarius* foresee such possibility<sup>39</sup>. Furthermore, sometimes formal non-for-profit organizations may *de facto* represent the interest of the industry in specific technical meetings. It may be desirable to clarify the scope, if any, of participation to be accorded to relevant private sector bodies.

#### V. SUGGESTED ACTION BY THE COMMITTEE

41. In light of the foregoing, the Committee is invited to review this document and make such comments and observations thereon, as appropriate. In so doing, the Committee may wish to bear in mind considerations regarding the desirability that:

- (a) the intergovernmental nature of FAO's decision-making process should be maintained, *i.e.* Member States have the exclusive power to take decisions;

---

<sup>39</sup> As INGOs in the case of the Codex Alimentarius Commission.

(b) norms, standards or policies should continue to be developed without influence by any vested interest; and

(c) coherence between various rules and mechanisms of participation of CSOs in force in FAO (Basic Texts, Codex Alimentarius, etc) should be ensured, taking into consideration rules, procedures and practice in the UN System.

42. The CCLM may wish to advise on a process for review of the rules and procedures for the participation of CSOs in meetings of the Organization.