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منظمة
الأغذية والزراعة
للأمم المتحدة

COMMITTEE ON CONSTITUTIONAL AND LEGAL MATTERS

Hundred and Second Session

Rome, 14 - 16 March 2016

Commission for Controlling the Desert Locust in the Western Region (CLCPRO) - Proposal to amend the Agreement

I. INTRODUCTION

1. This item has been placed on the Provisional Agenda of the Committee on Constitutional and Legal Matters (hereinafter “CCLM” or “the Committee”) under Rule XXXIV, paragraph 7 (b) of the General Rules of the Organization (“GRO”), whereby the Committee considers specific items referred to it which may arise out of “*the formulation, adoption, entry into force and interpretation of multilateral conventions and agreements concluded under Article XIV of the Constitution*”.

2. This document addresses proposed amendments to the Agreement for the Establishment of a Commission for Controlling the Desert Locust in the Western Region (hereinafter “the Agreement”), which are set out in the Annex hereto.

II. BACKGROUND

3. The Agreement was approved by the FAO Council at its Hundred and Nineteenth Session (November 2000)¹, in accordance with Article XIV of the FAO Constitution. As provided for in Article XIX, the Agreement entered into force on 25 February 2002, the date of receipt by the Depositary, the Director-General of FAO, of the fifth instrument of acceptance. The Agreement has never been amended.

4. Pursuant to Article XII of the Agreement, the Executive Committee of the Commission for Controlling the Desert Locust in the Western Region (hereinafter referred to as “DLCCWR” or “the Commission”) is charged, *inter alia*, with making “*proposals to the Commission concerning policy matters and the Commission's programme of activities*”.

¹ Resolution No. 1/119

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5. The amendments reflected in the Annex were approved by the Executive Committee during its 10th Session convened in Dakar, Senegal, from 18 to 20 May 2015.

6. The Executive Committee undertook the work to review and revise the Agreement with the aim of ensuring it reflected the current reality and needs of the Commission in terms of members' obligations and the functions of the Commission, its Chairperson, the Executive Committee and the Executive Secretary, as further described below. The proposed amendments will enable the Commission, in particular, to strengthen its capacity to react in case of locust outbreaks, which constitutes a major concern for the Members.

III. PROPOSED AMENDMENTS TO THE AGREEMENT

7. **Article III – Definition of the Region:** The Commission is composed of ten Members from West and Northwest Africa: Algeria, Burkina Faso, Chad, Libya, Mali, Mauritania, Morocco, Niger, Senegal and Tunisia, as listed in Article III of the Agreement, which defines the region covered by the Agreement. Burkina Faso is not listed among the countries in Article III. However, on 16 June 2005, Burkina Faso submitted an instrument of acceptance to the Depositary, the Director-General of FAO, which was accepted.² Taking advantage of the current review of the Agreement, it is proposed to include Burkina Faso in the list of countries contained in Article III.

8. **Article VI – Obligations of Members on National Policies and Regional Cooperation:** FAO, the DLCCWR and the Member States have made considerable efforts to improve both national and regional capacities to carry out preventive desert locust control and to strengthen the preparation and response capacities of all actors in locust emergency situations. The Agreement currently calls for the establishment of national bodies charged with monitoring and controlling the desert locust. Equipped autonomous national centres with trained officials and agents have been established in a number of countries. Such centres should, however be established in all Member countries of the Commission. The proposal to amend Article VI reflects the requirement that all Members have an autonomous governmental body charged with permanently monitoring, preventing and controlling the desert locust, with guaranteed access to earmarked resources.

9. Locust crises are a transboundary phenomenon which can travel across several countries in a few months. Efforts made by frontline countries benefit other countries by protecting them from the risk of infestation. It is, therefore, essential that locust control efforts be based on regional and international approach. The Executive Committee has, therefore, proposed that regional solidarity and cooperation among Members of the Commission be institutionalized through specific provision in the Agreement.

10. **Article VIII – The Work of the Commission:** The Executive Committee also agreed on the need to reinforce the role of the Chairperson of the Commission. It has proposed that he/she should assist the Secretariat in ensuring the follow-up to the recommendations of the Commission and the Executive Committee.

11. **Article XII – The Functions of the Executive Committee:** Most of the functions currently attributed to the Executive Committee are, in fact, functions which are discharged by the Executive Secretary, in particular, to “*b) submit to the Commission the draft programmes of work and budget and the annual accounts of the Commission, c) ensure the implementation of the policies and programmes approved by the Commission and take related necessary measures, d) prepare the draft annual report of the activities of the Commission.*” In light of that, a proposal is made to formally move some of the functions of the Executive Committee to the Executive Secretary.

12. **Article XIII – The Secretariat:** Paragraph 32 (iii) of the Appendix to Section O of Volume II of the FAO Basic Texts regarding “Principles and Procedures which should Govern Conventions and

² Article V(2) permits membership of Member Nations of the Organization not listed in Article III.

Agreements concluded under Articles XIV and XV of the Constitution and Commissions and Committees Established under Article VI of the Constitution” states that *“the Secretary of each body shall be designated by the Director General and shall be administratively responsible to him.”* The Executive Committee has proposed that a provision to that effect be inserted into the text of the Agreement, particularly in order to avoid any possible misunderstanding regarding the role of the Commission in decisions concerning the designation of the Executive Secretary.

13. It is also proposed to formally reflect the role and functions that the Executive Secretary already discharges in practice which are not contemplated in the current text of the Agreement. In particular, the proposed amendments reflect the Executive Secretary’s role regarding the preparation of the report of activities of the Commission, and the submission of the annual accounts, and also reflect the right to consult the Executive Committee as needed.

14. Amendments to allow the Commission to conclude agreements are also proposed. The proposal corresponds to the current practice of the Organization whereby FAO, on behalf of a body established under Article XIV of the FAO Constitution, can conclude agreements, to receive contributions or to establish frameworks for general cooperation and mutual collaboration, with Members or non-Members of the Commission, national institutions or intergovernmental organizations. According to FAO rules, only the FAO Director-General can sign agreements on behalf of the Organization (including on behalf of Statutory Bodies which do not have the required legal personality to enter into agreements independently). In order to facilitate such matters, authority has been delegated to the Assistant Director-General of the Technical Cooperation Department to sign agreements providing for extra-budgetary contributions. The proposals establish that, for agreements establishing mechanisms for general cooperation, the Executive Secretary of the Commission may be entitled to sign, upon delegation of authority by the Director-General which would be granted on a case-by-case basis.

15. Finally, taking advantage of the current review of the Agreement, some editorial changes have been included to improve the text.

IV. ENTRY INTO FORCE OF AMENDMENTS AND “ADDITIONAL OBLIGATIONS”

16. Following review by the CCLM, the proposed amendments would be transmitted to the Council which has the right, pursuant to Article XVI, to repudiate them if they are clearly inconsistent with the objectives and aims of the Organization or with the provisions of the FAO Constitution.

17. If endorsed by Council, the amendments will be submitted to the Commission for approval. The next Session of the Commission will take place in N’Djamena, Chad, in July 2016.

18. Amendments not involving additional obligations for Members of the DLCCWR shall take effect for all Members from the date of their approval by the Commission (Article XVI, paragraph 4). Amendments which involve additional obligations *“shall, after their adoption by the Commission [...] only come into effect for each Member of the Commission that has accepted them from the date on which three quarters of the Members have accepted them”* (Article XVI, paragraph 5). The advice of the CCLM is specifically requested as to whether the proposed amendments, as negotiated and endorsed by the Executive Committee of the Commission, involve additional obligations for the Members of the Commission.

19. At its Thirty-fifth Session in October 1977, the CCLM set down the criteria for determining whether amendments to agreements establishing statutory bodies under Article XIV of the FAO Constitution involve new or additional obligations. These criteria have subsequently been endorsed by

the Council³ and the Conference⁴ and reflect the established practice of the Organization. In particular, the CCLM stated:

“if, as a result of the amendments, the overall burden to be borne by contracting parties in the implementation of their existing obligations, would remain substantially the same, the amendments would not involve new obligations. If that burden would be transformed in such a way that the tasks to be performed were different in character from those entailed under existing obligations, the amendments causing such a transformation could be said to involve new obligations. Any extension of an existing obligation could not be considered per se as a new obligation; there might however be cases where such an extension could be considered as tantamount to a new obligation – where, for example, it was bound to have substantial financial implications for the contracting parties or the burden entailed was disproportionate to the existing burden on contracting parties.”⁵

20. It is considered that the overall burden to be borne by the Members of the DLCCWR in the implementation of their obligations would remain substantially the same if the amendments are approved. The proposed changes to the Agreement do not impose any significant extra obligations or burdens upon the Members of the Commission over and above their existing obligations.

21. Consequently, it is considered that the proposed amendments would appear to be outside the scope of paragraph 5 of Article XVI of the Agreement.

V. SUGGESTED ACTION BY THE COMMITTEE

22. The CCLM is invited to review the proposed amendments as endorsed by the Executive Committee at its 10th Session in light of the Basic Texts of the Organization and, in particular, to provide its views on whether any of the proposed amendments involve additional obligations for the Members of the Commission.

23. The Committee is further invited to submit the draft Council resolution, set forth in the Annex, to the Council for consideration.

³ CL 72/REP, paragraph 139.

⁴ See, for example, the Report of the Twenty-Ninth Session of the Conference, paragraph 132.

⁵ Report of the Thirty-fifth Session of the CCLM, 10- 14 October 1977, paragraph 46.

ANNEX

RESOLUTION .../..

AMENDMENTS TO THE AGREEMENT FOR THE ESTABLISHMENT OF A
COMMISSION FOR CONTROLLING THE DESERT LOCUST IN THE WESTERN
REGION

THE COUNCIL

Recalling the Council's approval of the Agreement for the Establishment of a Commission for Controlling the Desert Locust in the Western Region under Article XIV of the FAO Constitution at its Hundred and Nineteenth Session in November 2000, which Constitution came into force on 25 February 2002;

Recalling also that the Executive Committee of the Commission, at its 10th Session held in Dakar, Senegal, from 18 to 20 May 2015, proposed amendments to the Agreement;

Considering that after Council's approval, the Commission will approve the amendments during its forthcoming Session which will take place in N'Djamena, Chad, in July 2016;

Having considered the report of the 101st Session of the Committee on Constitutional and Legal Matters, and **noting** that the Committee found that amendments would not involve new obligations for Members of the Commission;

Endorses the amendments to the Agreement for the Establishment of a Commission for Controlling the Desert Locust in the Western Region, in accordance with paragraph 3 of Article XVI, as follows:

PREAMBLE [6]

The Contracting Parties

Recognizing the urgent need to prevent the damage that the desert locust can cause to overall agrosylvopastoral production in many countries of West and North-West Africa;

Bearing in mind the socio-economic upheaval that can result from damage caused by the desert locust and the serious *harm to food security, human and animal health and the environmental* ~~harm~~ that can be caused by operations to control this pest;

Considering the need to ensure very close collaboration for desert locust control in the western region, and between this region and the other invasion areas, in view of the extensive migratory range of the pest;

[6 Proposed deletions are indicated in strikethrough, new text is in italics and underlined.]

Taking note of the outstanding action conducted for many years by the Organisation commune de lutte antiacridienne et antiaviaire ('Joint Anti-Locust and Anti-Aviarian Organization') and, within the framework of FAO, by the Commission for Controlling the Desert Locust in North-West Africa (CCDLNWA);

Agree as follows:

ARTICLE I

Establishment of the Commission

The Contracting Parties hereby establish, within the framework of the Food and Agriculture Organization of the United Nations (hereinafter referred to as "the Organization" or "FAO") and under Article XIV of the FAO Constitution, a commission to be known as the "Desert Locust Control Commission for the Western Region" (hereinafter referred to as "the Commission" or the "DLCCWR").

ARTICLE II

Purpose of the Commission

The purpose of the Commission is to promote, at national, regional and international level, action, *including* research and training, to ensure *a rational and sustainable management of* the preventive control of and appropriate response to the invasions of the desert locust in the western region of its distribution area, encompassing West Africa and North-West Africa.

ARTICLE III

Definition of the Region

For the purposes of this Agreement, the western region of the invasion area of the desert locust (hereinafter "the Region") comprises Algeria, *Burkina Faso*, Chad, Libya, Mali, Morocco, Mauritania, Niger, Senegal and Tunisia, countries in which gregarization areas exist or that are directly affected by all early upsurges.

ARTICLE IV

Seat of the Commission

1. The Commission shall decide the location of its seat. The agreement on the seat concluded between the Director-General of FAO (*hereinafter referred to as "the Director-General"*) and the government concerned shall be submitted to the Commission for approval.

~~2. In agreement with the Commission for Controlling the Desert Locust in North West Africa and the Government of Algeria, the Commission shall benefit from the expertise and, as appropriate, the property and assets of the CCDLNWA.~~

ARTICLE V

Membership

1. The Members of the Commission shall be those Member Nations of the Organization that constitute the Region defined under Article III that accept this Agreement in accordance with the provisions of Article XVII below.

2. *Furthermore*, ~~the~~ Commission may, by a two-thirds majority of its Members, admit to membership such other Member Nation of the Organization or such other State belonging to the United Nations, to one of its Specialized Agencies or to the International Atomic Energy Agency that has submitted an application to this effect together with an instrument declaring acceptance of the Agreement as in force at the time of admission.

ARTICLE VI

Obligations of Member Nations regarding National Policies and Regional Cooperation for Control of the Desert Locust

1. Each Member Nation of the Commission undertakes to implement the preventive control strategy and to deal with plagues of the desert locust within its territory and thus to avoid or reduce agro-sylvo-pastoral damage to itself and to the other Nations in the invasion area, by adopting all necessary measures and enacting the following provisions:

- (a) participating in the implementation of any common policy of desert locust prevention and control previously approved by the Commission;
- (b) establishing an *autonomous* national *desert locust control* body charged with the permanent monitoring, *prevention*, and control of the desert locust and given *the required human, material and financial resources* ~~maximum autonomy~~;
- (c) formulating, regularly updating and implementing, with its own resources or with the support of the Commission, ~~contingency action~~ *desert locust risk management* plans corresponding to the different foreseeable locust situations, and making these available to the Commission and to any government concerned;
- (d) facilitating the free movement of desert locust monitoring and control teams of the other Member Nations within its own borders, in support of its own units and in accordance with procedures to be determined by the Commission;
- (e) procuring and maintaining intervention equipment and supplies for implementation of the *desert locust risk management* plans ~~of action~~ envisaged in sub-paragraph (c);
- (f) facilitating the storage of all equipment and supplies for desert locust control belonging to the Commission and authorizing their duty-free import or export, and their free movement within the country;
- (g) *undertake, whenever required, appropriate actions of regional solidarity*;
- (~~g~~h) encouraging and supporting, within the limits of available national resources, the activities advocated by the Commission with regard to training, survey and research, including the maintenance of national or regional stations for the study of the desert locust; stations that, in agreement with the Commission, shall be accessible to regional and international research teams.

2. Each Member Nation of the Commission undertakes to provide the other Members of the Commission and its *Executive* Secretary and FAO, using standard procedures and the quickest channels, all information on the locust situation and on the progress of surveys and control operations on its respective territory.

3. The Member Nations undertake to provide the Commission with periodic reports on the measures they have taken to fulfil the obligations laid down in paragraphs 1 and 2, and to provide the Commission with any information that it may request for the satisfactory performance of its functions.

ARTICLE VII

Functions of the Commission

The functions of the Commission shall be as follows:

1. Joint Action and Assistance

The Commission shall:

(a) promote, in any manner that it considers appropriate, any national, regional or international action relating to the survey and control of the desert locust and to research activities to be conducted in the Region;

(b) organize and promote joint action for the survey and control of the desert locust in the Region whenever this is deemed necessary and, to this end, arrange for the necessary resources to be made available;

(c) assist Member Nations in formulating and implementing training plans, desert locust risk management plans, environmental specifications, communication plans and systems for monitoring and evaluation;

~~(d) determine, in consultation with the Members concerned, the nature and extent of the assistance they need to implement their national programmes and to support the regional programmes; more specifically, the Commission will help the Nations to formulate and implement contingency action plans;~~

~~(e) assist, at the request of any Member facing a desert locust situation beyond the capacity of its control and survey services, in any measure jointly decided to be necessary;~~

(f) maintain at strategic points determined by the Commission, in consultation with the Members concerned, reserves of equipment and supplies for desert locust control, to be used in cases of emergency and to serve in particular to supplement the resources of any Member.

2. Information and coordination

The Commission shall:

(a) communicate regularly to all the Member Nations updated information on the development of locust situations, research conducted, results obtained and programmes implemented at national, regional and international level in connection with desert locust control. The Commission shall take special care to ensure that an effective communication network is established among the Member Nations, and with the International Desert Locust Information Service at FAO, in Rome, so that all parties may promptly receive any information requested;

(b) support national locust research institutions and coordinate and develop research programmes in the Region;

(c) encourage and coordinate joint survey programmes in the Region;

(d) encourage Member Nations to periodically convene meetings of ministers charged with responsibility for the control of the desert locust in view of reassuring regional solidarity.

3. Cooperation

The Commission may:

(a) upon approval of the Director-General, enter into arrangements or agreements with Member Nations or non Members of the Commission, with national institutions and with regional or international organizations that are directly concerned for common action in connection with the survey, research and control of locusts in the Region;

(b) upon approval of the Director-General, enter into arrangements or agreements with Member Nations or non Members of the Commission, with national institutions and with international organizations for the purpose of funding certain actions of the Commission or to the establishment of emergency funds;

~~(b)~~ enter into or encourage arrangements, through the Director-General of the Organization, with other Specialized Agencies of the United Nations system for common action on the study of locusts and desert locust control and for the mutual exchange of locust-related information.

4. Functioning

The Commission shall:

(a) adopt its own Rules of Procedure and Financial Regulations, in accordance with the provisions of Article VIII(34) and (75), and any other standing regulations it considers necessary for the performance of its functions;

(b) examine and approve the report of the Executive Committee on the activities of the Commission and adopt its programme of work and its autonomous budget, and the accounts of the previous financial period;

(c) forward to the Director-General of the Organization (hereinafter "the Director-General") reports on its activities, programme, accounts and autonomous budget, and on any matter likely to require action on the part of the Council or Conference of FAO;

(d) create any working groups it considers necessary for implementation of this Agreement.

ARTICLE VIII

Sessions Work of the Commission

A. Sessions of the Commission

1. Each Member shall be represented at the sessions of the Commission by a single delegate, who may be accompanied by an alternate, experts and advisers. The alternates, experts and advisers may take part in the proceedings of the Commission but may only vote if duly authorized by the delegate.

2. Each Member of the Commission shall have one vote. The decisions of the Commission shall be taken by a majority of the votes cast, except as otherwise provided for in this Agreement. A majority of the Members of the Commission shall constitute a quorum.

3. The Commission may, by a two-thirds majority of its Members, adopt and amend its own Rules of Procedure, which shall be consistent with this Agreement and with the FAO Constitution. The Rules of Procedure and any amendment thereto shall come into force upon their adoption by the Commission.

4. In accordance with the provisions of Article XIV (6) of this Agreement, any Member with arrears in the payment of its financial contributions to the Commission equal to or exceeding the amount of the contributions due from it for the two preceding financial years shall lose its right to vote.

5. The Commission shall elect, at the beginning of each regular session, a Chairperson and a Vice-Chairperson from amongst the delegates. The Chairperson and the Vice-Chairperson shall hold office until the beginning of the next regular session, and shall be eligible for re-election.
6. The Chairperson shall convene a regular session of the Commission every two years. Special sessions of the Commission may be convened by the Chairperson if so requested by the Commission in regular session, by the Executive Committee or by at least one third of the Members during intervals between two regular sessions.
7. The Commission may adopt and amend, by a two-thirds majority vote, its Financial Regulations which shall be consistent with the principles laid down in the Financial Regulations of FAO. The Financial Regulations and amendments thereto shall be communicated to the Finance Committee of the Organization which shall have the power to disallow them on the grounds of incompatibility with the principles set out in the Financial Regulations of FAO.
8. The Director-General, or a representative designated by the Director-General, shall participate, without the right to vote, in all meetings of the Commission and the Executive Committee.
9. The Commission may invite consultants and experts to participate in its proceedings.

B. Functions of the Chairperson of the Commission

The functions of the Chairperson of the Commission are the following:

- a) *ensure, with the Secretariat, the follow-up to the recommendations issued by both the Commission and the Executive Committee;*
- b) *report on his or her activities to the Commission during its sessions.*

ARTICLE IX

Emergency Situations

When the situations referred to in Article VII(1)(~~d~~e) and (~~e~~f) require that urgent measures be taken during the interval between two sessions of the Commission, the Chairperson, upon the proposal of the *Executive* Secretary, shall take the necessary measures, after consultation with the Members of the Commission by mail or any other rapid means of communication for a vote by correspondence.

ARTICLE X

Observers

1. The Member Nations and the Associate Members of the Organization that are not members of the Commission may, upon their request, be invited to be represented by an observer at the sessions of the Commission. The observer may present memoranda and participate, without the right to vote, in the proceedings of the Commission.
2. Nations which, without being Members of the Commission or Members or Associate Members of the Organization, are Members of the United Nations, of any of its Specialized Agencies or of the International Atomic Energy Agency may be invited to attend sessions of the Commission as observers, upon their request and subject to the concurrence of the Executive Committee and to the provisions relating to the granting of observer status to Nations adopted by the Conference of FAO.
3. The Commission may invite intergovernmental organizations and, at their request, non-governmental organizations with specific expertise in its area of activity to attend its sessions.

ARTICLE XI

Executive Committee

1. An Executive Committee shall be established comprising locust experts, *nationals* of five of the Member Nations of the Commission, elected by the Commission *on the basis of their expertise and* according to modalities that it shall determine. The Executive Committee shall elect its Chairperson and its Vice-Chairperson from amongst its members. The Chairperson and the Vice-Chairperson shall hold office until the beginning of the regular session of the Committee subsequent to that during which they were elected. They shall be eligible for re-election.
2. The Executive Committee shall meet at least twice during the interval between two regular sessions of the Commission; one of these two sessions of the Executive Committee shall be held immediately prior to each regular session of the Commission. The Chairperson of the Executive Committee shall, in consultation with the Chairperson of the Commission, convene the sessions of the Committee.
3. The *Executive* Secretary of the Commission shall act as the Secretary of the Executive Committee.
4. The Executive Committee may invite consultants and experts to participate in its proceedings.

ARTICLE XII

Functions of the Executive Committee

The Executive Committee shall:

- (a) make proposals to the Commission concerning ~~policy matters and the Commission's programme of activities~~ *the strategic focus of its activities*;
- (b) ~~submit to the Commission the draft programmes of work and budget and the annual accounts of the Commission;~~
- (c) ~~ensure the implementation of the policies and programmes approved by the Commission and take related necessary measures;~~
- (d) ~~prepare the draft annual report of the activities of the Commission;~~
- (b) deal with specific matters referred to it by the Commission and present recommendations on those matters;*
- (c) at the request of the Chairperson, and upon the recommendation of the Executive Secretary, take appropriate measures in situations of emergency;*
- (d) support the Secretariat in the preparation of documents of the Commission;*
- (e) carry out such other functions as the Commission may delegate.

ARTICLE XIII

Secretariat

A. *Staff*

1. *The Executive Secretary of the Commission shall be appointed by the Director-General.*
- ~~2. The Organization shall provide the Executive Secretary and the staff of the Commission, who shall be administratively responsible to the Director-General. Their terms and conditions of employment and status shall be the same as those of the other members of staff of the Organization. While~~

respecting qualification requirements, action shall be taken for the staff of the Commission to be nationals of ~~the~~ its Member Nations ~~of the Commission~~.

23. The *Executive* Secretary shall implement the policies of the Commission, carry out its appointed actions and give effect to all its other decisions. The Secretary shall also act as Secretary of the Executive Committee and of any working groups established by the Commission pursuant to Article VII.4 (d).

B. Functions of the Executive Secretary

The Executive Secretary of the Commission shall:

- a) ensure the implementation of the policies and programmes approved by the Commission and take the related necessary measures;
- b) monitor the implementation of each Member Nation's plans and programmes for surveillance and preventative locust control and ensure regional coordination as necessary;
- c) submit to the Commission the draft annual report of the activities of the Commission;
- d) submit to the Commission the draft programmes of work and budget and the annual accounts of the Commission;
- e) consult with and obtain opinions from, as needed, by all means necessary and at any time, all or some of the Executive Committee on matters of a technical nature;
- f) upon approval of the Director-General, sign arrangements or agreements pursuant to Article VII.3.

ARTICLE XIV

Finances

1. Each Member Nation of the Commission undertakes to contribute annually to the autonomous budget, in accordance with a scale of contributions to be adopted by a two-thirds majority of the Members of the Commission.
2. At each regular session, the Commission shall adopt its autonomous budget by consensus, it being understood, however, that should a consensus not be achievable during the session despite every effort to the contrary, the matter shall be put to a vote and the budget shall be adopted by a two-thirds majority of its Members.
3. The contributions shall be payable in freely convertible currencies, unless the Commission decides otherwise with the concurrence of the Director-General.
4. The Commission may also accept donations and other forms of assistance from Nations, organizations, private persons and other sources for purposes linked to the performance of any one of its functions.
5. The contributions, donations and other forms of financial assistance received shall be placed in a Trust Fund administered by the Director-General in conformity with the Financial Regulations of the Organization.
6. A Member of the Commission in arrears in the payment of its financial contributions to the Commission equal to or exceeding the amount of the contributions due from it for the two preceding ~~financial~~ calendar years shall lose its right to vote. The Commission may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of that Member.

ARTICLE XV

Expenses

1. The expenses of the Commission shall be paid out of its budget, except those relating to staff, facilities and services made available by the Organization. The expenses to be borne by the Organization shall be determined and paid within the limits of an annual budget prepared by the Director-General and approved by the Conference of the Organization, in accordance with the Constitution, the General Rules and the Financial Regulations of the Organization.
2. The expenses relating to the attendance of the delegates of the Members of the Commission and of their alternates, experts and advisers at the sessions of the Commission and the expenses of the observers shall be borne by the government or organization concerned. The expenses relating to the attendance of the representative of each Member of the Commission at the sessions of the Executive Committee shall be borne by the Commission.
3. The expenses of consultants or experts invited to participate in the work of the Commission or the Executive Committee shall be borne by the Commission.
- 4. Payment of expenses from the trust fund shall be subject to the prior approval of by the Commission.*
45. The expenses of the Secretariat shall be borne by the Organization.

ARTICLE XVI

Amendments

1. This Agreement may be amended by a two-thirds majority of the Members of the Commission.
2. Proposals for amendments may be made by any Member of the Commission or by the Director-General. The former should be communicated both to the Chairperson of the Commission and to the Director-General, and the latter to the Chairperson of the Commission not later than 120 days before the opening of the session at which they are to be considered. The Director-General shall immediately notify all the Members of the Commission of all proposals for amendment.
3. Any amendment to this Agreement shall be transmitted to the Council of FAO which shall have the right to repudiate it if it is clearly inconsistent with the objectives and aims of the Organization or with the provisions of the FAO Constitution.
4. Amendments not involving new obligations for Members of the Commission shall take effect for all the Members from the date of their approval by the Commission, subject to the provisions of paragraph 3 above.
5. Amendments involving new obligations for Members of the Commission shall, after their adoption by the Commission and subject to the provisions of paragraph 3 above, only come into effect for each Member of the Commission that has accepted them from the date on which three-quarters of the Members have accepted them. The instruments of acceptance of amendments involving new obligations shall be deposited with the Director-General. The Director-General shall inform all Members of the Commission and the Secretary-General of the United Nations of such acceptance. The rights and obligations of any Member of the Commission that has not accepted an amendment involving new obligations shall continue to be governed by the provisions of the Agreement in force prior to the amendment.

6. The Director-General shall inform all the Members of the Commission, all the Members and Associate Members of the Organization and the Secretary-General of the United Nations of the entry into force of any amendment.

ARTICLE XVII

Acceptance

1. Acceptance of this Agreement by any Member of the Organization *referred to in Article III* shall be effected by the deposit of an instrument of acceptance with the Director-General and shall take effect on the date of deposit.
2. Acceptance of this Agreement by non-Member Nations of the Organization as provided for under Article V(2) above shall be effective from the date on which the Commission approves the application for membership.
3. The Director-General shall inform all the Members of the Commission, all the Members and Associate Members of the Organization and the Secretary-General of the United Nations of all acceptances that have become effective.

ARTICLE XVIII

Reservations

Acceptance of this Agreement may be accompanied by reservations in conformity with the general rules of public international law as reflected in the provisions of the Vienna Convention on the Law of Treaties (Part II, Section 2) adopted in 1969.

ARTICLE XIX

Entry into Force

1. This Agreement shall enter into force as soon as five of the Member Nations of the Organization referred to in Article V(1) above have become parties to it by depositing an instrument of acceptance in accordance with the provisions of Article XVII.
2. The Director-General of the Organization shall notify all the Nations listed in Article III of the Agreement, the Members and Associate Members of FAO and the Secretary-General of the United Nations of the date on which this Agreement comes into force.

ARTICLE XX

Withdrawal

1. Any Member of the Commission may withdraw from this Agreement after the expiration of one year from the date on which its acceptance took effect by giving written notice to the Director-General, who shall forthwith inform all the Members of the Commission, all the Members and Associate Members of FAO and the Secretary-General of the United Nations. The withdrawal shall become effective at the end of the calendar year successive to the year during which the Director-General receives such notification.
2. Any Member of the Commission that gives notice of its withdrawal from FAO shall be deemed to have simultaneously withdrawn from the Commission.

ARTICLE XXI

Termination of the Agreement

1. This Agreement shall automatically be considered terminated if, as a result of withdrawals, the number of Members of the Commission falls below five, unless the remaining Members of the Commission unanimously decide otherwise. The Director-General shall inform all the Members of the Commission, all the Members and Associate Members of the Organization and the Secretary-General of the United Nations of such termination.

2. On termination of the Agreement, the Director-General shall liquidate all the assets of the Commission and, after settlement of the liabilities, shall distribute the balance proportionately amongst the Members on the basis of the scale of contributions in force at the time of the liquidation.

ARTICLE XXII

Interpretation of the Agreement and Settlement of Disputes

Any dispute regarding the interpretation or application of this Agreement not settled by the Commission shall be referred to a Committee composed of one member appointed by each of the parties to the dispute and an independent Chairperson chosen by the members of this Committee. The recommendations of the Committee, while not binding in character, shall serve as the basis for renewed consideration by the parties concerned of the matter that occasioned the dispute. If this procedure fails to lead to settlement, the dispute shall be referred to the International Court of Justice in accordance with the Statute of the Court, unless the parties to the dispute agree to another method of settlement.

ARTICLE XXIII

Depositary

The Director-General of ~~FAO~~ shall act as the depositary of this Agreement. The depositary shall:

(a) transmit authenticated copies of this Agreement to each Member and each Associate Member of FAO and to the non-Member Nations of the Organization that can become parties to the Agreement;

(b) register this Agreement, as soon as it comes into force, with the Secretariat of the United Nations, in accordance with the provisions of Article 102 of the Charter of the United Nations;

(c) inform each Member and each Associate Member of FAO that has accepted the Agreement and any non-Member Nation that has been admitted as a Member of the Commission:

(i) of requests for admission as a Member of the Commission submitted by non-Member Nations of FAO; and

(ii) of proposals for amendment to this Agreement;

(d) inform each Member and each Associate Member of FAO and the non-Member Nations of the Organization that can become parties to this Agreement:

(i) of the deposit of an instrument of acceptance in conformity with Article XVII;

(ii) of the date of entry into effect of this Agreement in conformity with Article XIX;

(iii) of reservations to the provisions of this Agreement in conformity with Article XVIII;

(iv) of the adoption of amendments to this Agreement in conformity with Article XVI;

(v) of withdrawals to this Agreement in conformity with Article XX;

and

(vi) of the termination of this Agreement in conformity with Article XXI.

ARTICLE XXIV

Authentic Languages

The English, Arabic, French and Spanish texts of this Agreement shall be equally authentic.
