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## FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS ROME

Item 24

Twenty-sixth Session  
Rome, 9 - 28 November 1991

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AMENDMENTS TO THE PROPOSALS SUBMITTED BY THE COUNCIL AT ITS NINETY-NINTH SESSION FOR THE AMENDMENT OF THE BASIC TEXTS OF THE ORGANIZATION TO ALLOW FOR MEMBERSHIP OF FAO BY REGIONAL ECONOMIC INTEGRATION ORGANIZATIONS

(PROPOSAL SUBMITTED BY THE DELEGATIONS OF BELGIUM, CAPE VERDE, COLOMBIA, CONGO, COTE D'IVOIRE, COSTA RICA, CYPRUS, CZECHOSLOVAKIA, LEBANON, SENEGAL, SUDAN, SWITZERLAND)

The following amendments to the Council's proposals are hereby formally proposed. A clean text of the proposed amendments to the Basic Texts incorporating the present proposals is attached as Annex.

### 1. Proposed amendments to the Constitution:

#### (a) Article II.2 (bis)

Variant III of the proposed amendments to Article II.2 (bis) should be adopted, subject to the following changes to the "assimilation clause" contained in its last sentence:

- (i) the words "Except as otherwise expressly provided" should be transferred to the end of the sentence;
- (ii) the words "Subject to Article II.4 (...)" should be inserted at the beginning of the sentence.

Proposed Article II.2 (bis) should thus read as follows:

"The Conference may, by a two-thirds majority of votes cast, provided that a majority of Member Nations of the Organization is present, decide to admit as a Member of the Organization any regional economic integration organization meeting the criteria set out in paragraph 3 of this Article, which has submitted an application for membership and a declaration made in a formal instrument that it will accept the obligations of the Constitution as in force at the time of admission. Subject to Article II.4, references to Member Nations under this Constitution shall include Member Organizations, except as otherwise expressly provided".

#### (b) Article II.3

Variant I of the proposed amendments to Article II.3 should be adopted, subject to the following changes:

- (i) deletion of the brackets around the words "a majority of";
- (ii) deletion of the words "at the time of application", and "exclusive";
- (iii) addition of the word "sovereign" before the word "States";
- (iv) deletion of the words "including the competence to enter into treaties" and reformulation of the final sentence to read as follows: "including the authority to make decisions binding on its Member States in respect of those matters".

Proposed Article II.3 should thus read as follows:

"To be eligible to apply for membership of the Organization under paragraph 2 (bis) of this Article, a regional economic integration organization must be one constituted by sovereign States, a majority of which are Member Nations of the Organization, and to which its Member States have transferred competence over a range of matters within the purview of the Organization, including the authority to make decisions binding on its Member States in respect of those matters".

**(c) Articles II.3(bis), II.3(ter) and II.3(quarter)**

Paragraph 1 (Sub-Variant A) and Paragraphs 2 and 3 of proposed Rule XLIV of the General Rules of the Organization (G.R.O.) should be transferred to the Constitution as Articles II.3(bis), II.3(ter) and II.3(quarter) respectively, in accordance with Variant II of proposed Rule XLIV.

In paragraph 1 (Sub-Variant A) of proposed Rule XLIV of the G.R.O., transferred to the Constitution as Article II.3(bis) as per above, the sentence "(...) and the matters in respect of which the regional economic integration organization and its Member States have concurrent competence" should be deleted.

In paragraph 3 of proposed Rule XLIV of the G.R.O. transferred to the Constitution as Article II.3(quarter), the words "to the Organization, which" should be replaced by the words "to the Director-General who".

Proposed Articles II.3(bis), II.3(ter) and II.3(quarter) should thus read as follows:

**Article II.3(bis)**

"Each regional economic integration organization applying for membership in the Organization shall, at the time of such application, submit a declaration of competence specifying the matters in respect of which competence has been transferred to it by its Member States."

**Article II.3(ter)**

"Member States of a Member Organization shall be presumed to retain competence over all matters in respect of which transfers of competence have not been specifically declared or notified to the Organization."

**Article II.3(quarter)**

"Any change regarding the distribution of competence between the Member Organization and its Member States shall be notified by the Member Organization or its Member States to the Director-General, who shall circulate such information to the other Member Nations of the Organization."

**(d) Article II.4**

The proposed amendment to Article II.4 should be approved by the Conference with the insertion after the words "that are Member Nations of the Organization" of the words "in the areas of their respective competences and (...)"

Proposed Article II.4 should thus read as follows:

"A Member Organization shall exercise membership rights on an alternative basis with its Member States that are Member Nations of the Organization in the areas of their respective competences and in accordance with rules set down by the Conference."

**(e) Article II.5**

The proposed amendment to Article II.5 should be adopted by the Conference with the following additions:

(i) the words "or designation" should be inserted after the words: "and shall not therefore be eligible for election(...)"

(ii) the sentence "or to any bodies established jointly with other

organizations" should be inserted after "to any such bodies".

However, for the sake of clarity, it is suggested that proposed Article II.5 be re-worded to read as follows:

"Except as otherwise provided in this Article, a Member Organization shall have the right to participate in matters within its competence in any meeting of the Organization, including any meeting of the Council or other body, other than bodies of restricted membership referred to below, in which any of its Member States are entitled to participate. A Member Organization shall not be eligible for election or designation to any such body, nor shall it be eligible for election or designation to any body established jointly with other organizations. A Member Organization shall not have the right to participate in bodies of restricted membership specified in the rules adopted by the Conference".

(f) Article II.6

A reference to Article III.4 should be included in the proposed Article II.6.

Proposed Article II.6 would thus read as follows:

"Except as otherwise provided in this Constitution or in rules set down by the Conference, and Article III.4 notwithstanding, a Member Organization may exercise on matters within its competence, in any meeting of the Organization in which it is entitled to participate, a number of votes equal to the number of its Member States which are entitled to vote in such meeting. Whenever a Member Organization exercises its right to vote, its Member States shall not exercise theirs, and conversely."

(g) Article II.7

Proposed Article II.7 should be deleted.

(h) Article III.4

The proposal to amend Article III.4 by including a reference to Article II.6 should be dropped, as per above.

(i) Article XIV.3(b)

Proposed Article XIV.3(b) should be adopted by the Conference, subject to the deletion of the word "exclusive" before competence.

Proposed Article XIV.3(b) would thus read as follows:

"(...) contain provisions concerning the Member Nations of the Organization, such nonmember States as are members of the United Nations, any of its specialized agencies or the International Atomic Energy Agency, and regional economic integration organizations, including Member Organizations, to which their Member States have transferred competence over matters within the purview of the conventions, agreements, supplementary conventions and agreements, including the power to enter into treaties in respect thereto, which may become parties thereto, and the number of acceptances by Member Nations necessary to bring such convention, agreement supplementary convention or agreement into force, and to ensure that it will constitute a real contribution to the achievement of its objectives. In the case of conventions, agreements, supplementary conventions and

agreements establishing commissions or committees, participation by nonmember States of the Organization that are members of the United Nations, any of its specialized agencies or the International Atomic Energy Agency or by regional economic integration organizations other than Member Organizations, shall in addition be subject to prior approval by at least two-thirds of the membership of such commissions or committees".

(j) Article XIV.3(b)(bis)

The two proposed variants for Article XIV.3(b)(bis) should be merged and some consequential amendments brought thereto to read as follows:

"Where any convention, agreement, supplementary convention or agreement provides that a Member Organization or a regional economic integration organization that is not a Member Organization may become a party thereto, the voting rights to be exercised by such organizations and other terms of participation shall be defined therein. Any such convention, agreement, supplementary convention or agreement shall, where the Member States of the organization do not participate in that convention, agreement, supplementary convention or supplementary agreement, and where other parties exercise one vote only, provide that the organization shall exercise only one vote in any body established by such convention, agreement, supplementary convention or agreement, but shall enjoy equal rights of participation with Member Nations parties to such convention, agreement, supplementary convention or agreement".

(k) Article XIV.7

Proposed Article XIV.7 should be approved by the Conference as it stands.

Proposed Article XIV.7 should thus read as follows:

"- (...) In addition, the Director-General shall certify copies of those conventions, agreements, supplementary conventions or agreements and transmit one copy to each Member Nation of the Organization and to such nonmember States or regional economic integration organizations as may become parties to the conventions, agreements, supplementary conventions or agreements."

(l) Article XVIII.6

Proposed Article XVIII.6 should be approved by the Conference subject to the following amendments:

(i) the words "and other" should be inserted after "administrative" and before "expenses".

(ii) in the last sentence of proposed Article XVIII.6 the words "level of" should be deleted.

Proposed Article XVIII.6 should thus read as follows:

"A Member Organization shall not be required to contribute to the budget as specified in paragraph 2 of this Article, but shall pay to the Organization a sum to be determined by the Conference, to cover administrative and other expenses arising out of its membership in the Organization. A Member Organization shall not vote on the budget."

2. The proposed amendments to the General Rules of the Organization submitted to the Conference should be replaced with the following text:

**Rule XLIII - General**

The provisions of the General Rules of the Organization applicable to Member Nations shall apply mutatis mutandis to Member Organizations except as may be otherwise provided in the Constitution or in these General Rules.

**Rule XLIV - Competence**

1. Any Member Nation of the Organization may request a Member Organization or its Member States to provide information as to which, as between the Member Organization and its Member States or both, has competence in respect of any specific question. The Member Organization or the Member States concerned shall provide this information on such request.

2. Before any meeting of the Organization the Member Organization or its Member States shall indicate which, as between the Member Organization and its Member States or both, has competence in respect of any specific question to be considered in the meeting and which, as between the Member Organization and its Member States, shall exercise the right to vote in respect of each particular agenda item.

3. In cases where an agenda item covers both matters in respect of which competence has been transferred to the Member Organization and matters which lie within the competence of its Member States, both the Member 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 party that has the right to vote.\*

**Rule XLV - Arrangements for the Conference**

1. The credentials of delegates, alternates, associates and advisers of a Member Organization to sessions of the Conference shall be issued by, or on behalf of, the head of the executive body of the Member Organization concerned.

2. Member Organizations shall not participate in the Credentials Committee, the Nominations Committee or the General Committee or any other body of the Conference dealing with the internal working of the Conference as the Conference may decide.

3. Member Organizations shall not hold office in the Conference or any subsidiary body of the Conference.

**Rule XLVI - Arrangements for the Council**

Member Organizations shall not hold office in the Council or any subsidiary body of the Council.

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\* **Commentary**

The above is without prejudice to the question of whether or not the views of the party not having the right to vote shall be reflected in the report of the meeting. Where the views of the party not having the right to vote are reflected in the report, the fact that they are the views of the party not having the right to vote shall also be reflected in the report.

Rule XLVII - Quorum and voting arrangements at meetings of the Conference and Council

1. For the purpose of determining a quorum, as specified in paragraph 2 (b) of Rule XII, the delegation of a Member Organization shall be counted to the extent that it is entitled to vote in the meeting in respect of which the quorum is sought.
2. Member Organizations shall not participate in voting for elective places as defined in Paragraph 8(a) of Rule XII.

Rule XLVIII - Arrangements regarding committees of restricted membership

Member Organizations shall not participate in the Programme Committee, the Finance Committee and the Committee on Constitutional and Legal Matters.

3. Consequential re-numbering of the provisions of the Constitution and the General Rules of the Organization and modifications to cross-references should be made, as appropriate.

ANNEX

COMPROMISE TEXT OF PROPOSED AMENDMENTS TO THE BASIC  
TEXTS OF THE ORGANIZATION\*

FAO CONSTITUTION

Article II - Membership and Associate Membership

Article II.2(bis)

The Conference may by a two-thirds majority of votes cast, provided that a majority of Member Nations of the Organization is present, decide to admit as a Member of the Organization any regional economic integration organization meeting the criteria set out in paragraph 3 of this Article, which has submitted an application for membership and a declaration made in a formal instrument that it will accept the obligations of the Constitution as in force at the time of admission. Subject to Article II.4, references to Member Nations under this Constitution shall include Member Organizations, except as otherwise expressly provided.

Article II.3

To be eligible to apply for membership of the Organization under paragraph 2(bis) of this Article, a regional economic integration organization must be one constituted by sovereign States a majority of which are Member Nations of the Organization, and to which its Member States have transferred competence over a range of matters within the purview of the Organization, including the authority to make decisions binding on its Member States in respect of those matters.

Article II.3(bis)

Each regional economic integration organization applying for membership in the Organization shall, at the time of such application, submit a declaration of competence specifying the matters in respect of which competence has been transferred to it by its Member States.

Article II.3(ter)

Member States of a Member Organization shall be presumed to retain competence over all matters in respect of which transfers of competence have not been specifically declared or notified to the Organization.

Article II.3(quart)

Any change regarding the distribution of competence between the Member Organization and its Member States shall be notified by the Member Organization or its Member States to the Director-General, who shall circulate such information to the other Member Nations of the Organization.

\* Words underlined to be added.

#### Article II.4

A Member Organization shall exercise membership rights on an alternative basis with its Member States that are Member Nations of the Organization in the areas of their respective competences and in accordance with rules set down by the Conference.

#### Article II.5

Except as otherwise provided in this Article, a Member Organization shall have the right to participate, in matters within its competence in any meeting of the Organization, including any meeting of the Council or other body, other than bodies of restricted membership referred to below, in which any of its Member States are entitled to participate. A Member Organization shall not be eligible for election or designation to any such body, nor shall it be eligible for election or designation to any body established with other organizations. A Member Organization shall not have the right to participate in bodies of restricted membership specified in the rules adopted by the Conference.

#### Article II.6

Except as otherwise provided in this Constitution or in rules set down by the Conference, and Article III.4 notwithstanding, a Member Organisation may exercise on matters within its competence, in any meeting of the Organization in which it is entitled to participate, a number of votes equal to the number of its Member States which are entitled to vote in such meeting. Whenever a Member Organization exercises its right to vote, its Member States shall not exercise theirs, and conversely.

#### Article XIV - Conventions and agreements

##### Article XIV.3(b)

(...) contain provisions concerning the Member Nations of the Organization, such nonmember States as are members of the United Nations, any of its specialized agencies or the International Atomic Energy Agency, and regional economic integration organizations, including Member Organizations, to which their Member States have transferred competence over matters within the purview of the conventions, agreements, supplementary conventions and agreements, including the power to enter into treaties in respect thereto, which may become parties thereto, and the number of acceptances by Member Nations necessary to bring such convention, agreement, supplementary convention or agreement into force, and to ensure that it will constitute a real contribution to the achievement of its objectives. In the case of conventions, agreements, supplementary conventions and agreements establishing commissions or committees, participation by nonmember States of the Organization that are members of the United Nations, any of its specialized agencies or the International Atomic Energy Agency or by regional economic integration organizations other than Member Organizations, shall in addition be subject to prior approval by at least two-thirds of the membership of such commissions or committees.

\* Words underlined to be added.



#### Article XIV.3(b)(bis)

Where any convention, agreement, supplementary convention or agreement provides that a Member Organization or a regional economic integration organization that is not a Member Organization may become a party thereto, the voting rights to be exercised by such organizations and the other terms of participation shall be defined therein. Any such convention, agreement, supplementary convention or agreement shall, where the Member States of the organization do not participate in that convention, agreement, supplementary convention or supplementary agreement, and where other parties exercise one vote only, provide that the organization shall exercise only one vote in any body established by such convention, agreement, supplementary convention or agreement, but shall enjoy equal rights of participation with Member Nations parties to such convention, agreement, supplementary convention or agreement.

#### Article XIV.7

(...) In addition, the Director-General shall certify copies of those conventions, agreements, supplementary conventions or agreements and transmit one copy to each Member Nation of the Organization and to such nonmember States or regional economic integration organizations as may become parties to the conventions, agreements, supplementary conventions or agreements.

#### Article XVIII - Budget and contributions

##### Article XVIII.6

A Member Organization shall not be required to contribute to the budget as specified in paragraph 2 of this Article, but shall pay to the Organization a sum to be determined by the Conference, to cover administrative and other expenses arising out of its membership in the Organization. A Member Organization shall not vote on the budget.

### GENERAL RULES OF THE ORGANIZATION

#### Rule XLIII - General

The provisions of the General Rules of the Organization applicable to Member Nations shall apply mutatis mutandis to Member Organizations, except as may be otherwise provided in the Constitution or in these General Rules.

#### Rule XLIV - Competence

1. Any Member Nation of the Organization may request a Member Organization or its Member States to provide information as to which, as between the Member Organization and its Member States or both, has competence in respect of any specific question. The Member Organization or the Member States concerned shall provide this information on such request.

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\* Words underlined to be added.

2. Before any meeting of the Organization the Member Organization or its Member States shall indicate which, as between the Member Organization and its Member States or both, has competence in respect of any specific question to be considered in the meeting and which, as between the Member Organization and its Member States, shall exercise the right to vote in respect of each particular agenda item.

3. In cases where an agenda item covers both matters in respect of which competence has been transferred to the Member Organization and matters which lie within the competence of its Member States, both the Member 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 party which has the right to vote.

#### Commentary

The above is without prejudice to the question of whether or not the views of the party not having the right to vote shall be reflected in the report of the meeting. Where the views of the party not having the right to vote are reflected in the report, the fact that they are the views of the party not having the right to vote shall also be reflected in the report.

#### Rule XLV - Arrangements for the Conference

1. The credentials of delegates, alternates, associates and advisers of a Member Organization to sessions of the Conference shall be issued by, or on behalf of, the head of the executive body of the Member Organization concerned.

2. Member Organizations shall not participate in the Credentials Committee, the Nominations Committee or the General Committee or any other body of the Conference dealing with the internal working of the Conference as the Conference may decide.

3. Member Organizations shall not hold office in the Conference or any subsidiary body of the Conference.

#### Rule XLVI - Arrangements for the Council

Member Organizations shall not hold office in the Council or any subsidiary body of the Council.

#### Rule XLVII - Quorum and voting arrangements at meetings of the Conference and Council

1. For the purpose of determining a quorum, as specified in paragraph 2(b) of Rule XII, the delegation of a Member Organization shall be counted to the extent that it is entitled to vote in the meeting in respect of which the quorum is sought.

2. Member Organizations shall not participate in voting for elective places as defined in Paragraph 8(a) of Rule XII.

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\* Words underlined to be added.

**Rule XLVIII - Arrangements regarding committees of restricted membership**

Member Organizations shall not participate in the Programme Committee, the Finance Committee and the Committee on Constitutional and Legal Matters.

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\* Words underlined to be added.