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FAO 12
RELEX 418
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OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	7552/23
Subject:	Working Party on International Food and Agricultural Questions (FAO) on 27 March 2023 <i>- partial outcome of proceedings</i>

Agenda item 2: EU working arrangements for FAO

1. In her introduction to the discussion, the Chair explained that this issue had been included on the Working Party's agenda to follow up on the letter from the Chair of COREPER II from last November, addressed to the Commission/EEAS¹, on the basis of which the Working Party on International Food and Agricultural Questions (FAO) had been designated as the lead for discussing the views and proposals put forward by the Commission/EEAS, with the possibility for other relevant Council preparatory bodies to join the discussions to ensure that the broader external relations aspects and the horizontal UN dimension would be sufficiently taken into account.
2. The Chair also explained that extensive discussions on updating the EU working arrangements for FAO had already taken place from 2013 to 2015 and she referred in this respect to the information and reference documents included in the Presidency's background note².

¹ In reply to their joint letter dated 13 September 2022 (see WK 15614/2022).

² 7552/23.

3. At the Chair's invitation, the representative of the Council Legal Service shared his general perspective on the EU working arrangements for FAO. His main observations can be summarised as follows:
- FAO, like many other international organisations, deals with matters that fall under both Member State competence and Union competence. The Union and the Member States must work together in a spirit of sincere cooperation and act in accordance with the Treaties (Articles 3(1) and 4(2) TFEU and Articles 16(1) and 17(1) TEU are directly relevant for FAO matters).
 - It is useful to set the cooperation out in working arrangements, as is the case for FAO. Past negotiations to bring the existing 1991 arrangements for FAO more into line with the Lisbon Treaty failed, mainly due to divergent views between the Council, the Member States and the Commission/EEAS on two questions: (I) Where does the role of the Member States end and where does the role of the Union begin? (II) Where does the Council's policy-making role end and where does the external representation role of the Commission/EEAS begin?
 - These same questions arise with regard to the joint proposal put forward by the Commission/EEAS in September 2022. It is important to find an appropriate balance. Inspiration for the discussions on updating the 1991 arrangements for FAO can be drawn from two sets of internal arrangements agreed after the entry into force of the Lisbon Treaty, in which the Council, Member States and the Commission/EEAS seem to have found such a balance: the arrangements for the Intergovernmental Organisation for International Carriage by Rail (COTIF)³ and the arrangements for the UN Convention on the Rights of Persons with Disabilities⁴.

³ Annex III to the Council Decision of 16 June 2011 (2013/103/EU), OJ L 51/1.

⁴ (2010/C 340/08), OJ C 340/11.

4. At the Chair's invitation, the Commission representative and the EEAS representative then presented the background and objectives of their proposal for updated EU working arrangements for FAO as set out in their joint letter from September 2022. Their main points can be summarised as follows:
- The aim of the proposal is to bring the existing arrangements into line with the Treaties and to ensure their legal soundness, taking account of the experience gained over the years in applying the Lisbon Treaty in various contexts.
 - The proposal is driven by the objective to boost the EU's impact and effectiveness at international level, in line with the 2019 Council conclusions on EU action to strengthen rules-based multilateralism⁵ and the 2021 Joint Communication from the Commission and the High Representative on strengthening the EU's contribution to rules-based multilateralism⁶.
 - In a context of great politicisation of food security, the EU is operating in FAO in an increasingly geopolitical context, as was demonstrated by the initial inadequate reaction of FAO's leadership to Russia's war of aggression against Ukraine and the FAO Council Decisions on the consequences of Russia's war of aggression for global food security. Enhancing the EU's 'agility' in FAO is particularly important in this regard, *inter alia* to allow the EU to react quickly to like-minded initiatives.
 - The Commission and the EEAS attach great importance to continuing the good cooperation in Rome, based on a Team Europe approach, and benefiting from burden-sharing and synergies between the EU and Member States. However, there is room for improvement, building on the experience gained in other UN settings, such as the UN General Assembly Fifth Committee in New York and health-related UN discussions in Geneva.
 - The letter from the Chair of COREPER II also refers to the involvement of other Council working parties in the discussions on this issue.

⁵ 10341/19.

⁶ 6312/21.

5. In their general comments, a number of delegations (DE, IE, ES, FR, IT, NL, PT and FI) acknowledged the need to enhance the EU's effectiveness at FAO, with several of them underlining the importance of respecting the Council's policy-making role. These delegations would welcome an open discussion on how to improve the cooperation between the various EU actors and the interaction between Rome, Brussels and the capitals. They were also generally open to resuming discussions on updating the existing working arrangements, with some delegations however questioning the timing of such a discussion in the current difficult geopolitical context, including at FAO. The further general comments made by these delegations can be summarised as follows:
- There is a clear need to enhance the collective performance of the EU and its Member States at the FAO. Effective outreach and a more active engagement with other FAO members and regional groups in FAO is critically important in that respect.
 - While the current context at FAO presents clear geopolitical challenges, including in relation to Russia's war of aggression against Ukraine and the current FAO leadership, it is important to acknowledge that FAO is first and foremost a specialised technical UN agency that deals with complex issues related to agriculture, forestry, food and fisheries. The EU's preoccupation with FAO governance issues is not helpful for reaching consensus and building bridges.
 - There is ample scope for improving the EU's internal cooperation. Discussions should be framed around *working methods* rather than *working arrangements*. Improving the interaction and the flow of information between Rome, Brussels and the capitals must be an integral part of that exercise, for which sufficient time should be taken.
 - Future discussions on updating the working arrangements should draw on the substantial work carried out in the past, which had resulted in a draft text presented to COREPER in May 2015 which was broadly acceptable to Member States.
 - In the current EU setting, some important questions need to be addressed urgently, such as: How can we build consensus and react more swiftly when urgent discussions are taking place in Rome? How does EU coordination in the context of informal FAO meetings take place? How do we ensure due respect for the dividing line between policy-making and external representation?

6. With regard to the joint Commission/EEAS proposal for updated working arrangements and its rationale as presented by the Commission and EEAS representatives, several of the above delegations expressed their fundamental disagreement or asked for clarification as to which specific problems the proposal was aiming to solve. Their main further comments on the proposal can be summarised as follows:
- The proposal does not duly recognise the role and responsibilities of the Working Party, due to an inappropriate dividing line between policy-making and external representation.
 - The proposal does not take due account of the fact that the EU as a member organisation of FAO cannot exercise the same rights as FAO member countries (in the current situation, it would be particularly inappropriate to enter into a discussion on possible amendments to FAO's Basic Texts).
 - The suggestion contained in the proposal of preparing a 'living compendium' with updated lines-to-take on important policy issues, lessons learnt, relevant Council conclusions and EU positions expressed in other UN settings is interesting.
7. In their reaction to delegations' comments, the Commission and EEAS representatives welcomed the openness of delegations to further discussion on several issues covered by the proposal, while noting some of the concerns expressed. They also underlined the importance of enhancing trust and working on confidence-building.
8. The Presidency took note of all the comments made and would carefully assess those with a view to preparing follow-up discussions. Delegations would be informed in due time about the next steps.
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