

conference

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C 91/LIM/38
November 1991

FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS ROME

Item 24

E

Twenty-sixth Session of the Conference

Rome, 9 - 28 November 1991

FOURTH REPORT OF THE RESOLUTIONS COMMITTEE

COMMISSION III

1. At its first meeting, held on 13 November under the Chairmanship of Ambassador George H. Lamprey (Ghana), the Resolutions Committee examined the following Draft Conference Resolution:
 - (a) Draft Conference Resolution "Amendments to the Constitution and the General Rules of the Organization to Allow for Membership of FAO by Regional Economic Integration Organizations", submitted by the delegations of Cape Verde, Colombia, Congo, Côte d'Ivoire, Costa Rica, Cyprus, Czechoslovakia, Lebanon, Morocco, Senegal, Sudan and Switzerland.
2. The Committee noted that some substantive issues were still the subject of discussions in Commission III and that decisions on these issues would have to be taken by the Commission. These include the wording for Articles II.3 and 4 of the FAO Constitution, as re-numbered in the draft Conference Resolution.
3. The Committee decided to transmit the above draft resolution, appended hereto, to Commission III.

(Draft Conference Resolution submitted by the delegations of Cape Verde, Colombia, Congo, Côte d'Ivoire, Costa Rica, Cyprus, Czechoslovakia, Lebanon, Morocco, Senegal, Sudan, Switzerland)

"The Conference adopted the following resolution:

Resolution /91

AMENDMENTS TO THE CONSTITUTION AND THE GENERAL RULES
OF THE ORGANIZATION TO ALLOW FOR MEMBERSHIP OF FAO BY REGIONAL ECONOMIC
INTEGRATION ORGANIZATIONS

THE CONFERENCE

Recalling that, at its Ninety-fifth Session, held in June 1989, the Council, after having considered a communication of the Government of Spain regarding the status of the European Economic Community (EEC) with respect to FAO, invited the Director-General to explore the options for a form of membership of FAO for regional economic integration organizations to which their Member States had transferred competence in some fields of activity of the Organization;

Recalling also that, in its Ninety-ninth Session, held in June 1991, the Council agreed to transmit the text of proposed amendments to the Constitution to the Conference for consideration at its Twenty-sixth Session in accordance with paragraphs 3 and 4 of Article XX of the FAO Constitution;

Having considered the text of the amendments to the Constitution and the General Rules of the Organization proposed by the Council in its Ninety-ninth Session as amended on the floor of the Conference;

Decides to amend the Constitution and the General Rules of the Organization as follows:

Constitution

1. Article II of the Constitution is amended by adding after paragraph 2 the following paragraphs:

- "3. The Conference may by a two-thirds majority of the votes cast, provided that a majority of the 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 4 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 paragraph 8 of this Article, references to Member Nations under this Constitution shall include Member Organizations, except as otherwise expressly provided.

4. To be eligible to apply for membership of the Organization under paragraph 3 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.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. Except as otherwise provided in this Constitution or in rules set down by the Conference, and Article III paragraph 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."
2. The existing paragraphs 3, 4 and 5 of Article II are renumbered as paragraphs 11, 12 and 13.
3. Article XIV, paragraph 3(b) of the Constitution is amended as follows:

- "(b) contain provisions concerning the Member Nations of the Organization, and 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 thus 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;"
4. A new paragraph is added after Article XIV, paragraph 3(b) which reads as follows:
- "(c) 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 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;"
5. The existing paragraph 3(c) of Article XIV is relettered as paragraph 3(d).
6. The last sentence of Article XIV, paragraph 7 of the Constitution is amended as follows:
- "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 non-member States or regional economic integration organizations as may become parties to the conventions, agreements, supplementary conventions or agreements."

7. A new paragraph is added after Article XVIII, paragraph 5, which reads as follows:

"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

8. The following Rules are added after Rule XXXIX:

"D. MEMBER ORGANIZATIONS

Rule XL

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 XLI

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, 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, 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.¹

¹Commentary

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 XLII

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 XLIII

Arrangements for the Council

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

Rule XLIV

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 XLV

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."

9. The existing part "D" of the General Rules of the Organization is relettered as "E" and the existing Rules XL to XLII are renumbered as Rules XLVI to XLVIII.