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JOINT MEETING

**Hundred and Twenty-ninth Session of the Programme Committee and
Hundred and Eighty-third Session of the Finance Committee**

9 November 2020

Use of unspent balances of biennial appropriations [cf. CCLM 110/3]

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

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EXECUTIVE SUMMARY

- This document is submitted to the Joint Meeting following guidance by the Council at its 164th Session (July 2020) on a proposal for the use of unspent balances of biennial appropriations.
- It is recalled that the process for the use of the unspent balance of the 2018-19 appropriation follows the procedure recommended by the Committee on Constitutional and Legal Matters (CCLM) in December 2019 and that implementation of the proposed one-time uses would be reported to the Finance Committee as part of regular reporting on budgetary performance, and would be reported to the Governing Bodies as part of the Programme Implementation Report 2020-21.
- The CCLM, in reviewing the matter in May 2020, noted the complexity of the issue, given the fact that there is a lack of clarity on how unspent balances could be used and, in particular, the absence of a definition of cash surplus in the Financial Regulations.
- This document addresses the technical and policy aspects of the use of unspent balances of biennial appropriations, and presents a delineation for the terminology “cash surplus.”

GUIDANCE SOUGHT FROM THE JOINT MEETING

- The Joint Meeting is invited to review this document and address technical and policy aspects of the use of unspent balances of biennial appropriations, following which the CCLM would reconsider the issue and provide advice on legal arrangements which could include, for example, a review of the Financial Regulations.

Draft Advice

The Joint Meeting:

- **noted the information addressing technical and policy aspects of the use of unspent balances of biennial appropriations; and**
- **agreed to mandate the CCLM to reconsider the issue and provide advice on legal arrangements, including for a review of the Financial Regulations.**

I. Introduction

1. This document is submitted to the Joint Meeting of the 129th Session of the Programme Committee and 183rd Session of the Finance Committee following guidance by the Council at its 164th Session (July 2020) on a proposal for the use of unspent balances of biennial appropriations.

II. Background

2. Regarding the use of the unspent balance of the 2018-19 biennium appropriation, the Council at its 164th Session:¹

- a) recalled the guidance of the 41st Session of the Conference on the use of the unspent balance of the 2018-19 biennial appropriation, appreciated the additional information received on the alternative uses, and approved the proposal on one-time uses of the unspent balances of the 2018-19 appropriations of USD 3.6 million contained in Appendix B of its report; and
- b) looked forward to receiving detailed expenditure information relating to the unspent balance from 2018-19 towards FAO's response to the impact of the Covid-19 pandemic.

3. It is recalled that the process for the use of the unspent balance of the 2018-19 appropriation follows the procedure recommended by the Committee on Constitutional and Legal Matters (CCLM) in December 2019² and that implementation of the proposed one-time uses would be reported to the Finance Committee as part of regular reporting on budgetary performance, and would be reported to the Governing Bodies as part of the Programme Implementation Report 2020-21.³

4. Regarding the discussion on the systematic use of unspent balances, the Council at its 164th Session noted that the discussion was ongoing and looked forward to reviewing this matter at its 165th Session following review by the Committee on Constitutional and Legal Matters (CCLM) and the autumn session of the Joint Meeting of the Programme and Finance Committees.⁴

5. The CCLM, in reviewing the matter in May 2020, noted the complexity of the issue, given the fact that there is a lack of clarity on how unspent balances could be used and, in particular, the absence of a definition of cash surplus in the Financial Regulations.

6. The CCLM reaffirmed the importance of Financial Regulation 4.2, which states the Organization's policy regarding unobligated appropriations at the end of the financial period and underscored that FAO, as a rules-based organization, should operate in accordance with its policies and regulations. It recognized the authority of the Conference to make exceptions to Financial Regulation 4.2 but considered that these should be limited and made in accordance with a clear, well-defined and transparent process.

7. In its review of the Report of the 110th Session of the CCLM, the Council reaffirmed the importance of abiding by the provisions of Financial Regulation 4.2 and endorsed the CCLM's recommendation that it reconsider the matter and provide advice on legal arrangements, upon review by the Programme and Finance Committees of the technical and policy aspects of the use of unspent balances.⁵

III. Technical and policy aspects

8. Regarding the policy and technical aspects, the Joint Meeting may wish to provide its views on the proposed approach outlined by the CCLM in its Report of October 2019, as shown in *Annex 1*, which is the approach followed in practice for the use of the unspent balance of the 2018-19 appropriation.

¹ CL 164/REP paragraph 17 a) and b)

² CL 163/2, paragraphs 11 - 13

³ CL 164/5 paragraph 12.g)

⁴ CL 164/REP paragraph 17 c)

⁵ CL 164/REP paragraph 20 c)

9. The CCLM recalled that, if there is no approval by the Council, the unobligated appropriations at the close of the financial period shall be cancelled and the unspent balance reverts to the General Fund.⁶ Further information on this aspect is provided below.

10. Financial Regulation 6.1(b) provides that “any cash surplus in the General Fund at the close of any financial period shall be allocated among Member Nations in accordance with the Scale of Contributions applicable to that period and, as of 1 January following the year in which the audit of the final accounts of the financial period is completed, shall be released and applied to liquidate, in whole or in part, first, any advance due to the Working Capital Fund; second, any arrears of contributions; and third, contributions for the calendar year following the year in which the audit is completed”.

11. The term “cash surplus” used in the Financial Regulations derives from the accounting policies in use by FAO for presenting the accounts when the Financial Regulations were first formulated. Over the years, FAO together with other UN system organizations has progressively moved away from a “cash” basis of accounting to an “accrual” basis to more accurately present the financial performance and position of the Organization. This was reflected in the transition to the presentation of the financial statements in accordance with International Public Sector Accounting Standards (IPSAS) for financial periods beginning 1 January 2014.

12. The “surplus” in the General Fund reflects the accumulated impact of financial transactions for the current and all previous financial periods. This balance is reported in the annual accounts and specifically through the note disclosure on “Segment Reporting”. FAO has for many years reported a significant accumulated deficit under the General Fund and that mainly represents the unfunded liability associated with the After Service Medical Coverage Plan. In the absence of an approach to address this unfunded liability, the likelihood of FAO reporting a surplus in the General Fund is remote.

13. It should be noted that the concept of “surplus” in the General Fund is distinct from the budgetary surplus reported to the Governing Bodies through the *Annual Report on Budgetary Performance and Programme and Budgetary Transfers* for each biennium. This budgetary surplus simply compares the total expenditure for an individual biennium against the budgetary appropriation for the same period and excludes the impact of prior year surpluses and deficits and the overall financial position of the General Fund.

14. In accordance with Financial Regulation 4.2 the unspent balance of a biennial appropriation is not available for obligations during any subsequent financial periods⁷ and shall be cancelled. In the absence of a derogation of the Financial Regulations authorising the use of the unspent balance of a biennial appropriation for expenditures during a subsequent financial period, the unspent balance is effectively absorbed within the accumulated deficit in the General Fund.

IV. Conclusions and recommendations

15. The Joint Meeting of the Programme and Finance Committee is requested to provide guidance on the technical and policy aspects of the use of unspent balances of biennial appropriations, after which the CCLM would reconsider the issue and provide advice on legal arrangements which could include, for example, a review of the Financial Regulations.

⁶ CL 163/2 paragraph 13

⁷ With the exception of the specific provisions for the appropriations approved for the Technical Cooperation Programme, Capital Expenditure Account and Security Expenditure Account

Annex 1: Proposal for use of unspent balances of biennial appropriations⁸

1. The CCLM considered document CCLM 109/3 “*Proposal for use of unspent balance of biennial appropriations*”. Following presentations by the Legal Counsel and the Director of the Office of Strategy, Planning and Resources Management (OSP), the Committee deliberated on the legal and constitutional aspects of this matter, bearing in mind that it would also be the subject of consideration by the forthcoming Joint Meeting of the Programme and Finance Committees for policy comments, especially on the use of the carryover of unspent funds.
2. The CCLM reaffirmed the importance of Financial Regulation 4.2 which states the Organization’s policy regarding unobligated appropriations at the end of the financial period.
3. It recommended that the Conference consider using the following language in anticipation of unspent balances of budgetary appropriations, either in the appropriations resolution or in its report:
“The Conference authorises the Director-General, notwithstanding Financial Regulation 4.2, to submit a proposal for one-time use of unspent balances of the [current biennium] appropriations for approval by the Joint Meeting of the Programme and Finance Committees, and the Council at their respective meetings in [dates for first sessions in the subsequent biennium]”.
4. The CCLM agreed that, subject to the review and adjustments by the Joint Meeting of the Programme and Finance Committees and the Council, the following approval procedure be recommended to the Conference for adoption:
 - a) Following closure of the accounts, the Secretariat prepares information regarding the balance of unspent funds in the previous biennium and the proposed uses of those funds.
 - b) The proposed uses of the carryover of unspent balances would be for specific one-time, high priority organization-wide matters, and would generally fall in the following categories:
 - one-time expenditures on critical measures required to achieve greater efficiency and effectiveness of the Organization, without negatively impacting FAO’s ability to deliver the approved programme of work;
 - one-time expenditures associated with transformational change of the Organization; including strengthening accountability, governance and impacts of activities;
 - non-budgeted expenditures of a one-time nature required as a result of the decisions or recommendations of external bodies such as the UN General Assembly.
 - c) The proposal for use of unspent funds would be referred to the Joint Meeting based on input derived from the Annual Report on Budgetary Performance and Budgetary Transfers (ARBP) which is submitted to the Finance Committee for approval as a standing item at its first session of the new biennium.
 - d) The Council approves the proposed use of carryover funds, based on recommendations from the Joint Meeting.
 - e) The Secretariat implements the Council’s guidance and reports on the use of carryover funds, in line with the established reporting practice and rules.
5. The CCLM further recalled that, if there is no approval by the Council, the unobligated appropriations at the close of the financial period shall be cancelled and the unspent balance would revert to the General Fund.

⁸ cf. CL 163/2, Section IV