



COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

Hundred and Twenty-second Session

Rome, 3-5 March 2025

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)

I. Introduction

1. In Recommendation 7 of its Report on the Review of the state of the investigation function, the Joint Inspection Unit of the United Nations (JIU) (the “JIU Report 2020/1”) recommended that: “[t]he legislative bodies of United Nations system organizations that have not yet done so should develop and adopt appropriate formal procedures for the investigation of complaints of misconduct by executive heads” (“Recommendation 7”).
2. This matter is presented to the Committee on Constitutional and Legal Matters (the “CCLM” or “the Committee”) in accordance with its mandate as set out in Rule XXXIV, paragraph 8, of the General Rules of the Organization, whereby the Committee considers “the legal and constitutional aspects of any other matters submitted to it by the Council”. It responds to the Council’s decisions as set out below.
3. The matter is also under consideration by the Finance Committee, within the context of its mandate.

II. Background

4. Recommendation 7 of the JIU Report 2020/1 was discussed by the CCLM during its last session in October 2024. Members deliberated on this subject in previous sessions of the CCLM,¹ the Finance Committee,² and the Council.³

¹ 117th Session of the CCLM (October 2022; [CCLM 117/4](#)); 118th Session of the CCLM (March 2023; [CL 172/10](#)); 119th Session of the CCLM (October 2023; [CCLM 119/2](#)); and 120th Session of the CCLM (March 2024; [CCLM 120/5](#)).

² 194th Session of the Finance Committee (November 2022; [FC 194/7](#)); 195th Session of the Finance Committee (March 2023; [CL 172/9](#)); 198th Session of the Finance Committee (November 2023; [FC 198/8](#)); and the 199th Session of the Finance Committee (May 2024; [FC 199/10](#)). The Finance Committee also considered the matter at its 188th Session (November 2021; [CL 168/9](#), paragraph 18(d)) and its 191st Session (May 2022, [CL 170/12](#), paragraph 30).

³ 171st Session of the Council (December 2022; [CL 171/9](#); [CL 171/10](#); [CL 171/REP](#)); 172nd Session of the Council (April 2023; [CL 172/REP](#)); 174th Session of the Council (December 2023; [CL 174/9](#); [CL 174/10](#));

5. In its report submitted to the 175th Session of the Council, the CCLM⁴ stated that it looked forward to considering draft procedures including options to be selected by Members, with a summary of their pros and cons. In its own report to the Council at that Session, the Finance Committee⁵ had urged Members of the Finance Committee and the CCLM to work together in advance of their fall 2024 sessions to provide guidance on the key components of draft procedures to be developed by the Legal Office and recommended that the Chairpersons of each Committee serve as co-facilitators for these informal working sessions.

6. These recommendations were endorsed by the Council⁶ and led to two informal working sessions of the CCLM and Finance Committee being held in hybrid format at FAO headquarters on 6 and 25 September 2024, with the Inspector General and Chairperson of the Oversight Advisory Committee (OAC) in attendance. This preparatory work fed into the deliberations of Members during the 121st Session of the CCLM (28-30 October 2024) and the 202nd Session of the Finance Committee (11-15 November 2024). In their reports to the Council,⁷ both Committees called for further informal joint working sessions prior to their spring 2025 sessions. This was endorsed by the Council at its 176th Session in December 2024.⁸

7. Specifically, the CCLM recommended:

“a) against the creation of a standing special committee, or “Special Mechanism”;

b) the introduction of a limit of five working days to align the three options of the initial determination; and

c) with respect to the External Investigating Entity (“EIE”):

i. adding an option reflecting the possibility of a direct referral to the EIE by the Office of the Inspector General and/or the Oversight Advisory Committee when it is determined that a further review is warranted; and

ii. considering the suggestion of a single EIE, such as the UN Office of Internal Oversight Services, as an alternative to a roster.”⁹

8. The CCLM, joined on this point by the Finance Committee, also recognized *“the essential nature of the ‘Fact-finding phase’ as an impartial technical exercise, while noting the need to determine the role of relevant Governing Bodies in this regard”*.¹⁰

9. As requested by Members, an additional informal working session of the two Committees was held on 30 January 2025, under the same arrangements previously followed. In advance of the session, Version 2.0 of the draft *Procedure to address allegations of misconduct against the Director-General of FAO* was circulated to the Members of the two Committees, together with an informal note describing the changes brought to the draft procedure. At the time of the finalization of the present document, a second informal working session was scheduled for 17 February 2025.

[CL 174/REP](#); 175th Session of the Council (June 2024; [CL 175/11](#); [CL 175/12](#); [CL 175/REP](#)); and the 176th Session (December 2024; [CL 176/10](#); [CL 176/11](#); [CL 176/REP](#)). The Council also considered the recommendations of the Finance Committee at its 168th Session (November/December 2021; [CL 168/REP](#), paragraph 27(h)) and its 170th Session (June 2022; [CL 170/REP](#), paragraph 30).

⁴ [CL 175/12](#), paragraph 20.

⁵ [CL 175/11](#), paragraph 24 d) and e).

⁶ [CL 175/REP](#), paragraph 21 a) iii, and 23 b) ii.

⁷ [CL 176/11](#), [CL 176/10](#).

⁸ [CL 176/REP](#), at paragraphs 30 b) vi) and 34 b).

⁹ [CL 176/11](#), paragraph 18.

¹⁰ [CL 176/11](#), paragraph 19, and [CL 176/10](#), paragraph 31 d).

10. Version 2.0 built on version 1.0 previously submitted to the members of the CCLM¹¹ and Finance Committee,¹² by reflecting the proposals and comments made by Members, both orally and in writing, during the informal working sessions held in September 2024, as well as the 121st Session of the CCLM and the 202nd Session of the Finance Committee.

11. Attached to the present document as an **Annex** is Version 2.1 of the draft procedure, which was adjusted to reflect in substance the Members' discussions during the informal working session of 30 January 2025. Due to translation and publication imperatives, the outcomes of the informal working session scheduled for 17 February 2025 could not be addressed in the present document.

12. The present document aims at supporting the on-going discussions among Members by describing the changes brought to Versions 1.0 and 2.0, and highlighting the remaining options calling for decisions by the membership.

III. Version 2.1 of the draft procedure

A. Preliminary considerations

13. The annexed draft procedure does not constitute a definitive proposal. It reflects the Secretariat's own perception of convergences in the Members' deliberations thus far and reproduces the options that have yet to be selected by Members. These areas of convergence and choices to be made remain entirely for the membership to advise upon.

14. This said, it appears that a fundamental question emerging from the deliberations held so far is the role that should be played by the membership during the fact-finding phase. A resultant question is whether the draft procedure should provide for a monitoring function by a committee of members during the fact-finding phase. Therefore, Members may wish to address the larger issue of whether the membership should play a role during the fact-finding phase before selecting which entity should eventually discharge this responsibility.

15. Another pending issue is the balance to be struck between the level of information communicated to Members during the decision-making phase and the requirements of due process, including confidentiality.

16. Proposed amendments to key elements of the draft procedure are presented in the next section, based on the comments and suggestions expressed so far by the Members in their discussions. Members are requested to provide their views on these proposed amendments.

17. As with the original version of the draft procedure, the consequential amendments that would flow from the selection of any of the various options presented have not been included in the draft procedure. The relevant text can be adjusted later, depending on the options favoured by the Members. It will also be noted that version 2.1 includes purely editorial changes aimed at clarifying the proposed procedure.

B. Adjustments in Version 2.0 of the draft procedure to reflect Members' comments and proposals

1. Definition of misconduct

18. Further to comments expressed by Members during the informal working session of 30 January 2025, an option 2 has been inserted under paragraph 4 of the draft procedure, which defines "misconduct" for the purpose of the procedure. It will be recalled that in the report of the 119th Session of the CCLM,¹³ it is stated that "[...] *the definition should stipulate the applicability of*

¹¹ Annex to document [CCLM 121/4 Rev.1](#).

¹² Annex to document [FC 202/14](#).

¹³ [CL 174/10](#), paragraph 9.

the definitions in other FAO rules and policies addressing those specific kinds of misconduct". Hence the open reference in paragraph 4 to "*other relevant administrative issuances applicable to FAO staff members, including but not limited to those on the prevention of harassment, sexual harassment, abuse of authority, fraud and other corrupt practices, and gross negligence.*"

19. The alternate wording in option 2 makes clear, as does the wording in option 1, that all duties and obligations applicable to staff members under the FAO administrative framework would also apply to the Director-General.

2. *Reporting allegations of misconduct*

20. During the informal working session of 30 January 2025, a question was raised concerning paragraph 8 of the draft procedure as to how and when it would be determined that an allegation made in bad faith against the Director-General constitutes misconduct. Depending on the circumstances of the case, it is recommended that this potential instance of misconduct would be reported to OIG following either the initial determination, the preliminary review, or the investigation, leading to a separate review conducted in accordance with the FAO Investigation Guidelines.

3. *Fact-finding phase*

a) *Initial determination*

21. At the request of a Member Nation, an additional option was inserted under paragraph 9, providing for the initial determination to be made by the Inspector General, the OAC Chairperson and the Independent Chairperson of the Council (ICC). Corresponding options have been added under paragraph 15 and 16 of the draft procedure, whereby it would be the ICC who would forward the complaint and related documentation to an External Investigative Entity (EIE), and inform the Director-General accordingly.

22. As requested by the CCLM,¹⁴ a time limit of five (5) working days has been introduced in option 3 under paragraph 9 of the draft procedure, to align this option with the first two.

23. Similarly, option 4 under paragraph 12, providing for the creation of a special standing committee (Special Mechanism) has been deleted following the CCLM's guidance endorsed by the Council.¹⁵

24. Option 3 under paragraph 12, concerning a committee composed of Chairpersons and Vice-Chairpersons of Regional Groups, has also been deleted, based on comments by one Member Nation that were not objected to.

25. In view of the emphasis given by the CCLM and the Finance Committee to the impartial technical nature of the fact-finding phase, paragraph 15 of the draft procedure has been deleted and replaced by the former option 2. In practice, this means that the initial determination made by the Inspector General and the OAC Chairperson would not be subject to review, and possible rejection, by Members. The deletion of former paragraph 15 brought about corresponding amendments in paragraph 16 and the deletion of paragraph 17.

26. Finally, a new option 2 under paragraph 15 has been included in response to the recommendation by the CCLM¹⁶ that the possibility of a direct referral to the EIE by the Inspector General and OAC Chairperson be reflected, when it is determined that further review is warranted.

¹⁴ [CL 176/11](#), paragraph 18 b).

¹⁵ [CL 176/11](#), paragraph 18 a).

¹⁶ [CL 176/11](#), paragraph 18 c) i).

b) Further review

27. Further to written comments received from a Member Nation, paragraph 17 of the draft procedure has been amended to insert additional criteria governing the selection of an available EIE to provide investigative services.

28. Furthermore, a new option 2 has been inserted under paragraph 17 in response to the recommendation by the CCLM¹⁷ that the possibility of FAO contracting a single EIE be considered, as an alternative to the creation of a roster of potential EIEs.

29. As with the deletion of former paragraph 15 of the draft procedure, mentioned above at paragraph 25 of this document, option 2 under paragraph 21 has been deleted to reflect the emphasis given by the CCLM and the Finance Committee to the impartial technical nature of the fact-finding phase. This change implies that a determination by the EIE that there are grounds justifying the opening of an investigation would not be subject to review, and possible rejection, by Members.

c) Investigation

30. Option 2 under paragraph 25 has been deleted in the draft procedure. This removes the option of having the EIE, instead of Members, decide on whether the opening of the decision-making phase is warranted. The removal of this option is based on the written comments provided by two Member Nations.

4. Decision-making phase

a) CCLM proceedings

31. Option 2 under paragraph 28 has been deleted from the attached draft procedure, for the same reasons outlined in paragraph 30 above.

b) Council proceedings

32. Option 2 under paragraph 35 proposed that the Conference delegate to the Council the authority to take the final decision on a recommendation by the CCLM or the Finance Committee to impose a sanction or close the case, based on the investigation report. However, many Member Nations have expressed, both in writing and orally, their preference for keeping this decision-making authority with the Conference. Accordingly, option 2 under paragraph 35 has been deleted from the draft procedure.

c) Conference proceedings

33. Further to queries raised by Member Nations during the informal working group session of 30 January 2025, a new option 3 has been inserted under paragraph 37 of the draft procedure, to specify what kind of accessory measures could be adopted by the Conference when allegations of misconduct against the Director-General are found to be substantiated.

5. Whistleblower protection

34. At the suggestion of one Member Nation, paragraph 43 has been amended to expand whistleblower protection. In addition to individuals who report allegations of misconduct, the new text now also covers individuals who collaborate with the review of such allegations.

¹⁷ [CL 176/11](#), paragraph 18 c) ii.

IV. Promulgation and amendments to the Basic Texts and other instruments

35. As previously indicated to the members of the CCLM¹⁸ and the Finance Committee,¹⁹ the draft procedure could be promulgated by way of a Conference resolution, in conformity with item vi) of the criteria for Conference Resolutions regarding “*major programme and policy matters*”,²⁰ first adopted by the Conference in 1975.²¹

36. Members could opt to insert this stand-alone Conference resolution in Volume II of the Basic Texts, in line with the practice already observed by the Conference²² as previously recommended by the CCLM²³ and the Council.²⁴

37. Following the request of some Member Nations at the informal working group session of 30 January 2025, an informal document describing the processes for review and adoption of Conference resolutions and for effecting amendments to the Basic Texts was shared with members of the CCLM and Finance Committee in advance of the informal working group session planned for 17 February 2025.

38. As previously indicated to the Members,²⁵ the promulgation of the draft procedure by way of a Conference resolution would require that amendments be brought to other institutional instruments, including the Charter of the Office of the Inspector General, the Terms of Reference of the OAC, the standard clauses in the Conference resolution appointing the Director-General, and the contract of employment between the Director-General and the Organization. Regarding the latter, new provisions would refer to the actions that may be taken by the Conference when misconduct has been established in accordance with the procedure.

V. Developments in other specialized agencies

39. Members were briefed on the ongoing negotiations at WHO²⁶ during the last session of the CCLM.²⁷ At the time of publication of the present document, the Programme, Budget and Administration Committee of the Executive Board had received the report of the leads for Member State-led governance reform on “*a process for handling and investigating potential allegations against WHO Directors-General*”,²⁸ for consideration by the Executive Board in February 2025.

40. In this report, the leads recommended further Member State deliberations on “*whether to grant governing bodies the decision-making power to close a case before all sufficient initial facts have been established and/or when evidence exists to warrant a full investigation*”.²⁹ Updated information on the outcome of the Executive Board session will be provided orally to the Members of the CCLM during its 122nd Session.

41. Noteworthy developments recently took place at IFAD.³⁰ At its 143rd Session the Executive Board of IFAD approved a “*Policy on handling allegations of misconduct against the IFAD*”

¹⁸ [CCLM 121/4 Rev.1](#), paragraph 41.

¹⁹ [FC 202/14](#), paragraph 38.

²⁰ [C 2023/12](#), Appendix A.

²¹ [C 1975](#), paragraph 19.

²² e.g. [C 2009/REP](#), paragraphs 144 to 156.

²³ [CL 136/13](#), paragraph 26.3.

²⁴ [CL 136/REP](#), paragraph 94.

²⁵ [CCLM 121/4 Rev.1](#), paragraph 43, and [FC 202/14](#), paragraph 40.

²⁶ WHO – World Health Organization.

²⁷ [CCLM 121/4 Rev.1](#), paragraphs 44 to 48.

²⁸ [EB156/30](#).

²⁹ Paragraph 3 of the Annex.

³⁰ IFAD - International Fund for Agricultural Development.

*President*³¹. This policy will be submitted for adoption by the Governing Council of IFAD during its Forty-eighth Session to be held on 12-13 February 2025.³²

42. IFAD is not among the participating organizations having accepted the Statute of the JIU. It is understood that the adoption of this policy stems from a review of IFAD's investigation processes and practices conducted by three external experts in 2022.

43. Among the salient features of this draft policy that may be of interest to Members,³³ it is noted that the initial evaluation jointly conducted by the Director of the Office of Audit and Oversight and the Chief of Ethics is referred to the Audit Committee, which submits a report to the Executive Board for its consideration.³⁴ The Audit Committee is a subsidiary committee of the Executive Board, composed of representatives of Member States.

44. Similarly, when the allegations against the President have been found to be substantiated, the Audit Committee reviews the case (including the investigation report, the letter of charges and the President's response) and prepares a report for the Executive Board. If the latter considers that a decision by the Governing Council on the allegations is warranted, it reports to the Governing Council accordingly.³⁵

45. It may also be noted that under the policy, when an EIE deems that a complaint warrants investigation, it shall automatically proceed with this investigation.

VI. Suggested action by the Committee

46. The Committee is invited to review this document including the annexed Version 2.1 of the draft *Procedure to address allegations of misconduct against the Director-General of FAO*, and to provide its guidance and recommendations on the remaining options presented therein, as part of the on-going negotiations among Members as to the best means to implement Recommendation 7 of the JIU Report 2020/1.

³¹ [EB 2024/143/R.22](#).

³² [GC 48/L.4](#).

³³ As of the date of the finalization of the present document.

³⁴ [EB 2024/143/R.22](#), paragraph 13.

³⁵ Paragraph 25.

DRAFT – VERSION ~~2.1.0~~

Procedure to address allegations of misconduct against the Director-General of FAO

Negotiating text

I. Introduction

1. Allegations of misconduct concerning Directors-General of FAO are to be addressed having due regard to the following general principles of international administrative law:

- a) adherence to, and consistency with, the Basic Texts of FAO;
- b) compliance with due process, including the adversarial principle and the right of defence;
- c) observance of the duty of care owed by the Organization to its staff and other personnel;
- d) compliance with the presumption of innocence, with the burden of proof being on the Organization.

2. ~~The present procedure is adopted by the Conference to regulate specifically the~~ review of allegations of misconduct ~~concerning against~~ Directors-General, ~~to the exclusion shall be governed solely by the procedure laid down in the present Resolution. In case of any actual or perceived inconsistency between this procedure and~~ other provisions of the Basic Texts ~~unless these explicitly replace or supersede this procedure,~~ the procedure set out herein shall prevail for the purpose of addressing such allegations of misconduct.

3. The duty of Directors-General to exercise their functions in conformity with the highest standards of ethical conduct is embodied in the terms and conditions of appointment ~~provided for set out~~ in the contract between the Organization and the Director-General pursuant to General Rule XXXVII, paragraph 4.

II. Definition of misconduct

4. For the purpose of this procedure, misconduct is defined as the non-compliance, through acts or omissions, with the Director-General's obligations under the FAO Basic Texts. Misconduct also includes non-compliance with the Standards of Conduct for the International Civil Service, the FAO Staff Regulations and Rules, the FAO Administrative Manual, and other relevant administrative issuances applicable to FAO staff members, including but not limited to those on the prevention of harassment, sexual harassment, abuse of authority, fraud and other corrupt practices, and gross negligence.

Option 2:

4. For the purpose of this procedure, misconduct is defined as the non-compliance, through acts or omissions, with the Director-General's obligations under the FAO Basic Texts. Misconduct also includes non-compliance with the Standards of Conduct for the International Civil Service, the FAO Staff Regulations and Rules, the FAO Administrative Manual, and other relevant administrative issuances applicable to FAO staff members.

III. Reporting allegations of misconduct

5. Allegations of misconduct concerning the Director-General may be reported by way of a complaint to the Office of the Inspector General (OIG) through the standard channels of communication maintained by OIG. Any individual may report such allegations, irrespective of their relationship with FAO.
6. Complaints and related information reported or reviewed in accordance with this procedure shall be treated at all stages under the condition of strict confidentiality. All information reviewed, communicated, or produced pursuant to this procedure is strictly confidential and may not be disclosed except as provided herein. This duty of **strict** confidentiality applies without exception to staff members and other personnel of the Organization, members of advisory or investigative bodies, and representatives of Member Nations or Member Organizations.
7. Complaints should, to the extent possible, include the following information:
 - a) a detailed description of the alleged misconduct;
 - b) the time(s) and location(s) of the alleged misconduct;
 - c) the names of any potential witness(es) to the alleged misconduct;
 - d) all available supporting documentation.
8. Allegations of misconduct against a Director-General must be made in good faith. They must not be used to transmit or disseminate frivolous or vexatious statements, nor unsubstantiated rumours. Similarly, complaints must not be filed for the purpose of interfering with the lawful exercise of the executive authority conferred on the Director-General by Article VII, paragraph 4 of the Constitution **and other relevant provisions of the Basic Texts**. Any false allegations of misconduct against the Director-General submitted knowingly and intentionally by FAO staff members or other personnel shall be considered misconduct and addressed as such according to the FAO Staff Regulations, Staff Rules, and Administrative Manual.

IV. Fact-finding phase

A. Initial determination

9. Upon receipt of a complaint through the standard channels, the Inspector General shall promptly transmit it to the Chairperson of the Oversight Advisory Committee (OAC). The Inspector General and the OAC Chairperson shall jointly review the allegations made within five (5) working days following receipt of the complaint and determine, *prima facie*, if further review is warranted.

Option 2:

9. Upon receipt of a complaint through the standard channels, the Inspector General shall promptly transmit it to the Chairperson of the Oversight Advisory Committee (OAC). The Chairperson of the OAC **shall then call a meeting of the OAC within five (5) working days following receipt of the complaint for the OAC to review the allegations made therein** and determine, *prima facie*, if further review is warranted.

Option 3:

9. Upon receipt of a complaint through the standard channels, **the Inspector General shall review the allegations and determine, *prima facie*, if further review is warranted. This initial determination shall thereafter be forwarded to the Chairperson of the Oversight Advisory Committee (OAC) within five (5) working days, for endorsement by the Committee.**

Option 4:

9. Upon receipt of a complaint through the standard channels, the Inspector General shall promptly transmit it to the Chairperson of the Oversight Advisory Committee (OAC) and the Independent Chairperson of the Council (ICC). The Inspector General, the OAC Chairperson and the ICC shall jointly review the allegations made within five (5) working days following receipt of the complaint and determine, *prima facie*, if further review is warranted.

10. If the initial determination ~~by the Inspector General and the Chairperson of the OAC~~ indicates that the allegations, as presented, do not warrant further review, OIG shall immediately close the case and inform the complainant accordingly. This includes allegations that are frivolous or vexatious or allegations that do not raise issues regulated by standard processes of accountability. This initial determination is final.
11. The OAC shall include in its annual report a statistical summary of cases that have been closed pursuant to paragraph 10.
12. If the initial determination ~~by the Chairperson of the OAC and the Inspector General~~ indicates that further review is warranted, the complaint is referred to the Chairperson of the Committee on Constitutional and Legal Matters (CCLM) by the Chairperson of the OAC, together with any supporting documents and a written communication setting out the rationale for the initial determination.

Option 2:

12. If the initial determination ~~by the Chairperson of the OAC and the Inspector General~~ indicates that further review is warranted, the complaint is referred to **the Chairperson of the Finance Committee** by the Chairperson of the OAC, together with any supporting documents and a written communication setting out the rationale for the initial determination.

Option 3:

~~12. — If the initial determination by the Chairperson of the OAC and the Inspector General indicates that further review is warranted, the complaint is referred by the Chairperson of the OAC to the longest-serving Chairperson of a Regional Group, together with any supporting documents and a written communication setting out the rationale for the initial determination. This Regional Group Chairperson shall preside over an ad hoc committee composed of the Chairpersons and Vice-Chairpersons of the seven Regional Groups identified by the Conference for Council elections purposes.~~

Option 4:

~~12. — If the initial determination by the Chairperson of the OAC and the Inspector General indicates that further review is warranted, the complaint is referred by the Chairperson of the OAC to the Chairperson of the Examination Committee constituted pursuant to General Rule XXXVIII (xx), together with any supporting documents and a written communication setting out the rationale for the initial determination.~~

Option 35:

12. If the initial determination by the Chairperson of the OAC and the Inspector General indicates that further review is warranted, the complaint is referred by the Chairperson of the OAC **to the representative of a Member Nation exercising at that time the function of Chairperson of the CCLM [or Finance Committee]**, together with any supporting documents and a written communication setting out the rationale for the initial determination. **This representative shall preside over a Special Committee composed of the Chairperson[s] and Members of the**

CCLM [and/or Finance Committee] to discharge only and exclusively the functions ascribed to this Special Committee by the present procedure.

13. Following receipt of the complaint, the [CCLM/FC] Chairperson shall convene a private session of the Committee pursuant to General Rule [XXXIV (zz)]. This private session shall take place no later than five (5) working days from receipt of the complaint and related documentation. The [CCLM/FC] Chairperson may request the members of the OAC to be present to provide advice as may be required.
14. The Secretary of the CCLM shall be temporarily seconded from their duties with the Legal Office to serve as legal adviser in support of the process foreseen in this procedure until its conclusion. This includes providing legal assistance to the Chairpersons of the [CCLM/FC] and the OAC, the members of these two committees, as well as the members of the Council and the Conference in the discharge of their responsibilities under this procedure. As required, the CCLM Secretary may also provide legal assistance to an External Investigative Entity (EIE) called upon to review the matter or conduct an investigation. In the exercise of this function the CCLM Secretary shall report exclusively to the [CCLM/FC] Chairperson and refrain from referring or disclosing any information to the Legal Counsel or any other individual, in accordance with the duty of confidentiality prescribed under paragraph 6. The CCLM Secretary may be definitively or temporarily replaced by a Deputy Secretary to support the usual activities of the CCLM, under the same conditions as those provided above.
- ~~15. — The CCLM shall, drawing as necessary on the guidance of the members of the OAC:~~
- ~~a) — confirm the initial determination made by the Chairperson of the OAC and the Inspector General that further review is warranted; or~~
 - ~~b) — close the case and inform the complainant in writing accordingly. This decision shall be final.~~
- 15. If the initial determination by the Chairperson of the OAC and the Inspector General indicates that further review is warranted, the complaint is referred to the Chairperson of the [CCLM/FC] by the Chairperson of the OAC, together with any supporting documentation. The [CCLM/FC] Chairperson shall thereafter, within three (3) working days, transmit the complaint and related documentation to an External Investigative Entity (EIE) for further review.**

Option 2:

~~15. — If the initial determination by the Chairperson of the OAC and the Inspector General indicates that further review is warranted, the complaint is referred to the Chairperson of the CCLM by the Chairperson of the OAC, together with any supporting documentation. The CCLM Chairperson shall thereafter, within three (3) working days, transmit the complaint and related documentation to an External Investigative Entity (EIE) for further review.~~

Option 2:

15. If the initial determination by the Chairperson of the OAC and the Inspector General indicates that further review is warranted, the Chairperson of the OAC shall, within three (3) working days, transmit the complaint and related documentation to an EIE for further review.

Option 3:

15. If the initial determination by the Chairperson of the OAC, the Inspector General and the ICC indicates that further review is warranted, the ICC shall, within three (3) working days, transmit the complaint and related documentation to an EIE for further review.

16. Within three (3) working days ~~from the date of~~following receipt of the complaint pursuant to paragraph 15, the ~~[CCLM decision, the CCLM/FC]~~ Chairperson shall notify the Director-General that a complaint warranting further review has been lodged. If deemed advisable by the Chairperson of the decision taken pursuant to paragraph 15 and OAC, the [CCLM/FC] Chairperson shall join to this notification a copy of the complaint and all related or supporting relevant documentation, as well as the rationale supporting the CCLM decision. The [CCLM/FC] Chairperson shall also inform the Council within the same time frame, by way of a written report summarizing the allegations made against the Director-General ~~and the rationale for the CCLM decision.~~

Option 2:

16. Within three (3) working days following receipt of the complaint pursuant to paragraph 15, the ICC shall notify the Director-General that a complaint warranting further review has been lodged. If deemed advisable by the Chairperson of the OAC, the ICC shall join to this notification a copy of the complaint and relevant documentation. The ICC shall also inform the Council within the same time frame, by way of a written report summarizing the allegations made against the Director-General.

B. Further review

~~17. Upon confirmation of the initial determination by the CCLM pursuant to paragraph 15 a), the CCLM Chairperson shall transmit the complaint and related documentation to an EIE for further review.~~

~~18.~~ 17. The EIE shall be selected from a roster of such entities having entered into a standing agreement with FAO for the provision of investigative services in matters concerning the Director-General. The selection shall be made by the Chairperson of the [CCLM/FC], taking into account the advice of the OAC members, with due regard given to the immediate capacity of the selected EIE to undertake and complete an investigation of misconduct involving the Director-General of FAO, its capacity of maintaining strict confidentiality standards and quality control mechanisms, and the absence of any real or perceived conflict of interest that may arise from this engagement.

Option 2:

17. The EIE shall be engaged pursuant to a standing agreement entered with FAO for the provision of investigative services in matters concerning the Director-General. This agreement shall be concluded with due regard given to the capacity of the EIE to undertake and complete an investigation of misconduct involving the Director-General of FAO, and its capacity of maintaining strict confidentiality standards and quality control mechanisms.

18. Prior to the engagement of the EIE, the Chairperson of the [CCLM/FC] shall ensure that no real or perceived conflict of interest has arisen since the agreement was concluded, taking into account the advice of the OAC members. Should that not be the case, the Chairperson of the OAC shall identify an alternate EIE free of any conflict of interest and meeting the criteria enunciated in paragraph 17, for immediate engagement by FAO.

~~19.~~ 18. The EIE shall have exclusive authority to review the complaint and related documentation and to collect, secure and assess any information it considers relevant to determine whether there are grounds to proceed with an investigation. This determination shall be made in accordance with the FAO Investigation Guidelines and applicable provisions of the Uniform Principles and Guidelines for Investigation endorsed by the Conference of International Investigators, as well as the provisions and definitions in the FAO Staff Regulations, Staff Rules, Administrative Manual, and other relevant administrative issuances regulating cases of alleged misconduct, which shall apply mutatis mutandis.

~~20.19.~~ The review shall be completed within twenty (20) working days from the date of receipt of the complaint by the EIE, unless the EIE notifies the [CCLM/FC] Chairperson that an additional period of up to ten (10) working days is required.

~~21.20.~~ If the EIE determines that the allegations made in the complaint do not warrant an investigation, it shall inform the [CCLM/FC] Chairperson in writing, copying the OAC Chairperson. Within the following three (3) working days, the [CCLM/FC] Chairperson shall:

- a) inform the complainant that the case has been closed;
- b) notify the Director-General and the members of the [CCLM/FC] of the closure of the case and join to this notification a copy of the EIE's determination and ~~all related~~ relevant or supporting documentation; and
- c) transmit a summary of the EIE's determination and relevant or supporting documentation to the Council. This determination by the EIE shall be final.

~~22.21.~~ If the EIE determines that there are grounds justifying the opening of an investigation, it shall proceed with this investigation and notify the [CCLM/FC] Chairperson that an investigation has been opened, copying the OAC Chairperson. Within three (3) days from receipt of this notification, the [CCLM/FC] Chairperson shall inform the Director-General, the [CCLM/FC], the OAC and the Council that an investigation has been opened by the EIE.

Option 2:

~~21. — If the EIE determines that there are grounds justifying the opening of an investigation, it shall send a review report to the CCLM Chairperson, together with any supporting documents. Following receipt of the review report, the CCLM Chairperson shall convene a private session of the Committee within five (5) working days, with the OAC present to provide advice as required.~~

~~22. — The CCLM shall, drawing as necessary on the guidance of the members of the OAC:~~

- ~~a) confirm the determination made by the EIE that there are grounds justifying the opening of an investigation; or~~
- ~~b) close the case and inform the complainant in writing accordingly. This decision shall be final.~~

~~23. — Following confirmation by the CCLM of the EIE determination pursuant to paragraph 22 a), the CCLM Chairperson shall within three (3) working days inform the Director-General, the OAC and the Council that an investigation has been opened.~~

C. Investigation

~~23.22.~~ The purpose of an investigation is to gather the available evidence, both inculpatory and exculpatory, in order to establish the facts and assess the allegations at issue. The Director-General and FAO staff members and other personnel shall cooperate fully and confidentially with the investigation and provide all records, documents, information and technology equipment or other information under their control as requested by the EIE, in accordance with the relevant provisions of the FAO Staff Regulations, Staff Rules, Administrative Manual and other relevant administrative issuances governing the conduct of investigations. Failure to cooperate with the investigation may be treated as misconduct.

~~24.23.~~ The EIE shall have exclusive authority to conduct the investigation, free from any interference. The EIE shall proceed in a fair and impartial manner in accordance with the FAO Investigation Guidelines and applicable provisions of the Uniform Principles and Guidelines for Investigation endorsed by the Conference of International Investigators, as well as the provisions and definitions in the FAO Staff Regulations, Staff Rules, Administrative Manual and other relevant administrative issuances regulating cases of alleged misconduct, which shall apply mutatis mutandis.

~~25:24.~~ The investigation shall be completed, and the investigation report finalized within forty (40) working days, unless the EIE notifies the [CCLM/FC] Chairperson that an additional period of up to ten (10) working days is required.

~~26:25.~~ The EIE shall issue the investigation report directly to the [CCLM/FC] Chairperson with copy to the OAC Chairperson, containing its findings and appraisal of the available evidence. The report shall include an analysis of the information obtained during the investigation and be accompanied by all supporting documentation, including records of interviews and written statements.

Option 2:

~~26. — The EIE shall issue the investigation report directly to the CCLM Chairperson with copy to the OAC Chairperson, containing its findings and **conclusion as to whether the opening of the decision-making phase is warranted.** The report shall include an analysis of the information obtained during the investigation and be accompanied by all supporting documentation, including records of interviews and written statements provided by the Director General or by witnesses.~~

V. Decision-making phase

A. [CCLM/FC] proceedings

~~27:26.~~ Within five (5) working days following receipt of the investigation report, the [CCLM/FC] Chairperson shall convene a private session of the Committee with the members of the OAC present to provide advice as required. The [CCLM/FC] shall review the investigation report and decide, based on its assessment of the findings and appraisal of the available evidence made in the investigation report, whether the opening of the decision-making phase is warranted.

~~28:27.~~ If the [CCLM/FC] determines that the initiation of the decision-making procedure is not warranted, it shall close the case and the [CCLM/FC] Chairperson shall within the following three (3) working days:

- a) inform the complainant in writing;
- b) notify the Director-General of the closure of the case and join to this notification a copy of the investigation report and related exhibits and the rationale for ~~CCLM's~~[CCLM/FC]'s determination; and
- c) communicate this determination to the Council, together with a summary of the investigation report and the rationale supporting the ~~CCLM's~~[CCLM/FC]'s determination. This determination shall be final.

~~29:28.~~ If the [CCLM/FC] determines that the opening of the decision-making phase is warranted, it shall issue a memorandum notifying the Director-General that charges of misconduct have been laid against them. This memorandum shall be accompanied by the investigation report and all related exhibits and inform the Director-General of the proposed sanction.

Option 2:

~~27. — Within five (5) working days following receipt of the investigation report, the CCLM Chairperson shall convene a private session of the Committee **to review the investigation report,** with the members of the OAC present to provide advice as required. **If the EIE has concluded that the initiation of the decision-making procedure is not warranted, the CCLM shall close the case and communicate this decision to the Council, the Director-General, and the complainant in writing. This decision shall be final.**~~

~~28. — **If the EIE has concluded that the initiation** of a decision-making procedure is warranted, **the CCLM shall issue a memorandum notifying the Director General that charges of misconduct have been laid against them, based on the findings made in the investigation report.** This~~

~~memorandum shall be accompanied by the investigation report and all related exhibits and inform the Director-General of the proposed sanction.~~

~~30.29.~~ The applicable standard of proof shall be “proof beyond a reasonable doubt” based on precise presumptions and concurring circumstantial evidence.

~~31.30.~~ The Director-General shall be afforded fifteen (15) working days to respond in writing to the charges laid in the memorandum. At the request of the Director-General, this time frame may be extended by up to five (5) working days by the Chairperson of the [CCLM/FC].

~~32.31.~~ At the request of the Director-General, the [CCLM/FC] Chairperson may approve that special leave with pay be granted to allow them to prepare their response to the charges. This special leave with pay shall not exceed the time allotted under paragraph 31 to submit this response.

~~33.32.~~ The Council shall be informed within three (3) working days of its commencement that the decision-making phase has been initiated by the [CCLM/FC]. This communication shall be accompanied by a redacted summary of the determination made by the [CCLM/FC] and the charges laid against the Director-General.

~~34.33.~~ The [CCLM/FC] Chairperson shall convene a private session of the Committee within ten (10) working days following receipt of the response by the Director-General to the charges laid. The [CCLM/FC] shall review the case in its entirety, with the guidance of the members of the OAC as required, and recommend to the Council to either:

- a) impose a sanction; or
- b) close the case and inform the Director-General and the complainant accordingly. This decision shall be final.

B. Council proceedings

~~35.34.~~ The report submitted to the Council by the [CCLM/FC] pursuant to paragraph ~~34.33~~ shall consist of a redacted summary of the investigation report and the relevant evidence, including the charges laid against the Director-General and their response.

Option 2:

~~35.34.~~ The report submitted to the Council by the [CCLM/FC] pursuant to paragraph ~~34.33~~ **shall be accompanied by the investigation report with all supporting documentation, including records of interviews and written ~~statement~~ submissions provided by the Director-General or by witnesses.**

~~36.35.~~ Upon receipt of the [CCLM/FC] report, the ICC shall convene within five (5) working days a private session of the Council pursuant to General Rule XXV, paragraph 8 (b). The Council shall decide, based on the [CCLM/FC] report, whether to endorse the recommendation made therein. ~~If the Council endorses a recommendation to either impose a sanction upon or close the case. The Council shall direct in its report to the Conference that the ICC convene a special private session of the Conference, no later than ten (10) working days following the Council’s decision. The Council shall also nominate one (1) Chairperson and one (1) Vice-Chairperson to preside this special session.~~

Option 2:

~~36. — Upon receipt of the CCLM report, the ICC shall convene within five (5) working days a private session of the Council pursuant to General Rule XXV, paragraph 8 (b). The Council shall decide, taking into account the report submitted by the CCLM, as well as any statement by the Director-General, whether to approve the recommendation made therein.~~

~~37. — The ICC shall inform the Director-General in writing of the decision taken by the Council, with the reasons supporting this decision, within one (1) working days following the closure of the Council session. The ICC shall also inform the complainant, the Deputy Directors-General and the Director of Cabinet of the decision taken by the Council.~~

~~37.36.~~ Within three (3) working days following the decision taken by the Council, the ICC shall inform the Director-General in writing of this decision and the reasons supporting it. The ICC shall also inform the Deputy Directors-General and the Director of Cabinet of the decision taken by the Council.

C. Conference proceedings

~~38.37.~~ The ICC shall preside at the special private session of the Conference called by the Council until the election of a Chairperson and one Vice-Chairperson. The elected Chairperson or Vice-Chairperson shall preside over all deliberations of the Conference during the special session. The Conference shall decide, taking into account the report submitted by of the Council, ~~as well as and~~ any statements submission by the Director-General, whether ~~to approve the recommendation made therein.~~ allegations are substantiated or not, and if determined to be substantiated, the sanction to be imposed in relation thereto.

Option 2:

37. The ICC shall preside at the special private session of the Conference called by the Council until the election of a Chairperson and one Vice-Chairperson. The elected Chairperson or Vice-Chairperson shall preside over all deliberations of the Conference during the special session. The Conference shall decide, taking into account the report of submitted by the Council **together with the investigation report with all supporting documentation, including records of interviews and written statements**, whether the allegations are substantiated or not, and if determined to be substantiated, the sanction to be imposed in relation thereto. ~~to approve the recommendation made therein.~~

Option 3:

~~37.~~ The ICC shall preside at the special private session of the Conference called by the Council until the election of a Chairperson and one Vice-Chairperson. The elected Chairperson or Vice-Chairperson shall preside over all deliberations of the Conference during the special session. The Conference shall decide, taking into account the report of the Council **together with the investigation report with all supporting documentation, including records of interviews and written statements**, whether the allegations are substantiated or not, and if determined to be substantiated, the sanction to be imposed in relation thereto. **The Conference may also adopt accessory measures for the compensation of material losses incurred by the Organization, or to ensure compliance with the Organization's obligation under international law to cooperate with national authorities to facilitate the proper administration of justice.**

~~39.38.~~ The Chairperson of the Conference shall inform the Director-General in writing of the decision taken by the Conference, with the reasons supporting this decision, within one (1) working day following the closure of the Conference session. The Chairperson of the Conference shall also

inform the complainant, the Deputy Directors-General and the Director of Cabinet of the decision taken by the Conference.

VI. Interim measures

40.39. At any point after an investigation has been opened, the [CCLM/FC] Chairperson, with the advice of the members of the OAC as required, may recommend to the [CCLM/FC], that the Director-General be placed on administrative leave with or without pay, based on information provided by the EIE. This administrative measure may be taken to:

- a) preserve the integrity of the investigation; or
- b) protect FAO staff members or other personnel, or a third-party, against retaliation, including the complainant or potential witnesses; or
- c) avoid the risk that the continued exercise of functions by the Director-General would have a significant negative impact or pose a serious real or perceived reputational risk to the Organization.

41.40. If the recommendation to place the Director-General on administrative leave is endorsed by the members of the [CCLM/FC], the [CCLM/FC] Chairperson shall thereafter, within three (3) working days, transmit this recommendation with an explanation of its underlying rationale to the Council for decision.

42.41. The ICC shall convene a private session of the Council pursuant to General Rule XXV, paragraph 8 (b) to consider and take a decision on the recommendation within five (5) working days from the date of receipt of the ~~CCLM's~~[CCLM/FC]'s recommendation. The ICC shall inform the Director-General in writing of the decision taken by the Council and the reasons for this decision within three (3) working days from the date of this decision. If the Council approves a recommendation to place the Director-General on administrative leave, with or without pay, the ICC shall also inform the Deputy Directors-General and the Director of Cabinet of the decision taken by the Council. In such case, the Deputy Director-General with greater seniority shall act as Director-General in conformity with General Rule XXXVII, paragraph 5.

43.42. The administrative leave is without prejudice to the rights of the Director-General. It does not imply that the allegations of misconduct are founded, nor does it constitute a sanction related to those allegations. The administrative leave may continue until the completion of the decision-making phase.

VII. Whistleblower protection

44.43. An individual who reports in good faith allegations of misconduct involving the Director-General has the right to be protected against retaliation. ~~The general principles~~Similar protection shall also be given to individuals who collaborate with the review of such allegations at any stage of the fact-finding phase. The general principles, definitions and protected activities under the FAO Whistleblower Protection Policy shall apply mutatis mutandis to the present procedure.

45.44. For the purpose of this procedure, retaliation means any direct or indirect detrimental action taken by or at the behest of the Director-General that adversely affects the employment or working conditions of an FAO staff member or other personnel, or negatively affects a third-party, where such action has been recommended, threatened or taken in whole or in part, because the staff member, other personnel or third party, reported misconduct or cooperated with an oversight activity involving the Director-General.

46.45. Complaints alleging retaliation shall be reported in accordance with the present procedure, excluding all other reporting mechanisms provided for in the FAO Staff Regulations and Rules or other administrative issuances. When established, retaliation constitutes misconduct.

VIII. Recourse

~~47.~~—The Director-General may lodge a recourse against the decision taken by the Conference exclusively with the Administrative Tribunal of the International Labour Organization, in accordance with Section 331.8 of the FAO Administrative Manual and the relevant provisions of the Statute of the Tribunal and their terms and conditions of appointment.

46.