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Продовольственная и
сельскохозяйственная организация
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Organización de las
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COUNCIL

Hundred and Fiftieth Session

Rome, 1-5 December 2014

Report of the 99th Session of the Committee on Constitutional and Legal Matters (Rome, 20 – 23 October 2014)

Executive Summary

The 99th Session of the Committee on Constitutional and Legal Matters (CCLM):

- a) **Reviewed** the proposal to amend paragraph 7 of Rule XXXIII of the General Rules of the Organization, concerning the Committee on World Food Security (CFS) and, making one amendment to the proposal, the CCLM **endorsed** the draft Conference Resolution set out in Appendix 1 to its Report and **agreed to forward** it to the Council for subsequent transmission to the Conference;
- b) **Examined** a proposal to establish the Commission on Statistics. While recognizing the usefulness of such body to the Organization, the CCLM **considered**, however, that the proposal required further development before it could make any recommendation to the Council on this matter and **agreed to consider** the proposal at a future session.
- c) **Examined** a document entitled “*Further Review of the draft ‘Rules and Procedures for Participation of Civil Society Organizations and Private Sector Representatives in FAO Meetings’*” (Appendix 1 to CL 149/2 Rev.1), which had been under discussion at previous sessions. Noting the outcome of consultations conducted pursuant to the request of the Council at its 149th Session, the CCLM **recommended** to the Council that the Independent Chairperson of the Council be mandated to hold consultations with the regional groups, with involvement of all Members, with a view to reaching policy agreement on the proposed rules. It **considered** that it could review a proposal and finalize its work only after agreement among Members had been reached.
- d) **Examined** the proposal to amend the Agreement for the Establishment of the General Fisheries Commission for the Mediterranean (GFCM). The CCLM **considered** that the proposed amendments did not involve new obligations for the Contracting Parties, and it **agreed to forward** the Amended Agreement for the Establishment of the General Fisheries Commission for the Mediterranean, set forth in Appendix 2 to its Report, to the Council for approval.
- e) **Examined** a document entitled “*Review of procedures for the establishment and abolition of Statutory Bodies - Implementation of Conference Resolution 13/97*”. While appreciating the complexity of the issue under review, the CCLM **confirmed** that Conference

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Resolution 13/97 continues to be applicable and relevant, taking into account the need to streamline existing statutory bodies, avoid proliferation of statutory bodies and achieve efficiency gains. The CCLM **noted** the continued importance of other guidance of the Conference and Council, as identified in its Report. The CCLM **agreed to forward** the draft Conference Resolution entitled “*Review of FAO Statutory Bodies*”, set out in Appendix 3 to its Report, to the Council for subsequent transmission to the Conference for approval. The CCLM also **decided** to recommend that this Resolution, as well as Conference Resolution 13/97, be inserted in Volume II of the Basic Texts of the Organization, given the importance of this matter.

- f) **Reviewed** and **endorsed** a draft Council Resolution on the Abolition of the Caribbean Plant Protection Commission established in 1967 by Council Resolution 8/48, set out in Appendix 4 to its Report, and **agreed to submit** it to the Council for adoption.
- g) **Received** information on the contribution of the Development Law Branch (LEGN) of the Legal Office to the Organization’s mandate and its Strategic Framework through the development of national and regional legal instruments, and related assistance to capacity development, as well as its support for normative activities. The CCLM **encouraged** the continuation of this work, noting the particular value of activities responding to the priorities identified by the regions and countries. The CCLM **underlined** the importance of ensuring the continued multilingual nature of LEGN’s work and **recommended** that it continue to be provided with information reports on LEGN’s activities at its future sessions.
- h) **Endorsed** the Progress Report on the Multi-year Programme of Work for the CCLM and, in this connection, the CCLM **noted** that, notwithstanding the considerations made on the nature of its work, the issue of its MYPOW will continue to be kept under review in light of the distinctive features of its *modus operandi*.

Suggested action by the Council:

- a) **Endorse** the draft Conference Resolution set out in Appendix 1 to this Report, entitled “*Amendments to Rule XXXIII of the General Rules of the Organization*”, and forward it to the Conference;
- b) **Note** that the proposal to establish the Commission on Statistics might be reviewed by the CCLM at a future session;
- c) **Mandate** the Independent Chairperson of the Council to hold consultations with the regional groups, with involvement of all Members, with a view to reaching policy agreement on the proposed rules for the participation of Civil Society Organizations and Private Sector Representatives in FAO Meetings, and **note** that the CCLM would review a proposal and finalize its work after agreement among Members had been reached;
- d) **Approve** the Amended Agreement for the Establishment of the General Fisheries Commission for the Mediterranean, set forth in Appendix 2 to this Report;
- e) **Endorse** the draft Conference Resolution set out in Appendix 3 to this Report, entitled “*Review of FAO Statutory Bodies*”, and forward it to the Conference for approval, and **recommend** that this Resolution, as well as Conference Resolution 13/97, be inserted in Volume II of the Basic Texts of the Organization, given the importance of this matter;
- f) **Adopt** the draft Resolution on “*Abolition of the Caribbean Plant Protection Commission established in 1967 by Council Resolution 8/48*” set out in Appendix 4 to this Report;
- g) **Note** the CCLM’s encouragement that the Development Law Branch (LEGN) of the Legal Office continue its work, responding to the priorities identified by the regions and countries while ensuring the continued multilingual nature of LEGN’s work. **Further note**

the CCLM's proposal that, as far as possible, it continues to be provided with information reports on activities undertaken by LEGN at its future sessions;

- h) **Endorse** the progress report on the Multi-year Programme of Work for the CCLM.

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

Antonio Tavares
Legal Counsel, Legal Office
Tel: +39 065705 5132

I. Introduction

1. The 99th Session of the Committee on Constitutional and Legal Matters (CCLM) was held from 20 to 23 October 2014.

2. The Session, open to silent observers, was chaired by Dr Mónica Martínez Menduño, who welcomed all the members. The following members were present:

H.E. (Mr) Lubomir Ivanov (Bulgaria)

Mr Abdulsatar Chiyad Al- Sudani (Iraq)

H.E. (Mr) Mohammed S. Sheriff (Liberia)

Ms April Cohen (United States of America)

Mr Oscar Gabriel Piñeyro Bentos (Uruguay)

3. The CCLM approved its Provisional Agenda.

II. Committee on World Food Security (CFS) - Proposed amendment to Rule XXXIII of the General Rules of the Organization – Draft Conference Resolution

4. The CCLM examined document CCLM 99/2 entitled “*Committee on World Food Security (CFS) - Proposed amendment to Rule XXXIII of the General Rules of the Organization – Draft Conference Resolution*”. The CCLM noted that the amendment proposed to Rule XXXIII of the General Rules of the Organization (GRO) had been reviewed and endorsed by the CFS at its 40th Session in 2013.

5. Following discussion on the proposal, the CCLM endorsed the draft Conference Resolution set out in Appendix 1 to this Report, including one further amendment to the proposed amendment to paragraph 7 of Rule XXXIII of the GRO.

6. The Committee agreed that the following amendment be made to the proposal set out in Appendix 1 to document CCLM 99/2: “*if at least a ~~simple~~ majority of the Member Nations which are Members of the Committee so request*”¹, insofar as it should be clarified that membership concerned the Committee and not the Organization.

7. The CCLM agreed to forward the revised draft Conference Resolution, as set out in Appendix 1 entitled “*Amendments to Rule XXXIII of the General Rules of the Organization*” to this Report, to the Council for subsequent transmission to the Conference for approval.

III. Proposal to establish the Commission on Statistics

8. The CCLM examined document CCLM 99/3 entitled “*Proposal to establish the Commission on Statistics*” on the basis of presentations by the Chief Statistician and the Legal Office. The Committee recognized that an FAO body dedicated to addressing statistical matters could be useful to the Organization, particularly in terms of enhancing consistency, harmonization and standardization in respect to collection of statistics.

9. The CCLM considered, however, that the proposal required further development before it could make any recommendation to the Council on this matter. In the course of the discussions, the

¹ Insertions to the proposed text of the draft Resolution (CCLM 99/2 Appendix I) are indicated using underlined italics; deletions are indicated using ~~strike through~~.

CCLM identified certain specific elements that needed further consideration and elaboration. In particular:

- a) The CCLM, underlining the importance of the contribution of the regions on such matters, expressed the view that the relationship between the proposed Commission with Regional Conferences and the existing regional statistical bodies should be considered further. The CCLM requested the Secretariat to develop proposals to clarify the relationship anticipated between existing regional bodies and the proposed Commission on Statistics.
 - b) The CCLM noted potential budgetary and programmatic implications of the establishment of a new Commission. Accordingly, the CCLM determined that, consistent with usual practice, guidance and advice of the Finance Committee and the Programme Committee on the proposal should be obtained prior to the CCLM taking further steps on this matter.
10. The CCLM agreed to consider the proposal to establish a Commission on Statistics at a future session.

IV. Further review of the draft "Updated Rules and Procedures for Participation of Civil Society Organizations and Private Sector Representatives in FAO Meetings" (Appendix 1 to CL 149/2 Rev. 1)

11. The CCLM examined document CCLM 99/4 entitled "*Further Review of the draft 'Rules and Procedures for Participation of Civil Society Organizations and Private Sector Representatives in FAO Meetings'*" (Appendix 1 to CL 149/2 Rev.1), which had been under discussion at previous sessions.

12. The CCLM noted that, at its 149th Session, in June 2014, the Council had expressed support for a revised framework reflecting FAO's experience on the participation of civil society organizations (CSOs) and private sector representatives in FAO meetings and expressed satisfaction at the progress achieved by the CCLM in the preparation of draft rules to that effect. The Council noted, however, that a number of provisions in the draft needed additional clarification and reconsideration, and requested the Secretariat to hold consultations with regional groups for review, analysis and debate of the draft so that the CCLM could finalize its work at its session of Autumn 2014.

13. The consultations carried out by the Secretariat revealed that while the proposed rules could be adjusted to take into account some observations made in the course of the Session of the Council, some Members considered that a process of codification of new rules should involve a policy discussion on their content, also in light of their implications *vis-à-vis* other organizations.

14. The CCLM recommended to the Council that the Independent Chairperson of the Council be mandated to hold consultations with the regional groups, with involvement of all Members, with a view to reaching policy agreement on the proposed rules. The CCLM considered that it could review a proposal and finalize its work only after agreement among Members had been reached.

15. The CCLM recalled that pending the establishment of new rules for participation of civil society organizations and private sector representatives in FAO meetings, the Secretariat would continue on-going practices in respect of invitations of civil society organizations and private sector representatives to meetings of the Organization.

V. General Fisheries Commission for the Mediterranean (GFCM) - Proposal to amend the Agreement

16. The CCLM examined document CCLM 99/6 entitled "*General Fisheries Commission for the Mediterranean (GFCM) - Proposal to amend the Agreement*".

17. The CCLM considered that the proposed amendments to the GFCM Agreement did not involve new obligations for the Contracting Parties.

18. The CCLM agreed to forward the Amended Agreement for the Establishment of the General Fisheries Commission for the Mediterranean, set forth in Appendix 2 to this Report, to the Council for approval.

VI. Review of procedures for the establishment and abolition of Statutory Bodies – Implementation of Conference Resolution 13/97

19. The CCLM examined document CCLM 99/7 entitled "*Review of procedures for the establishment and abolition of Statutory Bodies - Implementation of Conference Resolution 13/97*".

20. The CCLM noted the differentiated nature of existing statutory bodies, which fall into two main categories, i.e. bodies established by the Council or Conference under Article VI of the Constitution and bodies established by treaty under Article XIV of the Constitution. While appreciating the complexity of the issue under review, the CCLM confirmed that the principles and procedures set forth in Conference Resolution 13/97 continue to be applicable and relevant, taking into account the need to streamline existing statutory bodies, to avoid proliferation of statutory bodies and to achieve efficiency gains. The CCLM noted that such working arrangements should operate consistently with the applicable rules of procedure and decisions of the Organization, including the need to respect multilingualism.

21. The CCLM considered that the Secretariat should take an active role in identifying statutory bodies that the Council or the Conference may wish to abolish because they are inactive or are mandated to discharge functions that could be undertaken through more flexible task-oriented and time-bound working arrangements.

22. The CCLM also considered of interest to the subject matter Resolution 12/79 adopted by the Conference at its 20th Session, as well as the guidance of the Conference contained in the Report of its 14th Session (1967, paragraphs 613-617) and that of the Council contained in the Report of its 55th Session (1970, paragraph 208).

23. The CCLM agreed to forward the draft Conference Resolution, set out in Appendix 3 to this Report entitled "*Review of FAO Statutory Bodies*", to the Council for subsequent transmission to the Conference for approval.

24. The CCLM also decided to recommend that this Resolution, as well as Conference Resolution 13/97, be inserted in Volume II of the Basic Texts of the Organization, given the importance of this matter.

VII. Abolition of the Caribbean Plant Protection Commission established in 1967 by Council Resolution 8/48

25. The CCLM examined document CCLM 99/8 entitled "*Abolition of the Caribbean Plant Protection Commission established in 1967 by Council Resolution 8/48*" and noted that a consultation process on the subject matter had taken place with the countries concerned.

26. The CCLM endorsed the proposed draft Council Resolution set out in Appendix 4 to this Report and agreed to submit it to the Council for adoption.

VIII. Activities of the Development Law Branch - Information Report

27. The CCLM took note of document CCLM 99/9 on "*Activities of the Development Law Branch*" and the information provided therein. The Development Law Branch (LEGN) of the Legal Office delivered a presentation on three projects, by way of illustration of the concrete activities of the Branch. These projects highlighted LEGN's partnerships with entities internal and external to FAO, the impacts of the project outputs and the diversity of work in terms of geographical coverage and technical areas.

28. The Committee noted LEGN's contribution to the implementation of the Organization's mandate and its Strategic Framework through the development of national and regional legal instruments, and related assistance to capacity development, as well as its support for normative activities including in the conduct of research and maintenance of legal information databases.

29. The CCLM encouraged the continuation of LEGN's work, both in terms of coverage as well as quality, noting the particular value of activities responding to the priorities identified by the regions and countries. The CCLM underlined the importance of ensuring the continued multilingual nature of LEGN's work. The CCLM recommended that it continue to be provided with information reports on the activities undertaken by LEGN at its future sessions.

IX. Multi-year Programme of Work for the Committee on Constitutional and Legal Matters (Progress Report)

30. The CCLM examined document CCLM 99/10 entitled "*Multi-year Programme of Work for the Committee on Constitutional and Legal Matters (Progress Report)*". The Committee approved the Progress Report, considering the Committee's overall objectives and mandate, and proposed working methods and practices. The Committee further noted that, notwithstanding the considerations made on the nature of its work, the issue of its MYPOW will continue to be kept under review in light of the distinctive features of the Committee's *modus operandi*.

X. Other matters

31. There were no other matters.

Appendix 1

Resolution ./2015

Amendments to Rule XXXIII of the General Rules of the Organization

THE CONFERENCE,

Recalling that the Committee on World Food Security (CFS) at its Fortieth Session, held in Rome from 7 to 11 October 2013, reviewed and endorsed a proposed amendment to Rule XXXIII of the General Rules of the Organization;

Having taken note of the views of the Committee on Constitutional and Legal Matters (CCLM), at its Ninety-ninth Session (Rome, 20-23 October 2014) on the proposed amendment to Rule XXXIII of the General Rules of the Organization;

Considering that the Council, at its Hundred and Fiftieth Session (Rome, 1-5 December 2014), endorsed the proposed amendment and agreed to transmit it to the Conference for approval;

Decides to amend Rule XXXIII of the General Rules of the Organization as follows²:

“Rule XXXIII

Committee on World Food Security

A. Composition and participation

(...)

7. The Committee may meet in extraordinary (or special) session:

(a) if at any regular session the Committee so decides;

(b) if the Bureau so requests; *or*

(c) *if at least a majority of the Member Nations which are Members of the Committee so request.*”

² Insertions are indicated using *underlined italics*.

Appendix 2

Amended Agreement for the Establishment of the General Fisheries Commission for the Mediterranean³

PREAMBLE:

The Contracting Parties,

~~Taking account of the **Recalling** international law as reflected in relevant provisions of the United Nations Convention on the Law of the Sea which entered into force on 16 November, 1994 (hereafter referred to as the United Nations Convention) and which requires all members of the international community to cooperate in the conservation and management of the living marine resources of 10 December 1982,~~

Further recalling the Agreement for the Implementation of the Provisions of the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995, the Agreement to promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas of 24 November 1993, as well as other relevant international instruments concerning the conservation and management of living marine resources,

~~Noting also the objectives and purposes stated in Chapter 17 of Agenda 21 adopted by the United Nations Conference on Environment and Development, 1992 and **Taking into account** the Code of Conduct for Responsible Fisheries adopted by the Food and Agriculture Organization Conference **at its Twenty-eighth Session on 31 October 1995, and related instruments adopted by the Food and Agriculture Organization Conference,** Noting also that other international instruments have been negotiated concerning the conservation and management of certain fish stocks,~~

~~Having a mutual interest in the development and the proper utilization of the living marine resources in the Mediterranean and the Black Sea and connecting waters (hereafter referred to as the **“area of application”** “the Region”),~~

Acknowledging the specificities of the different subregions in the area of application,

Determined to ensure the long-term conservation and sustainable use of living marine resources and marine ecosystems in the area of application,

Recognizing the economic, social and nutritional benefits deriving from the sustainable use of living marine resources in the area of application,

Further recognizing that, under international law, States are required to cooperate in the conservation and management of living marine resources and the protection of their ecosystems,

Affirming that responsible aquaculture reduces stress on living marine resources and plays an important role in the promotion and better use of aquatic living resources, including food security,

³ Note to the reader. In this document:

- (i) text in normal font comes from the GFCM Agreement currently in force. It is proposed to retain it;
- (ii) text which appears in ~~strike through~~ is found in the GFCM Agreement currently in force. It is proposed to delete it;
- (iii) text which appears in **bold and underlined** is new as opposed to the GFCM Agreement currently in force. It is proposed to include it.

Conscious of the need to avoid adverse impacts on the marine environment, preserve biodiversity and minimize the risk of long-term or irreversible effects of the use and exploitation of living marine resources,

Recognizing the importance of fisheries conservation and management in the Region and of promoting cooperation to that effect,

Mindful that effective conservation and management must be based on the best scientific information available and on the application of the precautionary approach,

Aware of the importance of coastal fishing communities and of the need to involve fishers, relevant professional organizations and civil society organizations in decision-making processes,

Determined to cooperate effectively and take action to prevent, deter and eliminate illegal, unreported and unregulated fishing,

Recognizing the special requirements of developing States to assist them to participate effectively in the conservation, management and farming of living marine resources,

Convinced that the conservation and sustainable use of the living marine resources in the area of application and the protection of the marine ecosystems in which those resources occur plays a major role in the context of blue growth and sustainable development,

desiring to further the attainment of their objectives through international cooperation which would be furthered by the establishment of a **Recognizing** the need to establish for these purposes the General Fisheries Commission for the Mediterranean (**whose acronym shall be “GFCM”**) within the framework of the Food and Agriculture Organization of the United Nations, under Article XIV of its Constitution,

Have agreed as follows:

Article 1: Use of Terms (new)

1. For the purposes of this Agreement:

- a) **“1982 Convention” means the United Nations Convention on the Law of the Sea of 10 December 1982;**
- b) **“1995 Agreement” means the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks of 4 December 1995;**
- c) **“aquaculture” means the farming of aquatic living resources;**
- d) **“Contracting Party” means any State and regional economic integration organization comprising the Commission pursuant to Article 4;**
- e) **“Cooperating non-Contracting Party” means a Member or Associate Member of the Organization and such non-member States as are members of the United Nations or any of its specialized agencies not formally associated as a Contracting Party with the Commission which abides by measures referred to in Article 8(b);**

- f) **“fishing” means searching for, attracting, locating, catching, taking or harvesting of living marine resources or any activity which can reasonably be expected to result in attracting, locating, catching, taking or harvesting of living marine resources;**
- g) **“fishing capacity” means the maximum amount of fish that could be taken in a fishery or by a single fishing unit (e.g. a fisher, community, vessel or fleet) over a period of time (e.g. season, year), given the biomass and age structure of the fish stock and the present state of the technology, in the absence of any regulated catch limitations and if the means available are fully used;**
- h) **“fishing effort” means the amount of fishing gear of a specific type used on the fishing grounds over a given unit of time (e.g. hours trawled per day, number of hooks set per day or number of hauls of a beach seine per day); when two or more kinds of gear are used, the respective efforts must be adjusted to some standard type before being added;**
- i) **“fishing related activities” means any operation in support of, or in preparation for fishing activities, including landing, packaging, processing, transshipping or transporting of fish, as well as provisioning of personnel, fuel, gear and other supplies;**
- j) **“illegal, unreported and unregulated fishing” refers to the activities set out in paragraph 3 of the 2001 FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing;**
- k) **“maximum sustainable yield” means the highest theoretical equilibrium yield that can be continuously taken (on average) from a stock under existing (average) environmental conditions without affecting the reproduction process;**
- l) **“straddling stocks” means stocks which occur both within the exclusive economic zones and in areas beyond and adjacent to the exclusive economic zones;**
- m) **“vessel” means any vessel, ship of another type or boat used for, equipped to be used for, or intended to be used for fishing or fishing related activities.**

Article 2: **Objective**

1. *(old Article I, 1)* The Contracting Parties hereby establish within the framework of the **Constitution** of the Food and Agriculture Organization (**hereinafter referred to as “the Organization”**) a Commission to be known as the General Fisheries Commission for the Mediterranean (hereinafter referred to as "the Commission"), for the purpose of exercising the functions and discharging the responsibilities set out in this Agreement ~~forth in Article III below.~~

2. *(old Article III, 1)* ~~The purpose of the Commission shall be to promote the development,~~ **The objective of the Agreement is to ensure** the conservation ~~rational management and best utilization~~ **and sustainable use, at the biological, social, economic and environmental level,** of living marine resources, as well as the sustainable development of aquaculture in the ~~Region~~ **area of application.**

3. *(old Article II, 11)* ~~The seat~~ **The headquarters** of the Commission shall be **in Rome, Italy.** ~~at the headquarters of the Organization in Rome, or such other location as may be determined by the Commission.~~

Article: 3 Area of Application (new)

1. The geographical area of application of this Agreement comprises all marine waters of the Mediterranean Sea and the Black Sea.

2. Nothing in this Agreement, nor any act or activity carried out in pursuance of this Agreement, shall constitute recognition of claims or positions of any Contracting Party concerning legal status and extent of waters and zones by any such Contracting Party.

Article 4: Membership

1. (old Article I, 2) ~~The Members of~~ **Membership in** the Commission shall be open to such Members and Associate Members of the Organization and such non-member States as are members of the United Nations or any of its specialized agencies [~~or the International Atomic Energy Agency~~],

a) that are:

- i) coastal States or Associate Members situated wholly or partly within the ~~Region~~ **area of application**;
- ii) States or Associate Members whose vessels engage in fishing, **or intend to conduct fishing**, in the ~~Region~~ **area of application** for stocks covered by this Agreement; or
- iii) regional economic integration organizations of which any State referred to in subparagraphs (i), or (ii) above is a member and to which that State has transferred competence over matters within the purview of this Agreement;

b) and that accept this Agreement in accordance with the provisions **of Article 23 below**.

~~Article XIII below, it being understood that these provisions shall not affect the membership status in the Commission of such States that are not members of the United Nations, any of its Specialized Agencies or the International Atomic Energy Agency as may have become parties to this Agreement prior to 22 May 1963. As regards Associate Members, this Agreement shall, in accordance with the provisions of Article XIV.5 of the Constitution and Rule XXI.3 of the General Rules of the Organization, be submitted by the Organization to the authority having responsibility for the international relations of such Associate Members.~~

2. (new) **For the purposes of this Agreement, the term “whose vessels” in relation to a Contracting Party regional economic integration organization means the vessels of a Member State of such Contracting Party regional economic integration organization.**

Article 5: General Principles (partly old Article III)

The purpose of the Commission shall be to promote the development, conservation, rational management and best utilization of living marine resources, as well as the sustainable development of aquaculture in the Region. **In giving effect to the objective of this Agreement, the Commission shall:**

- a) **adopt recommendations on conservation and management measures aimed at ensuring the long-term sustainability of fishing activities, in order to preserve the marine living resources, the economic and social viability of fisheries, and aquaculture; in adopting such recommendations, the Commission shall give particular attention to measures to prevent overfishing and minimize discards. The Commission shall also pay particular attention to the potential impacts on small-scale fisheries and local communities;**
- b) **formulate, in accordance with Article 8(b), appropriate measures based on the best scientific advice available, taking into account relevant environmental, economic and social factors;**
- c) **apply the precautionary approach in accordance with the 1995 Agreement and the Code of Conduct for Responsible Fisheries;**
- d) **consider aquaculture, including culture-based fisheries, as a means to promote the diversification of income and diet and, in so doing, ensure that living marine resources are used responsibly, that genetic diversity is conserved and adverse impacts on the environment and local communities are minimized;**
- e) **foster, as appropriate, a subregional approach to fisheries management and aquaculture development in order to better address the specificities of the Mediterranean and the Black Sea;**
- f) **take the appropriate measures to ensure compliance with its recommendations to deter and eradicate illegal, unreported and unregulated fishing activities;**
- g) **promote transparency in its decision-making processes and other activities; and**
- h) **carry out such other relevant activities as may be necessary for the Commission to achieve its principles as defined above.**

Article 6: The Commission (old Article II)

1. Each Contracting Party shall be represented at sessions of the Commission by one delegate, who may be accompanied by an alternate and by experts and advisers. Participation in meetings of the Commission by alternates, experts, and advisers shall not entail the right to vote, except in the case of an alternate who is acting in the place of a delegate during his absence.

2. Subject to paragraph 3, each Contracting Party shall have one vote. Decisions of the Commission shall be taken by a majority of the votes cast, except as otherwise provided by this Agreement. A majority of the total membership of the Commission shall constitute a quorum.

3. A regional economic integration organization that is a Contracting Party to the Commission shall be entitled to exercise, in any meeting of the Commission or of any subsidiary body of the Commission, a number of votes equal to the number of its Member States that are entitled to vote in such meeting.
4. A regional economic integration organization that is a Contracting Party to the Commission shall exercise its membership rights on an alternative basis with its Member States that are Contracting Parties to the Commission in the areas of their respective competence. Whenever a regional economic integration organization that is a Contracting Party to the Commission exercises its right to vote, its Member States shall not exercise theirs, and conversely.
5. Any Contracting Party to the Commission may request a regional economic integration organization that is a Contracting Party to the Commission or its Member States that are Contracting Parties to the Commission to provide information as to which, as between the Contracting Party regional economic integration organization and its Member States, has competence in respect of any specific question. The regional economic integration organization or the Member States concerned shall provide this information on such request.
6. Before any meeting of the Commission or a subsidiary body of the Commission, a regional economic integration organization that is a Contracting Party to the Commission, or its Member States that are Contracting Parties to the Commission shall indicate which, as between the regional economic integration organization and its Member States, has competence in respect to any specific question to be considered in the meeting and which, as between the regional economic integration organization and its Member States, shall exercise the right to vote in respect of each particular agenda item. Nothing in this paragraph shall prevent a regional economic integration organization that is a Contracting Party to the Commission or its Member States that are Contracting Parties to the Commission from making a single declaration for the purposes of this paragraph, which declaration shall remain in force for questions and agenda items to be considered at all subsequent meetings subject to such exceptions or modifications as may be indicated before any individual meeting.
7. In cases where an agenda item covers both matters in respect of which competence has been transferred to the regional economic integration organization and matters which lie within the competence of its Member States, both the regional economic integration organization and its Member States may participate in the discussions. In such cases the meeting, in arriving at its decisions, shall take into account only the intervention of the Contracting Party which has the right to vote.
8. For the purpose of determining a quorum of any meeting of the Commission, the delegation of a regional economic integration organization that is a Contracting Party to the Commission shall be counted to the extent that it is entitled to vote in the meeting in respect of which the quorum is sought.
- 9. The principle of cost-effectiveness shall apply to the frequency, duration and scheduling of sessions and other meetings and activities held under the auspices of the Commission.**

Article 7: The Bureau

(old Article II, 9) The Commission shall elect a ~~Chairman and two Vice Chairmen~~ **Chairperson and two Vice-Chairpersons** by a two-third majority. **The three shall constitute the Bureau of the Commission which will operate in accordance with the terms of reference set out in the Rules of Procedure.**

~~The Chairman of the Commission shall normally convene a regular session of the Commission every year unless otherwise directed by a majority of the Members. The site and date of all sessions shall be determined by the Commission in consultation with the Director General of the Organization.~~

Article 8: Functions of the Commission (partly old Article III)

In accordance with its objectives and general principles, the Commission shall exercise the following functions and responsibilities:

- a) regularly review **and assess** the state of living marine resources; ~~to keep under review the state of these resources, including their abundance and the level of their exploitation, as well as the state of the fisheries based thereon;~~
 - b) **formulate and recommend, in accordance with the provisions of Article V Article 13,** appropriate measures, including:
 - i) for the conservation and ~~rational~~ management of living marine resources **found in the area of application;**
 - ii) **to minimize impacts for fishing activities on living marine resources and their ecosystems;** regulating fishing methods and fishing gear; prescribing the minimum size for individuals of specified species;
 - iii) **to adopt multiannual management plans applied in the totality of the relevant subregions based on an ecosystem approach to fisheries to guarantee the maintenance of stocks above levels which can produce maximum sustainable yield, and consistent with actions already taken at the national level;**
 - iv) **to establish** open and closed fishing seasons and **fisheries restricted areas for the protection of vulnerable marine ecosystems, including but not limited to nursery and spawning areas, in addition to or to complement similar measures that may already be included in management plans;**
 - v) **to ensure, if possible through electronic means, the collection, submission, verification, storing and dissemination of data and information, consistent with relevant data confidentiality policies and requirements;**
 - vi) **to take action to prevent, deter and eliminate illegal, unreported and unregulated fishing, including mechanisms for effective monitoring, control and surveillance;**
 - vii) **to resolve situations of non-compliance, including through an appropriate system of measures. The Commission shall define this system of measures and the way to implement them in its Rules of Procedure;**
- For the implementation of these recommendations
- c) promote ~~programmes for marine and brackish water~~ **the sustainable development of aquaculture and coastal fisheries development and enhancement;**
 - d) ~~to keep under~~ **regularly review** the socioeconomic aspects of the fishing industry and ~~recommend any measures aimed at its development,~~ **including by obtaining and evaluating economic and other data and information relevant to the work of the Commission;**

- e) ~~to encourage, recommend, coordinate and, as appropriate, undertake training~~ **promote the development of institutional capacity and human resources, particularly through education, training and vocational extension activities in areas of competence of the Commission** ~~in all aspects of fisheries;~~
- f) **enhance communication and consultation with civil society concerned with aquaculture and fishing;**
- g) encourage, recommend, coordinate and, undertake research and development activities, including cooperative projects in the areas of fisheries and the protection of living marine resources;
- ~~to assemble, publish or disseminate information regarding exploitable living marine resources and fisheries based on these resources;~~
- h) adopt and amend, by a two-thirds majority of its membership, its Rules of Procedure and Financial Regulations and **such other internal administrative regulations as may be necessary to carry out its functions;**
- i) **approve its budget and programme of work and** exercise any other function as may be necessary for achieving the objective of this Agreement.

Article 9 : Subsidiary bodies of the Commission *(old Article VII)*

1. The Commission may establish, **as necessary,** temporary, special or standing ~~committees~~ **subsidiary bodies** to study and report on matters pertaining to the purposes of the Commission and working parties to study and recommend on specific technical problems. **The mandate of established subsidiary bodies shall be set out in the Rules of Procedure taking in consideration the need for a subregional approach. The Commission may also establish specific mechanisms for the Black Sea region which will endeavour to ensure a full participation of all riparian States, in accordance with their status within the Commission, to fisheries management related decisions.**
2. ~~The committees~~ **subsidiary bodies** and working parties referred to in paragraph 1 above shall be convened by the ~~Chairman~~ **Chairperson** of the Commission at such times and places as are determined by the ~~Chairman~~ **Chairperson** in consultation with the Director-General of the Organization, as appropriate.
3. The establishment by the Commission of **subsidiary bodies** ~~committees~~ and working parties referred to in paragraph 1 above shall be subject to the availability of necessary funds ~~in the relevant chapter of the approved budget of the Commission~~ and, before taking any decision involving expenditure ~~and the recruitment or appointment of specialists,~~ the Commission shall have before it a report from the Executive Secretary on administrative and financial implications.
4. **Each Contracting Party shall be entitled to appoint one representative to any subsidiary body and working party, who at sessions may be accompanied by alternates, experts and advisers.**
5. **Contracting Parties shall provide available information relevant to the functioning of each subsidiary body and working party in such a way as to enable them to fulfil their responsibilities.**

Article 10: The Secretariat (old Article XI)

1. **The Secretariat shall be composed of the Executive Secretary and such staff serving the Commission. The Executive Secretary and the staff of the Secretariat shall be appointed and governed in accordance with the terms, conditions and procedures laid down in the Administrative Manual, Staff Regulations and Staff Rules of the Organization, as generally applicable to other staff members of the Organization.**

2. The Executive Secretary of the Commission shall be appointed by the Director-General with the approval of the Commission, or in the event of appointment between regular sessions of the Commission, with the approval of the Contracting Parties.

3. The Executive Secretary shall be responsible for ~~implementing~~ **monitoring the implementation of** the policies and activities of the Commission and shall report thereon to the Commission, **according to the terms of reference set out in the Rules of Procedure.** The Executive Secretary shall also act as Executive Secretary to other subsidiary bodies established by the Commission, as required.

~~The Commission shall transmit, after each session, to the Director General of the Organization, a report embodying its views, recommendations and decisions, and make such other reports to the Director General of the Organization as may seem to it necessary or desirable. Reports of the committees and working parties of the Commission provided for in Article VII of the Agreement shall be transmitted to the Director General of the Organization through the Commission.~~

Article 11: Financial Arrangements (old Article IX)

~~The Commission may adopt and amend, as required, its own Financial Regulations by a two-thirds majority of the Contracting Parties, which shall be consistent with the principles embodied in the Financial Regulations of FAO. The Financial Regulations and amendments thereto shall be reported to the Finance Committee of FAO which shall have the power to disallow them if it finds that they are inconsistent with the principles embodied in the Financial Regulations of FAO.~~

1. At each regular session, the Commission shall adopt its autonomous budget **for three years, which may be reviewed on a yearly basis at the regular session. The budget will be adopted** by consensus of its Contracting Parties, provided however that if, after every effort has been made, a consensus cannot be reached in the course of that session, the matter will be put to a vote and the budget shall be adopted by a two-thirds majority of its Contracting Parties.

2. Each Contracting Party shall undertake to contribute annually its share of the autonomous budget based on the scale of contributions determined in accordance with a scheme which the Commission shall adopt or amend by consensus. The scheme shall be set out in the Financial Regulations.

3. Any non-member of the Organization that becomes a Contracting Party shall be required to make such contribution towards the expenses incurred by the Organization with respect to the activities of the Commission as the Commission may determine.

4. Contributions shall be payable in freely convertible currencies unless otherwise determined by the Commission with the concurrence of the Director-General of the Organization.

5. The Commission may also accept donations and other forms of assistance from organizations, individuals and other sources for purposes connected with the fulfilment of any of its functions. **The Commission may also accept voluntary contributions generally or in connection with specific projects or activities of the Commission which shall be executed by the Secretariat. Voluntary contributions, donations and other forms of assistance received shall be paid into a trust fund to be established and administrated by the Organization in conformity with the Financial Regulations and Rules of the Organization.** ~~Contributions and donations and other forms of assistance received shall be placed in a trust fund administered by the Director General of the Organization in conformity with the Financial Regulations of the Organization.~~

6. A Contracting Party which is in arrears in the payment of its financial contributions to the Commission shall have no vote in the Commission if the amount of its arrears equals or exceeds the amount of the contributions due from it for the two preceding calendar years. The Commission may, nevertheless, permit such a Contracting Party to vote if it is satisfied that the failure to pay was due to conditions beyond the control of the Contracting Party but in no case shall it extend the right to vote beyond a further two calendar years.

Article 12: Expenses (old Article X)

~~The expenses of delegates and their alternates, experts and advisers occasioned by attendance at sessions of the Commission and the expenses of representatives sent to subsidiary bodies of the Commission shall be determined and paid by the respective Contracting Parties.~~

1. The expenses of the Secretariat, including publications and communications and the expenses incurred by the Chairperson and Vice-Chairpersons of the Commission, when performing duties on behalf of the Commission between sessions of the Commission, shall be determined and paid from the budget of the Commission.

2. The expenses of research and development projects undertaken by individual Contracting Parties, whether independently or upon recommendation of the Commission, shall be determined and paid by the Contracting Parties concerned.

3. The expenses incurred in connection with cooperative research or development projects undertaken, unless otherwise available, shall be determined and paid by the Contracting Parties in the form and proportion to which they shall mutually agree. ~~Contributions for cooperative projects shall be paid into a trust fund to be established by the FAO and shall be administered by the FAO in accordance with the Financial Regulations and Rules of the FAO.~~

4. The expenses of experts invited to attend meetings of the Commission and its subsidiary bodies in their individual capacity shall be borne by the budget of the Commission.

~~The Commission may accept voluntary contributions generally or in connection with specific projects or activities of the Commission. Such contributions shall be paid into a trust fund to be established by the FAO. The acceptance of such voluntary contributions and the administration of the trust fund shall be in accordance with the Financial Regulations and Rules of the FAO.~~

5. The expenses of the Commission shall be paid out of its autonomous budget except those relating to such staff and facilities as can be made available by the Organization. The expenses to be borne by the Organization shall be determined and paid within the limits of the biennial budget prepared by the Director-General and approved by the Conference of the Organization in accordance with the Financial Regulations and Rules of the Organization.

6. Expenses incurred by delegates, their alternates, experts and advisers when attending, as government representatives, sessions of the Commission and its subsidiary bodies, as well as the expenses incurred by observers at sessions, shall be borne by the respective governments or organizations. **In recognition of the special requirements of developing States Contracting Parties, according to Article 17 and subject to the availability of funds, the expenses could be borne by the budget of the Commission.**

Article 13: Decision Making *(old Article V)*

1. The recommendations referred to in ~~Article III, paragraph 1(b)~~ **Article 8(b)**, shall be adopted by a two-thirds majority of the Contracting Parties of the Commission present and voting. The text of such recommendations shall be communicated by ~~the Chairman of the Commission~~ **the Executive Secretary** to each Contracting Party, **cooperating non-Contracting Party and relevant non-Contracting Party.**

2. Subject to the provisions of this Article, the Contracting Parties of the Commission undertake to give effect to any recommendations adopted under ~~Article III, paragraph 1(b)~~ **Article 8(b)**, from the date determined by the Commission, which shall not be before the period for objection provided for in this Article has elapsed.

3. Any Contracting Party of the Commission may, within one hundred and twenty days from the date of notification of a recommendation, object to it and, in that event, shall not be under obligation to give effect to that recommendation. **The objection should include a written explanation of reasons for objecting, and where appropriate, proposals for alternative measures.** In the event of an objection being made within the one hundred and twenty days period, any other Contracting Party may similarly object at any time within a further period of sixty days. A Contracting Party may also, at any time, withdraw its objection and give effect to a recommendation.

4. If objections to a recommendation are made by more than one-third of the Contracting Parties of the Commission, the other Contracting Parties shall be relieved forthwith of any obligation to give effect to that recommendation; nevertheless any or all of them may agree among themselves to give effect to it.

5. ~~The Chairman of the Commission~~ **The Executive Secretary** shall promptly notify each Contracting Party immediately upon receipt of each objection or withdrawal of objection.

6. **In exceptional circumstances, when required by a Contracting Party as determined by the Executive Secretary in consultation with the Chairperson, if urgent matters require Contracting Parties to take decisions between sessions of the Commission any rapid means of communication, including electronic means of communication, may be used for decision-making with respect to procedural and administrative matters of the Commission only, including any of**

its subsidiary bodies, other than matters relating to the interpretation of and the adoption of amendments to the Agreement or its Rules of Procedure.

Article 14: Obligations relating to the implementation of decisions by the Contracting Parties. (new)

1. Subject to the provisions of this Article, the Contracting Parties of the Commission undertake to give effect to any recommendations made by the Commission **under Article 8(b), Article III, paragraph 1(b), Article 7(b)**, from the date determined by the Commission, which shall not be before the period for objection provided for in **Article 13** has elapsed.

2. **Each Contracting Party shall transpose, as appropriate, adopted recommendations into national laws, regulations or appropriate legal instruments of the regional economic integration organization. They shall report annually to the Commission indicating how they have implemented and/or transposed the recommendations, including providing such relevant legislative documents in connection with these recommendations as may be required by the Commission and information on the monitoring and control of their fisheries. The Commission shall use this information to assess whether the recommendations are uniformly implemented.**

3. **Each Contracting Party shall take measures and cooperate to ensure that their duties as flag States and port States are fulfilled in accordance with relevant international instruments to which it is a party and with recommendations adopted by the Commission.**

4. **The Commission, through a process leading to the identification of cases of non-compliance, will address Contracting Parties which fail to comply with recommendations adopted by the Commission with a view to resolving situations of non-compliance.**

5. **The Commission shall define through its Rules of Procedure appropriate measures which may be taken by the Commission when Contracting Parties are identified as being in prolonged and unjustified non-compliance with its recommendations.**

Article 15: Observers (new)

1. **In accordance with the Rules of the Organization, the Commission may invite or, upon their request, allow in observer capacity regional or international governmental organizations and regional or international or other non-governmental organizations, including from the private sector, which have interests and objectives common with those of the Commission or whose activities are pertinent to the work of the Commission or its subsidiary bodies.**

2. **Any Member or Associate Member of the Organization that is not a Contracting Party may, upon its request, be invited as an observer at sessions of the Commission and its subsidiary bodies. It may submit memoranda and participate without vote in discussions.**

Article 16: Cooperation with other organizations and institutions (partly old Article VIII)

1. The Commission shall cooperate closely with other international organizations and institutions in matters of mutual interest.

2. The Commission shall seek to make suitable arrangements for consultation, cooperation and collaboration with other relevant organizations and institutions, including entering into memoranda of understanding and partnership agreements.

Article 17: Recognition of the special requirements of developing States Contracting Parties (new)

1. The Commission shall give full recognition to the special requirements of developing States Contracting Parties to this Agreement, in accordance with relevant provisions in the 1995 Agreement.

2. The Contracting Parties may cooperate, either directly or through the Commission, for the purposes set out in this Agreement and provide assistance for identified needs.

Article 18: Non-Contracting Parties (new)

1. The Commission, through the Secretariat, may invite non-Contracting Parties whose vessels engage in fishing in the area of application, with particular reference to coastal States, to cooperate fully in the implementation of its recommendations, including by becoming cooperating non-Contracting Parties. The Commission may accept by consensus of its Contracting Parties any application for granting cooperating non-Contracting Party status provided however that if, after every effort has been made, a consensus cannot be reached, the matter will be put to a vote and the cooperating non-Contracting Party status will be granted by a two-thirds majority of its Contracting Parties.

2. The Commission, through the Secretariat, shall exchange information with respect to vessels engaged in fishing or fishing related activities in the Agreement area that are flying the flags of non-Contracting Parties to this Agreement and identify and address, as appropriate, including through the application of sanctions, consistent with international law, which shall be defined in the Rules of Procedure, cases of activities by non-Contracting Parties adversely affecting the objective of the Agreement. Sanctions may include non-discriminatory market-related measures.

3. The Commission shall take measures, consistent with international law and with this Agreement, to deter the activities of such vessels which undermine the effectiveness of applicable recommendations, and shall regularly report on any action taken in response to fishing or fishing related activities in the Agreement area by non-Contracting Parties.

4. The Commission shall draw the attention of any non-Contracting Parties to any activity which, in the opinion of any Contracting Party, negatively affects the implementation of the objective of the Agreement.

Article 19: Settlement of disputes on the interpretation and application of the Agreement (partly old Article XVI)

1. In the event of a dispute between two or more of Contracting Parties concerning the interpretation or application of this Agreement, the Parties concerned shall consult among each other with a view to seeking solutions by negotiation, mediation, inquiry or any other peaceful means of their own choice.

2. **If the parties concerned cannot reach agreement in accordance with paragraph 19.1, they may jointly refer the matter** to a committee composed of one representative appointed by each of the party of the dispute, **and in addition the Chairperson of the Commission. The findings** by such committee, while not binding in character, shall constitute the basis for renewed consideration by the Contracting Parties concerned of the matter out of which disagreement arose.

3. **Any dispute concerning the interpretation or application of this Agreement not resolved under paragraphs 19.1 and 19.2 may, with the consent in each case of all parties to the dispute, be referred for settlement to arbitration. The results of the arbitration procedure shall be binding upon the parties.**

4. **In cases where the dispute is referred to arbitration, the arbitral tribunal shall be constituted as provided in the Annex to this Agreement. The Annex forms an integral part of this Agreement.**

Article 20: Relationship with other agreements (*old Article XIII, 8*)

References in this Agreement to the 1982 Convention or to other international agreements do not prejudice the position of any State with respect to signature, ratification, or accession to the 1982 Convention or with respect to other agreements, **nor the rights, jurisdiction and duties of Contracting Parties under the 1982 Convention or the 1995 Agreement.**

Article 21: Official languages of the Commission (*new*)

The official languages of the Commission shall be such official languages of the Organization as the Commission itself may decide. The delegations may use any one of these languages at sessions and for their reports and communications. The use of official languages for simultaneous interpretation and translation of documents in the statutory sessions of the Commission shall be specified in the Rules of Procedure.

Article 22: Amendments (*old Article XII*)

1. The Commission may amend this Agreement by a two-thirds majority of all the Contracting Parties. Subject to paragraph 2 below, amendments shall come into force as from the date of their adoption by the Commission.

2. Amendments involving new obligations for Contracting Parties shall come into force after acceptance by two-thirds of the Contracting Parties and with respect to each Contracting Party only on acceptance of it by that Contracting Party. The instruments of acceptance of amendments involving new obligations shall be deposited with the Director-General of the Organization, who shall inform all the Members of the Organization, as well as the Secretary-General of the United Nations, of the receipt of acceptance and the entry into force of such amendments. The rights and obligations of any Contracting Party that has not accepted an amendment involving additional obligations shall continue to be governed by the provisions of this Agreement as they stood prior to the amendment.

3. Amendments to this Agreement shall be reported to the Council of the Organization which shall have the power to disallow any amendment which it finds to be inconsistent with the objectives and purposes of the Organization or the provisions of the Constitution of the Organization. If the Council of the Organization considers it desirable, it may refer the amendment to the Conference of the Organization which shall have the same power.

Article 23: Acceptance (old Article XIII)

1. This Agreement shall be open to acceptance by Members or Associate Members of the Organization.
2. The Commission may, by a two-thirds majority of its membership, admit to membership such other States that are members of the United Nations, or any of its specialized as have submitted an application for membership and a declaration made in a formal instrument that they accept this Agreement as in force at the time of admission.
3. Participation in the activities of the Commission by Contracting Parties which are not Members or Associate Members of the Organization shall be contingent upon the assumption of such proportionate share in the expenses of the Secretariat as may be determined in the light of the relevant provisions of the Financial Regulations and Rules of the Organization.
4. Acceptance of this Agreement by any Member or Associate Member of the Organization shall be effected by the deposit of an instrument of acceptance with the Director-General of the Organization and shall take effect on receipt of such instrument by the Director-General.
5. Acceptance of this Agreement by non-members of the Organization shall be effected by the deposit of an instrument of acceptance with the Director-General of the Organization. Membership shall become effective on the date on which the Commission approves the application for membership, in conformity with the provisions of paragraph 2 of this Article.
6. The Director-General of the Organization shall inform all Contracting Parties of the Commission, all Members of the Organization and the Secretary-General of the United Nations of all acceptances that have become effective.
7. Acceptance of this Agreement **by non-Contracting Parties** may be made subject to reservations which shall become effective only upon **approval by two thirds of** the Contracting Parties. Contracting Parties **whose relevant competent authorities** have not replied within three months from the date of the notification shall be deemed to have accepted the reservation. Failing such approval, the nation or regional economic integration organization making the reservation shall not become a party to this Agreement. The Director-General of the Organization shall notify forthwith all Contracting Parties of any reservations.

Article 24: Entry into Force (old Article XIV)

This Agreement shall enter into force as from the date of receipt of the fifth instrument of acceptance.

Article 25: Reservations (new)

1. **Acceptance of this Agreement may be made subject to reservations, which shall not be incompatible with the objectives of the Agreement and shall be made in accordance with the general rules of public international law as reflected in the provisions of Part II, Section 2 of the Vienna Convention on the Law of Treaties of 1969.**
2. **The Commission shall regularly assess if a reservation may create issues of non-compliance with the recommendations adopted under Article 8(b) and may consider appropriate measures, as foreseen in its Rules of Procedures.**

~~The Members of the Commission shall, when accepting this Agreement, state explicitly to which territories their participation shall extend. In the absence of such a declaration, participation shall be deemed to apply to all the territories for the international relations of which the Member is responsible. Subject to the provisions of Article XVI below, the scope of the territorial application may be modified by a subsequent declaration.~~

Article 26: Withdrawal (old Article XVI)

1. Any Contracting Party may withdraw from this Agreement at any time after the expiration of two years from the date upon which the Agreement entered into force with respect to that Contracting Party, by giving written notice of such withdrawal to the Director-General of the Organization, who shall immediately inform all the Contracting Parties and the Members of the Organization of such withdrawal. Notice of withdrawal shall become effective three months from the date of its receipt by the Director-General of the Organization.

2. A Contracting Party may give notice of withdrawal with respect to one or more of the territories for the international relations of which it is responsible. When a Contracting Party gives notice of its own withdrawal from the Commission it shall state to which territory or territories the withdrawal is to apply. In the absence of such a declaration, the withdrawal shall be deemed to apply to all the territories for the international relations of which the Contracting Party is responsible, with the exception of Associate Members.

3. Any Contracting Party that gives notice of withdrawal from the Organization shall be deemed to have simultaneously withdrawn from the Commission, and this withdrawal shall be deemed to apply to all the territories for the international relations of which the Contracting Party concerned is responsible, except that such withdrawal shall not be deemed to apply to an Associate Member.

Article 27: Termination (old Article XVIII)

This Agreement shall be automatically terminated if and when, as the result of withdrawals, the number of Contracting Parties drops below five, unless the remaining Contracting Parties unanimously decide otherwise.

Article 28: Certification and Registration (old Article XIX)

The text of this Agreement was originally formulated at Rome on the 24th day of September one thousand nine hundred and forty-nine in the French language and [*was amended on (xx)...*] Two copies in the Arabic, English, French and Spanish languages of this Agreement and of any amendments to this Agreement shall be certified by the Chairperson of the Commission and by the Director-General of the Organization. One of these copies shall be deposited in the archives of the Organization. The other copy shall be transmitted to the Secretary-General of the United Nations for registration. In addition, the Director-General shall certify copies of this Agreement and transmit one copy to each member of the Organization and to such non-member of the Organization that are or may become Contracting Parties to this Agreement.

Arbitral Tribunal

1. The arbitral tribunal referred to in paragraph 4 of Article 19 shall be composed of three arbitrators who shall be appointed as follows:

a) **The Contracting Party commencing proceedings shall communicate the name of an arbitrator to the other Contracting Party which, in turn, within a period of forty days following such notification, shall communicate the name of the second arbitrator. In disputes between more than two Contracting Parties, parties to the dispute with the same interest shall appoint one arbitrator jointly by agreement. The Contracting Parties shall, within a period of sixty days following the appointment of the second arbitrator, appoint the third arbitrator, who shall not be a national of either Contracting Party and shall not be of the same nationality as either of the first two arbitrators. The third arbitrator shall preside over the tribunal;**

b) **If the second arbitrator has not been appointed within the prescribed period, or if the Contracting Parties have not reached agreement within the prescribed period on the appointment of the third arbitrator, that arbitrator shall be appointed, at the request of either Contracting Party, by the Director-General of the Organization within two months from the date of receipt of the request.**

2. The arbitral tribunal shall decide where its headquarters will be located and shall adopt its own rules of procedure.

3. The arbitral tribunal shall render its decisions in accordance with the provisions of this Agreement and international law.

4. The award of the arbitral tribunal shall be made by a majority of its members, who may not abstain from voting.

5. Any Contracting Party which is not a Party to the dispute may intervene in the proceedings with the consent of the arbitral tribunal.

6. The award of the arbitral tribunal shall be final and binding on Contracting Parties to the dispute and on any Contracting Party which intervenes in the proceedings and shall be complied with without delay. The arbitral tribunal shall interpret the award at the request of one of the Contracting Parties to the dispute or of any intervening Contracting Party.

7. Unless the arbitral tribunal determines otherwise because of the particular circumstances of the case, the expenses of the tribunal, including the remuneration of its members, shall be borne by the Contracting Parties to the dispute in equal shares.

Appendix 3

Draft Resolution

Review of FAO Statutory Bodies

THE CONFERENCE,

Recalling resolution 13/97 on the “Review of FAO Statutory Bodies” adopted by the Conference at its Twenty-ninth Session, in which the Conference recognized “*the continuing need to enhance the efficiency of the Organization and its governance in a time of financial challenge, to eliminate Statutory Bodies that are obsolete, to ensure more flexible task-oriented and time-bound working arrangements for those that remain and to limit the creation of new Bodies to those that are strictly necessary*”,

Also recalling the earlier consideration by the Conference and the Council of matters concerning the abolition and establishment of Statutory Bodies, including, *inter alia*, Resolution 12/79 adopted by the Conference at its Twentieth Session,

Recalling further the *Principles and Procedures which should govern Conventions and Agreements concluded under Articles XIV and XV of the Constitution, and Commissions and Committees established under Article VI of the Constitution*, as contained in the *Basic Texts* of the Organization,

Conscious that, while substantial progress has been made in the implementation of Resolution 13/97, further efforts are required in order to achieve its objectives,

1. **Reaffirms** the validity and relevance of Resolution 13/97, in particular the procedures set forth therein relating to the establishment and abolition of statutory bodies;
2. **Requests** the Secretariat to take an active role in identifying statutory bodies that the Council or Conference may wish to abolish because they are inactive or are mandated to discharge functions that could be undertaken through more flexible task-oriented and time-bound working arrangements, as called for by Resolution 13/97;
3. **Requests** the Director-General to continue to explore methods to enhance cost efficiencies for statutory bodies, in particular, in relation to the meetings of such bodies;
4. **Authorizes** the Director-General, where possible, and following any consultations that may be required under the applicable Rules of Procedure and relevant decisions:
 - (a) to recommend to the Members of a statutory body established under Article VI of the Constitution not to hold a session when, in his considered judgement, effective decision-making will not be possible because a quorum will not be achieved and, in the absence of objection from the minimum number of Members that would represent a quorum, to decide not to convene the session; and
 - (b) to consider organizing *ad hoc* technical consultations to address matters falling within the mandates of such bodies in the place of the sessions, as required;
5. **Decides** that any proposal to establish a new body under Articles VI or XIV of the Constitution shall be accompanied by a document setting forth in detail:
 - (a) the objectives that are to be achieved through the establishment of the body;
 - (b) the manner in which the body will carry out its functions and any impact that its creation may have on current or future programmes of the Organization;
 - (c) the financial implications of the establishment of the body for the current biennium, as well as a forecast of the financial implications for the future biennia;

- (d) a specific assessment of whether the objectives of the proposed statutory body could be met through a different type of working arrangement, such as the organization of *ad hoc* technical consultations or other task-oriented and time-bound arrangements; and
- (e) whether there are any existing statutory bodies covering the same, similar or related fields as those to be addressed by the proposed new statutory body.

Appendix 4**Draft Resolution*****Abolition of the Caribbean Plant Protection Commission*****THE COUNCIL,**

Recalling that the Caribbean Plant Protection Commission was established under Article VI.1 of the FAO Constitution by Resolution 8/48 adopted by the Council at its Forty-eighth Session in 1967;

Noting that the purpose of the Commission was to strengthen intergovernmental cooperation in plant quarantine in the Caribbean area in order to prevent the introduction of destructive plant pests and diseases, and to preserve the existing plant resources of that area and that not having such purpose fulfilled may carry out risks for the plant health of the sub-region;

Noting that the Commission has undertaken limited activities and that its last regular Session took place in 2001;

Recalling Resolution 13/97 adopted by the FAO Conference, at its 29th Session, whereby, *conscious of the continuing need to enhance the efficiency of the Organization and its governance in a time of financial challenge*, the Conference proposed to eliminate Statutory Bodies that are obsolete;

Hereby abolishes the Caribbean Plant Protection Commission.