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Question concerning the reporting to the Executive Board by the Evaluation Committee

Evaluation Committee — Sixtieth Session
Rome, 1-2 December 2009

For: **Information**


Question concerning the reporting to the Executive Board by the Evaluation Committee

The Evaluation Committee is invited to take note of the attached memo from Rutsel Martha, General Counsel of IFAD, sent to the Evaluation Committee on 30 November 2009.

MEMO

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TO: The Evaluation Committee

FROM: Rutsel S.J. Martha 
General Counsel, Office of the General Counsel

DATE: 30 November 2009

SUBJECT: Question concerning the reporting to the Executive Board by the Evaluation Committee

1. This opinion is further to an e-mail of 20 October 2009 (attached) the representative of Sweden to the Executive Board as well as a meeting with on 3 November 2009 the Chairman of the Evaluation Committees, the Director of the Office of Evaluation and the Secretary of IFAD.
2. It is the policy of the Office of the General Counsel to only provide formal legal opinions when requested by a competent body of the Fund and not to individual representatives of members of such organs, or when an issue comes to its attention which merits the consideration by that organ. However, as the summary notes have come to the attention of this Office and having met with the Chairperson, it was decided that we offer the opinion to the Evaluation Committee as a contribution to its deliberations on this matter.
 - a) *The issues*
3. The matter raised in the aforementioned e-mail and discussed during the said meeting concerns the issue of whether the report made by the Chairman of the Evaluation Committee to the Executive Board is a report exclusively of the Chairman or a report of the Committee. Having examined the background information, particularly explanations given by the Chairman of the Evaluation Committee it is understood that in essence this matter concerns a search for the most efficient way to prepare the report of the Evaluation Committee. The following observations are thus made in order to assist the Evaluation Committee to achieve that goal.
4. This Office understands that the concern is that the information to be provided to the Board should, as much as possible reflect the discussion, conclusions and recommendations not only of the Chair but of the Committee as a whole. Furthermore, there is a need to clarify that whenever the Board is requested to approve or endorse some action to be undertaken by the Committee or the Evaluation Office, this should be made explicit in the report to the Board so that Board does not take decisions blindly.
5. In this context the attention of this Office was drawn to the Chairperson's summary notes of the 59th Session of the Evaluation Committee, where the following is stated under Agenda item 6 – Other business Sub-item 5: Deliberations of the EC meetings:

“c. The Chairperson's Report to the Executive Board is a prerogative of the chairperson, which builds on the exact summing up points orally conveyed at the conclusion of each agenda item. The Chairperson's Report is also sent to the Executive Board for approval as per usual practice.”
6. Having reviewed the summary notes in the light of the relevant provisions of the applicable rules and regulations and based on the following analysis, this Office wishes to stress that each subsidiary body of the Executive Board is free to establish the process through which it arrives at the report it is required to submit to the Executive Board. In determining such

Prepared by: The General Counsel

cc: The President,
The Secretary,
The Director OE

process it has to take into account the applicable rules prescribed by the Executive Board. In this regard two sets of rules are pertinent; (a) those concerning reporting by subsidiary bodies and (b) those concerning the agenda of the Executive Board.

b) The process for arriving at the Committee's report

7. As far as reporting by subsidiary bodies is concerned, it will be recalled that the foremost pertinent provision governing this matter is Rule 11.1 of the Rules of Procedure of the Executive Board, which clearly establishes that a committee such as the Evaluation Committee is a subsidiary body of the Executive Board. As such it is tasked to study the questions referred to it by the Executive Board and report to the latter, in this case those set out in the Terms of Reference and Rules of Procedure of the Evaluation Committee of the Executive Board adopted by the Board during its 87th Session (EB 2004/83/R.7/Rev.1 2 December 2004). Accordingly, it is the Committee as a whole that is supposed to report to the Executive Board rather than the Chairperson *qualitate qua*. Rule 11.2 states in this regard that committees and other subsidiary bodies shall not vote but shall submit reports setting out the different views expressed in the body. The logic behind this rule being that, as a preparatory body of the Executive Board, any committee should ensure that the plenary Board benefits from all the views when deciding on the matter referred to such a body for preparation.
8. The foregoing is confirmed in Rule 9 of the Terms of Reference and Rules of Procedure of the Evaluation Committee. The said Rule 9 states that the Committee Chairperson shall provide a written report of its deliberations to the Executive Board after each Evaluation Committee session. The reports will be focused and issues-oriented, and identify the most relevant issues and recommendations for the Board's information and approval, as required. This report should be translated into IFAD's official languages and dispatched to Board members as early as possible for their timely review, ahead of the relevant Executive Board session. Rule 9 also permits that the Chairperson provides, in addition, an oral report during each Board session, as and when s/he considers necessary.
9. Neither Rule 11.1 of the Rules of Procedure of the Executive Board nor Rule 9 of the Terms of Reference and Rules of Procedure of the Evaluation Committee prescribes the process through which the prescribed report is arrived at. It is for the Committee to agree on that process but at the same time it is inherent in the function of the Chairperson to guide the agreed process that leads to the required report. In the past the previous Chairperson preferred to circulate the draft report and this was agreeable for the Committee members. The present Chairperson prefers to prepare the report based on the exact summing up points orally conveyed at the conclusion of each agenda item without further circulation. This Office considers that both processes would be compatible with the rules provided that they are agreed by the Committee.

c) Matters to be approved by the Executive Board

10. The issue has also been raised that whenever the Board is requested to approve or endorse some action to be undertaken by the Committee or the Evaluation Office this should be made explicit in the report to the Board so that the Board does not take decisions blindly. The issue here emanates from the fact that the Committee's report is sent to the Executive Board for approval as per the usual practice. The fact that the Board is asked to approve the report creates the impression that any recommendation contained in the report is also approved, including items that are not properly on the agenda of the session of the Executive Board. Indeed, this practice merits reconsideration in light of the applicable provisions concerning the agenda and distribution of documents.
11. The Executive Board has established the Evaluation Committee to enhance and fortify the Board's role in evaluation operations. It relies on the Evaluation Committee to provide it with advice on matters related to IFAD's independent and self-evaluation activities as well as selected operation policy documents. Recognizing that the Evaluation Committee is an advisory body, the Committee will make recommendations on evaluation matters as part of its

reporting to the Executive Board. However, for those recommendations to be considered and decided upon by the Executive Board they ought to be on the agenda of the Board.

12. According to the applicable provisions concerning the agenda the only items deemed to be considered and decided by the Executive Board are those matters that are properly on the agenda of the Board. To that effect Rule 5 of the Rules of Procedures of the Executive Board prescribes that the President shall prepare a proposed agenda for each session of the Board, which shall include all items requiring consideration by the Board during the session. The President shall communicate the proposed agenda to all members and alternates. The proposed agenda shall normally be transmitted together with the notification of the session of the Board. Any matter not included in the proposed agenda may be presented by the President or by a member or alternate for inclusion in the agenda to be adopted by the Board at least seven days before the beginning of the session. During the session the Board may revise the agenda by adding, deleting, deferring or amending items.
13. It follows from this system that it is expected that for items to be submitted for Board approval they must be formally included in the agenda of the Board, through the forgoing process. The practice of submitting the Committee's report for approval is not envisaged by either Rule 11 of the Rules of Procedure of the Executive Board or the Terms of Reference and Rules of Procedure of the Evaluation Committee.

