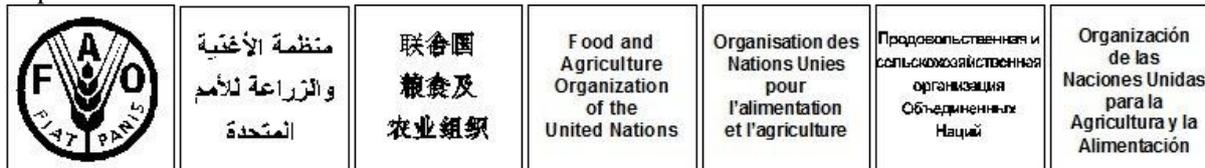


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PROGRAMME COMMITTEE

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**PRELIMINARY REVIEW OF STATUTORY BODIES WITH
PARTICULAR REFERENCE TO ARTICLE XIV BODIES AND THEIR
RELATIONSHIP WITH FAO**

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Executive Summary

In accordance with action 2.69 under the Matrix entitled “Statutory Bodies, Conventions, etc.” of the Immediate Plan of Action (IPA) for FAO Renewal (2009-2011), approved by the Conference at its 35th (Special) Session, a preliminary review of statutory bodies was carried out in 2009 with a view to allowing them to exercise greater financial and administrative authority while remaining within the framework of FAO. The review identified a range of issues raised over the years either by Members, secretaries of statutory bodies, or units of the Organization. It also provided for possible areas of “increased autonomy” in various forms.

In order to ensure appropriate follow-up to IPA action 2.69, a consultation process was carried out and two main areas have been reviewed and discussed with secretariats of statutory bodies established under Article XIV of the FAO Constitution, namely:

- a) General relationship with FAO, including administrative and financial matters;
- b) Current reporting lines and suggestions for reporting to FAO governing bodies through the Technical Committees of the Council and/or Regional Conferences (related to IPA action 2.68).

As requested by the Committee at its 104th Session in October 2010, this document reports on the outcome of the consultation process. Possible solutions to respond to specific concerns expressed are outlined and preliminary suggestions for amendment of some parts of the Basic Texts and/or statutory bodies constituent instruments are made.

At the outset, it should be kept in mind that *de facto* situations among Article XIV bodies have evolved over time and may accordingly be very different in practice.

Suggested action by the Programme Committee

The Committee is invited to examine this document and offer such views thereon as appropriate. In doing so, the Committee may wish to:

- a) note the varied nature of the issues addressed in this document, as well as the differentiated situation of the statutory bodies covered by this review, with particular reference to bodies established under Article XIV of the Constitution.
- b) invite the Secretariat to continue the process of consultation with the membership of statutory bodies established under Article XIV on areas where they could exercise greater administrative and financial authority and, as appropriate, take action on matters within the Secretariat’s authority pertaining to the relationship between the Organization and these bodies.
- c) take note of the need for further consultations with concerned parties, including as appropriate the membership of the statutory bodies, and review by the Committee on Constitutional and Legal Matters, to address issues of a legal nature that may require amendments to the relevant parts of the Basic Texts, or the constituent instruments of statutory bodies;
- d) recommend that some matters be further reviewed, as appropriate, by the Finance Committee (paragraphs 18-19 and 20-23) or the Committee on Constitutional and Legal Matters (paragraphs 13, 16, 41 and 42).

BACKGROUND

1. The Immediate Plan of Action (IPA) for FAO Renewal (2009-2011), approved by the Conference at its 35th (Special) Session¹, includes the following action (2.69) under the Matrix entitled “*Statutory Bodies, Conventions, etc.*”

"2.69. Undertake a review with a view to making any necessary changes to enable those statutory bodies which wish to do so to exercise financial and administrative authority and mobilize additional funding from their members, while remaining within the framework of FAO and maintaining a relationship with it".

2. A preliminary review of statutory bodies was carried out in 2009² by the CCLM and the Council with a view to allowing them to exercise greater financial and administrative authority while remaining within the framework of FAO. The review identified a range of issues raised over the years either by Members, secretaries of statutory bodies, or units of the Organization. It also provided for possible areas of “increased autonomy” in various forms.

3. The range of possibilities included increased delegation of authority to secretaries of statutory bodies or other specific arrangements, as the case may be. Some specific areas identified were:

- External relations
- Budgetary and financial issues
- Human resources management
- Channels of communication with Governments
- Relations with donors
- Travel authorizations
- Organization of meetings
- Participation of observers and other stakeholders in meetings of statutory bodies
- Reporting relationship with FAO through the relevant Technical Committees (direct line of access) or Council and/or Conference (accountability for the use of the proportion of their funding from FAO), either directly or through the Director-General

4. In addition to the accountability of statutory bodies to the FAO Conference or Council in respect of funding from FAO, paragraphs 30 and 31 of Part O of Volume II of the Basic Texts, entitled ‘*Principles and Procedures which should govern conventions and agreements concluded under Article XIV and XV of the Constitution, and commissions and committees established under Article VI of the Constitution*’ (hereinafter ‘the Principles’), provide that recommendations of statutory bodies having policy, programme and financial implications should be reported to the Director-General and through him to the concerned governing body.

5. In order to ensure appropriate follow-up to IPA action 2.69, a consultation process was carried out with the secretariats of statutory bodies with particular reference to bodies established under Article XIV of the FAO Constitution, and is reported here as requested by the 104th Session of the Programme Committee (25-29 October 2010).³ The main areas discussed with secretariats of the above statutory bodies were the following:

- a) General relationship with FAO, including administrative and financial matters;
- b) Current reporting lines and suggestions for reporting to FAO governing bodies through Technical Committees of the Council and/or Regional Conferences.

¹ Conference Resolution 1/2008: Adoption of the Immediate Plan of Action for FAO Renewal.

² See Committee on Constitutional and Legal Matters (CCLM) (88th Session) Rome, 23–25 September 2009, *Preliminary Review of Statutory Bodies with a view to allowing them to Exercise Greater Financial and Administrative Authority while remaining within the Framework of FAO*, CCLM 88/3, CL 137/5 and CL 137/REP, para. 53.

³ PC 104/9 and CL 140/8 paragraphs, 27-28.

A. GENERAL RELATIONSHIP WITH THE ORGANIZATION

6. This section is based on consultations held with secretariats of statutory bodies on areas of potential increased autonomy. In some cases, revision of the Principles currently set out in Part O of Volume II the Basic Texts and of Rules of Procedure of statutory bodies would be needed. In other cases, it was suggested that relaxation or adjustments to FAO administrative procedures or instructions could help achieve greater operational autonomy.

7. There might be situations where institutional arrangements similar to those applying to some FAO offices could serve the overall purpose of greater administrative and financial responsibility of statutory bodies. Subject to consultation with secretariats of statutory bodies and endorsement by governing bodies, the establishment of a functional statement along the lines of a “Charter”⁴ could help delineate the exact accountability and authority of some statutory bodies, while ensuring their operational autonomy.

8. Delegation of authority from the Director-General to secretaries of statutory bodies under Article XIV could also be envisaged with respect to selected administrative, financial and personnel matters, but this would require further review and a corporate decision.

9. Possible preliminary solutions to respond to the concerns expressed are outlined below and preliminary suggestions for amendment of some parts of the Basic Texts and/or statutory bodies' constituent instruments are made. The Programme Committee is invited to offer its views on these initial suggestions and to advise on how the subject matters should be pursued. Some of these matters would be within the authority of the Secretariat, while others might involve consultation with, or decision by, the governing bodies of the Organization and the relevant statutory bodies.

Entering into agreements

10. Paragraphs 28 and 29 of the Principles set out in Part O of Volume II of the Basic Texts provide as follows:

“Relations with international organizations

28. The relations between commissions or committees established under Article VI and other international organizations shall be governed by Article XIII of the Constitution and Rule XXIV.4 (c) of the General Rules of the Organization, as well as by the rules adopted by the Conference on the matter of relationship with international organizations. These provisions shall likewise govern the relations between commissions and committees established by conventions and committees under Article XIV of the Constitution and other international organizations.

Relations with governments

29. Commissions and committees established under Article VI and Article XIV of the Constitution should, in principle, not be empowered to enter into arrangements with governments which are not members of the commission or committee. When this, however, is found desirable, a specific provision shall be incorporated in the statutes, convention or agreement, as the case may be, indicating the scope of such authority and specifying that all such arrangements shall be made by the Director-General of the Organization.”

11. The issue raised in connection with the above is that of the legal capacity of bodies established under Article XIV to perform legal and material acts, with particular reference to the possibility of entering directly into agreements with other parties. At its 127th session (2004), the CCLM recommended that a procedure for the conclusion of agreements, other than informal working arrangements, be followed in the future. Such agreements should be reported to the Organization prior to conclusion, with a view to ascertaining any possible policy, programme or financial implications for the Organization, in keeping with the spirit of the Principles set out in Part O of the Basic Texts. The

⁴ For example, Section VII (“Institutional Arrangements”) and Section VIII (“Staffing of the Office of Evaluation”) of the *Charter for the FAO Office for Evaluation*, in Part H of Volume II of the Basic Texts.

secretaries could be authorized to sign the agreements, which should make appropriate reference to the status of the bodies under Article XIV, as required *inter alia* under paragraph 5 of the Principles. The CCLM noted that, in reviewing any proposed agreements, FAO would take account of the functional requirements of the bodies concerned and would not interfere with their substance, except in the event that the proposed agreements should have policy, programme or financial implications for the Organization. The Council endorsed this recommendation.⁵

12. In practice, bodies established under Article XIV have entered into arrangements with other organizations and institutions (e.g. memoranda of understanding), even where this possibility was not foreseen in the constituent instruments. Also several recent treaties adopted under Article XIV⁶ specifically foresee the power to enter into arrangements or agreements, sometimes without any reference to the Director-General⁷, which is not consonant with the express provision of paragraph 29 of Part O of Volume II of the Basic Texts.

13. The Committee is invited to note that the Secretariat intends to take steps to have this reality reflected in the Principles set out in Part O of Volume II of the Basic Texts. The reference to commissions or committees established under Article XIV in paragraph 29 could be either deleted or the paragraph amended to authorize the secretaries of bodies enjoying substantial autonomy to conclude agreements, while still reporting to the Organization prior to conclusion with a view to ascertaining any possible policy, programme or financial implications for the Organization. The “*Policy guidelines on preparation, clearance and signature of agreements, memoranda of understanding and exchanges of letters*”, as currently set out in Director-General’s revised Bulletin No 99/9 of 5 May 1999, would need to be adjusted accordingly.

Participation of observers in meetings of statutory bodies

14. Procedures currently in force in the Organization limit the participation in meetings as observers of States, intergovernmental organizations and international non-governmental organizations to those complying with tight eligibility criteria established in 1957. While some relaxation of such criteria has taken place, it is generally considered that a revision of the Organization’s policy concerning relations with international non-governmental organizations (INGOs) is required.⁸

15. In practice, secretariats of statutory bodies are in favour of greater transparency and increased participation by observers. The contributions of observers to subcommittees and working groups, or during plenary sessions, are recognized as important to the work of statutory bodies and their number has increased over time. A number of *de facto* procedures allowing for the presence and participation of INGOs have been developed. These procedures would need to be streamlined and harmonized in order to provide a clear guidance and a firm legal basis.

16. The Secretariat is considering initiating a review of the Organization’s rules and procedures applicable to observers of NGOs, possibly the lines of procedures in force at the United Nations.⁹

⁵ CL 127/REP, paragraphs 91-92.

⁶ For example, Article XIV of the Indian Ocean Tuna Commission Agreement states: “*The Commission shall cooperate and make appropriate arrangements therefore with other intergovernmental organizations and institutions, especially those active in the fisheries sector, which might contribute to the work and further the objectives of the Commission in particular with any intergovernmental organization or institution dealing with tuna in the Area. The Commission may enter into agreements with such organizations and institutions. Such agreements shall seek to promote complementarity and, subject to paragraph 2, to avoid duplication in and conflict with the activities of the Commission and such organizations.*” See also Article 19.3 of the International Treaty on Plant Genetic Resources, which also gives the governing body wide powers to enter into agreements.

⁷ See, e.g., Article VII.3 of the Agreement for the Establishment of a Commission for Controlling the Desert Locusts in the Western Region, approved by the FAO Council at its Hundred and Nineteenth Session (Nov. 2000) by Resolution No. 1/119.

⁸ See Parts L, M and N of Volume II of the Basic Texts.

⁹ For instance see ECOSOC Resolution E/1996/31 of July 25, 1996 which outlines the eligibility requirements for consultative status, rights and obligations of non-governmental organizations in consultative status, procedures for the withdrawal or suspension of consultative status, the role and functions of the ECOSOC

Human resources, Secretaries and Secretariat

17. Members of bodies established under Article XIV have often considered that they have little or no control over human resources policies and rules applicable to the selection and management of staff servicing the bodies. In general, except for limited situations, secretaries and staff are all appointed by the Director-General through the Organization's standard selection and recruitment procedures and their terms of employment governed by FAO Staff Regulations and Rules. This limitation is inherent to the fact that these bodies are placed and operate under the framework of FAO.

18. Special procedures have been developed for the selection of the secretaries of some bodies established under Article XIV (especially bodies with autonomous budgets), in line with the provisions of the constituent instruments and paragraph 32 (iii) of the Principles set out in Part O of Volume II of the Basic Texts, whereby the secretaries are appointed by the Director-General after consultation with, or with the approval or concurrence of, the members of the bodies concerned. These procedures have been reviewed and endorsed by the CCLM and the Council in 2004.¹⁰ In practice, they involve the issuance of a vacancy announcement, usually approved by the relevant commission, a pre-screening of candidates carried out jointly by representatives of the Organization and of members of the body concerned, and eventual selection by the members of the commission. A review of the possibility to extend these procedures to bodies other than those where they have been applied so far could be carried out.

19. Members of bodies that adopt their own budgets, maintain their own secretariat, and execute their own programmes of work have often called for more autonomy for the secretaries in the selection and management of the staff servicing the relevant statutory body. Consideration could be given to entrusting them with increased authority in this area. However, any review of the subject matter should take account of pertinent human resources management aspects, including the desirability of having staff members of the Organization subject to a common and unified set of rules. It could be carried out on the understanding that the Organization would have the possibility of not recognizing some of the entitlements applicable exclusively to staff members servicing the statutory bodies in question.

Financial issues

20. The extent of functional autonomy of statutory bodies depends on a range of factors such as funding modalities, in particular the extent to which the bodies are financed by contributions of the membership. The possibility of exercising greater financial responsibility is especially important for bodies established under Article XIV that have autonomous budgets. Contributions for autonomous bodies are remitted to the Organization and, in each case, administered through trust or special funds in accordance with the Organization's Financial Rules and Regulations and the policy on project servicing costs (PSC).

21. The policy on PSC endorsed by the FAO Council in 2000¹¹ provides that long-term trust fund accounts, such as those established for commissions under Article XIV, are subject to a case-by-case estimate of the actual level of variable indirect support costs incurred by the Organization and charged accordingly. Since a number of commissions were established before the current policy was adopted¹², the approved PSC rates vary from body to body and range from zero to 13 percent. In 2004 the FAO Finance Committee¹³ confirmed the current policy on determining support cost rates for long term trust funds on a case-by-case basis and, therefore, that a standard rate for all commissions was not recommended. It agreed that this policy should be applied to any new commission trust funds and not

Committee on non-governmental organizations, and the responsibilities of the UN Secretariat in supporting the consultative relationship.

¹⁰ CCLM 77/2, CL 127/21 and CL127/REP, paragraphs. 93-94.

¹¹ CL 119/13, Annex II, and subsequent refinements in CL 112/4, paragraphs 21-23; CL 128/4, paragraphs 20-25; CL131/7, paragraphs 49-52.

¹² FC 107/4.

¹³ CL 127/4 paragraphs 22-23

retroactively to pre-existing funds of this nature, as it would not be cost effective to review the rates for the existing trust funds.

22. While some bodies are satisfied of their functioning within the Organization's financial regulations in respect of the autonomous budget and extrabudgetary support, others call for a higher degree of autonomy and even self-administration.¹⁴ It would be desirable that the concerned statutory bodies clarify their views so that the Organization could examine the matter further.

23. References were occasionally made to improvement of the quality and accessibility of financial reporting and to late payments or arrears of assessed contributions. This, however, seems to be a matter which could be settled directly between the Finance Division and the secretariats of concerned bodies and in consultation with members as may be appropriate.

B. REPORTING RELATIONSHIP WITH THE GOVERNING BODIES AND TECHNICAL COMMITTEES AND/OR REGIONAL CONFERENCES

24. The IPA provides, in respect of reporting relationship with the Conference, the Council and the Technical Committees, that "statutory bodies and conventions will have a direct line of access to the appropriate FAO Technical Committees. They will be accountable to the FAO Council and Conference for the use of that proportion of their funding which is provided for from FAO assessed contributions".¹⁵ More specifically, under IPA action 2.68, "Conferences of parties to treaties, conventions and agreements such as Codex and the IPPC (incorporated under FAO statutes) may bring issues to the attention of the Council and Conference through the relevant Technical Committee (Basic Texts Change)".

Reporting practice of statutory bodies

25. The issue of reporting lines of Article VI and Article XIV bodies is a complex one since situations are very differentiated in practice. If some statutory bodies report to Technical Committees in addition to reporting to the Director-General, others provide briefs to the Director-General and a report but no formal mechanism exists with respect to Technical Committees, and this is often irrespective of their legal status under the FAO Constitution. This situation could lead to overlaps in decision-making. It may be difficult to suggest that general guidance on this matter or common rules applicable to all bodies could be developed.

26. For many years, statutory bodies under Articles XIV or VI used to report in a systematic manner to the Conference or Council. The Conference and Council used to examine the activities of such statutory bodies in detail as they emerged from reports of sessions. This was also a reflection of paragraphs 30 and 31 of the Principles¹⁶ set out in Part O of Volume II of the Basic Texts requiring the

¹⁴ For example, the Ad Hoc Advisory Committee on the Funding Strategy of the International Treaty on Plant Genetic Resources recently emphasized that the benefit-sharing Fund was under the direct control of its governing body and was financed exclusively through the Strategic Plan endorsed by membership. Given the high degree of self-financing, it was expected that a value-for-money approach would be followed in selecting and obtaining the necessary administrative services and applying administrative procedures, whether from FAO or external partners. See IT/ACFS-6/10/Report, paragraph 62.

¹⁵ « *Statutory Bodies, Conventions, etc* », paragraph 28.

¹⁶ "30. Provision shall be made in the relevant texts to the effect that commissions, committees and other bodies established under Article VI or Article XIV of the Constitution, as well as their subsidiary bodies, shall transmit their reports and recommendations to the Director-General, those of the subsidiary bodies to be transmitted through the parent body. In the case of bodies referred to in paragraph 33 (c), provision may also be made in the relevant texts to the effect that recommendations or decisions not having financial, policy or programme implications for the Organization, may be transmitted directly to the members of the body concerned for their consideration and action. The Director-General shall take these reports into account when preparing the Programme of Work and Budget of the Organization; bring to the attention of the Conference through the Council any recommendations adopted by these bodies which have policy implications or which affect the programme or finances of the Organization; include in his annual statement to the Conference an analysis of the work done by these bodies.

constituent instruments of statutory bodies to include provisions on reporting to the governing bodies either directly or through the Director-General.

27. Over the years, however, the situation has changed due to various factors and systematic reporting has generally been abandoned. First, statutory bodies under either Articles XIV or VI have increased in number, while Conference and Council tended to concentrate their work on broader policy, programme and budget matters. In parallel, efforts to increase the efficiency of the Conference and Council resulted in a reduction of the duration of their sessions, which is incompatible with a systematic review of statutory bodies' activities.

28. In some situations, the review of the statutory bodies' activities was done through the relevant Technical Committees. This used to be the case, for example, of the Committee on Fisheries which, for many years, used to be systematically apprised of the activities of all fisheries commissions, and reviewed in some detail the activities of the fisheries commissions established in the framework of FAO, under Articles VI or XIV. Likewise, the International Poplar Convention reported directly to the Committee on Forestry.

29. Overall, there has been a move towards recognition of greater functional autonomy on the part of some statutory bodies even where the statutes of the bodies in question made provision for reporting to the Conference or Council. This has been in some cases the result of a deliberate policy of both the Organization and the concerned bodies. Thus statutory bodies with an autonomous budget covering most, if not all of their activities, and the authority to adopt regulatory measures which are directly binding upon their members, have been reluctant to activate a systematic line of reporting to the Conference or Council even when this reporting line was defined in their statutes. In parallel, the Organization and its Members have often respected a desire of the statutory bodies to exercise greater autonomy and have not reminded them of their obligation to report their activities, in order to preserve their autonomy.

30. Recent discussions on the implementation of the FAO reform have underlined the desirability of increased coherence between the activities of the statutory bodies and those of the Organization's governing bodies. Some general proposals to this effect are presented below.

Schedules of sessions

31. The timeline for governing body input and oversight is a key dimension of the Reformed Programming, Budgeting and Results-Based Monitoring System as set out in Part F of Volume II of the Basic Texts. In fact, the introduction of a revised cycle for the governing body decision-making process has generated many changes to the timing of sessions of governing bodies. Conference Resolution 10/2009¹⁷ introduced a revised schedule of governing body sessions for the implementation of the new programming, budgeting and results-based monitoring system, with the Conference holding its regular session in June of the year prior to the beginning of the biennium, thus allowing the governing bodies to participate in the process of preparation and adjustment of the Strategic Framework, the Medium-Term Plan and the Programme of Work and Budget, and to monitor performance against relevant performance indicators.

32. As indicated in the recently revised *Note on the Methods of Work of the Council*¹⁸, sessions of bodies whose reports must be considered by the Council should, as far as possible, be held in sufficient time before the opening of the Council session and all documents dispatched at least four weeks beforehand unless the timing of the sessions of the bodies concerned makes it impossible. Reports of subsidiary bodies and other documents that do not contain points requiring consideration or decision by the Council should be presented for information only. To accommodate this requirement,

31. It is understood that, pending such formal action, the Director-General will circulate these reports to all members of the bodies concerned and to all Member Nations and Associate Members of the Organization for their information. The policy, programme and financial implications for the Organization of these reports shall be acted upon by the appropriate governing body of the Organization".

¹⁷ Report of the thirty-sixth session of the Conference, Rome, 2009, paragraph 143.

¹⁸ CL 141/REP, Appendix G.

Rule II.2 of the Rules of Procedure of the Committee on Forestry (COFO) has been amended, providing that sessions of COFO shall be held “*with timing that enables the Programme and Finance Committees to take into consideration the report of the Committee in formulating advice to the Council*”.

33. At regional level, sessions of specialized statutory bodies need also to convene their sessions in time to allow that priority action could be identified and timely submitted to FAO’s governing bodies. This includes the Regional Conferences, which directly report to the Council through the Programme and Finance Committees on regional areas for priority actions and to the Conference on policy and regulatory matters. The introduction of a timely reporting rule according to which summary reports of the outcomes and recommendations of the sessions of the regional technical statutory bodies should be made available to Members of these bodies prior to the FAO Regional Conference may prove useful as regards timing of reporting. Yet it does not bring further clarity to the reporting issue itself.

34. If sessions are not timely planned, the reports and other documents of statutory bodies, whether they require or not Council decisions or recommendations, could lose much of their relevance since their inputs would not be provided in a timely manner, in accordance with the agreed schedule of governing body sessions. It should be noted in this regard that Regional Conferences do not report to Technical Committees. Statutory bodies have to report to both Regional Conferences and Technical Committees which, in turn, respectively feed into the Conference and Council sessions.

35. Taking into account possible conflicting agendas and schedules of sessions, where appropriate, reports of statutory bodies could be directly brought to the attention of Council and/or Conference rather than through Regional Conferences and Technical Committees.¹⁹ In view of the changes to the governance structure of the Organization, some provisions concerning the sessions provided for in the constituent instruments of Article XIV bodies would also need to be reviewed and amended to ensure that such provisions conform to new rules and practices. However, the process of amendment of Article XIV treaties may be complex, involving in some cases lengthy approval or ratification procedures.

Accommodating new reporting lines

36. Given the new governance structure and current changes in procedures and methods of work of the Organization’s governing bodies, the reporting relationship of statutory bodies with FAO is expected to evolve. Council Members now remain engaged interactively during the inter-sessional periods. Committees advising the Council are also expected to remain active during inter-sessional periods.

37. To date, COFO is the only body to have made changes to its Rules of Procedure to reflect this. Rule I.4 states that COFO’s Steering Committee, which is composed of the Chairperson and the six Chairpersons of the FAO Regional Forestry Commissions, shall between sessions facilitate consultations between members in relation to agendas, formats and other matters, and perform other actions relevant for ensuring preparations for the sessions. To reflect the new reporting lines, Rule VI.1 further states that, at each session, “*the Committee shall approve a report to the Council and Conference*” (emphasis added).²⁰

38. The FAO reform has also given the Regional Conferences an enhanced mandate to make recommendations to Conference on policy and regulatory matters as relevant to the region and to Council on regional priorities for budget and programme matters, thus providing guidance on the

¹⁹ While the Commission on Genetic Resources on Food and Agriculture (Article VI body), according to its Statutes, reports to the Director-General, who brings to the attention of the Conference, through the Council, any recommendations adopted by the Commission that have policy implications, or that affect the programme or finances of the Organization, at its 36th Session, the Conference requested the Commission “to report on its work to future sessions of the Conference” (emphasis added): see C2009/REP, paragraph 172.

²⁰ Part J of Volume I of the Basic Texts - “Rules of Procedure of the Committee on Forestry”.

Programme of Work and Budget. In addition, FAO's regional offices serve as the secretariat of statutory bodies that have been recognized as priority setting bodies in their areas of competence²¹.

39. One of the main issues to consider is the link between regional bodies and Technical Committees. Under Article XIV and to a lesser extent Article VI mandates, statutory bodies are responsible for review of regional issues. Several of them also work directly with the membership in developing regional normative instruments. This is the case for example of the Code of Practice for Forest Harvesting in Asia-Pacific or regional standards for phytosanitary measures. Regional bodies are also sometimes called to convey their inputs and Members' concerns to other intergovernmental fora, such as the United Nations Forum on Forests or to the UN Secretariat, e.g. the UN Division of Ocean Affairs and the Law of the Sea.

40. One challenge in this context is to find a means to adequately incorporate the work of the regional statutory bodies into the global agenda of Technical Committees. In the Asia-Pacific region, for example, the Asia and Pacific Plant Protection Commission facilitates an annual expert consultation to review draft International Standards for Phytosanitary Measures (ISPMs), which provides regional inputs to the Secretariat of the International Plant Protection Convention in the ISPM development process. In some cases, a statutory body may contribute to, or even provide, a regional review that is used to develop working papers for Technical Committees. Specific recommendations or findings might even be incorporated into a working paper for Technical Committees. Greater integration of the work of the regional statutory bodies to that of Technical Committees could be achieved through an agreement providing for the creation of standing or *ad hoc* "regional working groups" under regional bodies to cover issues identified by the Technical Committees or their subcommittees.

Possible options for reform in the reporting process

Amendments of constituent instruments and rules of procedure

41. To introduce where appropriate reforms in the reporting process, constituent instruments of statutory bodies established under Articles VI or XIV would need to be amended in a number of respects to reflect the recent changes in governance of the Organization, which would be a long-term process. It is suggested that any process to amend the constituent instruments should start within the statutory bodies and involve the membership of the concerned bodies, which would allow them to review the matter in light of their specific operating needs. A parallel process of adjustment to rules of procedure and working practices might have to be carried out within the Organization's governing bodies, which would be receiving and considering reports of statutory bodies.

42. Without prejudging the outcome of the above process, a number of modifications may prove beneficial, such as:

- Amendments to the Rules of Procedure of Technical Committees to reflect the direct reporting by statutory bodies on regional or technical activities. This could be achieved by amending Rule VI ("Records and Reports" or "Reports") of the Rules of Procedure of Technical Committees (on Forestry, Fisheries, Commodity Problems, and Agriculture);
- Paragraphs 30 and 31 of the Principles set out in Part O of Volume II of the Basic Texts could be amended to reflect the enhanced role of the Technical Committees and the direct line of access which they would offer to statutory bodies;
- Provisions on "administrative matters" of some Articles XIV and Article VI statutory bodies' constituent instruments and rules of procedure may need to be adjusted accordingly.

²¹ See, e.g., the Report of the Thirtieth Session of the Regional Conference for Asia and the Pacific, APRC/10/REP, Summary of Main Recommendations, "*Strengthening the Linkages Between Technical Commissions and the APRC*".

Cooperative arrangements

43. A possible option to accommodate these changes in governance and give statutory bodies a direct line of access to Technical Committees might consist, where possible and appropriate, in further developing and formalizing cooperative arrangements, for instance in the form of *ad hoc* regional working groups within the framework of statutory bodies. The approach would be broader than reconsidering reporting lines only, and there would be an effort to integrate the work of statutory bodies into the global agenda of the Technical Committees. Regional reviews or information documents prepared could be synthesised on a systematic basis by the secretariat of Technical Committees and incorporated into their global review of status or trends.²² The possibility of implementing this option, presumably in a differentiated manner, would have to be examined further.

C. SUGGESTED ACTION BY THE PROGRAMME COMMITTEE

44. The Committee is invited to examine this document and offer such views thereon as appropriate. In doing so, the Committee may wish to:

- a) note the varied nature of the issues addressed in this document, as well as the differentiated situation of the statutory bodies covered by this review, with particular reference to bodies established under Article XIV of the Constitution.
- b) invite the Secretariat to continue the process of consultation with the membership of statutory bodies established under Article XIV on areas where they could exercise greater administrative and financial authority and, as appropriate, take action on matters within the Secretariat's authority pertaining to the relationship between the Organization and these bodies.
- c) take note of the need for further consultations with concerned parties, including as appropriate the membership of the statutory bodies, and review by the Committee on Constitutional and Legal Matters, to address issues of a legal nature that may require amendments to the relevant parts of the Basic Texts, or the constituent instruments of statutory bodies;
- d) recommend that some matters be further reviewed, as appropriate, by the Finance Committee (paragraphs 18-19 and 20-23) or the Committee on Constitutional and Legal Matters (paragraphs 13, 16, 41 and 42).

²² It remains to be seen, however, if specific management recommendations or decisions by regional statutory bodies are for the Technical Committees to discuss as they relate to a narrower membership. However, if a measure is introduced, it may be worth reporting it to the Technical Committee under a review of measures taken to manage resources, or as an example of regional action taken to address a global issue or concern.